



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF BUDGET AND MANAGEMENT
MALACAÑANG, MANILA

NATIONAL BUDGET CIRCULAR

No. 564
June 8, 2016

TO : The Heads of Departments, Agencies, Bureaus and Offices of the National Government, including State Universities and Colleges (SUCs) and Commissions or Offices under the Constitutional Fiscal Autonomy Group (CFAG), Heads of Finance Units; Budget Officers; Chief Accountants and All Others Concerned

SUBJECT : Guidelines for Issuance of Letter of Commitment (LOC) Covering National Government Support for Multi-year Solicited Public-Private Partnership (PPP) Projects

1.0 RATIONALE

As part of the required massive investments in public infrastructure under the Philippine Development Plan, the Philippine Government has pushed for the implementation of PPP projects under Republic Act (RA) No. 6957, as amended ("BOT Law") to harness the innovation and efficiency of the private sector in the delivery of infrastructure projects. While private partners are expected to provide capital, technology and project management inputs for PPP projects, National Government support may be required, in case of solicited projects¹, for partial financing of the project or repayment of the private partner's costs in accordance with the PPP contract.

For multi-year PPP projects, the corresponding multi-year National Government support have to be provided. Consistent with the provision of Section 31 in the General Provisions of RA No. 10717², an LOC shall be required to cover budgetary support for National Government obligations under PPP projects approved by the National Economic and Development Authority (NEDA) Board.

Under the BOT Law, the amount of budgetary support to be extended by the National Government cannot be readily determined prior to the start of bidding for the project. As such, this amount depends on the outcome of the procurement process, specifically, after financial evaluation of the bid. Thus, an LOC shall not be required if no National Government support is needed.

2.0 PURPOSE

To prescribe the guidelines for the issuance of LOCs for multi-year National Government support for solicited PPP projects approved under the BOT Law.

¹ Section 4-A of RA No. 6957, as amended provides that there shall be **no direct National Government support for unsolicited projects**, to wit: "Unsolicited Proposals. – Unsolicited proposals for projects may be accepted by any government agency or local government unit on a negotiated basis: Provided, That, all the following conditions are met: (1) such projects involve a new concept in technology and/or are not part of the list of priority projects, (2) no direct government guarantee, subsidy or equity is required, x x x" (Boldface our)

² FY 2016 General Appropriations Act

3.0 COVERAGE

This Circular covers all departments, agencies, bureaus and offices of the National Government, including SUCs and Commissions or Offices under the CFAG, undertaking solicited multi-year PPP projects approved by the NEDA Board.

4.0 GOVERNMENT SUPPORT FOR MULTI-YEAR PPP PROJECTS

4.1 National Government support for multi-year solicited PPP projects must be covered by an LOC, which is defined as a certificate of commitment or authority which will serve as an assurance that the required budgetary support for PPP projects shall be included in the long term program of the National Government, and limited to the following National Government obligations based on the PPP contract reviewed by the Department of Finance (DOF) and Public-Private Partnership Center ("PPP Center").

4.1.1 **Availability Payments**—government payment to the private partner for the delivery of projects in accordance with the PPP contract. Such payments are paid periodically (monthly, quarterly, annually or according to milestones met);

4.1.2 **Viability Gap Funding**—government contribution to ensure financial viability of the project or assist the private partner in shouldering a portion of the project cost;

4.1.3 **Real Property Tax**—a type of levy imposed by local government units on real properties in accordance with laws which are assumed by the National Government under the PPP contract³;

4.1.4 **Right-of-Way Acquisition and other related expenses** — expenses related to the acquisition of real property needed for a PPP project through donation, negotiated sale, expropriation or any other mode of acquisition as provided by law including relocation and resettlement costs;

4.1.5 **Funding for the Independent Consultant**—compensation for a person or entity appointed to render independent technical advice to the government and private sector parties, as well as to perform other services specifically defined in the PPP contracts; and

4.1.6 **Funding for Project Management Office**—a unit in an implementing agency for the coordination and monitoring of projects.

4.2 Notwithstanding the issuance of an LOC, the obligation to be incurred by a government agency in any given year under a PPP contract shall in no case exceed the allotment released for the purpose during the same year.

5.0 PROCEDURE

5.1 A government agency covered by this Circular shall submit to the Department of Budget and Management (DBM), within ten (10) calendar days from the date the financial evaluation of the bid for the PPP project is

³ Under the Generic Preferred Risk Allocation Matrix used by the NEDA for pre-evaluation risks of PPP projects, the National Government may assume the obligation of paying for taxes when increases in, or new, taxes are imposed arising from changes in the tax law.

completed, a request⁴ for the issuance of an LOC together with the required supporting documents under Item 6.0 hereof.

- 5.2 The DBM shall issue the LOC⁵ within thirty (30) calendar days from receipt of the request and required supporting documents.

6.0 SUPPORTING DOCUMENTS

The requesting agency shall include the following supporting documents in the request for the issuance of an LOC:

- 6.1 Copy of the NEDA Board Resolution approving the PPP project;
- 6.2 Joint Certification by the DOF and the PPP Center on the list of obligations and corresponding amounts committed by the National Government for the PPP project;
- 6.3 Agency Budget Strategy for the National Government obligations in the PPP project⁶; and
- 6.4 Agency Summary of the PPP project term sheet containing its technical, economic, financial, social and environmental appraisal aspects.

7.0 LOC AMENDMENT

An LOC issued for a multi-year solicited PPP project under this Circular may be amended, subject to the requirements by the DBM.

8.0 ESTABLISHMENT OF A REGISTRY

The DBM shall set up a registry or database for all LOCs issued in order to monitor the required annual budgetary requirements of the PPP projects.

9.0 SANCTIONS

Agencies which failed to request for an LOC or include a National Government obligation in the request for LOC submitted to DBM shall be accountable for their failure or inaction. In case such failure or inaction may result in breach of obligation on the part of the National Government, which may lead to a possible termination of the PPP project, said agency shall have to reprioritize its annual budget and look for possible funding sources from its available appropriations, subject to the rules on realignment or augmentation, as the case may be.

This is without prejudice to any administrative, civil or criminal charges that may be filed against the erring official or employee.

10.0 TRANSITORY PROVISION

To ensure seamless transition to the LOC, all Multi-year Obligational Authority (MYOA) issued by the DBM covering multi-year PPP projects shall be replaced by an LOC upon surrender of the original MYOA by the agency concerned. The effectivity date of the LOC shall retroact to the original issue date of the MYOA and contain reference thereto for easy tracking. The MYOA that has been replaced by an LOC shall cease to have any legal and binding effect and shall be disposed of following budgeting and accounting rules and regulations.

⁴ following the format in Annex A hereof.

⁵ Please see sample LOC in Annex B hereof.

⁶ Please see Agency Budget Strategy form in Annex C hereof.

11.0 ISSUES FOR RESOLUTION


Interpretation of the provisions in this Circular, including cases not covered herein shall be referred to the DBM for final resolution.

12.0 REPEALING CLAUSE

All provisions in existing guidelines that are not consistent with this Circular are hereby revised, modified and/or repealed accordingly.

13.0 EFFECTIVITY

This Circular shall take effect immediately upon publication.


FLORENCIO B. ABAD
Secretary



Document Reference Number _____

REQUEST FOR LETTER OF COMMITMENT (LOC) for Government Support for PPP-Funded Projects

Organization Description/Code : Department: _____ Agency: _____ Operating Unit: _____ Organizational Code (UACS): _____		Fund Source Code: <div style="border: 1px solid black; width: 20px; height: 20px; display: inline-block; margin-right: 5px;"></div> Locally Funded
Type*	Program <input type="checkbox"/> 1 Project <input type="checkbox"/> 2	
Program / Project Name / Title		
Total Cost: _____		Duration: _____ Years
Note: _____		
Implementation Schedule (Year)	Particulars	Amount Requested
		P
Total		P -

Checklist of Supporting Documents:

- ☐ Copy of the National Economic Development Authority (NEDA) Board Resolution approving the PPP project
- ☐ Joint Certification by the DOF and the PPP Center on the list of obligations and corresponding amounts committed by the National Government for the PPP project
- ☐ Agency Budget Strategy for the National Government obligations in the PPP project
- ☐ Agency Summary of the PPP project term sheet containing its technical, economic, financial, social and environmental appraisal aspects

Certification:

As a prerequisite for the issuance of a Letter of Commitment, we are confirming our commitment to give priority and include the annual budgetary requirements of the program or project specified above within our annual budgetary ceilings as may be prescribed by the DBM.

 Date

 Head of Department/Agency
 Designation

*Type refers to programs/projects which require multi-year appropriations:

Type 1 - Programs which will be implemented with regular recurrence with no definite termination period.

Type 2 - Projects which will be implemented and completed within a given period of time as specified in the project profile.





Republic of the Philippines
DEPARTMENT OF BUDGET AND MANAGEMENT

LETTER OF COMMITMENT (LOC) FOR GOVERNMENT SUPPORT FOR PUBLIC-PRIVATE PARTNERSHIP (PPP) FUNDED PROJECTS

TITLE OF PPP PROGRAM/PROJECT REQUIRING GOVERNMENT SUPPORT						
TOTAL PPP COST (P Thousand)						
NAME OF PPP PROPONENT						
TITLE OF MULTI-YEAR GOVERNMENT SUPPORT TO PPP						
CATEGORY OF GOVERNMENT SUPPORT (pls check all applicable forms)						
<input type="checkbox"/> AP	<input type="checkbox"/> ROW					
<input type="checkbox"/> VGF	<input type="checkbox"/> INDEPENDENT CONSULTANT					
<input type="checkbox"/> RPT	<input type="checkbox"/> PMO					
<p>This is to certify that pursuant to Sections 20 and 22 of Article VII of the Constitution and LOI No. 880 dated 21 June 1979, the amounts indicated hereunder will be proposed by the President to Congress to be made available to cover the multi-year government support as required each year for the implementation of the PPP-funded project identified herein. The final obligational authority shall be issued on the basis of the amount approved by Congress.</p>						
ORGANIZATION DESCRIPTION/CODE		FUNDING SOURCE CODE				
Department Name Agency Name Operating Unit Name UACS Organization Code						
LETTER OF COMMITMENT FOR GOVERNMENT SUPPORT FOR PPP-FUNDED PROJECTS: FUNDING SCHEDULE (In thousand pesos)						
YEAR	AMOUNT					Total
	Form of Gov't Support (specify)	PS	MOOE	FINEX	CO	
TOTAL						
<p>This LOC herein issued shall be used solely for the purposes indicated. Notwithstanding the issuance of the LOC, the actual obligations to be incurred in any given fiscal year shall in no case exceed the allotment released for the fiscal year subject to the usual budgeting, accounting and auditing rules and regulations.</p>						
CERTIFIED AMOUNT IN WORDS (PESOS)			BY AUTHORITY OF THE SECRETARY:		DATE	

The Agency shall:

1. Indicate the following:

- a. PPP program/project requiring government support
 - b. PPP Cost
 - c. PPP Proponent (full corporate name)
 - d. Title of Multi-year Government Support to PPP
2. Check the applicable category of government support.
3. Fill in the organization description/code and the funding source code of the requesting department.
4. Specify the covered year(s) of the government support and its corresponding amount, by allotment class.
5. Agency Head to certify the request by placing his signature and the date of issuance.

This form, together with the required supporting documents, shall be submitted to the DBM for the issuance of an LOC.

Agency Budget Strategy for the National Government Obligations in the PPP Project

1. Proponent/Department		2. Program/Project Titles	
3. Implementing Agency		4. Total Cost:	
5. SEER (ed)? YES <input type="checkbox"/> NO <input type="checkbox"/>			
6. If YES, Priority Classification: RANK: Hi <input type="checkbox"/> Rank: <input style="width: 100px; height: 30px;" type="text"/> Mid <input type="checkbox"/> of Low <input type="checkbox"/> Total No. of Programs/ Projects <input style="width: 100px; height: 30px;" type="text"/>		7. If NO, Agency Classification: RANK: Hi <input type="checkbox"/> Rank: <input style="width: 100px; height: 30px;" type="text"/> Mid <input type="checkbox"/> of Low <input type="checkbox"/> Total No. of Programs/ Projects <input style="width: 100px; height: 30px;" type="text"/>	
8. Medium-Term Budget Program and Project Requirement Particulars Allot. Class Year 1 Year 2 Year 3 Year 4 Year 5 Total Program/Project:			
9. Year	10. Department	11. Agency	12. Program/Project Requirement <div style="text-align: right;">0.00</div> <div style="text-align: right;">0.00</div> <hr style="width: 80%; margin: 5px auto;"/> <div style="text-align: right;">0.00</div>
13. Program/Project supports the following MFOs. MFO 1 MFO 2 MFO 3 MFO 4			
14. Funding Sources:			
15. Year	16. Agency Budget Ceiling (In Pesos)	17. Scrap and Build	18. From 19. Amount 20. OTHERS (Attach separate sheet if necessary) PAP/Proj. (In Pesos) (Eg. Revenues) 21. Total
			-
			-
			-
			-
22. Total			
23. Other Measures/Remarks/Explanatory Notes			
24. Prepared by:		25. Endorsed by:	
_____ Chief, Budget Division Financial and Management Service		_____ Director, FMS	