

Government of Pakistan
Public Private Partnership Authority

NOTIFICATION

Islamabad, April 30, 2022

Notification No. 01/2022.- In exercise of powers conferred by section 25A read with section 12 of the Public Private Partnership Authority Act, 2017 (Act No. VIII of 2017), the Board of the Public Private Partnership Authority is pleased to notify the following regulations, namely: --

Public Private Partnership Authority (Project Development Facility Regulations), 2022

PART I
GENERAL

1. Short title and commencement. -(1) These regulations shall be called the Public Private Partnership Authority (Project Development Facility) Regulations, 2022.

(2) These regulations shall come into force at once.

2. Application.- They shall apply to projects to be undertaken under the Act.

3. Definitions.- (1) In these regulations, unless there is anything repugnant in the subject or context: -

- (a) **"Act"** means the Public Private Partnership Authority Act, 2017 (Act No. VIII of 2017);
- (b) **"Authority"** means the Public Private Partnership Authority as established by the Act;
- (c) **"Board"** shall have the meaning ascribed to it under section 2(b) of the Act;
- (d) **"development partner"** means a bilateral or multilateral financing institution such as an international donor agency that provides grants and loans or other forms of funding to the Authority;
- (e) **"implementing agency"** shall have the meaning ascribed to it under section 2(g) of the Act;
- (f) **"P3A Fund"** shall have the meaning ascribed to it under section 2(i) of the Act;
- (g) **"private party"** shall have the meaning ascribed to it under section 2(m) of the Act;


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- (h) **"project"** shall have the meaning ascribed to it under section 2(n) of the Act;
- (i) **"project development facility"** or **"PDF"** means the funds allocated for project preparation and development pursuant to section 12 of the Act;
- (j) **"project proposal"** shall have the meaning ascribed to it under section 2(r) of the Act;
- (k) **"project qualification proposal"** shall have the meaning ascribed to it under section 2(o) of the Act;
- (l) **"public private partnership"** or **"PPP"** shall have the meaning ascribed to it under section 2(t) of the Act;
- (m) **"qualified projects"** shall have the meaning ascribed to it under section 2(v) of the Act;
- (n) **"transaction advisers"** means the persons (including, without limitation, consultants and advisers, individuals or a consulting firm or a financial institution), who are engaged to provide transaction advisory services; and
- (o) **"transaction advisory services"** means services provided pursuant to regulation 5 of these regulations.

(2) All other words and expressions used in these regulations but not defined herein shall have the same meanings as assigned to them in the Act, or if not in the Act, as in common usage.

PART II ESTABLISHMENT OF THE PDF

4. The project development facility.- (1) The PDF is hereby established, in accordance with section 12 of the Act, as a non-lapsable fund vested in the Authority, subject to the general directions and superintendence of the Board.

(2) The PDF maybe comprised of the following sources of funding:

- (a) such sums as the Federal Government may, from time to time, allocate to the PDF;
- (b) the P3A Fund;
- (c) donations and grants from development partners;
- (d) income from any investments by the Authority;
- (e) loans;


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- (f) fees and charges;
- (g) payments by the private party in accordance with sub-regulation (3)(a) of this regulation;
- (h) payments by the implementing agency in cases specified in these regulations; and
- (i) any other source or means the Board or the Federal Government may approve from time to time.

(3) The Authority may require the reimbursement of disbursed funds in the following instances:

- (a) in the event that the requirement of reimbursement from the private party was imposed at the time of approval of the PDF application, within a period of fifteen (15) days of the financial close of the project or on such other date and time specified upon approval of the PDF application; or
- (b) from the implementing agency if it decides to stop pursuing the PPP project prior to executing the PPP Agreement, unless the implementing agency can justify its decision based on economic and financial or other considerations to the satisfaction of the Authority.

(4) If the Authority deems the funds in the PDF to be insufficient to support upcoming projects which have been approved or are in the process of receiving approval or to meet the anticipated annual demand for PDF assistance, the Authority shall inform the Board, as necessary, and the Board may request the allocation and/or disbursement of additional funds from the relevant divisions of the Federal Government.

(5) In the event there are any surplus funds in the PDF which have not been specifically designated as funds to be retained in or disbursed from the PDF, the Board may reallocate such surplus funds to any of the other funds of the Authority established under the Act.

5. Activities to be supported.- (1) The PDF shall primarily be used to support the preparation of project qualification proposals and project proposals.

(2) The PDF shall only be approved to finance:

- (a) transaction advisory services rendered (a) by consultants for preparing / structuring projects which may include -
 - (i) preparing project proposals and project qualification proposals and related documents and analyses, including conducting, *inter alia*, detailed analyses and evaluation of the project including its technical, legal, financial, economic,


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social, and institutional features and merits through feasibility and other studies, covering cost estimates, estimated returns, environmental and social impacts, value-for-money analyses, analyses of the maturity of the market including the willingness of market players to participate and of proposed users to pay;

(ii) transaction planning, bidding, and execution, including the preparation of bidding documents and project-related agreements;

(iii) the legal, technical, or other review of unsolicited project proposals; and

(iv) such other services as may be as may be approved by the Authority; or

(b) the capacity building of personnel at the implementing agency dedicated to the PPP project; *provided that* the capacity building may be limited to such areas as the Authority may specify from time to time and funds allocated for such capacity building may not exceed ten percent (10%) of the total funding awarded from the PDF for the project in question.

PART III THE PDF APPLICATION PROCESS

6. PDF application to the Authority.- (1) An implementing agency may submit an application requesting funding from the PDF for services and activities described under regulation 5 in connection with the preparation of a project qualification proposal and/or project proposal, which application shall be in the form determined by the Authority from time to time.

(2) The implementing agency may obtain the guidance of the Authority with respect to the preparation of the application for funding from the PDF.

(3) The Authority may seek any additional information from an implementing agency pertaining to its application for funding from the PDF.

7. Process for approval of the PDF application: (1) Upon receipt, the Authority may assess an application on the basis of the following criteria in such manner as may be determined by applicable approving authority from time to time:

(a) the ability of the implementing agency to complete the project;

(b) the strength of the project and its potential impacts (including economic, social and environmental impacts);

(c) the completeness of the application;


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(d) the amount of funds requested and the contemplated utilization plan; and

(e) any other criteria as may be determined by the Authority.

(2) If the PDF application does not meet the requirements set forth in these regulations, the Authority will promptly inform the implementing agency of the same.

(3) If the Authority determines that the PDF application meets the requirements set forth in these regulations, the Authority will, in a timely manner, refer for purposes of approval any applications requesting sums in excess of Ten Million Pakistani Rupees (PKR 10,000,000) to the Board, or an authorized committee of the Board, and any applications requesting amounts below the aforesaid threshold to the Chief Executive Officer of the Authority, along with its recommendations in each case.

(4) Upon receipt of a PDF application and the recommendation of the Authority pertaining to such application, received pursuant to sub-regulation (3) of this regulation, the Board or an authorized committee of the Board, or, where applicable, the Chief Executive Officer, may review the same and decide to:

(a) accept the application and choose to grant either –

(i) the entire amount of funding requested; or

(ii) a part of the total amount requested;

(b) accept the application with any condition(s) it deems appropriate;

(c) return the application to the implementing agency for review and resubmission; or

(d) reject the application.

(5) The Authority shall promptly notify the implementing agency of the decision of the Board (or the authorized committee of the Board) or the Chief Executive Officer, as the case may be, with respect to the PDF application.

(6) If its application has been approved, the implementing agency shall respond to the Authority by either accepting or declining the assistance within a period of ten (10) days from the date it was notified of the decision.

(7) Where necessary, the Authority may also require the implementing agency to submit a written commitment to manage the project including through contribution in kind of office space and equipment for the project and assignment of dedicated project personnel.

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(8) For the avoidance of doubt, once approved and granted PDF assistance, a project will become a qualified project in accordance with section 2(o) of the Act.

PART IV MANAGEMENT OF THE PDF

8. Management of the PDF.- (1) The management, control and administration of the PDF shall vest with the Authority.

(2) The Authority shall be responsible for:

(a) analysing applications for PDF funding and making recommendations to the Board (or authorized committee of the Board) or to the Chief Executive Officer, as the case may be, on whether it should approve requests for funding;

(b) monitoring the fulfilment of condition(s), if any, imposed on the use of PDF funds;

(c) preparing bi-annual financial reports for onward submission and approval by the Board; and

(d) any other task necessary to oversee the general management, control, and administration of the PDF.

(3) Surplus funds in the PDF may be invested in accordance with the applicable investment policy approved by the Board with respect to funds established under the Act.

9. Accounts.- (1) The Authority shall, for the purposes of holding and disbursing the funds allocated, granted, loaned or otherwise paid to the PDF, separately open and maintain such account(s) as it may deem necessary in any scheduled bank in Pakistan.

(2) The Authority shall be entitled to open any foreign currency account to hold funds for the PDF subject to obtaining any approvals required under applicable laws.

(3) The PDF accounts shall be maintained and audited in accordance with the applicable provisions of the Act.

PART V HIRING OF TRANSACTION ADVISERS, DISBURSEMENT, REPORTING AND MONITORING

10. Selection of transaction advisers.- The Board (or an authorized committee of the Board) or the Chief Executive Officer, as the case may be, may, while approving the PDF application,

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require that the implementing agency to use specified criteria for the hiring of transaction advisers in order to ensure quality and effective use of the funds disbursed.

11. Disbursement.- (1) Disbursement by the Authority of any funding for PDF assistance may take the following forms:

(a) periodical or intermittent payments in instalments based on achievement of milestones as approved by the Board (or an authorized committee of the Board) or the Chief Executive Officer, as the case may be; or

(b) lump sum payment.

(2) The Authority shall, upon written confirmation from the implementing agency of the achievement of applicable milestones, make or disburse payments with respect to the approved PDF assistance. If the Authority deems necessary, verification for this purpose may also be carried out directly by the Authority or by such person(s) as it may appoint for this purpose.

(3) The Authority may impose such condition(s) on disbursement as it deems necessary.

(4) Notwithstanding anything to the contrary contained herein, the relevant approving authority may, with respect to a PDF application approved pursuant to regulation 7 above, direct the Authority to disburse the applicable payments from such fund of the Authority established under the Act as the approving authority may determine.

12. Reporting.- The implementing agency shall periodically report its progress to the Authority based on milestones set forth in the application for PDF assistance in congruence with any instructions that the Authority may provide.

13. Monitoring.- The Authority will retain the right directly, or through the implementing agency, or through a third party, to conduct its own audit to verify whether the implementing agency has satisfied PDF disbursement condition(s) or any other condition(s) on the funds allocated to it.

14. Prior Approvals. - In the event any application from implementing agencies requesting support for hiring of transaction advisers had been previously approved by the Board before the commencement of these regulations, the disbursement, reporting and monitoring with respect to the aforesaid support shall be in accordance with the applicable provisions of Part V of these regulations.

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