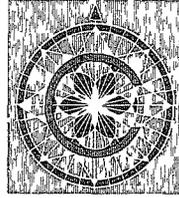
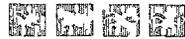


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CHEMONICS INTERNATIONAL INC



TECHNICAL ASSISTANCE FOR THE
BAPPENAS PUBLIC-PRIVATE PARTNERSHIPS CENTER INITIATIVE

FINAL REPORT

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ACRONYMS

ADB	Asian Development Bank
BAPPENAS	National Development Planning Agency (Badan Perencanaan Pembangunan Nasional)
BOO	Build-own-operate
BOT	Build-operate-transfer
CIDA	Canadian International Development Agency
GDP	Gross domestic product
GOI	Government of Indonesia
IMF	International Monetary Fund
PPP	Public-private partnership

INTRODUCTION

A key policy objective of Indonesia's Sixth National Development Plan (Repelita VI) for 1993-94 to 1998-99 was a greater private sector role in developing and managing the country's infrastructure. However, there was no clear policy and regulatory framework to ensure that private sector involvement is cost-effective and provides monetary value for the public. Indeed many infrastructure projects being proposed or carried out by the private sector offered the public poor value.

In September 1996 the Government of Indonesia (GOI) announced its intent to establish a consistent, transparent and accountable cross-sectoral policy and regulatory framework for private sector investment in infrastructure. To support this effort, in September 1997 USAID approved the BAPPENAS¹ Public-Private Partnerships Center Initiative. The Canadian International Development Agency (CIDA) also provided assistance, beginning in May 1997.

The initiative's original scope of work called for assisting the GOI to develop transparent, cost-effective procedures for approving public-private partnerships (PPPs), design and develop institutional arrangements for PPPs, and provide policy analysis on key areas such as risk management and credit enhancement.

By August 1997 the Asian economic crisis had impacted Indonesia. The crisis — coupled with the consequent involvement of the International Monetary Fund (IMF), the World Bank, and the Asian Development Bank (ADB) — created an impetus to accelerate the pace and depth of economic, and ultimately, social and political reforms. PPPs were targeted by the IMF and World Bank for reform, with the IMF loan requiring the GOI to establish by December 31, 1997, a robust cross-sectoral policy and regulatory framework for private sector investment in infrastructure.

With the CIDA team already in the field, the agency accelerated its efforts to satisfy the deadline. A significant portion of CIDA's recommendations were adopted and promulgated on January 12, 1998, as Presidential Decree No. 7/1998. The decree addresses the processes of rational project identification and the use of competitive procurement, and satisfies the basic issues of sound governance.

As the decree subsumed a significant part of the original scope of work, USAID agreed to BAPPENAS' request to revise it to include other priority areas, including

- Assistance for preparing the implementing regulations and guidelines for Presidential Decree No. 7/1998
- Development of a PPP project database
- Policy advice and support in dispute resolution, credit enhancement, and post-transaction regulation
- A workshop program

Work under the revised scope of work began in January 1998, and the deliverables were progressively provided to the GOI and USAID throughout 1998. The policy paper on dispute resolution was removed from the scope of work at the suggestion of USAID. The final in-the-field deliverable was the workshop conducted in Jakarta in December 1998.

¹ National Development Planning Agency (Badan Perencanaan Pembangunan Nasional)

The project's deliverables have yielded tangible results

- The issuance on October 19, 1998 of Ministerial Decree No 318/98 to regulate the framework outlined in Presidential Decree No 7/1998
- The issuance on December 15, 1998 of the official PPP Implementation Manual
- The official launch of the PPP program

In addition the project helped to develop policies on credit enhancement (as embodied in the Ministerial Decree and Implementation Manual) and a strategy for design and development of a Private Sector Infrastructure Development Fund. The fund will play an important role in 'kick-starting' private sector investment.

Before May 1998, the establishment of independent sector regulators to support the post-transaction stage of PPPs was not viewed as impractical. However, encouraged by the efforts of the multilateral agencies and the new political situation, the GOI sought the project team's advice on how to structure a functional, accountable independent regulatory system. Although further development of this structure needs to be covered in a possible follow-on project, the team's recommendations on the role of independent regulators have been included in the official PPP Implementation Manual.

A secondary benefit of the assistance provided under the project is that the GOI is now fully compliant with the World Bank's second-tranche conditions regarding infrastructure.

For the future, the GOI needs assistance that will encourage it to

- *Establish and operationalize the PPP Center* which will support activities to assist line agencies in planning, analyzing, tendering, and evaluating eligible PPP projects supporting the further development and refinement of the policy and legal framework, and launching urgently needed capacity-building and outreach exercises
- *Establish a credit enhancement framework and program* to develop and implement sound policies to control the provision of government support and guarantees, prevent abuses and misallocation of resources, and restart significant private sector investment
- *Develop umbrella infrastructure legislation and a post-transaction regulatory framework* to clarify, update, and strengthen Presidential Decree No 7/1998, harmonize legal and institutional relationships and initiatives on public-private cooperation, and serve as the legislative vehicle for establishing a system of accountable, independent post-transaction regulation

SECTION I

Original Project Objectives and Scope

A Project Objectives

After the GOI announced its intent to develop a cross-sectoral policy and regulatory framework for public-private partnerships in infrastructure, USAID and the Canadian International Development Agency agreed to provide complementary donor initiatives to support the work.

Under its Infrastructure Services project, in May 1997 CIDA began working to

- Develop a cross-sectoral policy and strategy for private sector involvement in infrastructure provision
- Analyze domestic capital markets
- Conduct a preliminary analysis of the institutional requirements for the PPP program
- Prepare an initial assessment of the desired scope of, and possible arrangements for, post-transaction regulation

USAID in consultation with CIDA offered to assist an inter-ministerial body, referred to as the Coordinating Board, to

- Clarify the authority, roles, and operating procedures of the Coordinating Board and the envisaged Public-Private Partnerships Center
- Develop regulations and guidelines for sectoral ministries in establishing procedures for processing PPP projects at the central level
- Design rules and procedures to enhance transparency and predictability throughout the project development process

B Original Project Scope of Work

Based on joint consultations, USAID, BAPPENAS, and CIDA agreed upon a scope of activities (see Annex A). The three major tasks of the scope of work are summarized below:

- *Approval procedures analysis*
 - Prepare brief profiles of the key infrastructure sectors covering priorities, targets, progress in PPP transactions, and progress in the development and application of PPP procedures
 - Carry out in-depth analysis of priority sectors
 - Map out the procedures and processes used in the priority sectors for project identification, procurement, and approval

- Make recommendations to support the cross-sectoral initiative covering transparent rules and procedures for project identification and procurement and conduct an analysis of the role of the Coordinating Board and PPP Center
- Identify capacity-building activities to support the above
- *PPP Center design options and workshop*
 - Draft guidelines outlining options for the decision-making authority, procedures for the Coordinating Board, and procedures for the PPP Center and its possible role in supporting the Coordinating Body
 - Assist BAPPENAS in conducting a workshop to review the options and unresolved issues on the authority of the Coordinating Board and role of the PPP Center
- *Guidance on selected project risk management, credit enhancement, and model contracts*

SECTION II

Issues and Events Affecting the Project

A The Asian Economic Crisis and Its Consequences

From the time the project was formed (May-June 1997) to the project team's fielding (November 1997), the Indonesian economy, and indeed the economies of several other Asian countries declined severely. Analysts estimate that in 1998 the Indonesian economy contracted by 15 percent, unemployment reached 15 to 20 percent, and more than 40 percent of the population was cast into poverty. The economy is expected to show zero growth in 1999 and resume a positive (but low) rate of growth only after the year 2000.

A1 Multilateral Assistance Packages

To help mitigate the economic crisis, the GOI sought and obtained from the IMF a three-year standby credit authorizing up to SDR 7 338 billion (about U S \$10 14 billion) in support of the country's macroeconomic stabilization and structural reform program. This assistance was made contingent upon the GOI undertaking a comprehensive set of reforms in the banking, industrial and infrastructure sectors. IMF's assistance was later complemented by the ADB's \$1 5 billion financial governance reforms program and the World Bank's \$1 billion policy reform support loan.

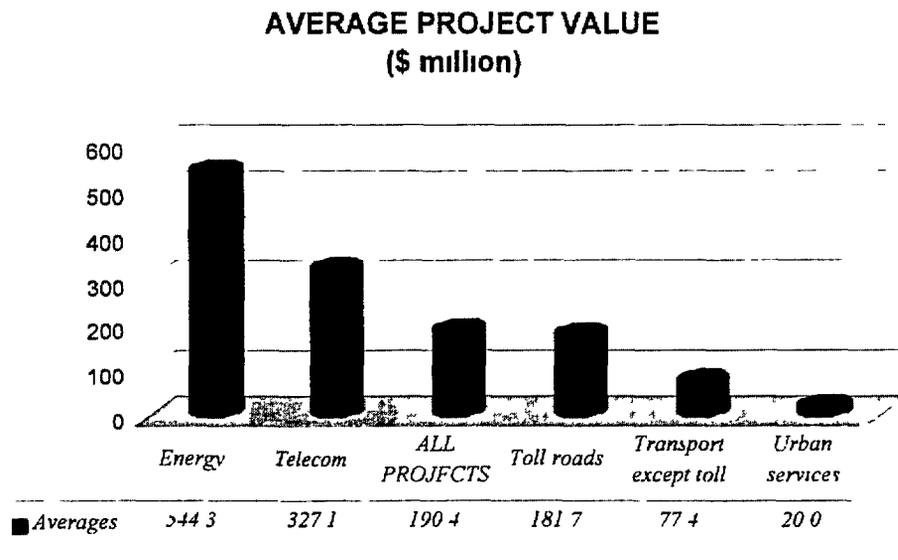
A2 Presidential Decree No 39/1997

The GOI's initial reaction to the economic crisis was to widen the intervention band on the rupiah and raise interest rates. However, downward pressure on the rupiah continued and the intervention bands failed to hold. To minimize the balance of payment impact, on September 20, 1997, the government temporarily suspended all investment projects with the private sector by promulgating Presidential Decree No 39/1997. The decree covered infrastructure and non-infrastructure projects (e.g., oil refineries) involving private investment, and aimed at preparing an inventory of these projects and categorizing them as follows:

- *Proceed* Projects judged to be relevant to Indonesia's infrastructure requirements and suitable for proceeding without further delay.
- *Postponed* Projects judged as generally satisfactory but of a lower priority and therefore deferred pending improvement in the economic climate and Indonesia's capacity to absorb the projects.
- *Reconsider* Projects judged to have insufficient merit or priority to proceed and needing further review and examination.

By March 1998, work carried out under the decree had identified 284 infrastructure projects in the pipeline with an estimated value of \$45 billion. As Exhibit II-1 on page 4 indicates, the average value of these projects was \$190 4 million, with energy projects having the highest and urban services the lowest average value. Annex B provides a detailed listing of these projects. Except for those projects in an advanced stage of implementation (about 45), the project team recommended to BAPPENAS that the projects be subject to Presidential Decree No 7/1998.

Exhibit II Infrastructure Projects



As the economic crisis deepened, the IMF called for the outright cancellation of some of the deferred projects. In November 1997, after the approval of the IMF standby facility, Presidential Decree No. 4 was promulgated, to reinstate some of the canceled projects. However, on January 10, 1998, immediately before the arrival of the IMF mission in January 1998, Presidential Decree No. 5 was promulgated to revert the review process to the Presidential Decree No. 39 parameters, thereby canceling Presidential Decree No. 47. The government canceled 12 major infrastructure projects that had been reinstated earlier, including the Tanjung Jati-C power plant.

A3 Presidential Decree No. 7/1998

At the request of BAPPENAS, starting July 1997 the CIDA team assisted in drafting legal instruments to formalize the cross-sectoral policies and procedures to be adopted for PPP infrastructure. This work was not in CIDA's original scope of work. However, given BAPPENAS' desire to finalize this work by December 1997 and before the end of the Sixth Development Cabinet¹, as well as the start-up delays in the USAID project, the only effective option was to have the CIDA team perform this work.

On December 16, 1997, CIDA presented three draft documents: government regulations on PPP policies and the broad principles to be followed, a presidential decree on the procedural aspects of PPP project identification and procurement, and a presidential decree on the proposed institutional arrangements.

In the meantime, the IMF had approved its standby credit, and one of the conditions for the release of the second tranche was the issuance by December 31, 1997, of guidelines on expanding the private sector's role in providing infrastructure (see Annex C). The work of the CIDA team, therefore, had gained a practical urgency.

¹ During the tenure of Ginandjar Kartomasarta as chairman and Rahardi Ramellan as vice chairman.

Based in part on CIDA's work Presidential Decree No 7, Cooperation between the Government and Private Sector for the Development and/or Management of Infrastructure was prepared by BAPPENAS and the National Secretariat in late December 1997 President Soeharto signed the decree into law on January 12 1998, three days before the arrival of the IMF's review mission in Jakarta A copy of Presidential Decree No 7/1998 is reproduced in Annex D

A4 Government Regulation No 12/1998

Government Regulation No 12/1998, promulgated on January 17, 1998, transferred the responsibility for managing and restructuring public enterprises from line ministries to the Ministry of Finance and a new Ministry for State-owned Enterprises A clear framework for managing and privatizing government assets is currently being developed to establish explicit criteria for determining whether an enterprise should be closed, restructured, or privatized For enterprises remaining in the public sector, the framework is intended to ensure that they operate efficiently, including establishing profit and performance targets to be made public and reported annually

Government Regulation No 12/1998 covers state-owned enterprises in the infrastructure and non-infrastructure sectors While state-owned enterprise reform is necessary to the overall process of economic reform and improved governance practices, its application to the infrastructure enterprises created a number of ambiguities and potential problems

- Removing state-owned enterprises from the purview of the line ministries initially created an ambiguity regarding the application of Presidential Decree No 7/1998 to the infrastructure projects of state-owned enterprises
- The ultimate privatization of state-owned enterprises in the infrastructure sectors could be interpreted to automatically grant to these enterprises an uncontested monopoly right This issue has not yet been explored adequately within the GOI

A5 World Bank Program

The commitment of the ADB and World Bank to provide complementary assistance led the IMF to refocus its program on the macroeconomic framework The ADB concentrated on financial sector reform, the World Bank on reforms in the real (e.g., industry and infrastructure) sectors Among other things, the World Bank was keen to promote effective reforms in the infrastructure sectors While acknowledging that Presidential Decree No 7/1998 was a useful first step, it was mindful that the decree failed to address adequately a number of issues necessary for a fully functional private sector investment program The World Bank sought actions from the GOI to fill gaps in Presidential Decree No 7/1998 by addressing tariff setting and adjustment, treatment of unsolicited projects, provision of public support, risk allocation, and dispute resolution

The World Bank sought to have the GOI

- Provide effective policy guidance on public-private partnerships in the Ministerial Decree contemplated under Presidential Decree No 7/1998
- Prepare and issue a suitably detailed Implementation Guide
- Conduct a suitable high-level workshop to publicize and launch the PPP program

A6 Social and Political Change

By April 1998 the social impact of the economic crisis was becoming severe. GDP had fallen to 30 percent of its 1997 value, unemployment was rising and social unrest was increasing. The social impact of the crisis also prompted the IMF to modify some of its policy prescriptions, and social support programs were being prepared by the World Bank, ADB, and bilateral donors including USAID.

On May 16, 1998, President Soeharto resigned after 32 years in office. The new government of President B. J. Habibie confirmed its commitment to the reform process. In May a new acronym began to emerge in the Indonesian language — KKN *korupsi, kolusi dan nepotism* (corruption, collusion and nepotism). The public began to demand action to solve the nepotism problem that many perceived had been a major contributor to the economic crisis. Moreover, many also perceived that Indonesia's highly centralized system of governance had created a fertile environment for the growth of KKN and began to demand more decentralized and accountable governmental processes. Elections for a new parliament are planned for June 1999.

Because Indonesia lacks a history of effective political opposition, the transition to a representative and accountable system of government will be difficult. An uncorrupt, knowledgeable and credible civil service operating with clear, transparent processes will therefore play a key role in facilitating the political transition.

B Impact on the Scope of Work

The following three consequences of the economic crisis significantly impacted the original scope of work:

- The IMF, World Bank and ADB programs required the GOI to accelerate the pace, depth and scope of economic reform.
- Political changes caused a shift toward a more decentralized, accountable approach to governance.
- Indonesia's international credit rating fell below investment grade, to about CCC+ by May 1998.

Due to these consequences, the scope of work was modified substantially in December 1997 and January 1998. In addition, further adjustments were made in April 1998. The nature of these modifications are discussed below.

B1 Approvals Procedures Analysis

Although Presidential Decree No. 7/1998 removed a significant part of the scope of work, further action was required to establish regulations to put the decree's framework into action. Also, the gap between the decree and CIDA's original recommendations needed to be filled.

B2 PPP Center Design Options and Workshop

In outlining the institutional arrangements to be followed for PPP projects, Presidential Decree No. 7/1998 cut across a significant portion of the activities to be covered in the scope of work.

This required the scope of work to incorporate within its activities the institutional arrangements involving BAPPENAS, a procurement evaluation team and ministries/regional governments and state-owned enterprises. The following describes the infrastructure mandates of these entities.

BAPPENAS Under Articles 4, 5 and 6 of the decree, this agency should

- Ensure that proposed projects are consistent with, and relevant to, overall national planning objectives
- Establish and update the List of Infrastructure Development Projects that authorizes a PPP project to proceed
- Monitor the implementation of cooperation projects for infrastructure development and management
- Finalize the required implementing regulations including an Implementation Guide (or Implementation Manual) and any additional regulations that may be specified by a ministerial decree

Procurement evaluation team For PPP projects over Rp 50 billion, the decree assigned this team the responsibility for examining, evaluating, and selecting the successful bidder. This team was established under Presidential Decree No. 6 of 1995. The team is assigned the additional responsibility of receiving and deciding appeals during the pre-qualification, bidding, and project implementation stages for all PPP projects.

Ministries/regional governments and state-owned enterprises These are defined in Presidential Decree No. 7/1998 as “responsible entities” and are the owners of a PPP project. As owners, they have the primary responsibility to

- Identify potential candidate projects for consideration for inclusion on the List of Infrastructure Development Projects
- Conduct and evaluate pre-feasibility studies
- Prequalify private sector participants
- Conduct bidding and bid evaluation
- Select suitable private sector partners
- Contract the project with the selected private party
- Monitor the implementation of the cooperation arrangements
- Provide all such information as may be required by BAPPENAS and/or the procurement evaluation team on all cooperation projects that are proposed, under procurement, under implementation, and completed

B3 Guidance on Project Risk Management and Credit Enhancement

The review of the pipeline of private sector projects carried out under Presidential Decree No 39/1997 indicated that many projects had been carried out (or proposed) on somewhat questionable assumptions. Most projects were not competitively tendered and often used substantial amounts of public support. Moreover, such public support was often provided merely to facilitate the transaction, and without examining the project's cost-effectiveness or the accountability aspects. For example, most power projects included generous off-take provisions creating substantial contingent liabilities for PLN, the state-owned electricity supplier. When the crisis hit, PLN simply could not meet its contractual obligations.

Moreover, the liberal use of public support hid one of the real issues affecting project bankability — the lack of modern and market-oriented tariff policies in all infrastructure sectors. In every sector except telecommunications, the GOI had kept tariffs below cost-recovery levels. While this well-intentioned policy was justified to protect the poor, the real beneficiaries were often the more affluent sectors of the society who had access to such services. Moreover, because tariffs were generally below cost-recovery levels, the infrastructure institutions lacked self-financing capacity and were unable to expand service delivery, except through donor programs from the World Bank or ADB. For the poorer sections of society, who often had no access to service, the low tariffs were at best a theoretical benefit. As a result, private parties were unwilling to assume tariff risk and demanded revenue guarantees (public support). Without suitable guidelines, there was no way to determine what might be an appropriate level of public support, or how it would be accounted for.

The onset of the economic crisis brought these issues to the forefront earlier than might have otherwise happened.

B4 Summary of Scope of Work Modifications

Overall the scope of work was modified to allow for the following:

- A number of contemplated reforms to be supported by the project were implemented earlier than anticipated.
- New opportunities for effectively using the project resources emerged.
- The nature of the project changed from a purely advisory function to one that assisted GOI in a very hands-on and relevant way.

Section III reviews the resultant modifications in detail.

SECTION III

Revised Project Scope and Deliverables

A Rationale and Content of Revised Scope

The revisions approved by USAID were made in consultation with BAPPENAS and the CIDA team. The changes and the rationale for them are summarized below and detailed in Annex F.

A1 Task 1 Preparation of a Database for the List of Infrastructure Development Projects

Under Article 6 of Presidential Decree No. 7/1998, the List of Infrastructure Development Projects drives the PPP program. Only projects included in the list can be procured. To get on the list, a project must satisfy criteria that include showing its preliminary viability and relevance in overall national planning objectives. Moreover, the list must be updated regularly to reflect the addition of new projects, the deletion of projects that prove to be non-viable, the actions taken with each stage in the procurement process, and project monitoring activities.

Revision: The revised task was to assist BAPPENAS in creating a PPP project database that can be regularly updated in line with the above requirements, is in a format suitable for advising the public on the program's status, and shows private parties the opportunities for investment.

A2 Task 2 Preparation of an Implementation Manual and Guidelines

Presidential Decree No. 7/1998 created an urgent need for rules and guidelines to support its implementation. The original scope of work had covered the provision of manuals and guidelines as deliverables. However, this provision was deleted during the project team's visit in December 1997 when work covering the creation of PPP units in line ministries was added. Because the decree does not contemplate such PPP units, creation of these units was deleted and work on manuals and guidelines was reinstated.

Revision: The project team would prepare and deliver to BAPPENAS and USAID working drafts of the Implementation Manual and Ministerial Decree by mid-May 1998.

A3 Task 3 Design of a Post-transaction Regulatory Framework

Presidential Decree No. 7/1998 largely covers the pre-award phase. Its only reference to post-award activities is in Article VIII of the Elucidation, which states that

- BAPPENAS must monitor the performance of projects under implementation
- The procurement evaluation team is to assist in resolving disputes between private parties and the owners of the project

The decree is unclear on the purpose and scope of BAPPENAS' monitoring activities, and on the specific post-transaction mandate of the procurement evaluation team.

Revision: The project will include an examination of institutional roles and responsibilities for post-transaction matters such as tariff policy, tariff setting, and periodic tariff adjustment, contract monitoring and enforcement, and consumer protection and advocacy.

A4 Task 4 Dispute Resolution

Revision While somewhat related to task 3 a specific examination of dispute resolution was deemed necessary to

- Operationalize the dispute resolution mechanisms in Article VIII of the Elucidation to Presidential Decree No 7/1998, especially regarding post-transaction aspects
- Provide guidance on how the dispute mechanism processes referred to in Article 10(2)f may be operationalized in the context of PPP contracts
- Develop guidelines on dispute resolution options available to the GOI and private parties including what mechanisms may be applied to specific classes of dispute e.g. when an arbitrator, sector regulator, or court may be an appropriate venue for particular classes of dispute

A5 Task 5 Financial Analysis and Credit Enhancement

For the reasons cited above, the cost-effectiveness to the GOI and the community of PPP projects depends heavily on the appropriate, cost-effective use of public support. Also, the loss of Indonesia's investment grade credit rating has created a potential role for donor-based support in catalyzing the flow of private sector investment. Thus the tasks covering risk management and credit enhancement became more important than originally envisaged.

Revision The project team's work in finance would concentrate on identifying a combination of initiatives that

- Facilitate a more appropriate sharing of risks between the public sector and the private sector with a view toward tariff policies that induce private investors to be more willing to assume tariff risk
- Use credit enhancement techniques such as public support more cost-effectively and transparently
- Support some private sector financing until Indonesia's investment grade rating is restored

B Deliverables

Exhibit III-1 on page 11 summarizes deliverables under the revised scope of work

Exhibit III-1 Schedule of Deliverables

Task	Deliverable	Due Date
1	1 Questionnaire 2 Database design 3 Project profile sheet	June 30 1998 June 30 1998 June 30 1998
2	1 Working draft Implementation Guideline 2 Draft Ministerial Decree for Presidential Decree No 7/1998 3 Workshop on the PPP framework	mid May 1998 mid May 1998 May 31 1998 – but deferred to December 1998
3	1 Report and recommendations on post transaction performance monitoring procedures and policies 2 A one day workshop on post award regulatory regimes 3 Two or three draft Ministerial Decrees for the transport and water sectors	March 21 1998 Combined with task 2 part 3 above March 21 1998
4	1 A report on the above topics 2 Model clauses for inclusion in regulatory regimes and in concession agreements and provider contracts 3 Module to conduct a one day workshop on dispute resolution and arbitration	March 21 1998 March 21 1998 March 21 1998
5	1 Report on financing infrastructure within the constraints of the IMF accords 2 Design for a Private Sector Investment Development Fund and other credit enhancement techniques 3 One day workshop	May 15 1998 May 15 1998 Combined with Task 2 part 3 above
6	Final Report	June 15 1998

SECTION IV

Overview of Project Performance and Deliverables

A Task 1 Preparation of a Database for the List of Infrastructure Development Projects

Work on this task began in earnest January 1998 when the conceptual design for the database and data-gathering methodologies for its format were pretested. The following deliverables were provided:

Deliverable	Date
Questionnaire (see Annex G)	December 16 1997
Database design (see Annex H)	June 30 1998
Project profile sheet (see Exhibit IV-1, below)	December 10 1998

The project profile sheet, published as the List of Infrastructure Development Projects covers

- The content of the list by project and sector
- The type of project, for example, build-operate-transfer (BOT) or joint venture
- The procurement status of the project, for example, pre-qualification, bidding, bid evaluation award of agreement, completed and operational
- Whether public support will be provided for the project and, if so, the type of public support contemplated (e.g., consumer subsidy, complementary investment)
- Projects added and removed during the current month

Because the work being carried out under Presidential Decree No. 39/1997 has not yet been completed, the List of Infrastructure Development Projects output mock projects prepared for illustrative and demonstration purposes only.

Exhibit IV-1 Illustrative List of Infrastructure Development Projects, December 1998

	Name of project	Responsible entity	Estimated project value (Rp trillion)	Type	Date of first listing	Procurement action	Public support
I Energy Sector							
1	Utara Gas Fired Plant No 1	PLN	200	BOT	May 1998	No action	Nil
2	East West Transmission Project No 3	PLN	340	BOT	June 1998	Pre qualification advertised on 18 July 1998	Nil
3	East Java Generation No 2	PLN	288	BOO	June 1998	No Action	Nil
4	Central Java Transmission No 1	PLN	390	BOT	May 1998	Pre qualification closed on 7 August 1998	Nil

Name of project	Responsible entity	Estimated project value (Rp trillion)	Type	Date of first listing	Procurement action	Public support	
II Transportation							
1	Central Java Railway	PERUMKA	225	BOT	May 1998	Bid documents issued to pre qualified firms Bid closing 30 October 1998	Subsidy will be provided to successful bidder to provide selected passenger services
2	Vehicle Testing & Inspection Center	Perhub Darat	55	BOT	June 1998	No action	Nil
3	Central Java Container Port	PTPI III	195	BOT	May 1998	Bid evaluation completed	Nil
III Urban Services							
1	West Surabaya Water Supply	Surabaya City	205	BOT	July 1998	No action	Subsidy will be provided to serve selected consumers

Summary of Changes in December 1998 Listing							
<i>Projects added</i>							
III Urban Services							
1	West Surabaya Water Supply	Surabaya City	205	JV	December 1998	No action	Subsidy will be provided to serve selected consumers
<i>Projects deleted</i>							
II Transportation							
1	Railway Container Terminal	PERUMKA	160	BOT	March 1998	Pre qualification	Nil

B Task 2 Preparation of an Implementation Manual and Guidelines

Deliverable	Date delivered
Working draft of Implementation Manual	May 13 1998
Working draft of Ministerial Decree	May 13 1998
Workshop on the PPP framework	December 15 16 1998

Ministerial Decree and Implementation Plan The draft Ministerial Decree presented guidelines and regulations to ministries and line departments. The decree and the draft Implementation Manual contained policy recommendations on issues such as tariff setting and adjustment, the treatment of unsolicited projects, public support, and credit enhancement.

Beginning October 4, 1998, the project team assisted BAPPENAS in finalizing the draft Ministerial Decree. On October 19, 1998, Ministerial Decree No. 318/1998 was finalized. A copy of the decree is reproduced in Annex I.

In Indonesia's hierarchy of laws and regulations, the Ministerial Decree had to take precedence over the Implementation Manual. Once the Ministerial Decree was promulgated, finalizing the manual became a priority. Initially, BAPPENAS was uncertain whether the manual should be prescriptive (as was the practice in the past) or used as a guideline (considered more appropriate in the emerging culture of decentralized governance). In the final week of the project team's October 1998 visit, it assisted in consolidating material to be included in the manual. This process continued after the team's departure through substantial email correspondence with BAPPENAS, and resulted in a manual structure and content (in English and Bahasa Indonesia) that constituted a comprehensive guideline on PPP. The manual was to be distributed as an official draft at the workshop proposed for December 1998. The English language version of the manual's official draft is presented in Annex J.

Together, the Ministerial Decree and Implementation Manual complement Presidential Decree No. 7/1998 and provide comprehensive guidance on, and explanation of, the policies and practices necessary to operationalize the PPP framework.

Workshop on the PPP framework A workshop for the official launch of the framework (comprising Presidential Decree No. 7/98, Ministerial Decree No. 318/98 and the Implementation Manual) was an integral component of the project and also a component of the related CIDA-financed Infrastructure Services project. In April 1998, CIDA and USAID consultants agreed to conduct the workshop jointly on a cost-sharing basis.

In December 1998, the Chemonics/IP3 team assisted BAPPENAS in finalizing the workshop's structure, objectives, and intended outcomes. It was agreed that the workshop should pilot two new initiatives: 1) in addition to senior GOI officials, the workshop would include representatives from the private sector, NGOs, the ADB, and the World Bank, and 2) the workshop would actively seek stakeholder inputs and present the Implementation Manual as an official draft in order to obtain participants' input.

The workshop, conducted December 15 and 16, 1998, was officially opened by Djunaedi Hadisumarto, vice chairman of BAPPENAS, Desaix Myers, USAID mission director, and a representative from CIDA. Approximately 230 persons attended the opening session (versus the planned attendance of 85). The workshop explained in detail the policy and operational aspects of Presidential Decree No. 7/1998, Ministerial Decree No. 318/1998, and the Implementation Manual. Two special sessions were dedicated to credit enhancement and post-transaction regulation. Chemonics/IP3 team members participated in workshop presentations and the break-out groups held on day 2, and the CIDA team participated jointly with the GOI and the project team on a post-transaction regulation session. A copy of the workshop agenda is presented in Annex K.

Completion of the workshop put Indonesia in full compliance with the infrastructure-related conditions set by the World Bank for the release of the second tranche of its policy-reform support loan

C Task 3 Design of a Post-Transaction Regulatory Framework

Deliverable	Date delivered
Report and recommendations on post transaction performance monitoring procedures and policies	December 15 1998
One day workshop on post award regulatory regimes	December 15 16 1998 during the combined two day workshop on Presidential Decree No 7/1998
Two or three draft ministerial decrees for the transport and water sectors	Canceled, no longer suitable

Post-transaction report The approach of the report on post-transaction regulation was based on BAPPENAS' initial guidance to present a conservative "hybrid" regulatory model heavily weighted toward preserving the institutional *status quo* and incorporating only modest departures from prevailing practices. However, in the wake of the changed political situation following President Soeharto's resignation and increasing World Bank pressure to institute significant reforms the GOI requested the project team to submit a revised package that considered more far-reaching reforms.

Workshop The revised work in post-transaction regulation, presented jointly by the project team and BAPPENAS senior advisors, was a major topic at the December 1998 workshop. An outline of the revised recommendations of post-transaction regulation is shown in Annex L.

Decrees on transport and water The proposed ministerial decrees covering the water and transport sectors were to reflect the hybrid approach to post-transaction regulation originally proposed by BAPPENAS. A hybrid, or in-the-ministry regulator, could legally be established by a ministerial decree. However, given that the changed political environment now permits the development of independent regulators and that independent regulators should be accountable to Parliament, such regulators cannot be created by a ministerial decree. Accordingly, it was decided to postpone the development of mechanisms to establish sector regulators until a follow-on implementation phase.

D Task 4 Dispute Resolution

In April 1998, USAID requested that the proposed work for this activity be suspended and considered for inclusion in a possible second phase of the project. In USAID's view, this task was of a lower priority than the other tasks and did not justify the level of effort required to support it as a discrete activity. Further, USAID felt the task would be more effectively carried out when the GOI determines its overall approach and strategy for post-transaction regulation, especially regarding the use of independent sector regulators.

Therefore, work carried out on dispute resolution was limited to

- Assistance in preparing Section 6.2 of the Implementation Manual on dispute resolution
- A brief examination of dispute resolution in the context of task 3 on the post-transaction regulatory framework

E Task 5 Financial Analysis and Credit Enhancement

Deliverable	Date delivered
Report on financing infrastructure within the constraints of the IMF accords	August 1998
Design for a Private Sector Investment Development Fund and other credit enhancement techniques	August 1998 (summary version delivered at workshop on December 15 16 1998)
One day workshop	December 15 16, 1998 (in the combined two day workshop)

In the past, an absence of a clear, effective policy on credit enhancement resulted in inefficient provision of public support. For example, many power-generation projects carried expensive take-or-pay provisions and guaranteed dollar-denominated tariffs. Work under this task assisted the GOI to establish the following policy on public support as a credit enhancement tool:

The Government shall not provide support measures to a public-private partnership except to enhance the financial viability of an economically and socially desirable public-private partnership that would not otherwise be financially viable. Public support shall be no greater than necessary to provide an opportunity for the private party to earn a reasonable return on its investment. Public support shall be provided in an open and transparent manner.

This policy is formalized in Ministerial Decree No. 318/1998 and described in the Implementation Manual.

Before the economic crisis, Indonesia enjoyed an investment-grade credit rating and had little interest in the other main form of credit enhancement, namely donor support. However, like many of its Asian neighbors, Indonesia lost its investment-grade rating, and the hurdle rate — the rate of return needed for a project to be acceptable to financiers — has increased significantly. With Indonesia's lower country rating, foreign banks may decide to reject potential public-private partnership projects that may otherwise be attractive on their own merits.

Following the submission of the report on credit enhancement in August 1998, the GOI's interest in credit enhancement through donor support increased. In October 1998, it requested the project team to provide additional material on how this might be operationalized through, for example, a donor/GOI-sponsored Private Sector Infrastructure Development Fund. This work, carried out in October and November 1998, was incorporated into a revised credit enhancement report, which will be issued in January 1999. In addition, a 14-page summary of the upgraded credit enhancement report was distributed at the workshop held in December 1998.

SECTION V

Conclusions

The successful conclusion of the December workshop marked the final major in-field deliverable under the project. Given the original scope of work and Indonesia's drastically changed economic, social and political environment, the project's achievements would not have been possible without the cooperation of USAID in permitting the scope of work to adapt in line with these changes. On the other hand, the GOI was often critical of the limited time the consultants were able to spend in the field. However, given the limited budget and the overall requirements of the project, these criticisms had to be borne by the project team in good faith.

A Achievements

As of December 31, 1998, the GOI had in place the basic framework of a PPP program and had

- Issued Presidential Decree No 7/1998
- Issued Ministerial Decree No 319/1998
- Issued the Implementation Guideline
- Conducted a high-level workshop for senior GOI officials, NGOs, the donor community and the private sector to launch and publicize the PPP program
- Accepted the concept of rational credit enhancement and a Public Sector Infrastructure Development Fund
- Accepted the concept of independent, accountable sector regulation
- Satisfied the IMF and World Bank conditions on infrastructure financing and development

B Future Steps

By addressing the processes of rational project identification, the use of competitive procurement, and basic issues of sound governance, Presidential Decree No 7/1998 is a *necessary* first step in a rational, cost-effective PPP program. However, the decree does not define the *sufficient* conditions for a successful program. Therefore, the project needs to be followed by assistance in these areas:

- *PPP Center* Establishing the Public-Private Partnerships Center is vital to building capacity within line agencies to plan, analyze, tender, and evaluate PPP projects
- *Credit enhancement framework and program* Because of Indonesia's loss of investment grade, the design of the program needs to be accelerated to ensure that it is up and running by the time that eligible and deserving projects are on line. A credit enhancement initiative will develop and implement sound policies to control the provision of government support and guarantees to prevent abuses and misallocation of resources. This initiative must also include the detailed design aspects needed to establish related credit enhancement debt/guarantee facilities — mechanisms that will enable the funds from these facilities to be leveraged into significant volumes of new private sector finance for eligible infrastructure.

projects. Although the initiative has preliminary donor support, establishing such a facility will take about 12 to 15 months. However, this timing will be compatible with the expected emergence of suitable capital-intensive projects that would be the likely users of such a facility during the economy's recovery phase.

- *Umbrella infrastructure legislation and post-transaction regulatory framework*. There is still the need to develop an overarching framework that clarifies institutional authorities, strengthens the application of Presidential Decree No. 7/1998, harmonizes sectoral and cross-sectoral legislation, and establishes legislation creating the independent regulatory bodies for transparent post-transaction regulation. The need to develop the umbrella legal framework under an overarching law has been recommended by both the GOI's Public-Private Partnership Steering Committee and line agencies alike. In addition to clarifying, updating, and strengthening Presidential Decree No. 7/1998, the umbrella legislation would harmonize all legal and institutional relationships and initiatives affecting public-private cooperation. Among other things, this would need to cover procurement, investment, anti-monopoly provisions, the provision of guarantees and public support, and post-transaction regulation.

SECTION VI

Recommendations

A Overview

Feedback from the workshop participants indicated that their agencies, particularly local governments, lack the technical, financial, legal, and economic capacity to select, tender, and evaluate projects. Many participants observed that there is a backlog of old and new projects that need vetting and a decision on whether to advance or reject. Moreover, many expressed concerns that there would be substantial delays in receiving technical assistance and that they were under pressure to move forward in spite of the emerging legal and regulatory framework.

These comments highlight the challenge facing the PPP program. There needs to be a "fast-track" approach to operationalizing the Public-Private Partnerships Center, and priorities need to be established to select projects for inclusion on the List of Infrastructure Development Projects. BAPPENAS and other relevant parties need to establish the capacity to process eligible projects and develop a viable pipeline of priority projects that will be accepted by the market. In addition, BAPPENAS needs to communicate to line agencies, the public, the donor community, and investors that the legal and regulatory framework is still not complete until an "umbrella" law is finalized. Presidential Decree No. 7/1998 will remain the controlling regulation in the interim and the new framework will complement and not contradict it. This will provide all parties a sense of regulatory certainty and comfort that will allow the process to move forward while the details are fine-tuned.

B Areas Requiring Immediate Action

Based on these and other comments, as well as internal discussions within BAPPENAS, it is recommended that a short- to medium-term implementation plan be developed for immediate action. The following activities are proposed in order to allow the above strategic and implementation issues to be addressed concurrently with Indonesia's recovery phase:

- *Design, coordinate, and finalize the umbrella policy and post-transaction regulatory framework*
 - Consolidate and finalize the GOI's policy on public-private cooperation covering all aspects of the delegation to private parties of the state's constitutional obligations to provide infrastructure
 - Conceptualize and draft an umbrella infrastructure law
 - Develop the organizational and operational procedures for the Public-Private Partnerships Center
 - Coordinate and develop implementing regulations for sector regulators in water, transport, energy, telecommunications, and other public services in harmony with the umbrella law
- *Develop and implement targeted education, outreach, and capacity-building programs*

Capacity-building programs aimed at line agencies, local governments, and consumer organizations need to be developed and conducted for all relevant officials at the national,

provincial and local levels. This effort should focus on the goals, procedures, process and strategies of the PPP project life cycle. Activities could include:

- High-level policy workshops for senior GOI officials and mid-level policy and implementation workshops
- Post-transaction regulatory training programs for senior officials from the water, transport, energy, and telecommunications sectors
- “Toolkit” workshops on financial, economic, legal, and monitoring aspects of public-private cooperation projects for sectoral officials
- “Road shows” for local governments and consumer organizations
- *Pilot project selection and evaluation assistance* To respond to line-agency needs and create a portfolio of viable projects that are ready for processing in the recovery stage, a number of pilot projects need to be developed now to test and validate the Presidential Decree No. 7/1998 framework. The projects could be limited to the sectors of greatest need and demand, namely urban environmental services and transportation. They could be sourced from project identification work carried out under related projects such as Private Participation (PURSE), Coordinated Local Environmental Action Network (CLEAN) and TAP4I. Once the program gains credibility and Indonesia returns to the voluntary capital markets, a broader post-pilot phase can include other sectors and projects. This work should cover all stages of the project life cycle, from inclusion on the List of Infrastructure Development Projects to contract negotiation.
- *Design of credit enhancement facility and guarantee policy* Support is needed to help the GOI develop guidelines to implement its new policy on the use of government support for projects and to control the use of guarantees. This should also cover the development of methodologies and systems for accounting for contingent liabilities that arise from the provision of public support. In addition, the GOI also needs assistance to carry out the detailed design recommendations on the establishment of the Private Sector Infrastructure Development Fund to anticipate Indonesia’s return to the financial markets. This work should be carried out to a standard that is acceptable to the multilateral lenders and key bilateral agencies and cover:
 - Preparation of operational criteria for the approval of loans and guarantees from the Private Sector Infrastructure Development Fund
 - Development of a management and board of directors plan
 - Liaison with the multilateral lenders and key bilateral agencies

C Conclusion

The project has contributed in a useful and hands-on way to the development of GOI’s public-private partnership framework. To avoid losing momentum and establish a sound, cost-effective infrastructure program to support the economy’s recovery phase, the framework needs to be implemented urgently. The work outlined above will address the remaining gaps that prevent the PPP program from becoming fully operational.

ANNEX A

Original Project Scope of Work

UNITED STATES OF AMERICA
AGENCY FOR INTERNATIONAL DEVELOPMENT

1 Country of Performance. Indonesia Adv & Asst. Services Yes [X] No []

2 Contract OUT-PCE-I-800-97-00015-00, Task Order No. 800

(Incorporating FAR and AIDAR Clauses)

NEGOTIATED PURSUANT TO THE FOREIGN ASSISTANCE ACT OF 1961,
AS AMENDED, AND EXECUTIVE ORDER 11223

3. CONTRACTOR (Name and Address): 4a ISSUING OFFICE:
CHEMONICS INTERNATIONAL INC. Office of Contract Management
1133 20th Street NW Box 4, Unit 8135
Suite 600 APO AP 96520-8135
Washington, D.C 20036

TIN No: 521892401
CRC No: 10494830C

4b ADMINISTRATION OFFICE:
Office of Contract Management
USAID/Indonesia
Box 4, Unit 8135
APO AP 96520-8135

5. PROJECT OFFICE. 6. PAYING OFFICE. SUBMIT INVOICE TO:
Urban Environmental Management/SO4 Office of Finance
USAID/Indonesia USAID/Indonesia
Box 4, Unit 8135, APO AP 96520-8135 Box 4, Unit 8135
CONTR. Director of SO4/UEM or designee APO AP 96520-8135

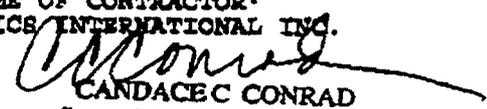
7. EFFECTIVE DATE: 8 ESTIMATED COMPLETION DATE.
September 30, 1997 October 15, 1998

9. ACCOUNTING AND APPROPRIATION DATA.

Amount Obligated	\$449,032	PIO/T No.: 497-0365-97-087
Ceiling Price:	\$449,032	Project No.: 495-0365
Appropriation No.:	72X1021	Budget Plan Code: HDEX-97-23497-KG13
Allotment No.:		RESCTLNo.: P701707
		BARTCLNo.: A710317

10. The United States of America, represented by the Contracting Officer signing this Order, and the Contractor agree that: (a) this Order is issued pursuant to the Contract specified in Block 2 above and (b) the entire Contract between the parties hereto consists of this Order and the Contract specified in Block 2 above

11a NAME OF CONTRACTOR:
CHEMONICS INTERNATIONAL INC.

BY. 
NAME. CANDACE C CONRAD
TITLE. Senior Vice President
DATE. 9-22-97

11b. UNITED STATES OF AMERICA
Agency for International Development

BY
NAME. Sharon L Cromer
TITLE: Contracting Officer
DATE:

AID 1420-61 (Rev'd)

1.1 **TITLE:** USAID Technical Assistance for the BAPPENAS Public-Private Partnership (P3) Center Initiative

1.2 **OBJECTIVE:**

The National Development Planning Agency (BAPPENAS) of the Government of Indonesia (GOI) has requested USAID assistance in defining options for the institutional design of the proposed Center for Public Private Partnerships, intended to fulfill the following functions

- (i) as an information center for the private sector on legal/regulatory requirements governing public-private partnerships in infrastructure,
- (ii) as a source of technical assistance, training, and promotional activities for private infrastructure initiatives of the responsible sectoral ministries in the sectors of power, transport, telecommunications, and urban services, and
- (iii) as staff to an interministerial approval body, provisionally referred to as the Coordinating Board, to oversee the development of regulations and guidelines to be used by sectoral ministries in establishing procedures for processing public-private partnership (PPP) projects at the central level, and to enact rules and procedures to enhance transparency and predictability throughout the project development process

In establishing the charter and legal status of the Coordinating Board and the P3 center, BAPPENAS has requested USAID assistance particularly with respect to the third function listed above, in clarifying the authority, roles and operating procedures of the Coordinating Board and the P3 center, as organizations charged with overseeing the development of new policies and procedures for the award of private concessions for infrastructure development and operation

1.3 **CONTEKT**

1.3.1 **Need for Expanded Private Participation in Infrastructure**

Indonesia, with a population of over 200 million, has an economy expected to continue to grow at a sustained rate of over 7% per annum. The country is becoming progressively more urbanized, with an urban population now estimated at over 55 million. Projected population growth rates and continuing urbanization trends will cause the urban population to reach 134 million by the end of the Second Long-Term Development Phase (PLP II) in the year 2018. These trends, along with rapid economic development, have created an urgent and massive need for cost-effective and efficient

economic infrastructure. Adequate infrastructure is essential for Indonesia to remain competitive in the global market for trade and investment

These requirements place increasing pressure on existing infrastructure and the associated development budgets for the Sixth Five-year Development Plan (Repelita VI) and thereafter. This pressure applies equally to the funding required for new projects, as well as the expanding funding requirements for operations and maintenance of existing infrastructure assets.

During Repelita VI - covering the period from 1994/95 to 1998/99 - it has been estimated that total new infrastructure requirements are over US\$ 50 billions, and during Repelita VII which follows, requirements are estimated at US\$ 132 billions. Amounts of this magnitude cannot be fully met from public funds, nor can the gap be made up from external donor sources such as multilateral and bilateral funds, whose resources are also limited.

If Indonesia is to realize its full growth potential, private participation is essential to help close the gap between the required level of investment and that which is available from traditional sources. Over the Repelita VI period, all major infrastructure sectors are planning to undertake development projects with private sector participation. Recent estimates suggest that to date over 250 such projects have been identified, of which 216 have been developed to the stage where estimates of total cost can be made, amounting to over US\$ 35 billion.

Indonesia has been receiving significant external aid in support of promoting private sector investments. For example, major World Bank Loans, (IBRD Loans # 3385-IND and #3913-IND) have been provided to finance technical assistance through the Technical Assistance Project for Public and Private Provisions of Infrastructure (TAP4I) project, to provide consulting services to create a portfolio of viable projects for private investors. Other donors activities in supporting of different aspects of the public-private partnership approach include an Asian Development Bank, (ADB) project on public-private partnerships in the transport sector; and the USAID-financed Private Participation in Urban Services (PURSE) project, which is helping to expand private participation in the delivery of urban services.

Notwithstanding the substantial resources that have been made available to accelerate the program, it is apparent that serious obstacles still remain in the conversion of the technical and capital assistance from donors, into viable, implementable investments actually taking place on the ground. Assessments of program progress by the Project Management Unit of the BAPPENAS agency for the TAP4I project, have observed substantial problems in implementation. For example, responses to tenders issued by Indonesian agencies from the international business and investment community, have sometimes been less than satisfactory, and the actual number of approved concession

agreement contracts awarded for capital construction projects has been disappointingly small

The clear implication of this uneven performance is that what is most needed is a clear and explicit legal and regulatory framework and the necessary institutional capacity, to establish a "level playing field" and promote the greater involvement of participants and stakeholders in public-private partnerships. This is important in order to send a clear and unambiguous signal to the international construction business, banking and investment community, that Indonesia is an investor friendly country, where property rights are protected and country and market risks are manageable, such that meritorious proposals will be fairly evaluated and promptly approved. In summary, what is needed is a streamlined process, operating under clear guidelines and authorities, which expedites private investment in infrastructure while ensuring that the public interest is protected.

1.3.2 Legal Basis of the Proposed Public/Private Partnership (PP) Center

Broad-based political support is developing for the enactment of a legal framework establishing new requirements for enhancing transparency and predictability in private-public partnerships that apply to all infrastructure sectors. Three ministers endorsed this concept at the BAPPENAS/World Bank-sponsored "Ministerial Level International Conference on Infrastructure Development" held in Jakarta, September 2-4, 1996. The Chairman of BAPPENAS, and the Ministers of the Coordinating Ministry for Production and Distribution, and the Coordinating Ministry of Economic, Financial and Development Supervision (Ekuwasbang) declared their commitment to establish a cross-sectoral legal/regulatory framework at that conference. Further ministerial support for this initiative has been expressed at an informal working group by the Ministries of Finance, the Ministry of Mines and Energy, and the Ministry of Public Work, created to implement this proposal.

Ekuwasbang has designated the Deputy Chairman for Infrastructure Development at BAPPENAS as responsible for preparing a Government Regulation (*Peraturan Pemerintah*), or PP, to expedite private participation in infrastructure by promoting policy coordination and consistency across sectors, through measures that strengthen institutional capacity for infrastructure planning; improve the process for planning, procuring, and managing technical assistance for infrastructure projects; and develop a cross-sectoral regulatory framework. This Government Regulation, currently in draft form and being circulated for comment, authorizes the establishment of an interministerial Coordinating Board and a Center for Public-Private Partnerships.

An important objective of the draft PP, planned to be submitted for Presidential signature by October 1997, is to provide a statement of basic principles, such as of protection of the public interest, competition, and consistency with national and sectoral planning objectives, to guide the development of the regulatory framework. The PP is to be

supplemented by one or more Presidential Decrees (*KEPPRES*) that will detail requirements for strategies, approval processes, and technical guidance to be established by each ministry concerned with infrastructure, e.g., transport (air, sea, and roads), telecommunications, power, and municipal services. The *KEPPRES* is expected to describe in greater detail the "coordination" role of the proposed Coordinating Board and P3 Center. To support implementation of the PP and *KEPPRES*, more detailed implementing regulations and guidelines are needed to specify procedures for approving PPP projects at the central level and to guide the operation of the PKLN committee and the P3 center.

1.3.3 Roles of the P3 Center

An interministerial consensus on the exact roles and authority of the proposed P3 center has not been reached. An issue is how the P3 center will support the development and implementation of policies and procedures applying to all ministries concerned with infrastructure. The BOT (build-operate-transfer) Center established in the Philippines in 1992 adopted primarily a service role, acting as an information center for the private sector, and as a source of technical assistance, training, and promotional activities for infrastructure-related sectoral ministries. Basic activities that the P3 center could carry out if it were to confine itself to essentially a service role are summarized below.

a. Services for the private sector

- i) Repository of information on non-sector specific laws and regulations, such as foreign investment requirements, tax laws, and regulations concerning customs and duties
- ii) Repository of information on sector-specific legal/regulatory requirements governing public/private partnerships in infrastructure provision, including
 - Sectoral strategies and priorities for expanding private participation, unbundling markets, and privatization of assets
 - Dissemination of guidance on project development procedures, approval processes, guidance on feasibility study requirements, and tariff rate-setting practices
 - Listings of projects identified by government agencies as suitable for private development and/or projects where sponsors are seeking foreign partners as investors, developers or operators

- Dissemination of information on risk management, financing sources, and model contracts
 - iii) Case studies of successful public/private infrastructure projects in Indonesia and other studies of selected issues.
 - iv) Information on seminars, workshops, training programs, and contact persons
- b. Services for the public sector:
- i) Technical assistance and training to help interested agencies to develop sectoral strategies, guidance on project development procedures, and regulatory oversight capacity.
 - ii) Exchanges between sectoral ministries and agencies from other countries to share lessons learned on specific techniques used in project transaction origination, financing, and management
 - iii) Technical assistance and training to develop guidance on selected issues, such as pricing policy reform, credit enhancement and risk management.
 - iv) Promotional activities to bring potential investment opportunities to the attention of private investors and developers

The concept of a cross-sectoral regulatory framework as envisioned by BAPPENAS implies that each sectoral ministry be required to clarify its objectives and establish transparent project development procedures and approval processes that adhere to international practices with respect to open competition, due diligence, and risk management. The imposition of basic requirements applicable to all infrastructure sectors for project approval and procurement processes will require careful analysis to foster interministerial cooperation. The range of opportunities and constraints to improved coordination has not yet been systematically determined. Key questions, such as those listed below, to be addressed in new regulations and guidelines planned by BAPPENAS, have important implications regarding the role of the Coordinating Board and the P3 center.

- Prequalification - the necessity of, and requirements for, pre-qualifying private parties must be clarified with respect to each sector
- Competition requirements - guidance is needed regarding the precise circumstances in which unsolicited proposals would be acceptable to

protect the public interest and expedite private participation, given varying market conditions and risks encountered in different sector and geographic locations.

- Overnight regulatory capacity - the roles of the technical ministries in approving projects need to be clarified with respect to minimum requirements for technical oversight capacity and categorization of projects in view of the GOI's decentralization policies
- Role of the Coordinating Board and P3 center - a balance needs to met to ensure that technical ministries' implementation practices are consistent with the policies and spirit of new regulations, yet at the same time, to avoid excessive centralization of authority that could lead to bottlenecks in infrastructure project development

1.3.4 USAID Technical Assistance Design Considerations

While BAPPENAS has requested USAID assistance in defining options for the institutional design of the proposed P3 center, with special emphasis on clarifying how the P3 center would carry out its interministerial coordination function, BAPPENAS has also requested assistance from the Canadian International Development Agency (CIDA) in developing the cross-sectoral policy framework and related regulatory mechanisms at the sectoral level. CIDA's inception report was completed in June 1997, and its technical assistance team is expected to be mobilized by the end of July 1997.

Beginning in May, USAID opened an ongoing dialogue with CIDA to clarify the best means for coordinating assistance. Both USAID and CIDA recognize that the strength of the BAPPENAS proposal is the intent to establish consistency across sectors with respect to transparency and predictability in the approvals process, as well as the intent to facilitate establishment of an overall legal/regulatory framework conducive to PPP. Certain aspects of the CIDA Terms of Reference have been mutually agreed upon as within the exclusive purview of the CIDA project, namely, tasks related to national and sectoral strategies, the comprehensive review of financing issues, review of non-sector specific laws and regulations, and guidelines on post-award economic and technical regulations of private infrastructure concessions. The goal of these cross-sectoral regulatory analyses is to address the priority concern of BAPPENAS to promulgate implementing regulations and guidelines to sectoral ministries to establish procedures for approving projects at the central level as well as rules and procedures to enhance transparency and predictability throughout the project development process. Rules and procedures for enhancing transparency and consistency across sectors are central to the success of the BAPPENAS initiative in establishing a "level playing field" for the international business community, where country risks are mitigated, and proposals are subject to reasonable evaluation and approval processes.

The challenge for USAID and CIDA is to target their limited resources in a complementary manner to assist BAPPENAS clarify the most crucial impediments to expanded PPP as a basis for developing appropriate rules and procedures to mitigate these constraints. Given that the CIDA Terms of Reference are comprehensive in scope, and that tasks related to setting cross-sectoral policy and establishing sectoral regulations are their primary areas of responsibility, USAID proposes to assist BAPPENAS in clarifying the roles, authority, and operating procedures of the P3 by concentrating assistance on selected aspects of the BAPPENAS initiative that most directly concern the need for increased transparency, competition, and due diligence in decision-making processes. USAID believes that an appropriate use of its limited resources is an analysis of weaknesses in project approval and procurement processes that are common across infrastructure sectors, to assist BAPPENAS integrate CIDA and other donor recommendations in developing appropriate cross-sectoral rules and procedures for project appraisal and approval. Once these regulatory requirements are clarified, BAPPENAS will be provided with a sound basis for further defining how the P3 Center should liaise with each of the sectoral ministries, as well as in clarifying the roles, authority, and operating procedures of the P3 center.

This approach is based on USAID experience with the PURSE project, which led to the recognition that a fundamental element of an appropriate regulatory framework is clarity about government objectives, commitment, and decision-making processes. This was found to require transparent and regularized project development processes, incentives for competitive awards of concession contracts, procedures for the rigorous appraisal of unsolicited proposals, guidance on risk management, model contracts and other documents, such as model MOUs and RFPs, needed throughout the approval and procurement process. A major milestone achieved under the PURSE project was the development of "Project Life Cycle" guidance on operating procedures and model documents. The formal review and adoption of this guidance by the GOI helped to resolve long-standing disagreements on ministerial roles, clarified procedures for public and private sponsors of joint-venture infrastructure projects, and established a process for the rigorous appraisal of proposals. The proposed USAID technical assistance, further described below, is based on the concept that best practices in project approval and procurement processes should not differ fundamentally by sector.

1.4 TASKS

The Contractor shall complete the following tasks

1.4.1 Approval Procedures Analyses Completion date: 4/15/98

- (1) Prepare brief profiles of selected infrastructure subsectors, e.g., power generation and transmission, toll roads, rail transport, marine ports, airports, standard telephone service, value-added telecom services (cellular, international

and data services), municipal water supply and sanitation, with respect to the following background information

- Subsector priorities, targets, and strategies for expanding private participation, progress and prospects in each infrastructure subsector for attracting private sector participation, and
 - progress by subsector in developing PPP regulations, project approval and procurement requirements.
- (ii) Identify priority subsectors for more detailed analyses of project approval and procurement processes, based on consultations with BAPPENAS and the information developed in connection with Sect 4 A (i), above
- (iii) Prepare narrative and graphic depiction and analyses of project approval and procurement processes for each of the priority infrastructure subsectors, including
- historical retrospective of the track record of each subsector in meeting targets for attracting private participation,
 - descriptions of how the approval and procurement operate in practice, including adequacy of project identification and feasibility analyses, time required for projects to proceed from inception to approval, extent and type of interministerial coordination, strengths and weaknesses of the processes in use, and plans for improving regulatory frameworks,
 - analysis of bottlenecks, deficiencies, and omissions in project approval and procurement processes that are common across infrastructure subsectors; and
- (iv) Develop recommendations with respect to the following aspects of the BAPPENAS initiative
- Rules and procedures for enhancing transparency - proposals for new implementing regulations and guidelines to sectoral ministries to establish procedures for approving projects at the central level as well as rules and procedures to enhance transparency and predictability throughout the project development process,
 - Coordinating Board and P3 center institutional design proposals - further definition of the charter, organizational arrangements, procedures, and work plan for the proposed Coordinating Board and P3 center, and

- Suggestions for further technical assistance - priorities and illustrative terms of reference for additional technical assistance to strengthen sectoral ministries' approval and procurement processes

1.4.2 P3 Center Design Options and Workshop

Completion date: 6/15/98

- (i) Prepare draft guidelines that outline options for Coordinating Board decision-making authority and procedures for P3 center staff support for the Coordinating Board, considering such factors as
 - review charters and procedures used by existing interministerial bodies, such as the *Pinjaman Komercial Luar Negeri* (PKLN) committee, and the Ekuwabahang Procurement Group, and develop proposals for establishing a new interministerial body to oversee regulations pertaining to public-private partnerships in infrastructure,
 - identify options for defining the types of projects subject to Coordinating Board review and approval, and means to ensure compliance,
 - identify options for the role of the Coordinating Board and P3 center staff in the preparation and approval of PPP regulatory frameworks by sectoral ministries and agencies;
 - examine options for how Coordinating Board members could use P3 center staff to conduct technical, financial and legal reviews of private concession proposals, and
 - delineate milestones/intervals in the project development process when private concession proposals would be subject to Coordinating Board review or approval.
- (ii) Prepare workshop presentation materials and facilitate a workshop, chaired by BAPPENAS, and attended by sectoral ministries, that review options and unresolved issues regarding the authority of the Coordinating Board and procedures for P3 center staff support of Coordinating Board approval and monitoring of PPP regulatory frameworks and private concession proposals.

1.4.2 Guidance on Selected Project Risk Management, Credit Enhancement, and/or Model Contract Issues

Completion date: 10/15/98

Prepare detailed analyses of selected project risk management, credit enhancement, and/or model contract issues that provides practical guidance on tools and techniques

applicable to different infrastructure sectors for overcoming common impediments to structuring private concessions. The selection of issues for detailed analysis shall be based on the results of the assessment of common bottlenecks in the approval and procurement processes of different infrastructure subsectors as well as consultations with BAPPENAS. Examples of issues that may be the focus of detailed analysis include:

- (i) Project Risk Management - Additional guidance may be needed to clarify tools and techniques for mitigating project risk, such as inadequate project identification and feasibility analysis; inadequate pre-qualification of private project sponsors; and measures to mitigate force majeure and foreign exchange risk.
- (ii) Credit Enhancement - Alternatives to full sovereign guarantees may need to be explored, such as use of escrow accounts, intercepts of central-local transfers, insurance, performance bonds, and third party credit enhancement.
- (iii) Model Contracts - Model contract agreements for "build-own-operate" and management concessions and other documents such as MOUs and RFPs needed throughout the contract award process which have been developed under the PURSE project may need to be supplemented by other model contract documents. Alternatively, further guidance may be needed on the rationale for key provisions, such as liquidated damages, options for structuring key provisions of various agreement, or explanations of how various agreements, such as off-take, joint venture, operations and maintenance (O&M), and loan agreements, inter-relate to comprise the security package for securing financing of private infrastructure investments.

1.5 REPORTS

- (i) Work Plan Within 45 days of the award of this task order, the contractor will submit to the COTR a work plan outlining the major steps to be undertaken by the Contractor to accomplish the tasks outlined in this task order. Inputs required of Indonesian counterparts within a timetable or schedule shall also be included in the work plan. The work plan will lay out estimated completion dates of tasks to be performed during the eight to twelve-month period of performance. Five copies of the work plan and a diskette in format of Wordperfect 5.1 and Lotus 123 for Windows or Microsoft Excel shall be submitted to the COTR.
- (ii) Progress reports: Quarterly progress reports will be submitted to the COTR from the award date of this task order. The progress performance reports will focus on standard information pertaining to financial expenditures, administrative performance issues, progress against work plan targets. The

reports are to be brief and standardized to emphasize accomplishments and major issues encountered for each of the three major tasks. Administrative data will show level of effort - last six months, cumulative and unexpended, and expenditures - last six months, cumulative and unexpended balance. Five copies of each report and a diskette in format of Wordperfect 5.1 and lotus 123 for Windows or Microsoft Excel will be submitted to the COTR.

- (iii) Brief Profiles of Selected Infrastructure Subsectors: Within 15 days of written notification by the COTR of approval and acceptance of the work plan, the contractor shall submit brief profiles of selected infrastructure subsectors (e.g., power generation and transmission, toll roads, rail transport, marine ports, airports, standard telephone service, value-added telecom services such as cellular, international and data services, municipal water supply and sanitation). The profiles will include the following background information:

- Subsector priorities, targets, and strategies for expanding private participation,
- progress and prospects in each infrastructure subsector for attracting private sector participation, and
- progress by subsector in developing PPP regulations, project approval and procurement requirements.

The above information and consultations with BAPPENAS will provide a basis for selection of priority subsectors for more detailed analyses of project approval and procurement processes. Five copies of the profile of selected infrastructure subsectors and a diskette in the format of Wordperfect 5.1 and lotus 123 for Windows or Microsoft Excel will be submitted to the COTR.

- (iv) Approval Procedures Analysis - Interim and Final Reports: In accordance with the approved work plan, the contractor shall submit interim and final reports on the results of the narrative and graphic analyses of project approval and procurement processes for each of the infrastructure subsectors selected for detailed study. These analyses will emphasize strengths and weaknesses of the approval processes in use in the various infrastructure subsectors, an analysis of bottlenecks in the project approval processes that are common across infrastructure subsectors, and recommendations with respect to proposed rules and procedures for enhancing transparency and predictability, and implications of these proposed rules and procedures on further definition of the charter, organizational arrangements, and operational procedures for the proposed Coordinating Board and the P3 center. Five copies of each of the interim and final reports and a diskette in the format of Wordperfect 5.1 and lotus 123 for Windows or Microsoft Excel will be submitted to the COTR.

- (v) Coordinating Board and P3 Center Design Options. In accordance with the approved work plan, the contractor shall submit an analysis that will include draft guidelines that outline options for Coordinating Board decision-making authority and procedures for P3 center staff support. This analysis will emphasize options for defining the Coordinating Board decision-making authority and options for how the Coordinating Board members and the P3 center staff will conduct technical, financial and legal reviews of private concession proposals. Five copies of report summarizing design issues for establishing the Coordinating Board and the P3 Center will be submitted to the COTR on a diskette in the format of Wordperfect 5.1 and Lotus 123 for Windows or Microsoft Excel. The contractor shall also submit five copies of workshop presentation materials that review options and unresolved issues for GOI review and comment prior to completion of the final report on design options.
- (vi) Guidance on Tools and Techniques: In accordance with the approved work plan, the contractor will submit detailed analyses of selected project risk management, credit enhancement, and/or model contract issues to provide practical guidance on tools and techniques applicable across infrastructure sectors for overcoming common impediments to structuring private concessions. Ten copies of each tool or technique examined in detail and a diskette in format of Wordperfect 5.1 and Lotus 123 for Windows or Microsoft Excel shall be submitted to the COTR.

1.6. STAFFING REQUIREMENTS

Expatriate Staff.
Sector Economist/Team Leader
Corporate Financial Advisor
Attorney
Sector Economist

Indonesian Staff.
Policy Analyst
Financial Analyst
Attorney

Personnel - Minimum Qualifications

Principal members of the team will be comprised of three ex-patriate Public-private partnership specialists and two local policy and investment specialists

Team Leader - BOT Expert, Urban Economist - The team leader must be an acknowledged expert in conceptualizing and implementing programs of public-private partnerships (PPP). The consultant must be capable of describing global best-practices for promoting private sector investment in substantial ownership and management of new infrastructure investments. The Team Leader must have executive leadership qualifications and extensive experience directing work of the other professionals with diversified backgrounds.

Institutional Development and Design Expert - This team member will focus on the institutional design, define the organizational structure, and spell out the administrative procedures and policies, including the drafting and promulgation of Implementing Rules and Regulations. This expert must have experience in PPP programs or projects.

Legal and Regulatory Specialist - This person should be an international lawyer with experience in comparative legal analysis, including constitutions and statutes such as concession laws, property right protection, international arbitration and other aspects of the legal framework providing for divestiture of state-owned enterprises, leasing, affranchise, performance contracting, and other legal agreements leading to private management and ownership by private sector investors. Ideally, the consultant would have drafted enabling legislation in several developing or emerging market countries for establishing the framework for deregulation, commercial codes, and the restructuring of various infrastructure sectors. Alternatively, the advisor could be a specialist familiar with the issues related to independent regulatory commissions and have experience in designing and proposing the structure, functions, organization and staffing of model regulatory commissions.

Indonesian Public Administration, Policy, and/or Legal Specialist - This team member must be a former Government of Indonesia official or consultant with the GOI, familiar with the government policies and procedures relating to public-private partnerships and foreign investment. The team member must have the capacity to conduct effective dialogue with senior political leadership and possess an understanding of the difficulties engaging the private sector in infrastructure development.

Indonesian Financial and Investment Specialist - This expert must have comprehensive knowledge and hands-on experience structuring private investment packages and arranging "security packages" for the financing of public-private partnership programs with and without government guarantees. He/She must be familiar with supplier credits, promissory notes, letters of credit, loan guarantees, underwriting, performance bonding, risk-reduction and risk management strategies and instruments associated with private participation in capital infrastructure development programs and projects.

1.7. TECHNICAL DIRECTIONS, RELATIONSHIPS AND RESPONSIBILITIES

Technical Directions during the performance of this delivery order shall be provided by Contracting Officer's Technical Representatives (COTR) for this task order who is Director, SO4 - Urban Environmental Management, USAID/Indonesia, as stated in Block 5 of the cover page pursuant to Sections F.9 and G.2 of the contract

The P3 Center initiative is under the general oversight and direction of BAPPENAS Deputy III, Dr. Ir. Bambang Bintoro Soedjito, Ph.D. If/when the Indonesian authorities establish a Project Management Unit for the P3 Center, headed by a senior BAPPENAS official, this individual will also be a key contact for the contractor during the task order period. Under the guidance of BAPPENAS, the contractor will also consult with representatives of the executing agencies as appropriate.

1.8. TERM OF PERFORMANCE

- a. Work shall commence on the date noted in Block 7 of the cover page. The estimated completion date is reflected in Block 8 of the cover page.
- b. Subject to the ceiling price of this task order and the prior written approval of the Project Officer (see Block No. 5 on the Cover Page), the contractor may extend the estimated completion date, provided that the extension does not cause the elapsed time for completion of the work, including the furnishing of all deliverables, to extend beyond 30 calendar days from the original estimated completion date. Prior to the original estimated completion date, the contractor shall provide a copy of the Project Officer's written approval for any extension of the term of this task order to the Contracting Officer; in addition, the contractor shall attach a copy of the Project Officer's approval to the final voucher submitted for payment.
- c. It is the contractor's responsibility to ensure that the Project Officer-approved adjustments to the original estimated completion date do not result in costs incurred that exceed the ceiling price of this task order. Under no circumstances shall such adjustments authorize the contractor to be paid any sum in excess of the task order.
- d. Adjustments that will cause the elapsed time for completion of the work to exceed the original estimated completion date by more than 30 calendar days must be approved in advance by the Contracting Officer.

1.9 WORKDAYS ORDERED

A. Functional Labor

	Workdays Burdened	Fixed Daily Rate	Total
1 Category & Specialist			
U S			
i. Sector Economist/Team Leader (Mr. David Levintow)	100	\$568.00	\$56,800
ii. Corporate Financial Advisor (Mr. Ghassan Nakad)	100	\$828.00	\$82,824
iii. Attorney (Mr. Mark Belcher)	90	\$812.00	\$73,080
iv. Sector Economist (Mr. CY Nunez Ollero)	10	\$462.84	\$4,628.40
v. Sector Economist (Mr. Michael McLindon)	20	\$899.29	\$17,986
	<u>320</u>		
2 Local			
i. Policy Analyst (Ms. Laila Suryadiporo)	80	\$210.00	\$16,836
ii. Financial Analyst (Ms Purwida Lillik Hartaty)	80	\$210.00	\$16,836
iii. Attorney (TED)	80	\$210.00	\$16,836
			<u>\$285,866</u>

B The individuals identified above are designated as key personnel pursuant to Section F 12. of the contract

C Subject to the ceiling price established in this delivery order and the prior written approval of the COTR, the contractor may adjust the number of workdays actually employed in the performance of the work by each position specified in this order. The contractor shall attach a copy of the COTR's approval to the final voucher submitted for payment

D. It is the contractor's responsibility to ensure that the COTR-approved adjustments to the workdays ordered for each functional labor specialist do not result in costs incurred which exceed the ceiling price of this delivery order. Under no circumstances shall such adjustments authorize the contractor to be paid any sum in excess of the ceiling price

1.10 CEILING PRICE

1 Workdays Ordered	\$285,866
2 Other Direct Costs	\$163,166
Ceiling Price	\$449,032

The contractor will not be paid any sum in excess of the ceiling price

1.11 USE OF GOVERNMENT FACILITIES AND PERSONNEL

- (a) The contractor and any employee or consultant of the contractor is prohibited from using U.S. Government facilities (such as office space or equipment), or U.S. Government clerical or technical personnel in the performance of the services specified in the delivery order, unless the use of Government facilities or personnel is authorized in advance, in writing, by the Contracting Officer
- (b) If at any time it is determined that the contractor, or any of its employees or consultants, have used U.S. Government facilities or personnel either in performance of the contract itself, or in advance, without authorization in, in writing, by the Contracting Officer, then the amount payable under the contract shall be reduced by an amount equal to the value of the U.S. Government facilities or personnel used by the contractor, as determined by the contracting officer
- (c) If the parties fail to agree on an adjustment made pursuant to this clause it shall be considered a "dispute" and shall be dealt with under the terms of the "Disputes" clauses of the contract.

1.12 DUTY POST

The Duty Post for this delivery order is Indonesia.

1.13 ACCESS TO CLASSIFIED INFORMATION

The contractor will not have access to classified information.

1.14 LOGISTIC SUPPORT

The contractor shall be responsible for all other support, including providing but not limited to computer facilities needed to successfully complete the contract.

1.15 WORKWEEK

A six-day workweek, with no premium pay, is authorized for short-term consultants

1.16 AUTHORIZED GEOGRAPHIC CODE

The authorized geographic codes or procurement of goods and services under this order is 000

1.17 OBTAINING MEDEVAC COVERAGE

Applications for coverage should be made directly to MEDEX. Applications may be requested by writing to MEDEX Assistance Corporation, P.O. Box 5375, Timonium, MD 21094-5375; by calling toll-free: (800) 537-2029 or in Maryland: (410) 453-6300; and by telefaxing, (410) 453-6301. Applications may be taken by telephone or facsimile and coverage can be effective the same day. Applicants should request coverage in accordance with USAID Contract No. FAO-0000-Q-00-2041-00 with MEDEX. MEDEX will require the employee's name, name of dependents, dates of travel, and destination (for short term coverage), and the applicable USAID contract number under which the employee is working.

Upon receipt of the completed enrollment form with the appropriate premium, the contractor will be provided a certificate of coverage and an identification card. The I.D. card contains the MEDEX assistance access numbers worldwide and all instructions necessary to gain immediate assistance in the event of an emergency.

For medical assistance in a country that is not listed on the MEDEX I.D. card, call MEDEX collect in Brighton, England at [44]1273-202141 or Timonium, MD at (410) 453-6330 [emergency fax no., (410) 453-6331].

1.18. ORGANIZATIONAL CONFLICT OF INTEREST

As set forth in Article H.6. of the IQC contract and in accordance with the principles of FAR Subpart 9.5 and USAID policy, if this Task Order calls for the Contractor to furnish important services in support of the design of USAID project, the Contractor shall be ineligible to furnish, either through a modification to the task order or subsequent task order to this contract or through another contract or subcontract, the implementation services, or the evaluation services for the project, unless the USAID/W Competitive Advocate shall have granted a prior waiver, based upon the Competition Advocate's determination, per FAR 9.503, that preclusion of the Contractor from implementation or evaluation would not be in the Government's interest. While USAID/Indonesia believes that no follow-on requirements will result from design the work performed under this Task Order, the Contractor is hereby notified that it may be ineligible any follow-on implementation services if such a requirement should arise.

ANNEX B

Private Infrastructure Projects Identified Under Presidential Decree No 39/1997 and Related Work

**PRIVATE SECTOR INFRASTRUCTURE PROJECTS IDENTIFIED UNDER
PRESIDENTIAL DECREE No 39/1997 AND RELATED WORK
(\$ million)**

Sector/Subsector	Agency	Estimated Value		Number of Projects	
		\$million	Percent	Identified	Under Implementation
Mining and Energy		32,114 3	59%	59	33
Electric Power	PT PLN	30 071 5	56%	53	29
Petroleum	Pertamina	1 706 0	3%	4	4
Other	Other	336 8	1%	2	-
Transport		15,857 6	29%	120	41
Various	Ministry of Communications	162 7	0%	4	-
Roads	Ministry of Public Works	-	0%	1	-
Railways	PERUMKA	245 8	0%	10	-
Airports	PT Angkasa Pura I	57 4	0%	5	-
Airports	PT Angkasa Pura II	337 7	1%	2	-
Ferries	PT ASDP	57 7	0%	2	1
Other	PT BBA	-	0%	1	-
Toll roads	PT Jasa Marga	11 448 0	21%	63	36
Ports	PT Krakatau	-	0%	1	-
Ports	PT Pelindo I	-	0%	7	-
Ports	PT Pelindo II	3,264 0	6%	9	3
Ports	PT Pelindo III	284 3	1%	15	1
Telecommunications		4,252 5	8%	13	6
Telecommunications	PT Telkom	4 252 5	8%	13	6
Urban Infrastructure		1,839 2	3%	92	16
Water supply	Various	1,609 7	3%	91	16
Water supply	PDAB Jatim	229 5	0%	1	-
Total		54,063 5	100%	284	96

ANNEX C

Press Release on IMF Approval of Standby Credit

Press Release on IMF Approval of Standby Credit

Press Release Number 97/50
FOR IMMEDIATE RELEASE
November 5, 1997

International Monetary Fund
700 19th Street, NW
Washington, D C 20431 USA

IMF Approves Stand-By Credit for Indonesia

The International Monetary Fund (IMF) today approved a stand-by credit for Indonesia, authorizing drawings of up to SDR 7 338 billion (about US\$10 14 billion) over the next three years in support of Indonesia's macroeconomic stabilization and structural reform program. Of the total, SDR 2 2 billion (about US\$3 04 billion) is available immediately, and a further SDR 2 2 billion will be available after March 15, 1998, provided that end-December performance targets have been met and the first review of the program, completed. Subsequent disbursements, on a quarterly basis, will be made available subject to the attainment of performance targets and program reviews. The stand-by credit is equivalent to 490 percent of Indonesia's quota of SDR 1,497 6 million (about US\$2 07 billion) in the IMF.

In approving Indonesia's request for the stand-by credit, the IMF made use of the accelerated procedures established under the Emergency Financing Mechanism (EFM), which was adopted in September 1995. The EFM strengthens the IMF's ability to respond swiftly in support of a member country facing an external financial crisis and seeking financial assistance from the IMF in support of a strong economic adjustment program.

Background

Indonesia's economic performance over the past several decades has ranked among the best in the developing world, with real GDP growth averaging about 7 percent annually since 1970. This success has been based on a consistent adherence to prudent macroeconomic policies, high investment and savings rates, and market-oriented trade and exchange regimes. Broad-based labor-intensive growth, together with sustained improvements in basic education and health services, has dramatically reduced the incidence of poverty — from over 60 percent in the late 1960s to 11 percent by the mid-1990s.

The strong overall performance, however, masked the emergence of a number of underlying structural weaknesses which made Indonesia vulnerable to adverse external developments. Long-standing rigidities in the form of domestic trade regulations and some import monopolies impeded economic efficiency and competitiveness. At the same time, less transparency in decisions affecting the business environment and data deficiencies increased uncertainty and adversely affected investor confidence. In addition, large capital inflows intermediated through a weak banking system exposed Indonesia to a shift in financial market sentiment. Thus, Indonesia's banking sector was not prepared to withstand the financial turmoil that swept Southeast Asia starting in July. Similarly the corporate sector was vulnerable to adverse external developments. Prompted by large interest rate differentials between domestic and foreign interest rates, private companies had increasingly borrowed abroad to finance domestic operations, which in the context of a relatively stable exchange rate, were largely unhedged. With the abrupt shift in market sentiment that has occurred since the middle of July Indonesia has had to contend with a major crisis of confidence. The rupiah depreciation and the fall in equity prices have been among the largest in the area. The downward pressure on the rupiah persisted, despite policy measures that

were timely and broadly appropriate, including the floating of the exchange rate, followed by increases in interest rates and fiscal retrenchment

The Medium-Term Policy Strategy

The government's three-year program that is supported by the stand-by arrangement has been set in the context of an unavoidable slowdown in economic growth and higher inflation over the next two years as a result of the current crisis. The policy package is designed to stabilize exchange market conditions, ensure an orderly adjustment of the external current account in response to lower capital inflows, and lay the groundwork for a resumption of sustained, rapid growth.

To achieve these objectives, the government has put in place a comprehensive package to restore confidence and stabilize the rupiah. First, the authorities will maintain tight fiscal and monetary policies, designed to stabilize financial conditions and narrow the current account deficit. Substantial fiscal measures have been put in place to keep the budget in surplus, despite the cyclical downturn, while monetary policy will be kept tight. Second, prompt and decisive action will be taken to restore the health of the financial sector, including closing unviable banks. Third, a broad range of structural reforms will be implemented, including liberalization of foreign trade and investment, dismantling of domestic monopolies, allowing greater private sector participation in the provision of infrastructure, and expanding the privatization program. Fiscal management will be improved by increasing the transparency of public sector activities, and this should enhance the quality of governance. The government's commitment to bring off-budget activities into the budget is also designed to permit a clearer assessment of the financial position of the wider public sector.

The Program for 1997/98 and 1998/99

The main objectives of the program are to limit the downturn in growth, to reduce the current account deficit to 2 percent of GDP, and maintain gross official reserves at about 5 months of imports. To achieve these objectives, the program aims at a surplus equivalent to 1 percent of GDP in central government operations, or 0.5 percent of GDP including the carrying costs of the financial sector restructuring. This will require measures equivalent to 1 percent of GDP. On the expenditure side, the government recently formulated concrete plans to postpone or reschedule major state enterprise infrastructure projects. Revenues will be enhanced through an increase in the excise taxes, removal of some tax exemptions and increases in non-tax revenues. Fiscal policy will be supported by tight monetary conditions.

Financial Sector Restructuring

A comprehensive restructuring of troubled financial institutions will also be key to the success of the program. Decisive action has already been initiated to deal with the problem. 16 unviable banks have been closed, and weak but viable institutions have been required to quickly formulate and implement rehabilitation plans. At the same time, steps are being taken to strengthen the legal and regulatory environment and establish strong enforcement mechanisms and clear exit policy.

These actions are part of the restructuring program that has been put together with technical assistance from the IMF, the World Bank, and the Asian Development Bank (ADB). The authorities are determined that only a small portion of the costs of the restructuring will be met from the public purse. The government will compensate small depositors only, and not private

shareholders and creditors. The government will not guarantee any liabilities of private nonfinancial companies, domestic or foreign.

Structural Policies

Since 1995, Indonesia has been implementing a comprehensive tariff reform. A key element of the medium-term program is a further reduction of tariff barriers, including those on a number of items previously excluded from tariff reductions, such as chemicals, steel/metal products, and fishery products. Over the next three years, remaining nontariff barriers other than those warranted for health, safety, environmental, or security reasons be phased out. The government has also indicated that it will implement ahead of schedule the WTO dispute panel ruling on the special tariff preferences given to the "National Car" should the judgement on this case be decided against Indonesia. Export taxes will also be reduced and more sectors will be open to foreign investment.

Domestic competition will be further enhanced through deregulation and privatization. The Government intends to phase out import and marketing monopolies and price restrictions (with the exception of rice and refined sugar) over the next three years, starting with the immediate elimination of import restrictions covering three key agricultural commodities. Deregulation of domestic markets will be complemented by expanding the role of the private sector in providing infrastructure. The fundamental prerequisite for this strategy is the establishment of a clear framework to guide decision making, to level the playing field for both domestic and foreign investors and thereby assure investor confidence. To these ends, the government has established regulations on government procurement and contracting for which the implementation guidelines will be issued by the end of 1997.

Privatization is another element of the structural reform effort. Responsibility for the management and restructuring of public enterprises has been shifted from line ministries to the Ministry of Finance, and a new Privatization Board established. A clear framework for the management and privatization of government assets is being developed, which will establish explicit criteria for determining whether an enterprise should be closed, restructured, or privatized. For enterprises remaining in the public sector, the framework will ensure that these operate efficiently, including through establishing profit and performance targets, which will be made public and reported annually.

Social Safety Net

Maintaining Indonesia's impressive record of poverty reduction over the past 30 years through the provision of basic education, health, and other social services, is an integral part of the government's policy framework. Expenditures in these essential areas will be protected from budget cuts. Moreover, the special assistance programs for poor villages, which have provided a very cost effective means to target social expenditures to those most in need, will be increased under the next five-year development plan, Repelita VII.

Financing Needs

In addition to the IMF funding of about US\$10 billion (SDR 7.3 billion), the reform program will be supported by substantial financing from the World Bank and the Asian Development Bank, which have made notable contributions to the design of the program, particularly in the field of financial sector rehabilitation and structural reform. These institutions intend to contribute

to the program through technical assistance and loans, with financing amounting to US\$4 1/2 billion and US\$3 1/2 billion, respectively. In addition, taking account of other expected contributions to the financing package, including the use of part of Indonesia's own substantial external assets, there is a first line of financing of the order of US\$23 billion. At the same time, a number of important economies (including at this stage Australia, China, Hong Kong SAR, Japan, Malaysia, Singapore, and the United States) have indicated that in the event that unanticipated adverse external circumstances create the need for additional resources to supplement Indonesia's reserves and the resources made available by the IMF, they would be prepared to consider making available supplemental financing in support of Indonesia's program with the IMF.

	Indonesia Selected Economic Indicators				
	1994/5	1995/96	1996/97*	1997/98**	1998/99**
	(Percent change)				
Real GDP growth	7.5	8.2	8.0	5.0	3.0
Consumer prices (end of period)	9.6	9.0	6.6	10.0	9.0
	(Percent of GDP)				
Central government balance	0.2	0.9	1.2	0.8	1.0
External current account balance (deficit)	1.8	3.3	3.3	-2.7	2.2
	(Months of imports)				
Gross official reserves	4.9	5.0	5.9	5.9	5.2

Sources: Indonesian authorities, and IMF staff estimates

*Projected

**Program

¹ A member's quota in the IMF determines, in particular, the amount of its subscription, its voting weight, its access to IMF financing, and its share in allocations of SDRs.

ANNEX D

Presidential Decree No 7/1998

**PRESIDENT OF
THE REPUBLIC OF INDONESIA**

**DECREE OF THE PRESIDENT OF THE REPUBLIC OF INDONESIA
NUMBER 7 YEAR 1998**

ON

**CO-OPERATION BETWEEN THE GOVERNMENT AND PRIVATE SECTOR
FOR THE DEVELOPMENT AND/OR MANAGEMENT OF INFRASTRUCTURE**

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

- Considering a that the further development of infrastructure is required to support and realise the smooth and ongoing implementation of national development
- b that the State's limited financial capacity and coupled with its efforts to support and enhance ongoing national development, it is deemed necessary to take measures to accelerate the development and/or management of infrastructure in close co-operation with the private sector
- c that to provide a clear basis for the participation of the private sector, and to provide guidance to ensure that such co-operation arrangements are in accordance with the public interest, it is considered necessary to establish provisions governing the participation of the private sector through Presidential Decree

In view of

- 1 Article 4 of Section (1) and Article (33) Subsection 2 of the Constitution of 1945
- 2 Presidential Decree No 6 of 1995 on the Procurement Evaluation Team

DECIDES

**TO STIPULATE THE DECREE OF THE PRESIDENT OF THE REPUBLIC OF
INDONESIA THE PROCEDURES FOR CO-OPERATION
BETWEEN THE GOVERNMENT AND PRIVATE SECTOR
FOR THE DEVELOPMENT AND/OR MANAGEMENT OF
INFRASTRUCTURE**

Article 1

The Government may involve the private sector in the development and/or management of infrastructure. Such private enterprises shall be Indonesian legal entities.

Article 2

- (1) Infrastructure as described in Article 1 is defined to cover
 - 1 The generation, transmission or distribution of electricity,
 - 2 The transmission and distribution of natural gas,
 - 3 The processing and delivering of oil and natural gas and delivering oil and natural gas product,
 - 4 The transport, storage, supply, production, distribution or treatment of water,
 - 5 The management of waste water and solid waste,
 - 6 The construction and/or operation of supporting facilities for freight or passenger air, sea or rail transportation,
 - 7 Toll roads, toll bridges, harbours, seaports, airports, inland waterways, and airfields, and
 - 8 The construction and operation of telecommunication facilities
- (2) Any additions to or reductions from, areas of activities as covered by subsection (1) will be stipulated by a Presidential Decree.

Article 3

The involvement of the private sector in the development or management of infrastructure shall be carried out in the form of a co-operation arrangement based on the following principles:

- 1 Conformity with the implementation of overall national development planning principles and objectives,

- 2 Mutual co-operation, mutual openness, and mutual benefit,
- 3 Enhancing efficiency and quality in the development and or management of national infrastructure,
- 4 Supporting robust economic growth,
- 5 Improving the quality of infrastructure services and thereby providing greater benefits to society,
- 6 Involving the private sector through the use of open and transparent processes and thereby supporting the overall growth and development of the investment climate,
- 7 Consistent with, and subject to, Indonesian law

Article 4

- (1) The State Minister of National Development Planning/Chairman of BAPPENAS, after taking into account the requirements of a Minister, or Head, of a Responsible Entity, will establish plans and priorities for infrastructure development projects, the implementation and/or management of which may be carried out by the private sector in co-operation with the Government
- (2) All other infrastructure development projects not included within the meaning of subsection (1) will be carried in accordance with Presidential Decree No 16 of 1994

Article 5

Project plans for the development and/or management of infrastructure within the meaning of Article 4 subsection (1) will be forwarded by the Minister or Head of the Responsible Entity to the Minister of National Development Planning/Chairman of BAPPENAS and accompanied by

- (1) The related project pre-feasibility studies,
- (2) An appraisal of the project's feasibility and its suitability for involving private enterprise in co-operation with the Government which shall cover the socio-cultural, financial, economic, political, and national security and defence aspects of the project,
- (3) A financing plan and resource requirements for the project,
- (4) The nature of the co-operation envisaged under the proposed project, for example, development and management, or management only, and a justification of the proposed form of co-operation,
- (5) A bidding plan that covers the bidding schedule, bidding process, and evaluation criteria,
- (6) Other data that may be required by the State Minister of National Development Planning/Chairman of BAPPENAS

Article 6

- (1) The State Minister of National Development Planning/Chairman of BAPPENAS shall determine content of the *List of Infrastructure Development Projects* which may be carried out in co-operation with the private sector,
- (2) The *List of Infrastructure Development Projects* as defined in subsection (1) shall be made available to the public and interested parties

Article 7

- (1) Bidding for development and/or management of infrastructure will be carried out openly by the Minister or Head of the Responsible Entity for the project
- (2) Taking into account the project-specific characteristics and complexities of the bidding requirements in subsection (1), the Minister or Head of the Responsible Entity may pre-qualify prospective private parties by considering, among other things
 - a Experience in the implementation of similar projects, together with any required references,
 - b Performance and results in carrying out the projects mentioned in a above,
 - c The financial or technical capacity of the private party, and its capacity to implement projects in similar geographic, social, cultural, and economic conditions

Article 8

- (1) Bidding and bid evaluation shall be conducted in conformity with the provisions attached to this Presidential Decree
- (2) Bid evaluation will be carried out by the Minister or Head of the Responsible Entity

Article 9

- (1) The Minister or Head of the Responsible Entity shall forward the results of the bid evaluation together with the complete bid documentation recommendations and other considerations to the Co-ordinating Minister of EKKUWASBANG as the Chairman of the Procurement Evaluation Team defined under Presidential Decree No 6 of 1995
- (2) The Procurement Evaluation Team shall review the results of the bidding process and make its decision in conformity with the provisions of Presidential Decree No 6 of 1995

Article 10

- (1) The Minister or Head of a Responsible Entity shall have the responsibility to enter into a co-operation agreement for the development and/or management of infrastructure in compliance with the regulations established by this Presidential Decree and its attachments
- (2) A co-operation agreement shall contain the following provisions
 - a scope of activities,
 - b duration,
 - c arrangements covering tariffs in relation to the management of infrastructure management shall be included in the co-operation arrangement,
 - d rights and obligations under the co-operation arrangement including the risks that should be borne by the parties,
 - e penalties for non-compliance with the provisions of the agreement,
 - f dispute resolution mechanisms,
 - g termination of the agreement,
 - h provisions covering the reversion of the infrastructure to the Government or BUMN/BUMD at the expiration of the Agreement

- (3) The agreement should formally cover the following matters in relation to the use of intellectual property
 - a The right to use such intellectual property is legally unencumbered,
 - b Government shall be indemnified against any actions or claims by third parties related to the right to use intellectual property for the development and/or management of infrastructure,
 - c In the event of any legal claims or actions relating to the use of the intellectual property arising under 1 b
 - 1) the continuity of infrastructure services shall not be interrupted, and
 - 2) while attempts to procure a license to use intellectual property is ongoing

Article 11

- (1) Where the responsibility for planning for the development and/or management of infrastructure belongs to a Regional Government
 - a The plan of co-operation, bidding and bid evaluation shall be carried out in conformity with the provisions of this Presidential Decree
 - b The co-operation agreement as defined in Article 10 shall be established by the Governor or Head of TK1 or Mayor or Regent or Head of TK2

- (2) In the case where the plan for the development and/or management of infrastructure is at the behest of a BUMN or BUMD
- a The plan of co-operation shall be agreed at the shareholder's general meeting, and the bidding and evaluation shall be carried out in conformity with the provisions of this Presidential Decree
 - b The co-operation agreement as defined in Article 10 shall be established by the Head of the related BUMN or BUMD in conformity with the provisions of its statutory obligations

Article 12

In conformity with the principles outlined in Article 3, the establishment of tariffs setting for infrastructure services under co-operation agreements shall be stipulated by the Government in conformity with the provisions of existing laws

Article 13

The State Minister of National Development Planning/Chairman of BAPPENAS is responsible for monitoring and evaluating the implementation of co-operation arrangements between the public and private enterprise for the development and/or management of infrastructure to ensure that such co-operation arrangements are carried out in conformity with the provisions of this Presidential Decree

Article 14

Additional requirements for the implementation of this Presidential Decree will be stipulated by the State Minister of National Development Planning/Chairman of BAPPENAS, or the Co-ordinating Minister of EKKUWASBANG as the Chairman of the Procurement Evaluation Team in conformity with their respective responsibilities

Article 15

This Presidential Decree shall come into force as of the date enacted

**Promulgated in Jakarta
On 12 January 1998
THE PRESIDENT OF THE REPUBLIC OF INDONESIA**

(signed)

SOEHARTO

Copy is as the original

Cabinet Secretary of the Republic of Indonesia
Head of the Legal Bureau and Legislation

Lambock V Nahattands

ANNEX E

Revised IMF Program — July 1998

Revised IMF Program – July 1998

Jakarta, Indonesia
July 29, 1998

Mr Michel Camdessus
Managing Director
International Monetary Fund
Washington, D C 20431

Dear Mr Camdessus

1 In support of the Government of Indonesia's adjustment and structural reform program set out in the Memorandum of Economic and Financial Policies (MEFP) of October 31, 1997, the Executive Board approved a three-year stand-by arrangement on November 5, 1997. The program was subsequently modified and strengthened, with substantial expansion of its structural elements including with respect to the social safety net, banking system and corporate restructuring, bankruptcy reform, trade deregulation, and privatization of state enterprises. These revisions were outlined in supplementary MEFPs that were sent to you on January 15 and April 10, in connection with the first review, which was completed on May 4, and on June 24, in connection with the second review, which was completed on July 15.

2 In view of the deep-seated nature of the structural and balance of payments problems facing the economy and the development of the strong and comprehensive structural components of the program to address them, the government requests the cancellation of the current stand-by arrangement for Indonesia and its replacement with a new extended arrangement through November 5, 2000 (for about 26 months) in an amount equivalent to SDR 4,669 million, which represents 142 percent of Indonesia's quota on an annual basis. The extended arrangement would cover the remaining period of the stand-by arrangement and the proposed amount would be equivalent to the unused amount under the stand-by arrangement.

3 The attached MEFP of the Government of Indonesia summarizes our economic program to be covered by the extended arrangement. Since the program has been described in detail in previous documents, this MEFP focuses on the main areas where modifications have been introduced, including budgetary management, corporate debt, and bank restructuring. We have established monetary, fiscal, and external performance criteria for end-September 1998 and indicative monetary, fiscal, and external targets for end-July, end-August, and end-December 1998 and end-March 1999, which are contained in Annexes A-D. Structural performance criteria and benchmarks are contained in Annex E.

4 The government believes that the policies and measures set forth in the attached memorandum are sufficient to attain the objectives of the reform program. However, it will take any further measures that may be needed toward this end. The government will consult periodically with the Fund, in accordance with the Fund's policies on such consultations, about the progress made on the implementation of the strengthened reform program described in the MEFP and any other policy adaptations needed for achieving its objectives. In any event, the government will complete reviews with the Fund no later than September 25, October 25, and November 25, 1998, February 15, May 15, August 15, and November 1999, and February 15, May 15, August 15,

and October 2000, to assess the progress made in the implementation of the program and reach understandings on any additional measures as needed

Sincerely yours,
For the Government of Indonesia
/s/
Ginandjar Kartasasmita
State Coordinating Minister
For Economy, Finance, and Industry

Jakarta, Indonesia
July 29, 1998

Indonesia
Memorandum of Economic and Financial Policies

1 Our revised economic program, as set out in the Second Supplementary Memorandum of Economic and Financial Policies (MEFP) signed on June 24 under the stand-by arrangement approved on November 5, 1997, has been kept on track through firm policy implementation, and remains appropriate to Indonesia's still very difficult economic circumstances. Nevertheless, we have decided to bolster the strategy for corporate restructuring and elaborate our bank restructuring program, in order to help reestablish as speedily as possible the necessary preconditions for the restoration of economic growth. In the meantime, we are also improving the distribution-and approach to subsidizing-of essential items. This MEFP briefly summarizes the latest developments under the economic program and elaborates on those policy areas where it is being strengthened.

Macroeconomic Framework and Medium-Term Outlook

2 The macroeconomic framework remains broadly as described in the MEFP of June 24. The decline in output is likely to significantly exceed 10 percent and could be as much as 15 percent in 1998/99. Inflation, although declining quickly, is still projected to be on the order of 80 percent during calendar 1998. An appreciation of the exchange rate from its recent level of Rp 13,000-15,000 to around Rp 10,000 per dollar by the fourth quarter of 1998, as envisaged under the June program, is still regarded as feasible, with continued tight domestic financial policies, progress in the restructuring of debt to foreign financial institutions, and in light of the additional external financing of \$6 billion that has recently been secured for the program.

3 With this additional foreign financing, the projected fiscal deficit of 8½ percent of GDP in 1998/99 is more than fully financed from foreign sources, permitting the substantial planned rise in social spending, as well as providing a safety margin against adverse shocks. The budget balance so far in this fiscal year has been broadly in line with the program target. Tight monetary policy, with base money and the net domestic assets of Bank Indonesia held broadly constant in coming months, remains a cornerstone of our stabilization strategy. While base money was somewhat above the program target in late June and early July, Bank Indonesia has tightened liquidity conditions and base money has been declining. Bank Indonesia introduced an auction system for central bank certificates (SBIs) in late July.

4 The main structural elements of the program for the period up to 2000, which include further deregulation, trade liberalization, privatization of state enterprises, banking system restructuring and corporate restructuring were discussed in detail in earlier MEFPs and are listed in the

attached matrix. The structural reform process is being monitored closely by a high level group, under the direction of the Secretary General of the Economic and Monetary Resilience Council, and including, among others, high level representatives of the Ministries of Industry and Trade, Finance, Forestry and Agriculture, Bank Indonesia, and the Indonesian Bank Restructuring Agency (IBRA). To support this group, working level teams have been formed and activities are being organized at the field level, with nongovernmental participation.

5 While the medium-term outlook remains uncertain given the severity of the crisis, our objective is to restore sustainable economic growth with low inflation as quickly as possible. We tentatively expect that the decline in output will bottom out by early next year and that significant positive economic growth will resume no later than 2000. Inflation is to be reduced to a single digit annual rate within no more than two years. The present level of the overall budget deficit is unsustainable, and it is our intention to cut it at least in half in 1999/2000, and restore the budget to close to balance within three years. This fiscal retrenchment is to be achieved through actions to better target subsidies to the needy, improve revenue performance and streamline public expenditure management (see below), the recovery of output will also help to strengthen the fiscal position.

6 The external current account is projected to record a surplus of 2 percent of GDP in 1998/99 and to remain in significant surplus until the recovery gets fully underway. The overall balance of payments position has been strengthened by the additional external financing (including the prospect of official debt rescheduling) recently secured and by the agreements related to foreign bank debt reached in Frankfurt. Gross official reserves are now projected to rise to about \$24 billion by end 1998/99 (about 5½ months of imports). Outstanding external debt and the debt-service burden, though high, are expected to decline steadily in terms of GDP over the medium term as the economy recovers.

Food Security and Distribution Network

7 We attach the highest priority to ensuring that food and other essential items are available at affordable prices to the entire population. However, food prices, in particular the prices of rice and cooking oil, have risen drastically since the beginning of May, causing serious social hardship. In addition to the increase in subsidies provided for in the budget, and the special program for rice (see paragraph 10 below), the stabilization of prices for these items will also require that the distribution system functions fully and efficiently.

8 While most private trade is functioning well, we are taking a number of actions to ensure that there are no remaining impediments to the efficient movement of supplies of basic commodities throughout the country. These steps include the physical protection of traders to reassure them that their business can be carried out normally, the protection of warehouses, trucks, and containers on trading routes to encourage them to build up stocks, and assistance to traders who suffered damage during the riots, to rebuild their facilities. We are also enhancing the daily monitoring of all relevant aspects of food security including price developments, movements of goods including imports, stocks, and releases of commodities by BULOG. A special team headed by the Minister of Food and Horticulture has been created with overall responsibility for monitoring the food situation.

9 We are concerned about pressures on food prices because substantial exports of subsidized commodities have occurred over the past several weeks, driven by the wide differential between domestic and international prices. As an emergency measure, we have therefore imposed a

temporary ban with effect from July 26 on exports of rice, wheat and wheat flour, soybeans, sugar, kerosene, and fishmeal. Within three weeks from July 26, these bans will be replaced by export taxes. These taxes will be phased down as price differentials are reduced.

Fiscal Issues

10 As part of our efforts to eliminate the fiscal deficit over the medium term, we are looking into ways of better targeting of subsidies and other elements of the social safety net, in conjunction with the World Bank. A program was initiated in July to provide rice at about one-half of the market price to low income families in the Jakarta area and will be extended to cover at least 7½ million very poor families throughout the country by September. Monitoring and evaluation of employment generating, health and education programs is being enhanced to ensure that the poor are the main beneficiaries. While the severity of the recession limits the feasibility of administrative price rises, we intend to make selective price adjustments during this fiscal year. Also, we are committed to adopting a mechanism based on transparent criteria for regular and more automatic price changes for most subsidized items, with effect from April 1, 1999.

11 Improving budgetary revenue performance and expenditure management is essential for the achievement of our short- and medium-term fiscal objectives. A Committee on Fiscal Monitoring has been established by the Minister of Finance to coordinate fiscal and monetary policy, with the participation of Bappenas (the development planning agency) and Bank Indonesia. A public expenditure review was completed with the World Bank in late July. Contingency planning is to become a regular feature of budgetary policy, in recognition of the need for greater flexibility to cope with fiscal and economic uncertainty. An IMF technical assistance mission in July 1998 provided recommendations on strengthening public expenditure management, including clearer establishment of spending priorities, more efficient budgetary preparation, cash management controls, and comprehensive, accurate, and timely reporting. Two long-term IMF advisors have been identified to help follow-up on the implementation of these proposals. An IMF technical assistance mission is scheduled for August 1998 to provide advice on improving the overall revenue system and tax administration. Further technical assistance will be needed over the medium term.

Bank Restructuring

12 The overall strategy for bank restructuring remains as described in the June MEFP, full details are provided in the matrix. Specific actions recently taken or to be taken in the near future to implement this strategy are summarized below.

- Presidential Decrees have been issued making the Indonesian Bank Restructuring Agency (IBRA) and its asset management unit (AMU) fully operational. These provisions are to be included in a PERPU (government regulation in lieu of law) and in amendments to the banking law that are to be submitted to Parliament by August 21.
- A Financial Sector Action Committee has been established to set the overall strategy for bank restructuring. In addition, foreign investment banks are being appointed to assist IBRA and its AMU, the head of the AMU has been nominated, and a high-level foreign advisor to IBRA has been selected. The assets of the seven banks frozen in April will be transferred to the AMU by August 21.
- Audits have been completed for the six large private banks taken over by IBRA in April. Shareholders rights have been transferred to IBRA, and insolvency declarations have been

made in four cases. Negotiations are underway with buyers interested in acquiring some of these banks as going concerns (following the transfer of nonperforming loans to the AMU). A memorandum of understanding for at least one of these sales is expected to be completed by August 21. We intend to move expeditiously to complete the restructuring of all six banks in the next few weeks.

- Discussions are underway with the main shareholders of several large private banks that have passed under IBRA control to secure the repayment of liquidity support that had been extended by Bank Indonesia.
- The government has appointed a major international bank to design and assist in implementing a comprehensive operational reform and restructuring of six state banks. Portfolio reviews of these banks are currently underway. To facilitate the process of state bank restructuring, formal responsibility for the six state banks is to be transferred on August 21 from the Ministry for State Enterprises to the Ministry of Finance. By August 21, it will be announced that Bank Bumi Daya and BAPINDO will be merged and the process of effecting the merger will be initiated and their nonperforming loans will be transferred shortly thereafter to the AMU.
- A program for the recapitalization of stronger banks, to the extent possible, in exchange for the infusion of capital by their owners, and the preparation of business plans, is being developed by Bank Indonesia in close consultation with the Ministry of Finance, and will be announced by August 21.

Corporate Debt and Bankruptcy Reform

13 Good progress has been made in implementing the agreements reached in Frankfurt in early June regarding debt to foreign commercial banks. The response to the trade facility has been encouraging, with maintenance letters from banks accounting for a substantial proportion of the trade exposure already received. Also, preparations for the exchange offer for interbank debt are well advanced. Regarding the agreement on corporate debt, a Presidential Decree establishing the Indonesia Debt Restructuring Agency (INDRA) has been issued, suitable premises obtained, a Chairperson and other personnel selected, and a foreign bank appointed as Administrative Agent. INDRA will be officially launched on August 3, 1998. We intend to have all the necessary documentation completed by end-August 1998.

14 In order to accelerate the process of restructuring the corporate sector and addressing its debt overhang, the government will adopt a strategy that consists of two mutually reinforcing elements, both of which are designed to complement INDRA and the newly adopted bankruptcy law. The first element involves the adoption of key legal, regulatory and administrative reforms that would serve to remove obstacles to restructuring and, in the longer term, to improve corporate governance. The second element of the strategy involves the establishment of a framework of nonbinding principles that will guide-but not control-negotiations between debtors and creditors and seek to ensure that the information provided by companies is accurate and timely.

15 The legal and administrative reforms would include the lifting of restrictions on debt for equity conversions, the removal of tax disincentives for restructuring (while limiting the erosion of corporate tax collections), and the streamlining of procedures and approval requirements applicable to the admission of foreign direct investment and, more generally, corporate restructuring. A new arbitration law will be adopted and measures will be introduced to provide

for the registration of collateral. A review will be conducted for the purpose of the adoption and implementation of accounting and auditing rules that meet international standards. This is not necessarily an exhaustive list and we are actively seeking to identify and remove any other impediments to the restructuring process.

16 The framework of principles would be established in consultation with creditors and debtors and would apply to both domestic and external debt. The principles are expected to follow standard corporate workout techniques that have been developed in other countries and are likely to cover (i) the formation for each company of a manageable creditors' steering committee representing different categories of debts, (ii) the provision of all relevant information by the company to the creditors committee, (iii) voluntary agreement to a standstill and priority for new financing over existing claims during the workout, (iv) the preparation of restructuring plans by the companies, which could include debt forgiveness and debt for equity exchanges. Finally, the framework might provide, in circumstances where a restructuring plan has received support from a significant majority of the creditors, for the debtor to be able to bind the minority dissenting creditors by availing itself of the provisions of the bankruptcy law. The Minister of Finance has direct responsibility for bank and corporate restructuring. The measures in these areas are complimentary and simultaneous and will be overseen by the Coordinating Minister.

17 Parliament ratified the revised bankruptcy law without amendment on July 24. The law will enter force on August 20, 1998 and the Special Commercial Court created to implement it will open on the same date. Supported by IMF technical assistance (financed by the Japan administered account) and bilateral assistance from the governments of the Netherlands and Australia, the future judges of the Special Commercial Court and the prospective private sector receivers and administrators have completed an intensive training program that is designed to assist them in the implementation of the bankruptcy law. In consultation with experts from the Netherlands, the Supreme Court is actively preparing detailed procedures for the administration of the Commercial Court with the objective of ensuring that proceedings of the Commercial Court are efficient, predictable, and transparent. A training program is being put in place to ensure that the public prosecutor and the police are in a position to conduct criminal investigations in circumstances where there is evidence of asset stripping.

Export Credit Guarantee Scheme

18 The need to promote exports under the present difficult financing conditions is urgent. As outlined in the June MEFP, Bank Indonesia has established a pre-shipment export credit guarantee program. A program has been established to facilitate import and pre-shipment export financing of exporters holding export letters of credits, with any costs to be borne by the budget. Guarantees extended will be limited to a maximum of 80 percent of the credit extended by the bank and available only for a limited period. Total outstanding guarantees will not exceed US\$0.5 billion.

Performance Criteria

19 We have established quantitative fiscal, monetary, and external performance criteria for end-September 1998, which are consistent with the earlier agreed indicative targets. Structural performance criteria and benchmarks were agreed earlier. Details are shown in the attached annexes to this memorandum.

ANNEX F

Revised Scope of Work

Revised Scope of Work

Task 1 Develop a national Public-Private Cooperation (PPC) Infrastructure Project Master List, to be titled *List of Infrastructure Development Projects*, Design a database acceptable to Bappenas, for listing and prioritizing all projects approved for implementation Completion Date Ongoing to June 30, 1998

Objective Presidential Decree No 7/1998 on "Cooperation between the Government and Private Enterprise for the Development and/or Management of Infrastructure" in Article 4, empowers Bappenas to " establish plans and priorities for infrastructure development projects, the implementation and/or management of which may be carried out by the private sector "

In the Elucidation attachments to the Presidential Decree, in Section I, " Identification of Projects " para 2, "Obligations of Bappenas" requires Bappenas to establish a *List of Infrastructure Projects*, after reviewing candidate projects to determine if they satisfy requirements for listing Bappenas will therefore decide if project submissions are to be included on/or excluded from the *List of Infrastructure Development Projects* Bappenas will periodically update and publish the approved *List of Infrastructure Projects*, and provide copies of this List to interested parties

Bappenas has projects currently under review from various Presidential Decrees (e g No 39/97, No 47/97, No 5/98) plus others expected to be submitted shortly from line Ministries for inclusion in the *List of Infrastructure Development projects* Bappenas also expects to receive candidate projects from BUMN's which under a new Government Order (PP/12) which severs authority and oversight relationships with line ministries leaving governance to be exercised by Ministry of Finance and the Ministry for State-owned Enterprises

Bappenas therefore requires a system for managing and updating periodically, the authorized *List of Infrastructure Development Projects* it is mandated to establish and maintain under the provisions of K 7/98 Bappenas is tasked with "establishing plans and priorities," that is rank-ordering and prioritizing listed projects, recommending those for deletion or for approval by the Project Evaluation Team, initially about 180 projects

Proposed Work Plan

- 1 Design a questionnaire that will include information needed by Bappenas to fulfill its functional obligations under the Presidential Decree 7/98
- 2 Determine software program to be used by Bappenas that maximizes interconnectivity with the principal infrastructure ministries/executing agencies participating (Microsoft Office Suite 97 - Access (database) or Lotus equivalent database, recommend a choice of software program suitable for updating project listings, accessing and querying in multiple configurations, suitable for Internet use in establishing a Bappenas Infrastructure Project "Home Page "
- 3 Users will be private investors, banks, Ministries and Executing Agencies, including State-Owned Enterprises (BUMN's) in the eight sectors designated in Presidential Decree No 7/98

- 4 Questionnaire will cover basic project descriptive information, and will also elicit information to assist Bappenas establish "threshold" ranking for eligibility and likely private sector investor interest, based on prospective economic and financial viability, and to establish conformity with criteria in Presidential Decree 7/98 applicable to infrastructure projects, including
- Name of project and its geographical location
 - General description indicating objectives, scope and expected output, population (user group) to be served, design and performance standards, indicative value of the project
 - Name, address, phone # and fax# of the responsible entity
 - Demonstrable developmental need/rationale for the project
 - An indication of consumer demand, anticipated source of revenue stream, existing levels of price of service charged to users in comparable projects
 - Estimates, if available, of illustrative tariffs or user charges required for cost recovery, including initial investment, operation and maintenance costs, project design features enabling capture of revenue
 - Some indicators of potential private sector interest in investment, prospects for the project to be bankable and implementable technically, financially, and administratively

Deliverables

- 1 A questionnaire, suitable for line ministries and BUMN's to utilize, responses to which will provide the basic information required by Bappenas for its *List of Infrastructure Projects*
 - 2 A data base design, recommending compatible software to be used in all anticipate applications, and capable of establishing a Bappenas Infrastructure Project "Home Page" Illustrative elements of the data base will be provided from current candidate projects from at least one of the K7/98 designated sectors, e g " *production, distribution or treatment of water* "
 - 3 A design for a simplified Project Profile Sheet, (preferably on a single sheet) reflecting the basic project information which justified its inclusion on the approved *List of Infrastructure Projects*, and indicating authorized identity and contact information point (Name, phone and fax numbers) where further information about the project may be obtained
- Task 2 Article 5 of Presidential Decree No 7/98 requires that Project Plans for the Development and/or management of Infrastructure will be forwarded by the Minister or Head of the Responsible Entity to Bappenas, and must include stipulated supporting information, including pre-feasibility studies, appraisal of its suitability for private participation, and other required information Bappenas will need to prepare manuals and other forms of guidance to Ministries and executing agencies, and to regional and local authorities and BUMD's and will need to conduct a training workshop, in order to assure compliance with the requirements established by the Presidential Decree**

Completion Date May 15, 1998

Each infrastructure Ministry and BUMN included within the eight designated infrastructure sectors listed in K 7/98, are obliged to comply with requirements for the inclusion of relevant supporting information for projects submitted to Bappenas, including pre-feasibility studies, appraisals of the project's suitability for private participation, a proposed financing plan and resource requirements for the project, the nature of the modality of public-private cooperation envisaged, and a justification for selecting that modality, a bidding plan that will be in compliance with the explicit transparent, competitive bidding procedures set forth in the Elucidation to Presidential Decree No 7/98, and other data which Bappenas may require to be included, in order to perform its determination of national plans and priorities for infrastructure development projects. To do this, Bappenas has to interpret and determine how to apply K 7/98 to the participating agencies, for which it must prepare a series of Guidance documents, manuals, and implementing procedures to be issued to all the participating Ministries and EA's, and conduct workshops to inform the responsible officials in these participating government entities.

Deliverables

- 1 A draft Infrastructure Project Manual, setting forth basic provisions and requirements of Presidential Decree No 7/98, providing guidance and instructions and criteria for preparation of projects to be submitted for inclusion in the approved "*List of Infrastructure Projects*". The manual will include explanatory procedures and requirements, forms and attachments, etc. to be required by Bappenas for acceptance and consideration of candidate projects. The manual will be expandable and provide for the addition of clarifying attachments and subsequent issuances, in order to remain current and consistent with government policies, directives, and interpretations, such as those resulting from compliance with the IMF Memorandum of Economic and Financial Policies.
- 2 Recommended rules and regulations will be prepared, along with recommended strategies for Ministries and EA's to adopt, in order to facilitate compliance with the provisions of the Bappenas Manual for incorporation in the Manual, and policies and procedures for disseminating the contents and implications of the Manual to the private sector, particularly to the local and international investor and banking community.
- 3 A one-day workshop, to be planned with Bappenas, using largely Bappenas officials and consultants as presenters, to be attended by infrastructure Ministry, BUMN, and Regional officials, to describe procedures and policies set forth in the Manual.

Task 3 Establishing a Post-transaction Cross-sectoral Regulatory Framework **Completion Date March 21, 1998**

This Task will lay the groundwork for eventual transition into an agreed and predictable regulatory framework which investors will require, in order to better manage "regulatory risk" and to establish largely uniform standards in performance criteria, programs for systematic tariff adjustments, and provision for protection of the public interest including channels for assuring satisfactory customer service provision in non-discriminatory fashion. This task will involve initially assessing established regulatory practices and regulations in Indonesia, developing a consistent, cross-sectoral regulatory strategy, designing regulatory options applicable in Indonesia that will provide predictability and a comfort level to the international investment community. Also included will be EA draft programs setting forth monitoring plans and practices.

Deliverables

- 1 A report on improved performance monitoring procedures and policies,
- 2 A one-day workshop on Post-award regulatory regimes, that would set forth goals and objectives, costs and benefits, etc Since the objective of this task is to move Indonesia towards the concept of an independent regulatory approach, it will be important to establish on a sector by sector basis initially, a ministry-based "hybrid" legal and regulatory framework This would be formulated in the nature of other deliverables, which would be two or three draft Ministerial decrees initially for the Transport and Water sectors

Task 4 Designing a Cross-sectoral Dispute Resolution Mechanism
Completion Date March 21, 1998

Although an inseparable component of the Regulatory Framework (Task 3, above), having a dispute resolution mechanism meeting international standards is so important a signal to the international finance community to assure prospective bidders of the "investor friendliness" of Indonesia, that this requirement has been identified and is justified to be a separate task The necessity for increased concern about addressing this component has increased significantly as a result of the recent Asian currency and liquidity crisis, which affects the risk perceptions by investors about making long-term commitments Sub tasks included are making an assessment of prevailing dispute resolution practices, designing dispute resolution and arbitration procedures as a regulatory tool, that would be applicable in Indonesia, and would also meet international standards and expectations

Deliverables

- 1 A report on the above topics
- 2 Model clauses for inclusion in regulatory regimes and in concession agreements and provider contracts, and
- 3 Preparation of a module to conduct a one-day workshop on dispute resolution/arbitration

Task 5 Financial Strategy, Credit Enhancement, and Incentive Policies for P3
Completion Date May 15, 1998

There are financial packaging requirements which are required to help make private infrastructure projects viable In Indonesia, there are certain underutilized and disbursable credits available which could be used for these purposes, but there is also the danger of needless assumption of risk by the government Given the severity of the new economic realities, there are compelling reasons for rigorously performing a series of sub-tasks related to credit enhancement for public-private projects Sub-tasks included in performance of this task include developing a range of financial strategy and policy options, an assessment of incentive and government guarantee programs, and an analysis of credit enhancement techniques appropriate to the current Indonesian context For example, it might be the current practice to award tax holidays of several years duration, which however could have an adverse impact on government revenue, whereas an alternative program of tax credits provided as incentives for achieving bench-marked performance would have a similar incentive benefit at less cost to government The general outcome of this task would be an analysis of credit enhancement options, investment incentives, and

recommendations for their institutional implementation. These recommendations will be coupled with an analysis of the impact of the currency crisis on financing infrastructure projects.

Deliverables

- 1 Preparation of a *White Paper* on financing infrastructure within the constraints of the IMF accords. This White Paper would address both coordination of the P3 Center program with macroeconomic reforms, and an analysis of a proposed design of the parameters and options available in a credit enhancement policy for the P3 program.
- 2 Preparation of the design for a Private Sector Investment Development Fund (PSIDF) and other credit enhancement techniques evaluated on a merit basis and an associated Action Plan for its implementation. The team will then develop a model project and prepare a credit enhancement analysis demonstrating how various credit enhancement techniques could be applied to an actual project taken from the Water Sector in Indonesia.
- 3 Conduct of a Financial Policy, Incentives, and Credit Enhancement one-day workshop, possibly co-sponsored by Bappenas and the Ministry of Finance.

Task 6 Finalizing, Consolidating, and Summarizing Findings & Recommendations - Preparation of a Final Report Completion Date June 15, 1998

A consolidated report, including all of the findings, recommendations, and recommended future action plans for the proposed Public-Private Partnerships Center, summing up all of the components of the previous tasks, and proposing future implementation strategy, will be prepared as the final *deliverable*. This will be submitted as a Draft Final Report, for receipt, comment and input from Bappenas, whose input will then be incorporated into a final report.

ANNEX G

Database Questionnaire

A Questionnaire

BAPPENAS PROJECT PROFILE QUESTIONNAIRE

Infrastructure Projects to be Implemented through Private Sector Participation or Public-Private Partnerships with the Government of Indonesia

(Questionnaire to provide information as required by Keppres 7, 1998 and Keppres 39, 1997)

1 General Project Information

1 Project Title	
2 Project Location	
3 Project Proponent (Responsible GOI Agency or BUMN)	
4 Project Contractor (Private Sector or Concession Party)	
5 Project Lender (s) (if known)	
5 Project Contact in GOI (a) Name (b) Agency/Institution (c) Address (d) Phone (e) Fax (f) Email	

2 Project Sector (as defined under Keppres 7/1998) Select one from the following table

<input type="checkbox"/>	1 Generation, transmission or distribution of electricity
<input type="checkbox"/>	2 Transmission and distribution of natural gas
<input type="checkbox"/>	3 Processing and delivery of oil and natural gas, delivery of oil and natural gas products
<input type="checkbox"/>	4 Transport, storage, supply, production, distribution, or treatment of water
<input type="checkbox"/>	5 Management of wastewater and solid waste
<input type="checkbox"/>	6 Construction or operation of support facilities for freight or passenger air, sea, or rail transportation
<input type="checkbox"/>	7 Toll roads, toll bridges, harbors, seaports, airports, inland waterways and airfields
<input type="checkbox"/>	8 Construction and operation of telecommunication facilities

3 Project Description

1 Project Objectives				
2 Project Context Supply & Demand a Demand for project services b Service area to be covered c Number of beneficiaries/customers d Cost of services in global market e Other relevant information	a	b	c	d
3 Project Physical Description a Equipment procurement or installation b Infrastructure renovation or expansion c Expansion of service areas d Other relevant physical information	a	b	c	d
4 Type of PPP Mechanism Planned (Check one)	(a) BOT	(b) BOO	(c) Concession	(d) Other

4 Project Investment Costs (in US\$)

Exchange Rate used \$1 = Rp _____ Date _____

Project Component & Brief Description	Cost in US\$ (by specific items, where possible)
1 Major Components (e g , land)	(a) \$
2 Equipment & Machinery	(b) \$
3 Construction (including labor & materials)	(c) \$
4 Other Known Costs (e g , right of way,)	(d) \$

5 Project Financial Information

1 Expected Sources of Project Financing, including cash, loans, self-financing, etc	(a) Source 1 (b) Amount & Form (c) Source 2 (d) Amount & Form
2 Level of Public Support (Government contribution)	(a) Type & Amount
3 Expected Interest & Repayment Schedule	(a) Funds from Source 1 (b) Funds from Source 2
4 Current Tariffs for Related Services	(a) Unit (b) Price per Unit Rp/\$
5 Expected Pricing for New or Expanded Services	(a) Units (b) Costs per Unit Rp/\$
6 Expected Revenue Stream	(a) Units (b) Revenues per Unit Rp/\$
7 Expected Project Rate of Return	

6 Project Status

Project Type, Phase, or Milestone	Status or Level of Completion	
1 Project Initiation (check one)	(a) Solicited	(b) Unsolicited
2 For Projects with MOUs or Contracts How was Private Contractor Selected? (check one)	(a) Appointed by GOI/BUMN	(c) Provided Unsolicited Bid
	(b) Chosen by Limited Tender	(d) Chosen by Open Tender
3 Status under Keppres 39/1997 Procedures & Regulations		
4 Status of Project at Issuance of Keppres 39/1997		
5 Status of Project at Issuance of Keppres 7/1998		
6 Expected Contract Mechanism/Type		
7 Pre-feasibility Study Status		
8 Feasibility Study Status		

7 Project Implementation Schedule

Project Schedule Milestone	Scheduled Date (best estimate) or Level of Completion
1 Pre-feasibility Study	
2 Feasibility Study	
3 Listed as Bappenas Approved Project	
4 Issued Request for Letters of Interest	
5 Preparation of Bidding Documents	
6 Short-listing of Interested Bidders	
7 Deadline for Bid Submission	
8 Evaluation of Bidders Completed	
9 Ranking & Award of Bid Winner	
10 Signing of Project Implementation MOU	
11 Final Negotiation and Contract Signature	
12 Arrangement of Project Financing	
13 Commencement of Project Activities	

8 Other Project Information

Please provide any additional information regarding project activities, costs, financing, status, or scheduling. Include information on any processing or implementation delays, relevant legal or regulatory issues, or technical & management concerns.

Subject	Additional Information
1 Expected social benefits (Please be specific)	
2 Required environmental clearances or impact assessments (Amdal)	
3 Other information	
4 Other information	

9 Questionnaire Attachments

Please attach to this Project Profile Questionnaire all relevant project-related documents. These attachments should include the items listed in the table below, if available. Please check off in the table any attachments included with this questionnaire.

<input type="checkbox"/>	Pre-Feasibility Study
<input type="checkbox"/>	Feasibility Study
<input type="checkbox"/>	Financial and market data collected as part of the Feasibility Study or Project Identification process
<input type="checkbox"/>	Other relevant documents or information List Below

Simplified Project Profile Sheet

1 Project Name	
2 Project Identification No	
3 Proponent Agency	
4 Project Category (per Keppres 7/1998)	
5 Project Cost (Est)	(a) Domestic (in US \$) (b) Exchange rate used (c) Effective Date of Exchange Rate (d) Foreign (US \$) (e) TOTAL
6 Contact Person	(a) Name, (b) Address, (c) phone, (d) cell phone, (e) fax, (f) email
7 Project Status	
8 Proposed Public Private Partnership Mechanism	

Instructions in Filling Out This Form This form is used for the binder which assembles all the projects that have been considered by BAPPENAS and have been approved for public private partnerships This implies that the project has been prioritized and therefore would appear as part of the pertinent REPELITA as well as the BAPPENAS Blue Book list of infrastructure projects

1 Project Name refers to the Project title and should correspond to all the relevant documentation including REPELITAS

2 Project Identification No refers to the Project number assigned by BAPPENAS

3 Proponent Agency refers to the agency which initiated the project It is conceivable that the project proponent is not the same as the implementing entity It is conceivable that a body would be created to implement the project or the proponent agency will assign the implementation of the project to another entity This may or may not be known at the time the project is conceptualized so only the proponent's name appears here

4 Project Category refers to one of the seven categories mentioned in Keppres 7/1998

5 Project Cost is the estimated total project cost broken down into domestic sources and external sources Domestic sources refer to the entity's own source (i e budgetary) and foreign refers to all sources outside the budgetary sources even if these sources are domestic investors It is not likely that

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the investment needs will be assigned to domestic versus foreign investors at this time. The exchange rate used in calculating the investment requirements should be included as well as the effective date of the same exchange rate. It is anticipated that exchange rates will be fluctuating.

6 Contact Person Name is the name, address, phone, cell phone, fax and email address of the person in charge of the project. It would be a good idea to maintain one contact person for the duration of the project inception until the project is implemented. He or she could be backed up by a project management team but only one person will be the main contact outside the office.

7 Project Status refers to the stage of the project, whether a partner has been identified, pre-feasibility completed, investor approached, feasibility under preparation, etc.

8 Proposed Public Private Partnership Mechanism refers to the anticipated arrangement to be utilized for the project as approved by BAPPENAS.

ANNEX H

Public-Private Partnership Database Design

ANNEX H

Public-Private Partnership Database Design

A Introduction

In September 1997 Task 1 requirements called for four design items 1) a questionnaire to provide BAPPENAS with a list of infrastructure projects for public-private partnership, 2) a database design recommending compatible software to be used, 3) a design for a simplified Project Profile Sheet reflecting the basic information on a project for inclusion in the approved List of Infrastructure Projects, and 4) a profile of eligible projects screened and prioritized from the 180 projects

As noted earlier in this report, Presidential Decree No 39/1997 served as the basis for identifying the projects that would be eligible for private sector participation This decree aimed at preparing an inventory of both infrastructure and non-infrastructure projects intended for private investors

In January 1998, the GOI issued Presidential Decree No 7/1998 This decree serves as the framework for project identification, use of competitive procurement and sound governance covering infrastructure projects for private sector participation Both government officials and donor agencies agree that this decree provides a necessary first step toward a rational and cost-effective PPP infrastructure program but did not fully address issues needed if a fully functional private sector-provided infrastructure investment program was to be implemented The gaps identified included tariff setting, unsolicited proposals, risk allocation, and dispute resolution As far as the requirements of task 1, however, the deliverables were once more being revised

By March 1998, under the auspices of Presidential Decree No 39/1997, there were 284 infrastructure projects at an estimated value between \$40 billion and \$50 billion Note that about 60 percent of this value could be attributed to electric power projects The average value of all these projects, including the electric power projects, was \$190 million Many of these projects were considered to be "wish-list" projects Few would probably proceed under favorable economic conditions A survey conducted by BAPPENAS in June 1998 showed that the private sector proponents were no longer interested in the projects

About 30 to 45 projects from this list were at an advanced stage of implementation With the implementation of Presidential Decree No 7/1998, the project team recommended to BAPPENAS that the remainder of the projects be subjected to the requirements of this new framework The database design was then focused on about 200 infrastructure projects At that time, GOI was still in the process of determining which projects would then fall under the requirements of Presidential Decree No 7/1998

Government Regulations 12/1998 signed in January 1998 transferred the responsibility for managing and restructuring public enterprises from line ministries to the Ministry of Finance and a new Ministry for State Owned Enterprises. This regulation revealed a new kink in implementing Presidential Decree No 7/1998 as applicable to privatizing state-owned enterprises in the infrastructure sectors. The government is presently deliberating this issue.

In May 1998, President Soeharto resigned after 32 years as president. The new government of President B J Habibie promised reform. By July 1998, the GOI agreed with the IMF on a program of reform. This program refocused attention to infrastructure projects. With the economic crisis conditions for continued donor assistance, and political changes, further adjustments to the original scope of work were made in April 1998. Under Task 1, the deliverable was narrowed down to creating a design of a database of BAPPENAS' PPP projects that could be regularly updated and was in a format suitable for public consumption. The short form of the Project Profile sheet (see Annex G) earlier submitted still meets this latter requirement. The database design now is founded on the questionnaire (see Annex G) earlier submitted.

B The Database Software and Hardware Requirements

The proposed software is Microsoft Access 97. Other relational desktop database software in the same league as Microsoft Access include Paradox and Lotus Approach. The overriding determinant for recommending Microsoft Access is its present use at BAPPENAS for national planning purposes. Infrastructure projects appearing in the list of approved projects (so called *Blue Book*) are presently supported by an Microsoft Access database. Compatibility between the database software for PPP infrastructure projects and the *Blue Book* database is important for continuity and unified support from BAPPENAS.

Presently, a majority of the national government agencies use the Microsoft Office Suite which includes Word and Excel, and most users are familiar with Microsoft products. Microsoft Access allows a complementation of utility with other Microsoft products.

Microsoft Access 97 will run on an IBM or compatible computer with Pentium or higher processor and 12 megabytes (MB) of random access memory (RAM). The recommendation is to use at least a Pentium processor with 16 MB of RAM. The more RAM, the more applications can run simultaneously. Hard drive space of 14 to 45 MB is needed depending on what aspects of Microsoft Access will be installed. If the entire 45 MB of Microsoft Access and peripherals will be installed, space will still be needed for the database to be run. This database has a limit of 1.2 gigabyte. This system will also require a VGA monitor or SVGA. A fast video card is recommended. A mouse or pointing device and a printer or access to a printer across the network are also needed.

C Advantages to MS Access

Microsoft Access is a desktop relational database system. A relational database links data into one or more discrete tables that can be related to one another by using fields common to each related table. These relations can be defined between differing data tables by the database to produce reports and perform complex searches. In this case, the database could generate the short form of the Project Profile Sheet.

Relationships established in the design eliminates the needs for redundant information. Identified key fields could be used to store a record from another table.

An advantage of Microsoft Access is indexing. As in indexes at backs of books, a database index is an ordered list of data contained in a field(s) within a table and used as an aid when searching for information quickly. Other advantages are the intuitive use of tables, like spreadsheets, the use of forms to enter data, and the use of queries to search or modify data as well as table structures. One important use of the Query function is the ability to access external data from other databases, as in those used for producing the *Blue Book*.

The proposed database design is a simplified version relying heavily on existing the database already administered by BAPPENAS for its infrastructure projects. This design is limited to Tables, Forms and Queries. Macros and modules are not provided in this design. Macros are a set of action used to perform a specific task. A module is a collection of Visual Basic for Application or VBA, an application development tool. A database administrator is recommended to undertake the task of setting up such macros and modules once the database is up and running.

Computer System Requirements
Microsoft Access 97 requires the Windows 95 environment. Most of the BAPPENAS computers are already running Windows 95. This translates to a 486 MHz or better, or Pentium I, II or III. To install Microsoft Access 97 at least 14 to 45 megabytes of hard-drive space are required.

The manual back-up of data can also be tasked to a database administrator since Microsoft Access requires all users to exit from the database before back-up can be done. Automated back-up can still be performed for the database, but still after all users have exited the database. This database could be used by a total of 255 total users.

There is a limit of 1.2 gigabyte of data under Microsoft Access. The present database requirement of the PPP projects is not yet anticipated to approach this limit. However, it is feasible to branch out into sector databases in the future if this limit is reached and still allow for full compatibility of the databases.

D Design

Infrastructure projects anticipated to form part of the List of Infrastructure Development Projects are expected to be consistent with the national plans or Repelitas. This is one of many

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considerations in the design of a database that would assist BAPPENAS comply with its tasks under Presidential Decree No 7/1998

To run Microsoft Access after turning on the computer with Windows 95

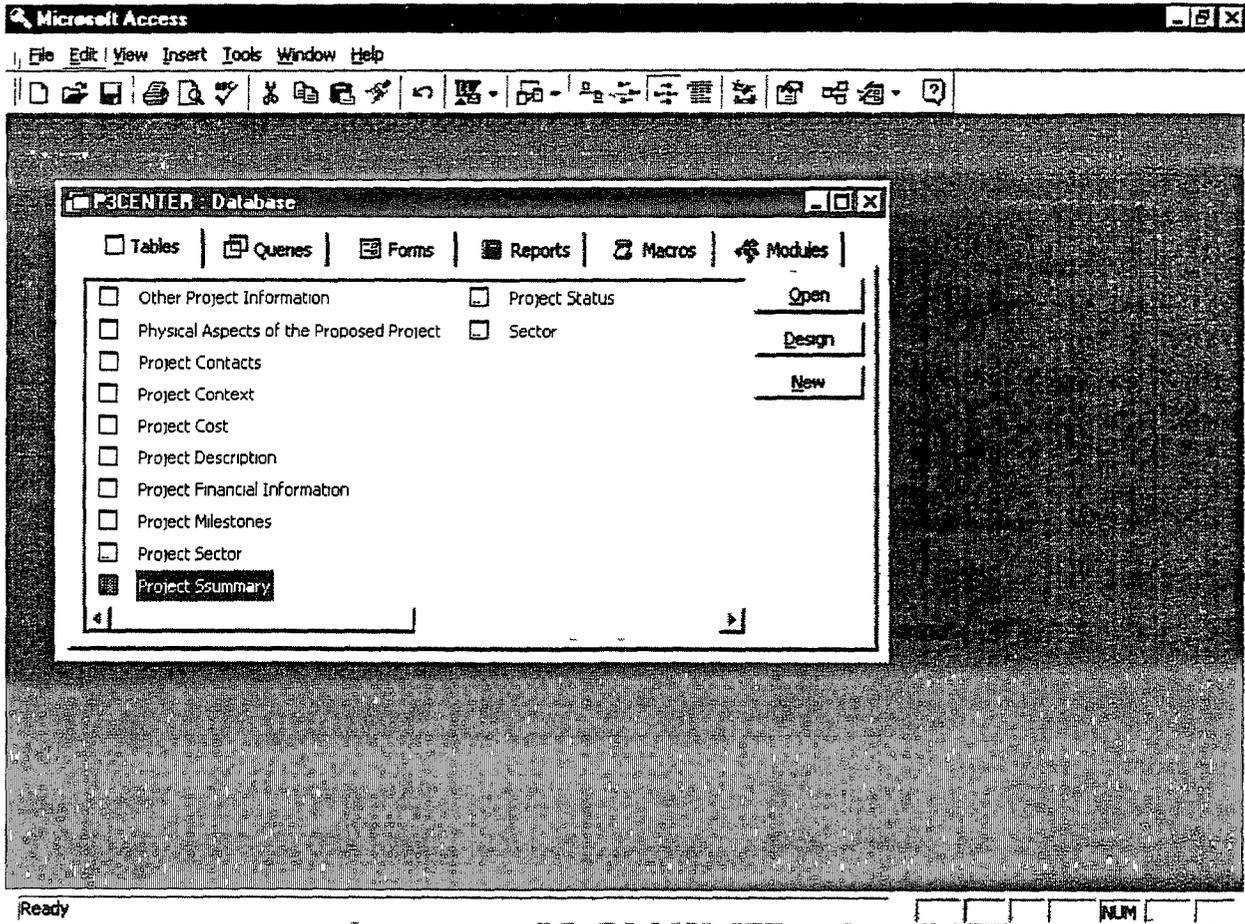
- Click on Start, which appears at the bottom left of the screen. The Start bar may not appear anywhere in the screen unless the cursor is placed at the bottom left of the screen
- From the Start bar, highlight or drag the cursor to Programs
- Highlight MS Access and double-click or hit the Enter key
- Select Open an Existing Database or double-click on Open

The database opens with a screen similar to the one below showing Tables, Queries, Forms, Macros and Modules. As noted above, there are no Macros and Modules, and it is suggested that the database administrator facilitate the use of these last two folders. Note further that the design relies on project information resulting from an initial screening conducted by a proponent government entity prior to submission to BAPPENAS, in compliance with the requirements of the Implementing Rules and Regulations of Presidential Decree No 7/1998

The Two Types of Microsoft Access Database Security

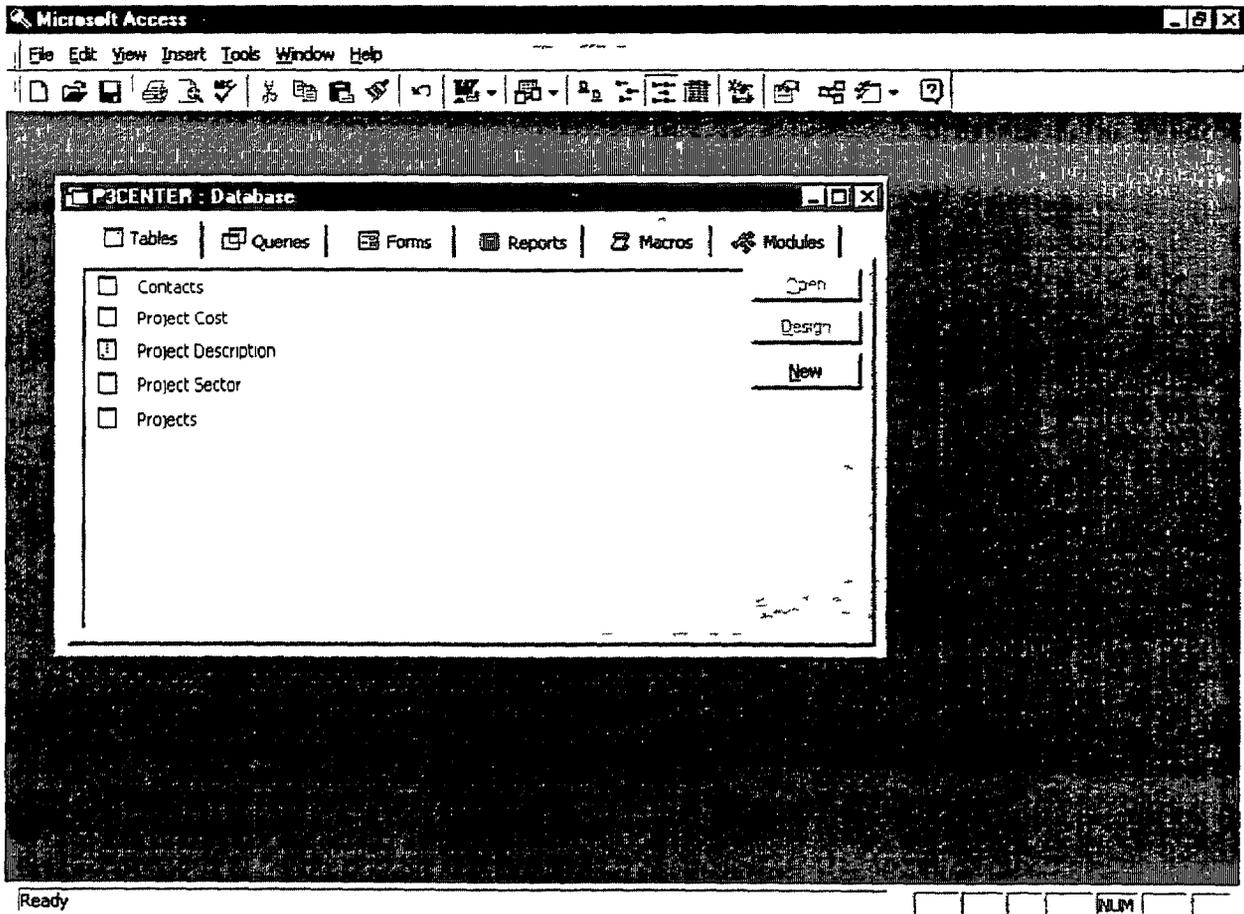
Password security allows any user to enter a password before the database opens

User level security, while more flexible is more extensive than merely entering a password. Like a networked system's security system, a user enters an ID and a password. This suggests that a set of all database users is known to the database administrator. Users can be clustered along certain parameters in order to efficiently maintain the database.



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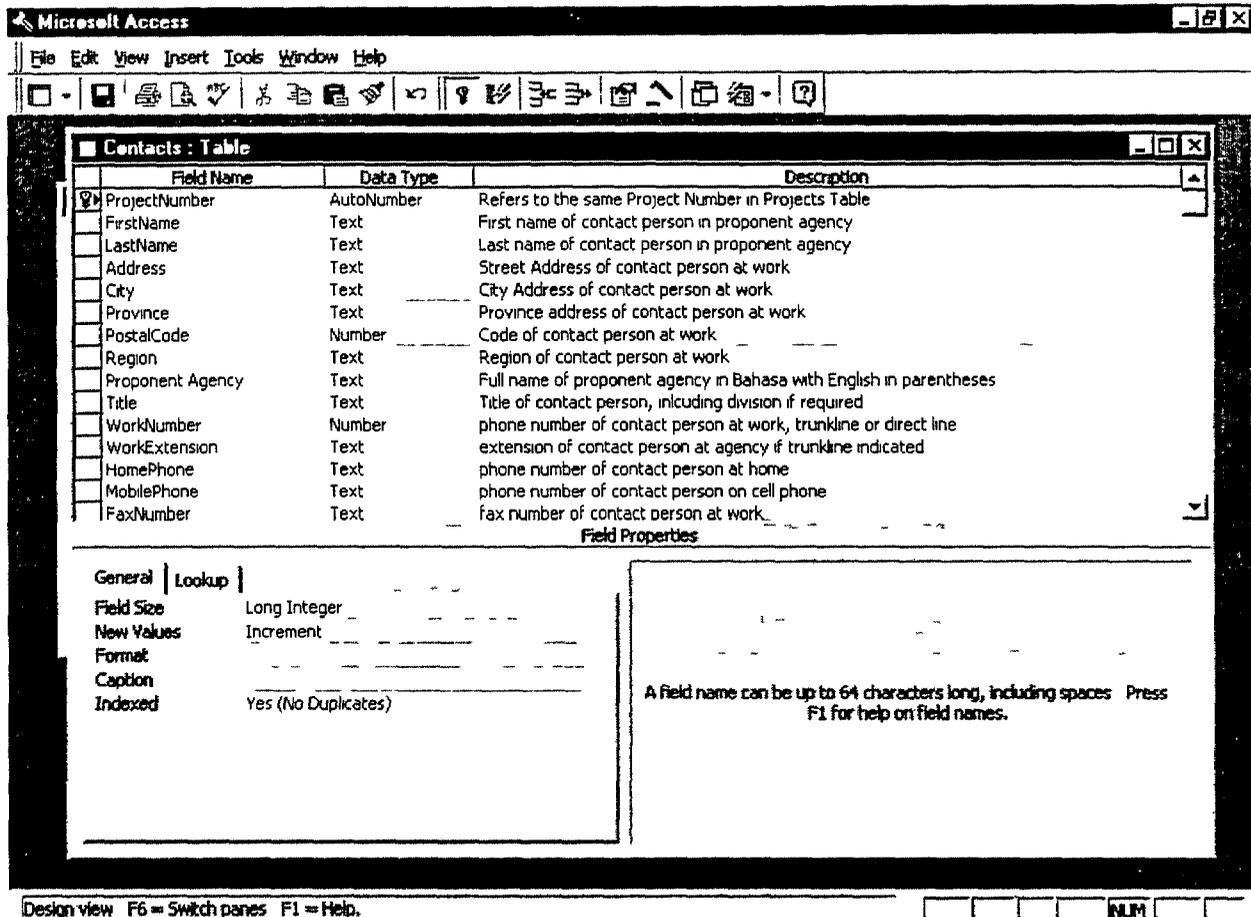
Tables

There are two ways to view a table. One is the Design view, the other is the Datasheet view. The Datasheet view appears like a spreadsheet. One can enter information as if using a regular spreadsheet, except that there are pre-designed column headings. There are also limitations on the kind of information to be entered.

The Tables shown in this database design will all be in Design view. The Design view shows the structure of the table and is set up in a form/subform arrangement. The grid at the top of the Design view lists all the fields in the table, with data type and description of the field. The tabs at the bottom show the properties for a selected field.

There are 12 initial tables in this database. More can be added as the number and type of projects evolve according to government policies and regulations.

Below are brief descriptions of the tables shown in the Design view. The Contact Table shows details on the project personnel who is the primary contact for a particular project. Note that this project contact person is associated with the proponent agency and not necessarily BAPPENAS unless BAPPENAS is the proponent agency.



The list of information required to be entered under the Contacts Table is shown in two screens. Note that as one highlights or points the cursor to a particular Field Name, the general description showing the properties of that particular field appear in the lower half of the screen. These properties could be changed, depending on the requirements of a particular project. Note also that the Text attribute of a Field allows for as many as 255 characters, including dashes and spaces. A description of the information to be entered in each Field is presented at the right-hand side of the Table under Design view. This description could be changed depending, once again, on any requirement of the project or sector, or to comply with new policies called for by the government.

Microsoft Access

File Edit View Insert Tools Window Help

Contacts : Table

Field Name	Data Type	Description
City	Text	City Address of contact person at work
Province	Text	Province address of contact person at work
PostalCode	Number	Code of contact person at work
Region	Text	Region of contact person at work
Proponent Agency	Text	Full name of proponent agency in Bahasa with English in parentheses
Title	Text	Title of contact person, including division if required
WorkNumber	Number	phone number of contact person at work, trunkline or direct line
WorkExtension	Text	extension of contact person at agency if trunkline indicated
HomePhone	Text	phone number of contact person at home
MobilePhone	Text	phone number of contact person on cell phone
FaxNumber	Text	fax number of contact person at work
EmailName	Text	email address of contact person at work and at home
Notes	Memo	notes on the contact person, e.g., seconded to a certain agency, or at certain times of the w
ProjectID	Number	

Field Properties

General | Lookup

Field Size 100

Format

Input Mask

Caption

Default Value

Validation Rule

Validation Text

Required No

Allow Zero Length No

Indexed No

The maximum number of characters you can enter in the field. The largest maximum you can set is 255. Press F1 for help on field size

Design view F6 = Switch panes F1 = Help

The General Project Information Table shows the Project Title, location of the project, the government entity sponsoring the project, the private sector contractor, when identified, or the concessionaire, the project lender, if known, and the contact information of the project personnel from the sponsoring agency. Note that it is possible to edit the table to include more than one project contractor or project lender.

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Microsoft Access

File Edit View Insert Tools Window Help

Projects : Table

Field Name	Data Type	Description
ProjectID	AutoNumber	This number is assigned by the Center. For ease of entry, this may be assigned as you enter
ProjectName	Text	This title is submitted by the proponent Agency
ProjectDescription	Memo	Describe the project with measureable expected outputs in km cu m etc as well as actual k
ProjectBeginDate	Date/Time	Refers to when the proponent sends this proposed project up to the center for consideration
ProjectEndDate	Date/Time	This date will be filled up after the project is contracted out. (This definition may change)
ProjectSector	Number	Refers to one of the eight sectors identified in Keppres 7/1998 Refer to ProjectSector Table
ProponentAgency	Text	Refers to the agency proposing the project
ProjectContractor	Text	Refers to the Private Sector entity or concession party for the project
ProjectLender1	Text	Refers to the first project lender, if known
ProjectLender2	Text	Refers to the second project lender, if known
ProjectCost	Currency	Refers to estimated total project cost in US\$ (or Rp?)
SummaryStatus	Text	Refers to where project is in planning phase, e.g. bids received, contract awarded etc
CategoryID	Number	

Field Properties

General | Lookup

Field Size: Long Integer

New Values: Increment

Format: _____

Caption: Project ID

Indexed: Yes (No Duplicates)

A field name can be up to 64 characters long, including spaces. Press F1 for help on field names.

Design view F6 = Switch panes F1 = Help

The Project Sector Table identifies the eight sectors defined by Presidential Decree No 7/1998 as the only infrastructure sectors for PPP projects. A project may only be assigned one sector at the time of inception. It is feasible that the project may be broken down into chunks during implementation or some other portion of the project development. At that time the database administrator may identify sub-categories under the project identification number to note the original project and track its break-up into components. It is also feasible that this list may expand or contract, depending on the requirements of the government leadership and the need to boost the economy. At this time the sectors include

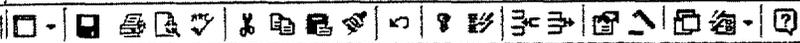
- 1 Generation, transmission, or distribution of electricity or electric power
- 2 Transmission and distribution of natural gas
- 3 Processing, delivery of oil and natural gas, and delivery of oil and natural gas products
- 4 Transport, storage, supply, production, distribution, or treatment of water
- 5 Management of wastewater and solid waste
- 6 Construction or operation of support facilities for freight or passenger, air, sea or rail transportation
- 7 Toll roads, toll bridges, harbors, seaports, airports, inland waterways and airfields
- 8 Construction and operation of telecommunication facilities

There are two designs presented here for the project sectors. The database administrator could determine which one would be more appropriate at the time of use.

Microsoft Access

Microsoft Access

File Edit View Insert Tools Window Help



Sector - Table

Field Name	Data Type	Description
Power	Text	1 refers to the generation, transmission or distribution of electricity or electric power
NaturalGas	Text	2 refers to transmission and distribution of natural gas
OilNaturalGas	Text	3 processing delivery of oil and natural gas delivery of oil and natural gas products
Water	Text	4 transport storage supply production, distribution or treatment of water
Wastewater	Text	5 management of wastewater and solid waste
Transport	Text	6 construction or operation of support facilities for freight, passenger air sea or rail transport
RoadsBridges	Text	7 toll roads, tollbridges harbors, seaports airports inland waterways and airfields
Telecom	Text	8 construction and operation of telecommunication facilities

Field Properties

General | Lookup |

Field Size: 50

Format: _____

Input Mask: _____

Caption: Category Name

Default Value: _____

Validation Rule: _____

Validation Text: _____

Required: No

Allow Zero Length: No

Indexed: Yes (Duplicates OK)

A field name can be up to 64 characters long, including spaces. Press F1 for help on field names.

Design view F6 = Switch panes F1 = Help

The Project Description Table provides data on project objectives, the supply and demand for the proposed project, its physical description and the planned PPP mechanism to be used for the project

Microsoft Access

File Edit View Insert Tools Window Help

Project Description : Table

Field Name	Data Type	Description
ProjectID	AutoNumber	Same as the Project ID number noted in the Projects Table
ProjectSector	Number	Linked to the Project Sector Category Table
ProjectName	Text	Refers to the name of the project, associated with the Project ID
Project Objective	Memo	Refers to the project objective as contained in the Development Plan
ProjectDescription	Memo	Describes the project in detail Linked to Projects Table
Equipment	Memo	Refers to whether or not the project requires procurement or installation of equipment
RehabExpansion	Memo	Refers to
EmployeeID	Number	Refers to the project contact in the proponent agency, linked to Contacts Table

Field Properties

General | Lookup

Field Size: Long Integer

New Values: Increment

Format:

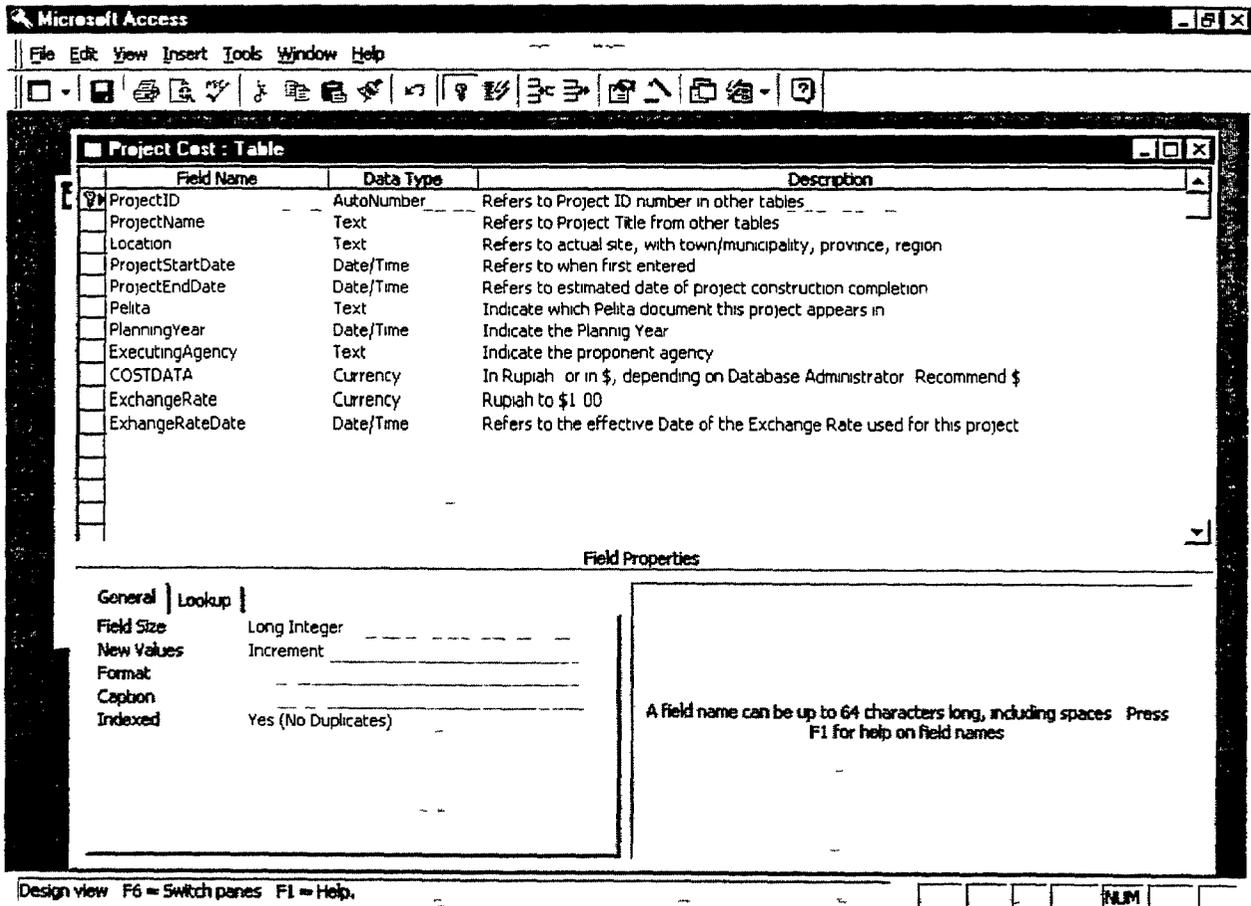
Caption: Project ID

Indexed: Yes (No Duplicates)

A field name can be up to 64 characters long, including spaces Press F1 for help on field names.

Design view F6 = Switch panes F1 = Help.

NUM



The Project Cost Table provides data on the cost of the proposed PPP project, with special notation on the exchange rate used and its effective date. This information will allow the private investor and other interested parties to make adjustments on project cost at the time of their review. This table could conceivably be longer since a project could have a variety of combinations on project components. Revisions may be made by the database administrator in the Design view of this table.

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Microsoft Access

File Edit View Insert Tools Window Help

Database Window

Other Project Information : Table

Field Name	Data Type	Description
ID	AutoNumber	
ProjectID	Number	Refers to the project ID assigned to the proposed project
ProjectTitle	Text	Refers to the title of the project correlating to the Project ID
ProjectSector	Text	Refers to one of eight sectors identified under Keppres 7/1998
SocialBenefits	Memo	Description of the social benefits anticipated to result from this project
EnvironmentalClearances	Memo	Description of Environmental Clearances required for this project
Other1	Memo	Other relevant information
Other2	Memo	Other relevant information
Other3	Memo	Other relevant information
Other4	Memo	Other relevant information

Field Properties

General | Lookup

Field Size: Long Integer

Format: _____

Decimal Places: Auto

Input Mask: _____

Caption: _____

Default Value: 0

Validation Rule: _____

Validation Text: _____

Required: No

Indexed: Yes (Duplicates OK)

The field description is optional. It helps you describe the field and is also displayed in the status bar when you select this field on a form. Press F1 for help on descriptions.

Design view F6 = Switch panes F1 = Help. NUM

The Other Project Information Table presents data pertinent to the project that would impact its implementation. This may include environmental clearances, for example, that advise interested parties on realistic timelines. Or, other social benefits can be described that affect how BAPPENAS and the Committee in charge of approving the list of projects reach a decision on priorities for a particular period. Necessarily, this list is dependent on the nature of the project and on what the proponent agency feels best argues its case to move forward with the project.

Microsoft Access

File Edit View Insert Tools Window Help

Physical Aspects of the Proposed Project : Table

Field Name	Data Type	Description
ProjectID	AutoNumber	Refers to the Project ID assigned to the proposed project
ProjectTitle	Text	Refers to the Title of the proposed project corresponding to the assigned Project ID
EquipmentProcured	Memo	Identify the equipment proposed to be procured under this project
EquipmentInstalled	Memo	Identify the equipment to be installed under the proposed project
InfraRehab	Memo	Briefly describe the rehabilitation or renovation to be undertaken under the proposed project
InfraExpansion	Memo	Briefly describe the expansion of the infrastructure anticipated under the proposed project
ExpansionServiceArea	Memo	Briefly describe the expanded service area resulting from the implementation of the proposed
Other1	Text	Describe other relevant physical aspects of the project
Other2	Text	Describe other relevant physical aspects of the project
Other3	Text	Describe other relevant physical aspects of the project
Other4	Text	Describe other relevant physical aspects of the project
Other5	Text	Describe other relevant physical aspects of the project

Field Properties

General | Lookup

Field Size: Long Integer

New Values: Increment

Format: _____

Caption: _____

Indexed: Yes (No Duplicates)

A field name can be up to 64 characters long, including spaces. Press F1 for help on field names

Design view F6 = Switch panes F1 = Help

Microsoft Access

File Edit View Insert Tools Window Help

Project Context : Table

Field Name	Data Type	Description
ProjectID	Number	Refers to the Project ID assigned to the proposed project
ProjectName	Text	Refers to the Project Title assigned to the proposed project as this relates to the Project ID
DemandServices	Memo	Refers to the demand for the services to be provided by the proposed project, may be in number, may be
PresentServiceArea	Text	Refers to the service area presently being served by the project, if known
ProposedServiceArea	Text	Refers to the service area proposed to be served by the proposed project,
Beneficiaries/Customers	Number	Number of beneficiaries anticipated to be served by the proposed project
CostOfServices	Currency	Equivalent cost of the proposed project in the global market, if known
Other1	Text	Refers to other relevant information that may be useful in determining demand for the project
Other2	Text	Refers to other relevant information that may be useful in determining demand for the project
Other3	Text	Refers to other relevant information that may be useful in determining demand for the project
Other4	Text	Refers to other relevant information that may be useful in determining demand for the project
Other5	Text	Refers to other relevant information that may be useful in determining demand for the project

Field Properties

General | Lookup |

Field Size: Long Integer

Format: _____

Decimal Places: Auto

Input Mask: _____

Caption: _____

Default Value: 0

Validation Rule: _____

Validation Text: _____

Required: No

Indexed: No

A field name can be up to 64 characters long, including spaces. Press F1 for help on field names.

Design view F6 = Switch panes F1 = Help.

The Project Context Table presents descriptive information about the project and summary cost information. This table also presents details on the service area, beneficiaries or customers, and the resulting change in service area from the proposed project being implemented. Other relevant information can also be placed in this table. It is feasible to merge social benefits or environmental clearances with this table rather than creating a separate Other Project Information Table (see below).

Microsoft Access

File Edit View Insert Tools Window Help

Project Cost : Table

Field Name	Data Type	Description
ProjectID	AutoNumber	Refers to Project ID number in other tables
ProjectName	Text	Refers to Project Title from other tables
Location	Text	Refers to actual site, with town/municipality, province region
ProjectStartDate	Date/Time	Refers to when first entered
ProjectEndDate	Date/Time	Refers to estimated date of project construction completion
Repelita	Text	Indicate which Repelita document this project appears in
PlanningYear	Date/Time	Indicate the Planning Year
ExecutingAgency	Text	Indicate the proponent agency
COSTDATA	Currency	In Rupiah, or in \$, depending on Database Administrator Recommend \$
ExchangeRate	Currency	Rupiah to \$1 00
ExchangeRateDate	Date/Time	Refers to the effective Date of the Exchange Rate used for this project
Land	Currency	In dollars, using the exchange rate noted above, refers to the cost of the land if part of the total project
Equipment	Currency	In dollars, using the exchange rate noted above, refers to the cost of equipment if part of the total project
Construction	Currency	In dollars, using the exchange rate noted above, refers to the cost of labor and materials estimated to be
Other1	Currency	In dollars using the exchange rate noted above refers to the cost of other known items a right of way

Field Properties

General | Lookup

Field Size: Long Integer
 New Values: Increment
 Format: _____
 Caption: _____
 Indexed: Yes (No Duplicates)

The field description is optional. It helps you describe the field and is also displayed in the status bar when you select this field on a form. Press F1 for help on descriptions

Design view F6 = Switch panes F1 = Help.

This Project Cost Table presents a summary snapshot of all the project components anticipated sources of financing and other pertinent information

Microsoft Access

File Edit View Insert Tools Window Help

Project Description : Table

Field Name	Data Type	Description
ProjectID	AutoNumber	Same as the Project ID number noted in the Projects Table
ProjectSector	Number	Linked to the Project Sector Category Table
ProjectName	Text	Refers to the name of the project, associated with the Project ID
Project Objective	Memo	Refers to the project objective as contained in the Development Plan
ProjectDescription	Memo	Describes the project in detail Linked to Projects Table
Equipment	Memo	Refers to whether or not the project requires procurement or installation of equipment
RehabExpansion	Memo	Refers to rehabilitation renovation or expansion cost component of the proposed project
Other	Memo	Refers to other relevant physical information which will be funded under this proposed project
PPPMechanism	Text	Refers to the tpe of PPP Mechanism planned for the project,if known This could be BOT, BOO Concessic
EmployeeIC	Number	Refers to the project contact in the proponent agency, linked to Contacts Table

Field Properties

General | Lookup

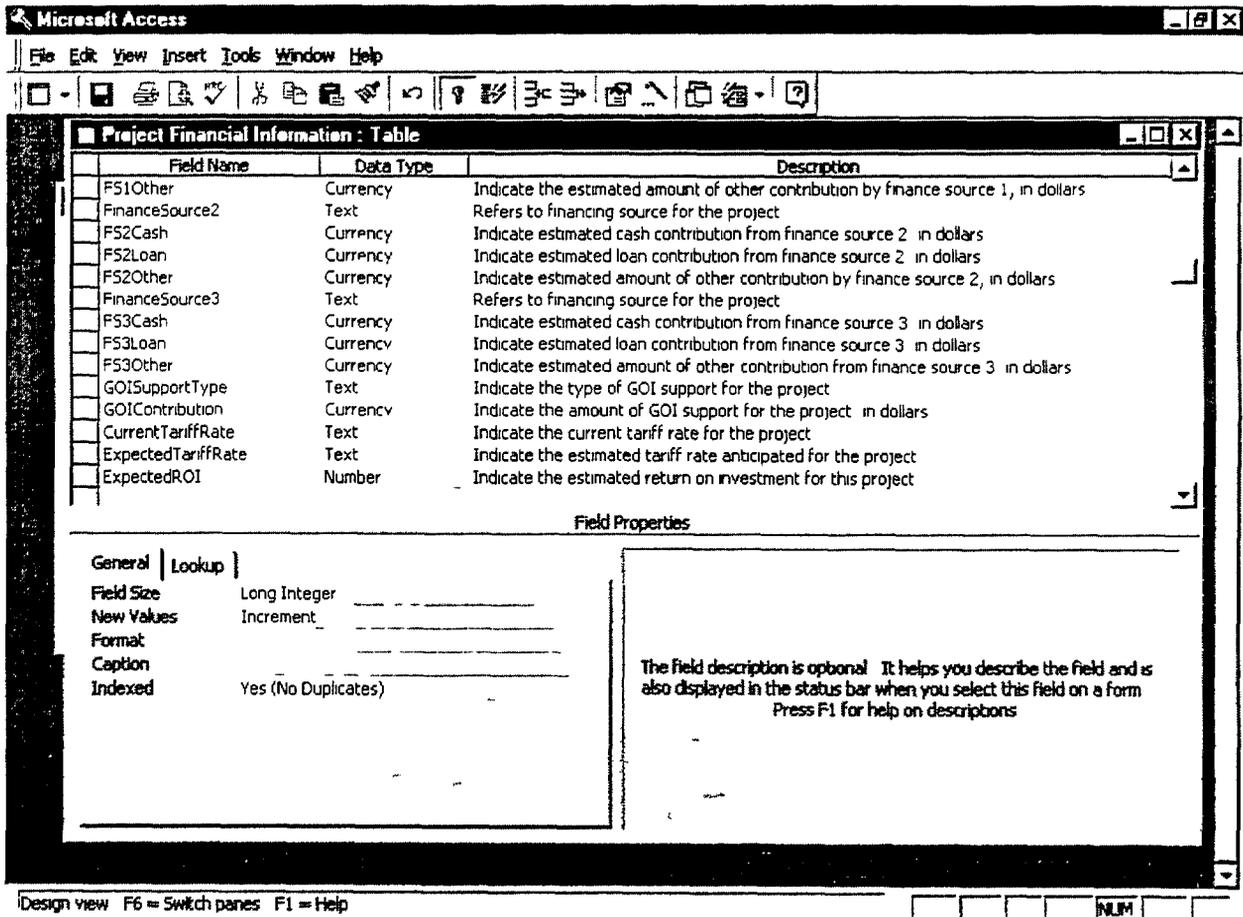
Field Size: Long Integer
 New Values: Increment
 Format:
 Caption: Project ID
 Indexed: Yes (No Duplicates)

The field description is optional It helps you describe the field and is also displayed in the status bar when you select this field on a form Press F1 for help on descriptions.

Design view F6 = Switch panes F1 = Help

This is a repeat of the Project Description Table already described above

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The Table on Project Financial Information differs from the project cost table because it provides details on the GOI's contribution and what form this takes as well as details on the contributions anticipated from other funding sources. There is a distinction made on whether or not the contributions are in cash, a loan, or some other means. Note that this table contains tariff information on the proposed project. The GOI is presently deliberating on the impact of its policies on tariff-setting and this table is likely to be affected by the outcome of those deliberations. There is a high likelihood that this table may be changed to accommodate future policies on tariff-setting.

Microsoft Access

File Edit View Insert Tools Window Help

Project Milestones : Table

Field Name	Data Type	Description
ProjectSector	Text	Refers to one of the eight sectors under Keppres 7/1998
PreFS	Date/Time	Date the prefeasibility study is anticipated to be completed
F5	Date/Time	Date the feasibility study is anticipated to be completed
Approved	Date/Time	Date BAPPENAS approves the project or the Date when the project is listed in BAPPENAS s Lis
RequestforLOI	Date/Time	Date Request fo Letters of Interest is issued
BiddingDocs	Date/Time	Date bidding documents are prepared and completed
ShortList	Date/Time	Date when interested firms are shortlisted for the project
BidDeadline	Date/Time	Date when bids for the project are due
BidEvaluation	Date/Time	Date when bids are evaluated by the Bidding and Award Committee
AwardDate	Date/Time	Date when award is expected
ProjImplnMOU	Date/Time	Date when the Project Implementation Memo of Understanding is anticipated
ContractNegotiation	Date/Time	Date when the contract is anticipated to be negotiated
ProjectFinance	Date/Time	Date when project finance is arranged by all parties
ProjectStart	Date/Time	Date when project commences,linked to the Projects Table

Field Properties

General | Lookup

Field Size: Long Integer

New Values: Increment

Format: _____

Caption: _____

Indexed: Yes (No Duplicates)

The field description is optional. It helps you describe the field and is also displayed in the status bar when you select this field on a form. Press F1 for help on descriptions.

Design view F6 = Switch panes F1 = Help. NUM

The Project Milestones Table presents the various dates anticipated for each portion of the proposed project, as it moves from inception to implementation to post-transactions. A monitoring and evaluation design should be part of the database administrator's concerns once the project database is activated.

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Microsoft Access

File Edit View Insert Tools Window Help

Project Summary : Table

Field Name	Data Type	Description
ProjectID	AutoNumber	This number is assigned by the Center. For ease of entry, this may be assigned as you enter
ProjectName	Text	This title is submitted by the proponent Agency
ProjectDescription	Memo	Describe the project with measureable expected outputs, in km cu m etc as well as actual k
ProjectBeginDate	Date/Time	Refers to when the proponent sends this proposed project up to the center for consideration
ProjectEndDate	Date/Time	This date will be filled up after the project is contracted out (This definition may change)
ProjectSector	Number	Refers to one of the eight sectors identified in Keppres 7/1998 Refer to ProjectSector Table
ProponentAgency	Text	Refers to the agency proposing the project
ProjectContractor	Text	Refers to the Private Sector entity or concession party for the project
ProjectLender1	Text	Refers to the first project lender, if known
ProjectLender2	Text	Refers to the second project lender, if known
ProjectCost	Currency	Refers to estimated total project cost, in US\$ (or Rp?)
SummaryStatus	Text	Refers to where project is in planning phase, e g , bids received contract awarded etc
CategoryID	Number	

Field Properties

General | Lookup

Field Size: Long Integer

New Values: Increment

Format: _____

Caption: Project ID

Indexed: Yes (No Duplicates)

A field name can be up to 64 characters long, including spaces. Press F1 for help on field names

Design view F6 = Switch panes F1 = Help

The Project Summary Table presents the summary information on the proposed project. It is possible to transfer this Table into the Report file instead of the Table file.

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Microsoft Access

File Edit View Insert Tools Window Help

Sector : Table

Field Name	Data Type	Description
Power	Text	1 refers to the generation, transmissio or distribution of electricity or electric power
NaturalGas	Text	2 refers o trasmission and distribution of natural gas
OilNaturalGas	Text	3 processing delivery of oil andnatural gas, delivery of oil and natural gas products
Water	Text	4 transport, storage,supply,production,distribution or treatment of water
Wastewater	Text	5 management of wastewater and solid waste
Transport	Text	6 construction or operation of support facilities fo freight, passender air sea or rail transport
RoadsBridges	Text	7 toll roads, tollbridges, harbors, seaports, airports, inland waterways and airfields
Telecom	Text	8 construction and operation of telecommunication facilities

Field Properties

General | Lookup

Field Size 50

Format

Input Mask

Caption Category Name

Default Value

Validation Rule

Validation Text

Required No

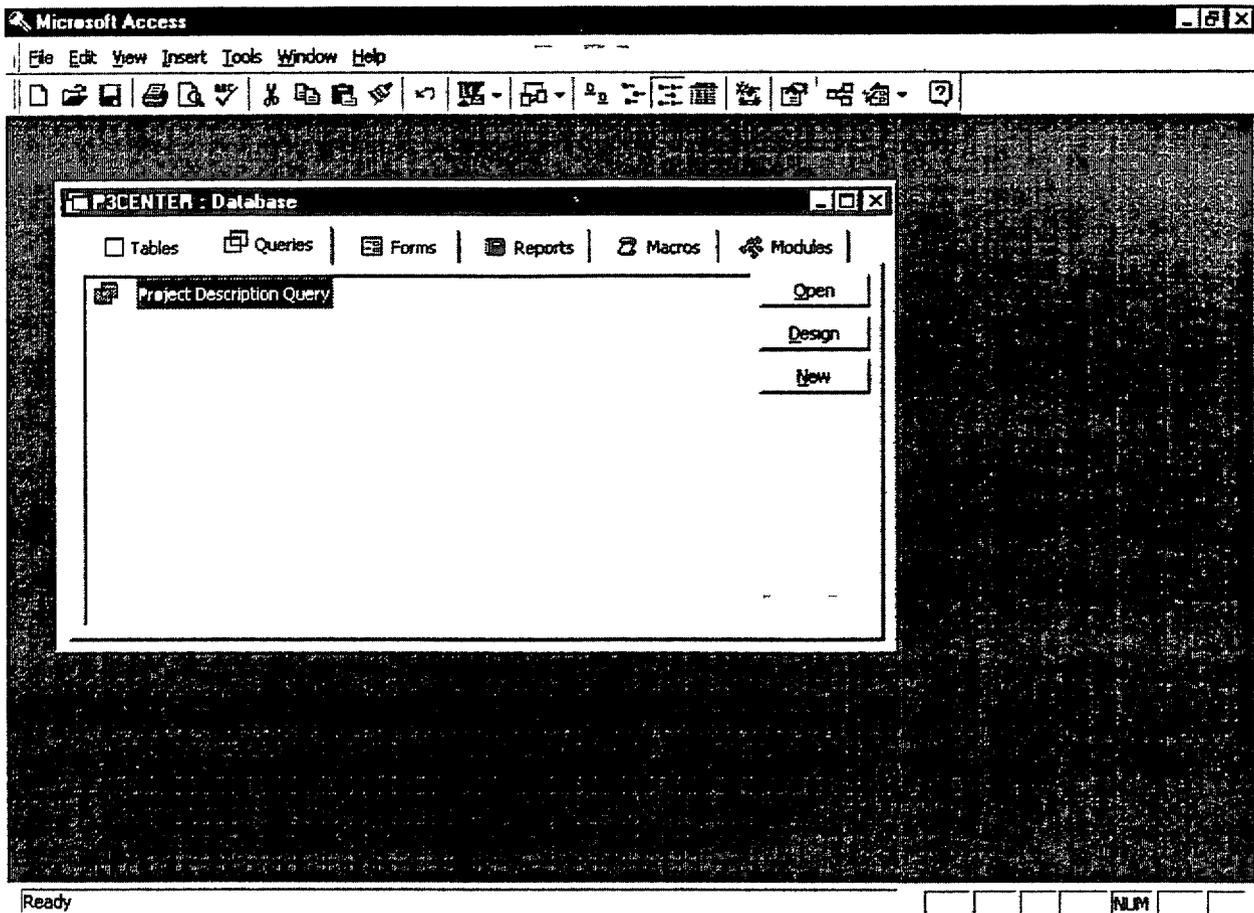
Allow Zero Length No

Indexed Yes (Duplicates OK)

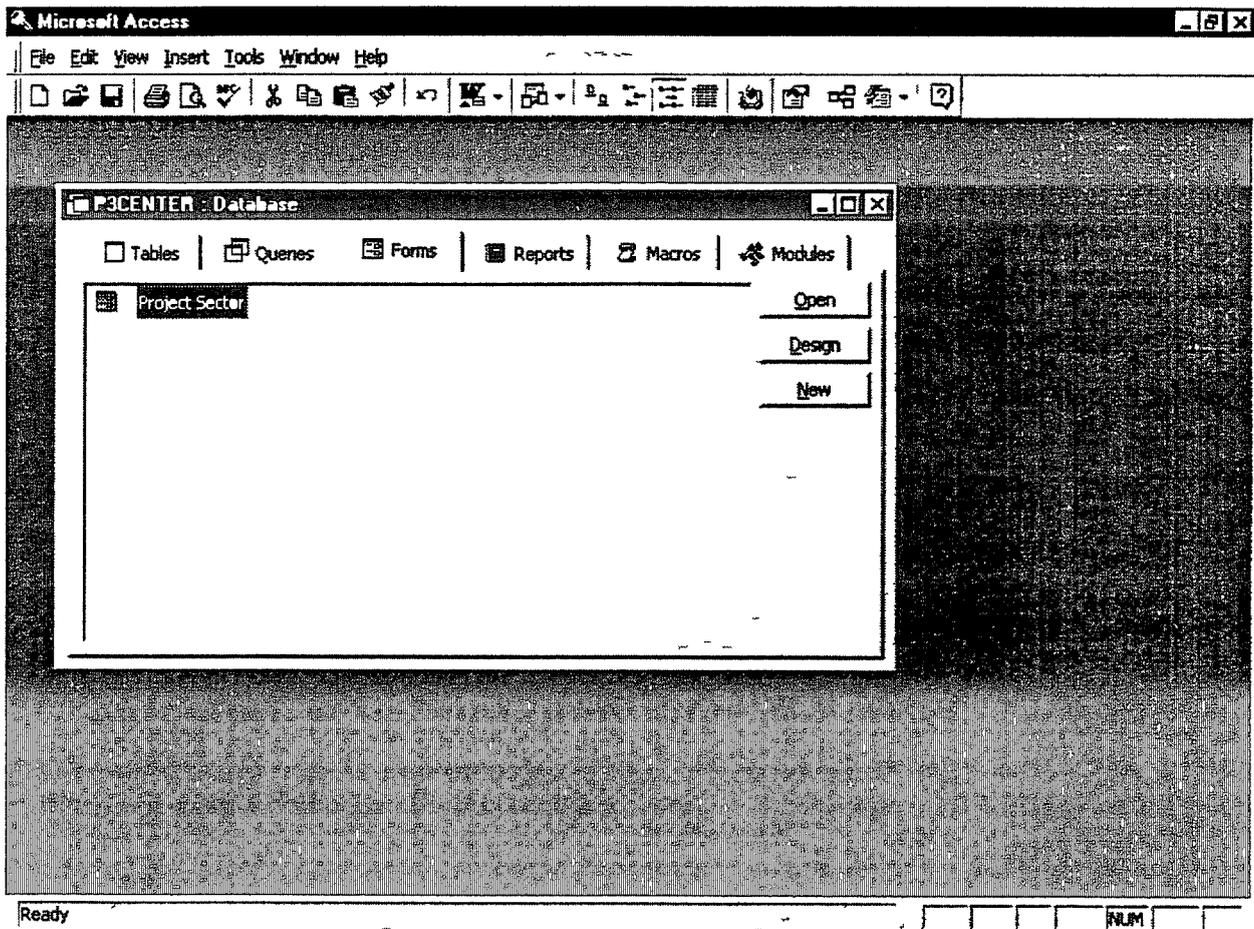
A field name can be up to 64 characters long, including spaces Press F1 for help on field names

Design view F6 = Switch panes F1 = Help

This is a repeat of the Sector Table discussed above



The Queries Section could provide a host of quick information assembled for a particular type of end user. This could be used internally to keep track of the status of the projects, to find out how many in a particular sector are being proposed for a particular period, how many projects are being proposed by a particular agency, etc. There could be an inexhaustible number of queries to accommodate the requirements of BAPPENAS, the proponent agency, the Committee, and other interested parties like investors, capitalists, bankers, and even consumers.



Forms are tools that can be used to assist in data entry. It could also be used in assisting the database administrator define the kinds of information that is relevant to particular end users.

Finally, as noted above, there are no modules and macros presented in this design because these would be shortcuts dependent on the constant use of information. The database administrator can easily formulate these once the database is up and running.

ANNEX I

Decree of the State Minister of National Development Planning

ANNEX I

Decree of the State Minister of National Development Planning

**DECREE OF THE STATE MINISTER OF NATIONAL DEVELOPMENT
PLANNING/CHAIRMAN OF BAPPENAS**

NO 319 of 1998

ON

**IMPLEMENTATION OF CO-OPERATION BETWEEN THE GOVERNMENT AND
PRIVATE SECTOR FOR THE DEVELOPMENT AND/OR MANAGEMENT OF
INFRASTRUCTURE**

**THE STATE MINISTER OF NATIONAL DEVELOPMENT PLANNING/CHAIRMAN OF
BAPPENAS**

CONSIDERING

- (1) That developing Indonesia's infrastructure facilities and related services is important to improving the quality of life of its people, enhancing its industrial competitiveness and promoting and sustaining economic and social development,
- (2) That public private partnerships for the development of infrastructure and related services provide opportunities for genuinely committed private parties to participate in Indonesia's medium to long-term economic and social development at the national, regional and local levels,
- (3) That in facilitating infrastructure development through public private partnerships, the Government will protect the interests of the public, seek the best value for money for Indonesia and its people, ensure that public private partnership projects are socially and environmentally sensitive and responsive, and are consistent with national and sectoral development policies an priorities, and
- (4) That in facilitating the above, it is considered to be necessary to issue a State Minister's Decree

IN VIEW OF

Decree of the President of the Republic Of Indonesia Number 7 Year 1998 on Cooperation Between the Government and Private Sector for the Development and/or Management of Infrastructure

HAS DECIDED

**TO ENACT THIS STATE MINISTERIAL DECREE ON IMPLEMENTATION OF
COOPERATION BETWEEN THE GOVERNMENT AND PRIVATE
SECTOR FOR THE DEVELOPMENT AND/OR MANAGEMENT OF
INFRASTRUCTURE**

Article 1

- (1) Private sector involvement in the development and/or management of infrastructure shall only be implemented by a cooperation agreement between a private party and the Government acting directly or through a State-owned Enterprise which complies with the requirements of Presidential Decree No 7/1998 and the laws and regulations of Indonesia
- (2) A cooperation agreement as referred to in Article (1) shall be either
 - (a) A contractual undertaking between a State-owned Enterprise which given the authority to it by the Minister/Head of Department or non-department Government Institution or head of local government, representing the Government, and a private party contemplating the development and/or management of infrastructure, or
 - (b) A grant in the form of a license, permit, agreement or otherwise by the Government to a private party, whether acting alone or in concert with a state-owned enterprise which grant contemplates the right and obligation of the grantee to develop and/or manage infrastructure
- (1) For the purposes of this Decree
 - (a) Government is the central Government and the regional Governments or either of them, or any department, or other instrumentality thereof,
 - (b) A State-owned Enterprise is a BUMN or BUMD that is majority owned directly or indirectly, by the Government
 - (c) A private party is an Indonesian legal enterprise or a foreign enterprise that is permitted to operate in Indonesia,
 - (d) A public private partnership is an arrangement, set forth in a cooperation agreement, for the provision of infrastructure and/or related services for the benefit of the public, and
 - (e) Infrastructure facilities and/or related services is infrastructure as defined in Presidential Decree No 7 of 1998

Article 2

- (1) A cooperation agreement may set forth a public private partnership taking any form or structure that is not contrary to the laws of Indonesia
- (2) A public private partnership may involve the development or management of infrastructure or both
- (3) A public private partnership need not require reversion of infrastructure to the Government or a state-owned enterprise at the expiration of the cooperation agreement Such reversion shall occur only if provided in a cooperation agreement

Article 3

- (1) The Government shall not provide support measures to a public private partnership except to enhance the financial viability of an economically and socially desirable public private partnership that would not otherwise be financially viable

- (2) Public support shall be no greater than necessary to provide an opportunity for the private party to earn a reasonable return on its investment
- (3) Public support shall be provided in an open and transparent manner

Article 4

- (1) An unsolicited proposal submitted by a private party may only be awarded through open competitive bidding in compliance with Presidential Decree No 7 of 1998
- (2) The Government may elect to negotiate with a private party that has submitted an unsolicited proposal to provide such a private party with commercially reasonable preferences in the bid evaluation process. Such preferences shall be no more than is reasonably necessary to provide a fair recognition of the value of the private party's proposal and the cost of developing the proposal. Any preferences provided to such a private party shall be fully disclosed to all parties in the invitation to bid.
- (3) The Government may elect to negotiate with a private party that has submitted an unsolicited proposal to purchase from such private party all or part of the valid intellectual property rights owned by the private party in respect of such an unsolicited proposal.
- (4) Should the Government and such private party fail to agree on such preferences or on the purchase price for valid intellectual property rights or should the Government not elect to negotiate, the Government may offer such projects for open competitive bidding. Such offer shall not violate the valid intellectual property rights of such a private party or any confidentiality undertaking provided by the Government to such private party.

Article 5

All parties shall respect valid intellectual property rights in the execution and supervision of cooperation between the Government and private parties.

Article 6

Provisions governing tariffs, tolls, fees, charges, and rentals for infrastructure and related services and their adjustment shall be clearly set out in the cooperation agreement. Such provisions shall be guided by the principles of

- (a) establishing a fair balance between the interest of the public and users of infrastructure and/or related services and the private party,
- (b) providing the private party with an opportunity to earn a reasonable rate of return on the private party's investment, and
- (c) providing incentives for efficiency in investment and operation.

Article 7

Provisions in the cooperation agreement regarding the allocation of risks shall be guided by the principle of allocating risks efficiently and equitably to the party which is best able to manage or bear the risk in question.

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Article 8

Provisions in the cooperation agreement governing dispute resolution should facilitate amicable settlement, may include international arbitration or any other means allowed under the laws of Indonesia, and agreed by the parties. The Government shall facilitate the prompt and effective enforcement of judgments or arbitration awards arising from a dispute in respect of a public private partnership.

Article 9

Provisions in the cooperation agreement governing its termination shall ensure that the parties are entitled to appropriate compensation if the cooperation agreement is unilaterally terminated, revoked or abandoned by one party for reasons other than default of the other party.

Article 10

- (1) State-owned Enterprise participating in a public private partnership shall follow and apply the principles of cooperation as stipulated in Article 3 of Presidential Decree No. 7/1998.
- (2) A State-owned Enterprise that has been given the authority referred to in Article 1 (2) may not participate in cooperation between Government and private party if the State-owned Enterprise is conducting the pre-qualification and/or bidding for the project.
- (3) In the event that a state-owned enterprise shall participate in or bid on a public private partnership, such state-owned enterprise, its private party partner or its public private partnership shall not receive any preference in bid selection, agreement negotiation, the implementation or monitoring of the public private partnership or any other aspects arising in connection therewith.

Article 11

To encourage and develop cooperation between the Government and private parties for the development and/or management of infrastructure, the Government may establish a Public Private Partnership Development Center by a Decree of the Minister for State Development Planning/Chairman of BAPPENAS.

Article 12

The State Minister of National Development Planning/Chairman of BAPPENAS may from time-to-time issue guidelines regarding pre-feasibility studies, bidding qualification, bidding procedures and any other aspect of the selection, negotiation, implementation and monitoring of public private partnerships.

Article 13

Departments or non-departmental Government institutions may enact decrees and other regulations regarding public private partnerships, but only to the extent that

- (a) to the extent they are consistent with contents and intent of Presidential Decree No. 7 of 1998 and this Decree, and

- (b) decrees or regulations cannot limit the Articles of Presidential Decree No 7 of 1998 unless required by law or to assure public safety

Promulgated in Jakarta
On 19 October 1998

STATE MINISTER FOR NATIONAL DEVELOPMENT PLANNING/CHAIRMAN OF BAPPENAS

BOEDIONO

ref

ANNEX J

Official Draft of Implementation Manual

Official Draft of Implementation Manual

draft

***IMPLEMENTATION GUIDE OF PRESIDENTIAL
DECREE NO. 7 YEAR 1998, ON PUBLIC-PRIVATE
PARTNERSHIPS IN THE DEVELOPMENT AND OR
MANAGEMENT OF INFRASTRUCTURE***

National Development Planning Agency (Bappenas)
Indonesia

December 1998

CHAPTER 1 INTRODUCTION

1 1 Background of Public Private Partnership

- 1 1 1 Article 33 section 2 of the 1945 Constitution stipulates that production facilities, which are important to the state and is essential to the welfare of the people will be managed and controlled by the state
- 1 1 2 The development and or management of infrastructure are an activity that is controlled by the state, provided for the welfare of the people, and its provision, management and regulation are the responsibility of the Government
- 1 1 3 To solve the problem of limited development funds from the national budget and to ensure continued development of infrastructure, the Government has implemented a policy of inviting national as well as foreign private parties to participate in the development and or management of infrastructure, in the form of investing capital and expertise in its implementation
- 1 1 4 The Presidential Decree No 7 Year of 1998 stipulated a cross sectoral regulatory framework for cooperation between the Government and Private Companies for the development of infrastructure, to enhance the welfare of the people, increase competitiveness in industry and trade, enhance and support economic growth and national development
- 1 1 5 Ministerial Decree No 319 of 1998 of the State Minister for National Development Planning/Chairman of Bappenas further regulates the implementation of Presidential Decree No 7 of 1998
- 1 1 6 The purpose of this Implementation Guide is to clarify and stipulate in greater detail the implementation of the regulatory functions of Presidential Decree No 7 of 1998 and Ministerial Decree No 319 of 1998 on Co-operation Between the Government and Private Sector for the Development and/or Management of Infrastructure

1 2 The Basis and Principles for Cooperation

- 1 2 1 The basic and principles of cooperation between the Government and the Private Sector is for the mobilization of private sector resources for investment in the development and or management of infrastructure
- 1 2 2 Cooperation between the Government and the Private Sector shall be based on cooperation for the mutual benefit of both parties, within a framework under which the Government is responsible for making policies for the public interest, while providing private sector with the opportunity to obtain reasonable returns on its invested capital

1 2 3 Involvement of the Private Company is based on principles stipulated in Article 3 of Presidential Decree No 7 Year 1998, i e

- 1 Conformity with fundamental principles, objectives, aims and vision of national development programs,
- 2 Mutual dependence, mutual support and mutual benefit for the Government, the Private Company, the society and consumers,
- 3 Enhancing efficiency, reliability and quality in the development and or management of infrastructure,
- 4 Supporting robust economic growth and creating new business opportunities,
- 5 Improving infrastructure service quality and providing greater benefits to society,
- 6 Supporting the development on a conducive and robust investment climate by involving the Private sector through the application of open, transparent and competitive bidding processes,
- 7 Consistent with and subject to the laws of Indonesia

1 3 Definitions and Interpretation

In this manual the following definitions and interpretations apply

- 1 3 1 Infrastructure are those physical facilities and related services, which satisfy basic needs for supporting the social and economic life of the people, the provision of which falls within the purview of the Government, as defined in Presidential decree No 7/98
- 1 3 2 Cooperation between the Government and Private Company contemplates the granting of rights and obligations to the Private Company in whole or in part to execute activities in the provision of infrastructure in the forms of construction, rehabilitation, operation, extension, maintenance, management, and/or the provision of related infrastructure services directly or indirectly to the public
- 1 3 3 A cooperation agreement is either
 - 1 A contractual undertaking between a State-owned Enterprise which has the authority given to it by the Minister/Head of Department or non-department Government Institution, or head of local government, representing the government, and a private party contemplating the development and/or management of infrastructure, or

- 2 A grant in the form of a license, permit, agreement or otherwise by the government to a private party, whether acting alone or in concert with a state-owned enterprise, which grant contemplates the right and obligation of the grantee to develop and/or manage infrastructure
 - 1 3 4 Government is a department or non-department Government institution, head of local government level I and head of local Government level II, or either of them
 - 1 3 5 A Responsible Entity is the Minister or Head of the regional Governments
 - 1 3 6 A private party is an Indonesian legal enterprise or a foreign enterprise that is permitted to operate in Indonesia
 - 1 3 7 BUMN/BUMD is a state owned enterprise that is majority owned, directly or indirectly, by the Government
- 1 4 Role and Responsibility of the Government and of The Private Party**
- 1 4 1 Role and responsibility of The State Minister For National Development Planning/Chairman of Bappenas**
- 1 The duties and responsibilities of the National Development Planning Agency (Bappenas) referred to in the Presidential Decree No 7/1998 are derived from Presidential Decree No 35/1973, and include
 - a Coordinating planning and harmonizing sectoral as well regional plans and integrating these into a National Development Plan,
 - b Monitoring the preparation and the implementation of the National Development Plan and ensuring that programs and their component projects are appropriately synchronized,
 - c Evaluating execution of National Development plans and considering necessary changes to the programs and projects
 - 2 To implement the duties and responsibilities as referred to in 1 4 1 No 1 above Bappenas shall execute the following tasks
 - a Evaluate proposals for infrastructure projects for implementation in cooperation with Private Companies and ensure that these projects are consistent with sectoral and regional plans and conform to the national development plan,
 - b Evaluate the completeness and results of project pre-feasibility studies for inclusion in the List of Infrastructure Development Projects in conformity with Article 5 of Presidential Decree No 7 of 1998,
 - c Prepare and update monthly the List of Infrastructure Development Projects,

- d Monitor and evaluate implementation of cooperation between the Government and the Private Sector in the development and or management of infrastructure projects

1 4 2 Role and responsibility of The Coordinating Minister for Development Supervision and State Apparatus Control

- 1 The Coordinating Minister for Development Supervision and State Apparatus for Control as Chairman of the Procurement Evaluation Team is responsible for the evaluation of the pre-qualification and bidding process Based on this evaluation the Procurement Evaluation Team shall render its on the decision made by the Responsible Entity,
- 2 The Procurement Evaluation Team role and duties include
 - a Receiving and considering appeals from Private Parties, that sought pre-qualification for a public private partnership project but were not pre-qualified,
 - b Deciding whether an appeal by a Private Company, which has not been pre-qualified, is to be rejected or accepted,
 - c Receiving Bid Documents of Private Companies, participating in the bidding process, and the draft of the Contract Agreement, from the Responsible Entity,
 - d Evaluating the bidding process and scrutinizing the bid submissions of Private Companies to determine whether they conform with the bid documents,
 - e Reviewing and evaluating the draft of the cooperation agreement for compliance with Presidential Decree No 7 of 1998,
 - f Deciding to approve or reject the recommendation of the proposed winning bid by the Responsible Entity, and the draft of the proposed Cooperation Agreement,
 - g Receiving and considering appeals from Private Parties whose bids were unsuccessful,
 - h Rend its decision on appeals from Private Parties, whose bids were unsuccessful

1 4 3 Role and Responsibility of the Minister or Head of the Local Government

The daily functions and duties of The Minister, Head of Institution, or Head of Local Government may be executed lower level government entities, which include

- 1 Supporting the identification of infrastructure projects that may be suitable candidates for a public private partnership,

- 2 Carrying out or arranging for pre-feasibility studies to be carried out for potential public private partnership projects,
- 3 Preparing a project feasibility study is recommended the use services of units of related technical departments for technical support,
- 4 Accepting and evaluating pre-feasibility studies based on technical economic and financial feasibility, for potential cooperation with Private Companies,
- 5 Forwarding project proposals and related pre-feasibility study report to The State Minister for Development Planning / Chairman of The National Development Planning Agency for evaluation and inclusion in The List of Infrastructure Projects,
- 6 In the case of Regional Governments, project proposals and the pre-feasibility study report shall be sent to Bappenas should and to related technical department for technical review,
- 7 The related Minister shall provide its recommendation to Bappenas on project proposals from Heads of Local Governments in less than 30 days after receiving the project proposal from the Head of the Local Government,
- 8 Bappenas shall consider including the project proposal in the List of Infrastructure Projects after receiving the recommendation from the related technical department,
- 9 Technical departments or regional Governments are encouraged to (i) prepare and disseminate model pre-qualification documents, model bid documents, and model cooperation agreements for their respective sectors to pre-qualification participants, (ii) ensure that such model documents facilitate compliance with Presidential Decree No 7 of 1998 and implementing regulations, and (iii) carry out related training and institutional support activities

1 4 4 The Role and Responsibility of the Private Sector

- 1 Private Parties involved in the development and or management of infrastructure projects in cooperation with the Government are obliged to acquaint themselves with regulations and laws that govern any and all aspects of carrying out the cooperation. The participation of private parties should be in full and complete compliance with Presidential Decree No 7 of 1998 Article 3 section 1 to 7, and related implementing regulations and the provisions of this Guideline,
- 2 The role and responsibilities of the Private Company include
 - a Fulfilling and adherence to all pre-qualification requirements,
 - b Participating in the bidding and adherence to all requirements,
 - c Implementing fully and in good faith, all provisions contained in the Cooperation Agreement

CHAPTER 2
SCOPE OF APPLICATION OF PRESIDENTIAL DECREE NO 7/98

2 1 Sectors of Infrastructure Projects

2 1 1 Infrastructure to be developed and provision of related services which in its implementation will be in cooperation with Private Companies cover the following sectors

- 1 The generation, transmission or distribution of electricity,
- 2 The transmission and distribution of natural gas,
- 3 The processing and delivery of oil and natural gas and delivery of oil and natural gas products,
- 4 The transport, storage, supply, production, distribution or treatment of water,
- 5 The management of waste water and solid waste,
- 6 The construction and or operation of supporting facilities for freight or passenger air, sea and rail transportation,
- 7 Toll roads, toll bridges, jetties, sea, river and lake harbors, airfields and airport terminals,
- 8 The construction and operation of telecommunication facilities

2 1 2 Additions to or deletions from the above shall be decided by subsequent Presidential Decree based on proposals from the Minister for National Development Planning / Head of Bappenas

2 2 Form of Cooperation

2 2 1 The scope of cooperation may involve the development, rehabilitation, extension, maintenance, operation, and management in the provision of infrastructure and related services

2 2 2 The private party should be fully and solely responsible for designing, building, financing and operating public private partnership project and recover its costs entirely through direct charges to the public or other users of the project facilities and/or related services

2 2 3 BUMN/BUMD may enter into a joint venture arrangement with a private party when the concerned government entity or BUMN or BUMD

- 1 Is not the Responsible Entity for the project,

- 2 Is not providing a contribution to the project for reasons of necessary government support,
- 3 The joint venture provides is cost effective,
- 4 Where ownership/equity in the joint venture is limited to the fair market value of its contribution

2 3 Forms of Cooperation Agreement

Cooperation agreements include the following forms

- 2 3 1 Build Operate and Transfer (BOT) is a form of cooperation contract where the Private Company shall perform construction, including its financing, management and maintenance, for a certain agreed contract period, during which fees may be levied from the user for return of the invested capital, to cover cost of operation and maintenance, including a reasonable profit. At the end of the contract term all the project assets should be transferred to the Government
- 2 3 2 Build and Transfer (BT) is a form of cooperation contract where the Private Company shall perform the construction, including its financing, and deliver the facility after its completion to the Government, which will later pay the Private Company according to the agreed arrangement
- 2 3 3 Build Transfer and Operate (BTO) is a form of cooperation contract whereby the Private Company shall perform the construction on a turnkey basis, and after its completion transfer ownership to the Government, with the Private Company operating and maintaining the facility on behalf of the Government, in which it is allowed to charge appropriate tolls, fees, or rentals
- 2 3 4 Build Lease and Transfer (BLT) is a form of cooperation contract whereby the Private Company shall perform the construction, including its financing, and after its completion transfer it to the government on a lease arrangement for a fixed period of time, after which the infrastructure facility is automatically transferred to the government
- 2 3 5 Build Own and Operate (BOO) is a form of cooperation contract where the Private Company shall (build) perform the construction, including its financing, and operate and maintain the infrastructure facility and related services, in which it is allowed to recover the total investment on the project, including operating and maintenance cost, and reasonable profit, through charging of appropriate tolls, fees, rentals and charges
- 2 3 6 Rehabilitate Own and Operate (ROO) is a form of cooperation agreement whereby the ownership of an infrastructure project is transferred to the Private Company, which shall perform the rehabilitation of the facility and operate it indefinitely. The cost of the operation and maintenance is charge to the consumers through appropriate fees

- 2 3 7 Rehabilitate Operate and Transfer (ROT) is a form of cooperation agreement whereby the infrastructure facility is transferred to the Private Company for rehabilitation, operation and maintenance, for an agreed period of time, at the expiry of which the facility is transferred to the Government
- 2 3 8 Develop Operate and Transfer (DOT) is a form of cooperation contract whereby external to a new infrastructure facility to be built by the Private Party integrated into the arrangement the Private Company is authorized to develop adjoining property, through which the Private Company enjoys profit generated by such investment
- 2 3 9 Contract Add Operate (CAO) is a form of cooperation contract whereby the Private Company shall add capacity to an existing infrastructure which it is leasing from the Government, operates and maintain the expanded capacity over an agreed period of time
- 2 3 10 Other arrangements not included above are considered within the scope of Presidential Decree No 7/1998 providing such arrangements are not contrary the requirements and spirit of Presidential Decree No 7/98 including its implementation guidelines

2 4 Scale of Infrastructure Projects

- 2 4 1 In determining the estimated value of a project for the purpose of the application of full competitive bidding, the highest of the following estimates will be used
- 1 Design and construction cost, and acquisition of land, or
 - 2 Discounted present value of 10 years of estimated future gross revenue from the project, or
 - 3 Discounted present value of 10 years of estimated future lease payments payable (or amortization) for the use of project facilities, or
 - 4 Discounted present value of 10 years of estimated subsidies payable by the Responsible Entity to the Private Party under the project
- 2 4 2 The discount rate that shall be used to calculate the estimated present value as referred to in article 2 4 1 is the Certificate Bank Indonesia rate for 3 months maturity prevailing on the day determined by the Responsible Entity or other such discount rate determined by the Responsible Entity
- 2 4 3 All infrastructure projects to be developed and or managed in cooperation with a private party shall be listed in the List of Infrastructure Development Projects before executing the pre-qualification process Projects having an estimated value less than Rp 50 billion may follow a simplified bidding process and (see Chapter 4 article 4 5 1) and shall be reported to Bappenas not less than 30 days before pre-qualification

2 4 4 Bappenas shall review the estimate of the project value. The estimated value by Bappenas will be used to determine whether a project may be processed through simplified bidding process or not.

2 5 Identification of Infrastructure Projects

2 5 1 Line-ministries and local governments shall make medium -and long-term plans for development of infrastructure within its domain of responsibility.

2 5 2 The infrastructure development plan made by line-ministries and local governments shall be forwarded to Bappenas for integration into the national development plan.

2 5 3 Identification of infrastructure projects for cooperation with a private party by a government entity should be based on the plan, which is coordinated to national development program. Changes or additions to the existing program and processed according to existing rules.

2 5 4 Pre feasibility studies of infrastructure projects may be financed by government funds (APBN/APBD), government enterprises (BUMN/ BUMD), or private enterprises. The cost of pre feasibility study may be included as a component of the project cost.

2 5 5 Any pre feasibility study of infrastructure planned by the Government for cooperation with a private party should focus on project outcomes rather than inputs.

2 5 6 The following factors shall be considered by Responsible Entities in identifying projects considered for public private partnerships.

1 There is an established economic and social need (or demand) for the project facilities and related services,

2 Existing infrastructure facilities are unable to satisfy the identified economic and social need, and

3 The project will integrate with existing facilities and improve the utilization of those existing facilities.

2 5 7 In designing a pre-feasibility study, the responsible entity should

1 Be clear about the objectives of the project and what the project is intended to achieve,

2 Emphasize the expected outputs of the project and how those outputs enable the project objectives to be achieved,

3 Clearly distinguish the expected project outcomes from the engineering and detailed design aspects of the project,

- 4 Carefully consider and specify types of incentives that may be employed to ensure that the private sector consistently delivers services on time and to specified standards, and
 - 5 Ensure that the pre-feasibility is in conformity with sectoral, regional planning objectives, and with technical and environmental standards
- 2 5 8 In appraising the results of a pre-feasibility study, the Responsible Entity will need to establish that
- 1 The project has the potential to provide better services or outcomes to an equal investment or at a lower cost for the same services of the same type of project,
 - 2 The requirements (if any) for government support are adequately justified,
 - 3 Is the best choice of from several available alternatives,
 - 4 The pre-feasibility study has identified a clear case for why private investors may be interested in the project,
 - 5 The project is mutually beneficial to all parties

2 6 **Bankability, Government Support, and Unbundling of Projects**

- 2 6 1 Public-private partnership infrastructure projects should in principle be financed solely by the private party
- 2 6 2 The Government may consider providing support or facilities for the implementation of the project after careful considerations Government support shall be provided only to the extent necessary to facilitate the financial viability and bankability of the project
- 2 6 3 Such Government support may not be greater than what is needed by the private party so for the private party to gain a reasonable profit on the investment made
- 2 6 4 The determination of the amount of Government support should done in an open and transparent manner in its application should be carried out in an accountable fashion
- 2 6 5 Government support may be arrange through unbundling of the project into smaller projects, wherein the Government will execute one of the components, while the other components will be the responsibility of the private party, which include maintenance and operation cost of the component, which the Government is responsible for
- 2 6 6 If Government Support can not be provided through unbundling of the infrastructure project for implementation by the Government alone as referred above in 2 6 5, Government support may be given in the form of subsidy to tariffs so to make the affordable to individual consumers

- 2 6 7 The form of unbundling of the infrastructure for Government support purposes as referred to in 2 6 5 may be proposed by the Responsible Entity to Bappenas through inclusion in the pre feasibility study
- 2 6 8 Bappenas may include Government support commitments, as referred to in article 2 6 7 above, in the List of Infrastructure Development after receiving approval from the Ministry of Finance
- 2 6 9 Government support may be provided in the form of land or other assets Government support in the form of equity should be delivered in a timely manner Transfer of assets to the Private Party should follow existing laws and regulations
- 2 6 10 The Government should guarantee that permits related to the implementation of the public-private partnership could be obtained without delays so not to incur risk (cost, time) to the private party
- 2 6 11 A responsible entity may also consider bundling several smaller projects to create a single larger and more bankable project
- 2 6 12 Elucidation
 - 1 A project is bankable when the expected financial returns from the project is sufficiently ensured and risks clearly allocated between the Responsible Entity, the Private Party and third parties,
 - 2 Government support and unbundling are two strategies that are generally implemented to enhance the project financial viability, clearly allocating risks, and making it more attractive to the Private Party or creditor,
 - a Some projects, which consist of a number of components, may not be attractive to the private sector for certain reasons If unbundled into several components the financing structure will be clearer, and risk allocation more certain Unbundling allows the Private Party to select components, which are profitable, while components, which are not profitable, will be the responsibility of the Government Unbundling allows a project which is not attractive to the private sector to be made more attractive,
 - b The purpose of Government support to cooperation projects is enhancing the financial viability of a project Government support may take the form of guarantees, provision of assets, facilities, equity or subsidies By these measures projects which were not attractive could be made more attractive to Private Parties
 - 1 Unbundling and Government support are costs to the Government and should therefore be avoided unless it is urgently needed,
 - 2 For some projects sometimes bundling these into a single project functionally or by economic scale will be more profitable In bundling some projects services could be provided more efficiently to the consumer

society An example is water supply projects in a number of level II districts, where the source of bulk water and the service area could cover more than one level II region

2 7 Unsolicited Project Proposals

- 2 7 1 The Private Sector is given the opportunity to use resources within its reach to initiate a pre feasibility study of the development and or management of infrastructure, financed by and on its own responsibility The result of the pre feasibility study may be proposed to the Government for consideration as an infrastructure project
- 2 7 2 The Government may take follow-up measures or reject the project proposal
- 2 7 3 If the Government considers the project proposal viable for follow-up measures, the Responsible Entity shall present the proposal to Bappenas for inclusion in the List of Infrastructure Development Projects
- 2 7 4 Inclusion of project proposal initiated by a Private Party should also be accompanied with the cost of the pre feasibility study and or the value of the intellectual property right
- 2 7 5 On written request from the project initiator, the government may provide confidentiality as to the content of the pre feasibility report Guarantee for confidentiality may be given only when there are strong grounds for it
- 2 7 6 The Government may negotiate as to amount of the preference points, which could be given to the project initiator at the bidding process The allocation of preference points to the project initiator should be made public at pre bid conference
- 2 7 7 If the pre feasibility study contains a valid intellectual property right, this component should be stated clearly in the project proposal The Government may consider negotiating purchasing the intellectual property right The Private Party shall clarify transparently and in detail as to why the intellectual property right needs to be given value and to be bought
- 2 7 8 Any bidder may use the pre feasibility study or the intellectual property right for which the preference points or value has been agreed upon The cost of the pre feasibility study and of the purchase of the intellectual right should be included as a cost component of the project and should be born fully by the winning bidder
- 2 7 9 If no agreement can be reached the negotiation for preference points to be received of the initiator or, on the value of any intellectual property right, the Government may arrange for a bidding process pre feasible study, the Government may decide on arranging an open bidding for execution of a pre feasibility study of the project, in which the former Private Party may participate and offer again the pre feasibility results

**CHAPTER 3
EVALUATION OF INFRASTRUCTURE PROJECT PROPOSALS
AND THE PRE FEASIBILITY STUDY**

3 1 The National Development Program for Infrastructure

- 3 1 1 The program for development of infrastructure at sectoral and regional level should be related to the stages of development, which as related to the national development program
- 3 1 2 Under Keppres No 7/1998, it is assumed that ALL infrastructure projects will be considered initially for public private partnerships. It is only where a Responsible Entity can clearly demonstrate that a proposed project is unsuitable for the private sector will Bappenas consider the project for public sector financing (and therefore, listing in the Blue Book)
- 3 1 3 Bappenas will ensure that all proposals for infrastructure projects, whether proposed as cooperation projects with the private sector, or as public sector projects not involving the private sector, are consistent with, and relevant to, overall national planning objectives and are of a type, size and location that will maximize economic and social development opportunities, and avoid creating imbalances with existing infrastructure facilities, and minimize imbalances across regions
- 3 1 4 Projects proposed to be financed by government budget (APBN/APBD), including foreign aid, prior to the allocation of funds or inclusion in the Blue Book, Bappenas shall satisfy itself on the following aspects
 - 1 That the Responsible Entity has thoroughly and exhaustively examined all possibilities for developing such projects as cooperation projects with the private sector, and
 - 2 That sufficient evidence exists that private sector interest in such projects is unlikely
- 3 1 5 Infrastructure projects that Responsible Entities have proposed as cooperation projects between the Government and private sector, shall have the potential to attract the private sector satisfies the requirements of Keppres No 7/1998 Article 5
- 3 1 6 Infrastructure projects approved by Bappenas for cooperation between the Government and the private sector shall be listed in the List of Infrastructure Development Projects

3 2 Public Private Partnership Center (PPP Center)

- 3 2 1 To encourage and develop cooperation between the Government and private parties for the development and/or management of infrastructure, the Government may establish a Public Private Partnership Infrastructure Development Center by a

Decree of the State Minister for National Development Planning / Chairman of
BAPPENAS

3 2 2 Functions of the PPP Center

- 1 **The PPP Center is to be a core advisory services unit to provide continuous assistance on all aspects of preparation and implementation of infrastructure cooperation projects between the Government and the private sector, to**
 - a Establish an efficient mechanism for development of cooperation between the Government and the Private Sector,
 - b To develop a reservoir of expertise and knowledge for development and or management of infrastructure,
- 2 The PPP Center will have the following functions
 - a Assisting the State Minister for National Development Planning / Chairman of BAPPENAS in formulating policies and strategies to increase the number and types of projects that will be developed for cooperation projects between the Government and Private Sector,
 - b Providing recommendations and support to Technical Departments and Non-Departmental Institutions in consolidating resources for development of transactions,
 - c Interfacing the private sector developers with financial institutions, facilitating information training needs, and knowledge development for both the public and private sectors, and providing high quality professional expertise, where required,
 - d Supporting Bappenas in its coordinating role for addressing cross-sectoral issues of policy and process development, such as refinement of Government policy on cooperation between the Government and the Private Sector, and on legal regulatory framework

3 3 **Minimum Requirements for the Pre-feasibility Study**

The following minimum procedures for the preparation of a pre-feasibility study for a project to be procured using simplified competitive bidding shall be adopted

- 3 3 1 The descriptions and technical specifications shall include all relevant components of the project
- 3 3 2 The preliminary cost estimate shall include all relevant components of the project

- 3 3 3 The financial analysis shall be appropriate for the scope of the project and population to be served
- 3 3 4 The project specifications shall meet adequate minimum design and performance standard
- 3 3 5 Clear identification of the area and population to be served by project
- 3 3 6 A simplified demand analysis consistent with the scope of the project and the population to be served
- 3 3 7 Appropriate project costing enhancement measures to be born by the project Responsible Entity, including but not limited to subsidies, guarantees, take-or-pay contracts and concession finance
- 3 3 8 A simplified environmental impact analysis identifying potential adverse impact on the environment arising from the project and mitigation measures to be taken
- 3 3 9 A simplified social assessment that identifies the project's requirements for resettlement and compensation for parties that would adversely be affected by the project and need to be relocated
- 3 3 10 An implementation period, which shall be reasonable and appropriate to the scope and complexity of the project
- 3 3 11 Identification of the economic and social costs and benefits of the project using an appropriate and acceptable methodology
- 3 3 12 An assessment of attractiveness of the project to private enterprises
- 3 3 13 A complete listing of approvals required as preconditions for implementation of the project, including environmental analysis, resettlement requirements, relevant government permits and licenses and the status of compliance with such approval requirements

CHAPTER 4 PRE-QUALIFICATION AND BIDDING PROCEDURE

4 1 General Requirements

- 4 1 1 All public-private partnerships project shall be processed through an open competitive bidding procedure
- 4 1 2 Pre-qualifying the interested parties shall precede an open competitive bidding procedure See part 4 2 of this chapter Only those parties who are successful in the pre-qualification may participate in the open competitive bidding process
- 4 1 3 As stipulated in the Annex to Presidential Decree No 7 Year 1998, projects that have an estimated value equal to or greater than Rp 50 billion are subject to full competitive bidding processes as detailed in part 4 3
- 4 1 4 Projects that have an estimated value of less than Rp 50 billion may be processed through a simplified open competitive bidding as detailed in part 4 5 of this chapter
- 4 1 5 The project value is determined by criteria outlined in Chapter 2, part 2 4 1 and 2 4 2
- 4 1 6 Subject to the project type or project sophistication or the status of the preparation of the pre-feasibility study, the open and full competitive bidding shall be subject to one the following procedures
- 1 One stage bidding procedure (see part 4 3),
 - 2 Two stage bidding procedure (see part 4 4),
 - 3 Simplified competitive bidding procedure (see part 4 5)

In general open competitive bidding can be arranged through a one stage bidding procedure or two-stage bidding Simplified bidding procedure may be implemented only in special circumstances

- 4 1 7 The Responsible Entity of an infrastructure project covering a Level II regional area will be the Head of the Level II Regional Government
- 4 1 8 The Responsible Entity of an infrastructure project covering more than one Level II regional area will be the Head of the Level I Regional Government
- 4 1 9 The Responsible Entity of infrastructure projects at regional level shall make optimum use of resources of regional vertical line-agencies Regional vertical line agencies shall report the development of cooperation projects to their relevant Technical Department

- 4 1 10 The Responsible Entity shall establish a Bid Evaluation Team to execute the bidding process. The Chairman and members of the Bid Evaluation Team shall consist of competent professionals with high integrity stature.
- 4 1 11 To monitor and control execution of the project, the Responsible may install a special work unit.

4 2 Pre-qualification

4 2 1 Pre-qualification and Bidding Participants

- 1 The criteria that are developed and applied to the pre-qualification process should favor the pre-qualification of organizations that are recognized as providers of similar infrastructure services with a dedicated staff and management to carry out the functions. The pre-qualification of private parties whose principal activity is construction should be avoided or minimized.
- 2 Any private enterprise, domestic or foreign, permitted to operate in Indonesia, and satisfying the criteria for pre-qualification may participate in the pre-qualification.
- 3 Pre-qualification shall be based upon the competency of the interested Private Party.
- 4 Any private enterprise that passed the pre-qualification, domestic or foreign, may participate in the open competitive bidding without additional restrictions.
- 5 A foreign enterprise successful in the bid shall form an Indonesian legal entity as a requirement for signing the Cooperation Agreement.

4 2 2 Pre-qualification Procedures

- 1 The project Responsible Entity shall arrange pre-qualification of private parties, which will participate in the bidding for the development, and or management of infrastructure.
- 2 The project Responsible Entity shall prepare the pre-qualification documents and the evaluation criteria in Indonesian and English.
- 3 The project Responsible Entity shall advertise the invitation for pre-qualification in the printed and electronic mass media. Advertisement of the invitation shall be in Indonesian and English.
- 4 Invitation for pre-qualification shall be advertised by the project Responsible Entity not before than 7 days following receipt of notification that the project is accepted for inclusion in the List of Infrastructure Development Projects.

- 5 The project Responsible Entity shall forward copies of the pre-qualification documents to all interested private parties
- 6 The project Responsible Entity shall provide clarification on matters related to the pre-qualification documents. Clarifications given shall be communicated to all parties and be an integral part of the pre-qualification documents
- 7 The project Responsible Entity shall only accept pre-qualification documents submitted not later than 60 days after the date of advertisement of the invitation
- 8 The project Responsible Entity shall evaluate the applications for pre-qualification based on pre-specified criteria stipulated in the pre-qualification documents
- 9 The project Responsible Entity shall notify in writing all private parties on the results of the pre-qualification. Unsuccessful candidates will be clarified on the reasons for failing to pre-qualify
- 10 Disqualified participants may appeal to the pre-qualification results based on objective reasons. Appeals on the pre-qualification results should be submitted to Procurement Evaluation Team not later than 15 days after announcement of the pre-qualification results
- 11 The notification of pre-qualification results should be made within 30 days following the closing date of the application

4 2 3 Pre-qualification Criteria of Private Enterprises

Pre-qualification criteria to be met by the private parties include

- 1 The Private Party should have the required professional and technical qualifications, competency, financial resources, equipment and physical facilities, managerial capability, reliability, experience and reputation, and qualified personnel to carry out the project, covering
 - a Experience and performance in similar projects in the past with signed references from past customers or project owners,
 - b Guarantee in employing suitable experts on a continuous basis in project execution, which could be evaluated from their curriculum vitae,
 - c Guarantee for availability of equipment owned or to be rented in accordance with technical requirements, in a written statement,
 - d Written guarantee of available financial resources needed for project implementation
- 2 The private enterprise shall have knowledge of existing laws

- 3 The private enterprise shall not be insolvent, nor in a financial condition that will interfere in the execution of the project, and nor be subject to any injunctions or other legal restrictions on its operations
- 4 The private enterprise has fulfilled its taxation obligations to the State
- 5 The Executive or staff of the Private Party have not been convicted of a criminal act, or have not made false statements as to their qualifications in entering the cooperation agreement for a period of 5 years preceding the commencement of the Cooperation Agreement
- 6 The Responsible Entity shall not establish criteria, requirements or procedures that are not contrary to Indonesian law
- 7 The Responsible Entity may disqualify any private enterprise participating in the pre-qualification if it finds at any time that information submitted for pre-qualification was materially inaccurate or materially incomplete, which impede project implementation
- 8 The pre-qualification documents shall include as a minimum
 - a Instructions for preparing and submitting applications for pre-qualification,
 - b A summary of terms and conditions of the cooperation agreement to be entered into,
 - c Documentary evidence or other information that must be submitted by the Private Party to the project Responsible Entity to demonstrate their qualification,
 - d The form and place for submission of the application for pre-qualification and the deadline for the submission

4 2 4 Pre-qualification Proceedings

- 1 The Responsible Entity shall, in making a decision with respect to the pre-qualification of participating private parties, only apply the criteria set forth in the pre-qualification documents and additional mutually agreed criteria by the Responsible Entity and all participating enterprises
- 2 Disqualified private enterprises may appeal to the Procurement Evaluation Team, with a copy of the appeal letter sent to the Responsible Entity
- 3 The Procurement Evaluation Team shall render its decision on the appeal through the Responsible Entity within 30 days of receipt of the appeal letter, with a copy the Private Party The decision of the Procurement Evaluation Team is final and binding

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4 3 One stage Bidding Procedure (Full Competitive Bidding)

4 3 1 The Bid Documents Bundle

- 1 The Responsible Entity shall prepare the bid documents and bid evaluation criteria
- 2 Weighted factors or numeric values used for ranking determination of bidding valuation shall be clearly defined
- 3 The bid documents shall clearly stipulate the rules of bidding
- 4 All bid documents shall be prepared in Indonesian and in English
- 5 The bid documents bundle shall include
 - a The invitation to bid from the Responsible Entity,
 - b The pre-feasibility study of the project, listed in the List of Infrastructure Development Projects,
 - c Bid conditions and regulations which should be met by the private parties,
 - d The draft of the Cooperation Agreement, including the general and specific terms which should be included therein (see Chapter 5),
 - e A copy of the bid form,
 - f A pro-forma bid bond the amount of which is set by the Responsible Entity,
 - g A pro forma performance bond the amount of which is set by the Responsible Entity,
 - h Appendixes containing additional relevant information, such as economic, social, demographic, and environmental data, and other relevant documents, which the Responsible Entity considers to be needed by the bidder in preparing its bid

4 3 2 The Conditions and Rules for Bidding

The instructions to the bidders includes

- 1 A general description and project objectives, including the scope and expected output, the population to be served, the minimum design and performance standards, and environmental standards

- 2 The bid submission procedure, including the date, time and place for bid submission, the bid guarantee, the bid validity period, and the formality of bid submission
- 3 The principles for setting and adjustment of tariffs, tolls, fees, charges, and rentals
- 4 The use of Indonesian and foreign currencies in cost estimation
- 5 The scope and extent of public support in the project implementation
- 6 A clear allocation of risk as to the parts of the Responsible Entity, the Private Party, as well as third parties
- 7 The estimated time, date, and place for a pre-bid conference

4 3 3 Invitation for Bids and the Pre-bid Conference

- 1 The Responsible Entity shall invite all successful pre-qualified private enterprises to participate in the bidding and distribute the bid documents, the criteria for bid evaluation, and the draft of the cooperation agreements to the parties for preparing their bid documents
- 2 The Private Enterprise has the right to request to the project Responsible Entity for clarifications on the bid documents. The request for clarification shall be submitted in writing before the pre-bid conference
- 3 The project Responsible Entity shall respond to all questions from bidders, written as well as orally, which shall be given in the pre-bid meeting
- 4 In case further clarification to be the bid document are still needed, the private parties are given a final opportunity to forward in writing questions on clarifications of the bid documents
- 5 The project Responsible Entity shall provide clarifications to such requests. These clarifications shall be provided other bidders by the Responsible Entity as an addendum to the bid documents and to be an integral part of the bid documents
- 6 A period of not less than 90 days shall be allowed by the Responsible Entity from the date of issuing the bid documents for preparation of the bids. This period may be extended if these are strong reasons for extension
- 7 The Private Party participating in the bidding shall have a comprehensive understanding of all the conditions laid out in the bid documents, The Responsible Entity shall not be responsible for any mistake or misunderstanding made by the Private Party participating in the bidding
- 8 The project Responsible Entity shall hold a pre-bid conference not earlier than 21 days and not later than 45 days following the receipt of invitation and the bid documents by the private parties

- 9 The project Responsible Entity shall prepare a Pre-bid Conference Report after the pre-bid conference, which shall be signed by the Bid Evaluation Team and countersigned by at least representatives of the bidders
- 10 The time, date, and place of the pre-bid conference shall be notified by letter or facsimile to each bidder. Each bidder shall be notified by letter or facsimile as to changes to the time, date, and place of the pre-bid conference.
- 11 The Responsible Entity shall not make material changes to the content of the bid documents, unless made as a written amendment thereto and notified to all bidders.

4 3 4 Submission of Bids and Bid Opening Procedure

- 1 The Responsible Entity shall securely keep and protect the bid documents, and shall not open the bids submitted by the private parties until the time, date and location specified by any extension of the deadline for submission of bids.
- 2 The Responsible Entity shall return all the bid documents unopened to the bidder if the Private Party did not submit its bid by the specified time, date and location.
- 3 The company profile in the bid documents shall fairly represent the current status of the company.
- 4 If less than three bids are submitted, the bidding shall be declared canceled. The Bid Evaluation Team shall make a Bid Cancellation Report signed by the Bid Evaluation Team and at least two representatives of the bidders.
- 5 The project Responsible Entity shall prepare a Report of the closing of the submission of bid documents signed by the Bid Evaluation Team and at least two representatives of the bidders.
- 6 The project Responsible Entity shall invite and allow official representatives of the bidders to attend the event of the opening of the bid documents.
- 7 Bidders may be requested at the bid opening to extend the validity of their bid without modification to the bid. This should be confirmed in advance at the pre-bid conference. Bidders who do not wish to comply with this may have their bids returned together with their bid bond.
- 8 The Responsible Entity shall announce to those persons present at the bid opening the name and address of each bidder whose bid is opened and shall record this announcement together with the names of all persons present in the record of the bid proceedings, signed by the Responsible Entity and at least one representative of the private parties present.
- 9 The private parties participating in the bidding are not allowed to make corrections, changes or replacements to their bid after the bids have been opened.

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- 10 The Bid Evaluation Team shall not disclose any information related to the evaluation result of the bid documents and the recommendations of the bid winner until the bid winner is officially announced

4 3 5 Initial Examinations of Bid Documents

- 1 At the time of bid opening, all bids received by the deadline for submission will be examined to determine the responsiveness of each bid to the bid documents
- 2 If any of the requirements is not included in the bid, the bid shall be rejected Results of the screening as to fulfillment of bid requirements shall be recorded in the Report of the Bid Opening proceedings

4 3 6 Bid Evaluation

- 1 Each member of the Bid Evaluation Team shall independently evaluate and compare the bids Evaluation of each member of the Bid Evaluation Team shall be discussed to determine ranking and the bid winner
- 2 The Responsible Entity may request clarification from the Private Entity on its bid for evaluation purposes without making any changes to the bid
- 3 Based on the above evaluation results, the project Responsible Entity shall recommend the award of the cooperation agreement to the bidder, who's bid is ranked highest
- 4 The results of evaluation as referred in point 1 above shall be recorded in the Bid Evaluation Report

4 3 7 Administrative Evaluation

Administrative evaluation is executed covering the following considerations

- 1 The structure of capital ownership or company board which show that not all bidders are under one capital ownership or company board, so that there will be no collusion between the bidders that can of be of disadvantage to the Government
- 2 Bank reference that shows that the Private Party is a bank client of good standing or is financially supported by the (bank) creditors in cooperation project
- 3 The bid bond and the bid are in compliance with specified requirements in Bid Documents
- 4 Other important documents such as Documents of the Company Foundation, operation permit, tax documents, are accurate, clear and in compliance with existing regulations and laws

4 3 8 Technical Evaluation of Bids

Technical and performance plans evaluation include

- 1 The minimum design requirements of the basic design which meet the specifications stipulated in the bid documents
- 2 The engineering surveys and technical plans shall be reasonable and the implementation schedule shall be achievable
- 3 The proposed organizational arrangement, and subsequent operations and maintenance shall be clear and unambiguous and ensure that the actual performance shall conform to specified performance standards

4 3 9 Financial Evaluation of the Bids

- 1 Financial evaluation of the project shall only be done if the bid fulfill technical and performance standards as specified in the bid documents, which include
 - a The financing plan should be complete and cover all construction costs of the project and its initial operation,
 - b Availability of contingent financing arrangements to cover possible cost overrun or delays, or deficits in the cash flow shall also be shown
- 2 Financial evaluation shall be made to ensure that adequate provision is made for
 - a Staffing positions and costs,
 - b Operating and maintenance costs,
 - c Adequate working capital (including among others things, accounts receivable, spare parts and other inventory, accruals and prepayments),
 - d Replacement and renewal of equipment during the development and operation period,
 - e Licenses, permits and related payments,
 - f Income taxes and other taxes
- 3 Financial evaluation of bids which also includes
 - a Evaluation of the financial proposal shall use "the present value financial discounting" method,
 - b Tariff discounts to be used in the evaluation process is the Bank of Indonesia Certificate rate for 3 months maturity that prevails on the day the bids are opened, or other discount rate approved to be used for cooperation agreements between the Government and private parties,

- c Financial flow used in the bid documents should be consistent with the minimum technical design and performance standards, plans, and specifications defined in the bid documents,
- d The financial flow of all bids shall be evaluated over the same period (concession period) that is specified in the bid documents,
- e Bids that show cash flows that are less than or greater than the period specified in the bid documents shall be disqualified,
- f The currency for bid comparison shall be the Indonesian Rupiah
- g Where components are quoted in foreign currency, exchange rate used for comparison of bids in Indonesia Rupiah should be the Bank of Indonesia mean exchange rate for 1 (one) month maturity that prevails on the day the bid submission is closed or another date specified in the bid document,
- h All bids shall be carefully examined by the Responsible Entity, to ensure that the demand projections and growth rates underlying the analysis are reasonable and consistent with the pre-feasibility study projections,
- i Tariff assumptions shall be consistent with those in the bid documents,
- j Any Government support that is included in the financial proposal shall be clearly and accurately indicated and posted in the analysis,
- k The project implementation schedule shall be consistent with the cash flow contained in the financial analysis,
- l All debt service, financing arrangements, interests and amortization of debt shall be properly indicated and accounted for in the financial analysis

4 3 10 Evaluation by Procurement Evaluation Team

- 1 The Procurement Evaluation Team shall evaluate the bidding process implemented to check whether it fulfills existing regulations and requirements specified in the bidding documents
- 2 In the case that bidding does not follow the regulations and requirements as specified, the Procurement Evaluation Team shall reject all bidding results and request the Responsible Entity to reconsider and re-evaluate the bidding process, or arrange another bidding process
- 3 In the case that the Procurement Evaluation Team accepts the result of the bidding process, the Procurement Evaluation Team shall inform the Responsible Entity in writing of its approval
- 4 In the case that the Procurement Evaluation Team did not approve the appeal by the Private Party unsuccessful in the bidding, within 30 days since receipt of the letter of appeal, the Procurement Evaluation Team shall inform the project

Responsible Entity to continue with the implementation of the project, with a copy to the bidder which present the appeal

5 The evaluation of the Procurement Evaluation Team is final and binding

4 3 11 Determination of the Winning Bidder

- 1 The Bid Evaluation Team shall report to the Responsible Entity the result of bid ranking. If the three highest ranked bids differ only by a small amount, the Bid Evaluation Team shall provide its evaluation on the strength and weakness of each bidder and recommend the winner.
- 2 The Responsible Entity shall in principle decide on the bid winner based on the highest rank bidder result of the bid evaluation. The Bid Evaluation Team shall inform all bidders of the results of the evaluation.
- 3 Within 120 days of the bid closing date The Responsible Entity shall submit to the Procurement Evaluation Team the bid results and the recommended bid winner, all bid documents, the draft of the Cooperation Agreement to obtain confirmation as to the bidding process.
- 4 If the Procurement Evaluation Team evaluates that the procedure and process complies with the specifications, and there is no appeal from other bidders, and that the draft of the Cooperation Agreement fulfills minimum requirements and is of advantage to the people, the Procurement Evaluation Team shall render its approval.

4 3 12 Signing of the Cooperation Agreement

- 1 If the Procurement Evaluation Team approves the bidding results and the draft of the Cooperation Agreement, The Responsible Entity may negotiate with the successful bidder to agree on details and in reaching the optimal results for the people, prior to the signing the Cooperation Agreement.
- 2 If the Private Party fails to sign the cooperation agreement or fails in to provide the performance bond for the cooperation agreement, the Responsible Entity is entitled to cancel the bid results without returning the bid bond of the winner.
- 3 If the Private Party fails to sign the cooperation agreement, the Responsible Entity may select the second ranked winner after consulting with the Procurement Evaluation Team. This kind of reselection may only done up to the third ranked bidder. In the case the Procurement Evaluation Team do not give its approval, a new bidding shall be arranged. The bid bonds of the second and third ranked bidder shall be returned not later than 7 days after signing of the Cooperation Agreement or decision has been made to arrange a new bidding process.
- 4 The responsible entity shall return all the bid bonds to all the unsuccessful bidders not later than 7 days after the project Responsible entity has informed the bidders of Procurement Evaluation Team approval of the bid winner.

4 3 13 Appeals on Bidding Results

- 1 Private parties that were not successful in the bidding may appeal to the Procurement Evaluation Team, providing strong arguments and proof, within 15 days after receiving notification of the winner from the Responsible Entity
- 2 The Procurement Evaluation Team shall evaluate the appeal based on the process and procedure of the bidding
- 3 Within 30 days following receipt of the appeal submission, the Procurement Evaluation Team shall give its decision, which shall be final

4 3 14 The Bid Evaluation Report

- 1 The project Responsible Entity shall submit a Bid Evaluation Team Report to the Procurement Evaluation Team consisting of the Bid Submission Closing Report, the Bid Opening Report, the Bid Evaluation Report, for evaluation of compliance of the bid process and procedure
- 2 The Bid Evaluation Team Report shall contain the following minimum information
 - a The bid proceedings detailing each step of the bidding process in accurate chronological order,
 - b The bid evaluation criteria,
 - c A list of all pre-qualified bidders,
 - d A list of all pre-qualified bidders that submitted bids,
 - e A list of all bids that were rejected and the reasons for rejection,
 - f A list of all bids that were subjected to evaluation and the ranking of those bids, and
 - g The recommended successful bidder
- 3 The project Responsible Entity shall not make undertakings or sign a Cooperation Agreement with the nominated bid winner until after approval from the Procurement Evaluation Team has been obtained

4 4 Two Stage Bidding Procedure

4 4 1 Considerations for Two Stage Bidding

- 1 In general the normal method of procurement for the majority of cooperation projects will be One-Stage bidding Two Stage bidding is to be viewed as the exception rather than the general situation

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- 2 Two-stage bidding needs to be considered when the project exhibits one or more of the following characteristics
 - a Technically the project is highly complex and requires technical specifications to be developed, available technical specifications are not definite or incomplete, and need to be further developed. The available criteria can be used to conduct a first stage bid. The first stage bid is aimed at choosing technical specifications which is complete,
 - b Several distinct and/or competing technologies are available. The first stage bid is aimed at choosing the most appropriate technology to be used for the project, which will benefit the people the most in the long run,
 - c Where the value of the project and its scale is of such a magnitude that failure of the project could affect public safety, the environment, or the economy as a whole. The first stage bid is aimed at selecting the Private Party, which is eligible to execute the activities with the least risk.
- 3 The following situations are examples where two-stage bidding shall be implemented
 - a A major air traffic control system, where satellite based communication and navigation technologies may be used, or a more conventional approach such as radar and ground based facilities may be used, or
 - b Construction of transportation facility across Sunda Strait. Three options may be feasible, a suspension bridge, a tunnel, or a combination of both,
 - c A major power transmission project with an estimated value of more than US\$500 million)
- 4 The decision to adopt One-Stage or Two-Stage bidding shall be made after the completion of feasibility study, in consultation with Bappenas, prior to obtaining approval for the project to be included on the List of Infrastructure Development Projects
- 5 After inclusion on the List of Infrastructure Development Projects, the project Responsible Entity shall establish initial technical performance criteria and technical specifications. The Responsible Entity is recommended to engage a Panel of Experts to develop the initial technical performance criteria and technical specifications for the project. It is strongly emphasized that in establishing such technical criteria and standards that the focus is on the output expected from the project, i.e. to establish the minimum operating and performance requirements of the project, and not on the technology itself
- 6 Based upon the operating and performance requirements of the project, bidders will be invited to submit interest in the pre-qualification for the project
- 7 All specified requirements for One-stage bidding shall apply, apart from the one stage bidding procedure

- 8 The pre-qualification documents shall include a full description of the operating and performance requirements of the project, and clarify that
 - a After pre-qualification, the pre-qualified bidders are invited to submit unpriced technical proposals,
 - b The project Responsible Entity will review each of the unpriced technical proposals. It is recommended that the Panel of Experts assist in this review,
 - c After review by the project Responsible Entity, the unpriced technical proposals will be discussed with the bidders (and with Panel of Experts if needed), to formulate the baseline for technical performance standards and other technical aspects of the project, and
 - d Pre-qualified bidders will be asked to submit bids conforming to the agreed baseline technical standards, which should be in full compliance with the requirements for one stage open full competitive bidding. See part 4.3 of this Chapter.

4.5 Simplified Competitive Bidding Procedure

4.5.1 Considerations for Simplified Bidding

- 1 Simplified bidding procedures may be implemented for development and or management of infrastructure projects with an estimated value of less than Rp 50 billion
- 2 Simplified bidding procedures are aimed at achieving a more efficient and economic procedure and bidding process for smaller projects
- 3 Simplified bidding procedures may be implemented on approval from the relevant Minister or Head of Regional Government, who shall stipulate the simplified procedure
- 4 The Minister, Head of Institution, or Head of the Local Government, in applying simplified bidding procedures, shall be fully responsible for the implementation of the main principles of Presidential Decree No 7/98, in particular as to openness, competition, and focusing on protection of the people's rights
- 5 Simplified bidding procedures are applied to reduce administrative and speed up the process
- 6 Simplified bidding procedures shall not be applied to projects resulting from unbundling
- 7 Estimation of the project value shall be based stipulated in article 2.4.1 in Chapter 2

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**CHAPTER 5
PREPARATION OF COOPERATION AGREEMENT**

5 1 Preparation of the Draft Cooperation Agreement

5 1 1 The Cooperation Agreement defines the rights and obligations of the parties that embark on a cooperation for an agreed period of time. The cooperation for the development and or management of infrastructure between the Government and the Private Party is based on the expectation that

- 1 Such a cooperation will be done with good intentions, in an environment of mutual trust and openness for the joint benefit of the public and the private party,
- 2 The benefits, risks and obligations associated with a public private partnership will be fairly balanced between the Government and the Private Party, and
- 3 That no side obtains an unfair advantage from the other side

5 1 2 The Cooperation Agreement plays an important role and will be the guide in the implementation of the cooperation. The cooperation agreement shall be constructed and developed in such a way that it facilitates in the processes of monitoring of performance and adherence to the Cooperation Agreement. The Responsible Entities need to ensure that a Cooperation Agreement contains the following minimum provisions (in conformity with the requirements of Keppres No 7/1998 and Ministerial Decree No 319/1998)

- 1 The scope of activities covered by the Cooperation Agreement,
- 2 The duration of the Cooperation Agreement,
- 3 Provisions for tariff, tolls, fees, charges and rentals, including principles governing their adjustment. Such provisions shall be based on (a) establishing a fair balance between the interests of the consumer society and the private party, (b) providing the private party with an opportunity to earn a reasonable rate of return on its investment, and (c) providing incentives for efficiency in investment and operation,
- 4 The quality and performance standards, or outcomes expected from the project, which must logically relate to the scope of the activities contemplated under the Cooperation Agreement,
- 5 A clear identification and allocation of risks between the Responsible Entity (the Government), the private party, and other parties such as users,
- 6 The form, amount, and extent of Government support to be provided to cooperation project, including the institution which is responsible for providing the Government support,

- 7 Conditions that define default of the Cooperation Agreement and the remedies available to the parties for non-compliance with obligations and responsibilities agreed upon,
- 8 Rights and obligations under the contract in the case that the rights and obligations of the contract may be assigned from a BUMN to the Government or that the rights and obligations may be assigned from one Private Party to another party,
- 9 Amendments and changes of scope to the Cooperation Agreement,
- 10 Resolving of changes to the cost and/or implementation schedule which cannot be foreseen and the forum for resolving these matters,
- 11 Dispute resolution mechanisms and the processes and institutions that may be involved. These may include international arbitration or any other means allowed under the laws of Indonesia, and agreed upon by the parties,
- 12 Reversion of project facilities, rights and obligations relating to the provision of the related services to the Government (Responsible Entity), upon the expiration of the Cooperation Agreement or earlier, if the contract is revoked before its termination. Transfer of infrastructure facilities to the Government or state-owned enterprise (BUMN/BUMD) at the termination of the cooperation shall occur only if stipulated in the cooperation agreement,
- 13 Compensation that the parties are entitled if the cooperation agreement is unilaterally terminated, revoked or abandoned by one party for unspecified reasons,
- 14 Relevant and applicable environmental and public safety standards,
- 15 Adequate coverage by way of a performance bond for situations where for certain reasons expected to be under the control, of the private party, the private party is unable to complete the project during the time period stated in its bid, or else costs incurred exceed the estimate in the cost proposal and budget submitted by the private party

5.2 Signing of the Cooperation Agreement

- 5.2.1 The Cooperation Agreement shall be signed by the Minister, Head of Institution, or Head of Local Government and by the Board of the Private Enterprise
- 5.2.2 Cooperation Agreements do not necessarily become fully binding on the parties even after they have been signed, if several "conditions precedent" to the Cooperation Agreement has not yet become "effective". Such conditions precedent may include finalizing the financing package, or finalizing Government (public) support. The Responsible Entity shall stipulate a date after of not later than 90

days after the signing of the Cooperation Agreement for completion or fulfillment
pre-conditions

CHAPTER 6
TARIFF SETTING, DISPUTE RESOLUTION, AND ASSET OWNERSHIP

6 1 Tariff Setting and Adjustment

- 6 1 1 Tariffs, fees, or charges for the services of and the infrastructure project shall be based on an accurate estimate of all costs over the entire term of the Cooperation Agreement, allowing the Private Party an opportunity to earn a reasonable profit on its investment
- 6 1 2 The tariff mutually agreed upon should be implemented through the tariff mechanism specified in the Cooperation Agreement
- 6 1 3 Tariff setting may take the form of the application of a formula for tariff setting and adjustment or by reference to the decision of an independent sector regulator See 6 1 9 below
- 6 1 4 In circumstances where a lower tariff than the calculated tariff as described above is deemed to be necessary for reasons of social equity, the Government should find ways to compensate the Private Party for the difference
- 6 1 5 Compensation for tariff discrepancies could be in the form of extending the term of the concession, allocation of a subsidy or other appropriate support necessary to maintain the financial viability of the project
- 6 1 6 The responsible entity in deciding the form and the amount of compensation (subsidy) shall first consult Bappenas, which in turn shall request approval from the Ministry of Finance, as this involves the continuous allocation of Government funds
- 6 1 7 Decisions on whether such a tariff subsidy may be payable and the amount of the subsidy should be determined prior to the bidding process and shall be indicated in the bid documents
- 6 1 8 The initial tariff or tariff adjustment as specified in the Cooperation Agreement shall be binding on the Minister / Responsible Entity and the Private Party
- 6 1 9 The creation of an independent Regulatory Body that has competence and jurisdiction for tariff matters in a sector automatically override any provisions in Cooperation Agreements for adjusting tariffs through a stand alone formula See 6 1 2 and 6 1 3 above
- 6 1 10 Where such an independent Regulatory Body has been created, as implied in 6 1 9 above, the Responsible Entity shall request the Regulatory Body to present its considerations on the proposed tariff

6 2 Dispute Settlement

- 6 2 1 Any problem arising from the mis-interpretation of the provisions of the Cooperation Agreement should, shall be attempted to be solved between the parties through discussion
- 6 2 2 If through discussion no agreement can be reached, any dispute that arises shall be attempted to be solved using mediation in a spirit of good faith based upon the written provisions given in the Cooperation Agreement
- 6 2 3 If through mediation a settlement cannot be reached, the dispute shall be brought to the competent Regulatory Body for advise on settlement of the dispute
- 6 2 4 The Regulatory Body shall render its recommendation to a fair and impartial solution to both parties for consideration and mutual acceptance
- 6 2 5 If one or both parties cannot accept the solution recommended by the Regulatory Body, settlement of the dispute shall be pursued through other procedures for dispute resolution that may be specified in the Cooperation Agreement
- 6 2 6 The procedures for dispute settlement including the duties and obligations of each party shall be stipulated clearly and fully in the Cooperation Agreement
- 6 2 7 Articles relating to dispute settlement in the contract agreement shall specifically state the mediating or arbitration institution and the place where the dispute will be settled, the procedures for arbitration and whether the decision of the arbitrator is final and binding
- 6 2 8 If the decisions of the mediator or arbitrator are not acceptable, the dispute may be brought to the court as mutually agreed upon in the Cooperation Agreement
- 6 2 9 In the case where the Private Party is a national Private Company, the recommended mediating or arbitration institution is a national arbitration institution and the legal court shall be an Indonesian court
- 6 2 10 In the case where the Private Company, is a joint venture which includes a Foreign Company, the place and institution for mediation or arbitration, or court proceedings may be an overseas institution as provided in the Cooperation Agreement and as permitted under the Laws of Indonesia

6 3 Asset Ownership

- 6 3 1 The cooperation agreement should clearly indicate whether any existing assets that form part of the project continue to be owned by the government (and/or BUMN/BUMD) throughout the term of the project or whether ownership is transferred to the public-private partnership
- 6 3 2 The cooperation agreement shall clearly state the lease of Government assets to the cooperation project partnership or the license awarded to use existing Government assets and whether the right of use of the assets is exclusive or not

- 6 3 3 If ownership is not transferred to the public-private partnership, then the public-private partnership should be protected from sale of the assets, which it has the right to use for the duration of the Cooperation Agreement
- 6 3 4 The Cooperation Agreement shall clearly state the status of Government assets after have been renovated, refurbished or replaced by the cooperation project
- 6 3 5 The Cooperation Agreement shall clearly stipulate the status of ownership of new assets created during the period of cooperation. Alternatives include transfer of ownership of new assets to the government at the termination of the cooperation agreement, transfer of new asset ownership once each asset has been fully depreciated in the public-private partnership's books of accounts, the transfer of new and the transfer new assets to the government upon termination of the Cooperation Agreement
- 6 3 6 If ownership of existing or new assets is retained by the government, the responsibility for payment of land and property taxes and the treatment of depreciation in the books of account of both parties should be set out in the cooperation agreement
- 6 3 7 The Cooperation Agreement shall clearly indicate which party is responsible for the maintenance of existing assets that are handed over to the public-private partnership at the start of the project, and of new assets created during the term of the project. The standard of maintenance required should be defined to the extent possible
- 6 3 8 If existing or new assets are disposed of during the term of the project, the cooperation agreement should make clear under what conditions, if any the public-private partnership has the right to do this and who owns the proceeds received from the sale or disposal of the assets. The public-private partnership should not be permitted to use the assets as security or collateral to third parties
- 6 3 9 An asset inventory that lists all the assets covered by the project and their condition and performance is required prior to any Cooperation Agreement becoming binding on the parties. The condition and performance of some of these assets may be immediately available. Surveys of other assets may be required to record sufficiently accurately their condition and performance. The asset inventory should indicate which assets the Private Party hands over for use. As the project proceeds and new assets are created, surplus assets sold and old assets replaced, this should be recorded in the asset register in accordance with generally accepted accounting principles, together with an indication of the condition and status of all assets. At the end of the project term, the asset register is finally updated and used as a basis for the transfer of assets back to the government
- 6 3 10 The Cooperation Agreement shall differentiate between movable and immovable assets. Movable assets such as office furniture etc normally have a useful life of less than the term of the project and are easily valued. Therefore transfer of ownership, disposal of surplus or worn out movable assets etc may be treated differently from that of immovable assets

- 6 3 11 The cooperation agreement shall make clear that the public-private partnership has the right of access to land as necessary for the successful implementation of the project. If some existing assets, necessary to carry out the project, are on land owned by third parties, this should be mentioned in the asset register and freedom of access should be confirmed.
- 6 3 12 If the public-private partnership acquires land in order to construct new assets, which will eventually be handed back to the government, it should be made clear in the cooperation agreement in whose name the land should be purchased. The rights of the government and the Private Company to sell land which forms part of the project should also be stipulated in the cooperation agreement.

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ANNEX K

Workshop Agenda

Workshop Agenda

WORKSHOP FOR THE INTRODUCTION OF THE REPUBLIC OF INDONESIA'S PUBLIC-PRIVATE PARTNERSHIP PROGRAM FOR CO-OPERATION BETWEEN THE GOVERNMENT AND PRIVATE SECTOR FOR THE DEVELOPMENT AND/OR MANAGEMENT OF INFRASTRUCTURE

WORKSHOP AGENDA

Muha Senayan Hotel

15-16 December 1998

Introduction The immediate priority of the government is to alleviate the impacts of the economic crisis on people's lives and to economic confidence. In this the Government is pursuing a number of important initiatives in the areas of (i) the provision of social safety nets, (ii) employment generation and poverty alleviation, (iii) controlling inflation, and (iv) improving the capacity of institutions, particularly in the areas of logistics and food distribution. Concurrently, the Government has embarked on a major reform for the banking sector that will create more open and robust financial markets and that will provide in the medium-term, a sound platform for sustainable economic recovery.

Financial sector reform on its own however will not necessarily support recovery. Greater competitiveness and efficiency also needs to be pursued in the real sector. Key issues here include (i) curbing monopoly practices, (ii) progressive de-regulation and de-bureaucratization of the domestic and international sectors, (iii) providing greater opportunities for the market place to function more efficiently, and (iv) reducing the size of the state sector.

On the investment side, the economic crisis has led to a severe decline in infrastructure investment. Major investments in electric power, transportation and telecommunications infrastructure, many of which were supported by the private sector, have had to be deferred. Planned investment in social infrastructure, such as schools, hospitals, water supply and sanitation services, areas that the government and donor community have traditionally supported, have also declined. The limitations on the national budget have resulted in a severe decline in infrastructure investment by the government, except for the most socially pressing programs such as food distribution and poverty alleviation. Budgetary limitations have also stalled several donor-financed programs because of a shortage of required counterpart funds.

On the demand side, the crisis has had different impacts on different sectors. In general the demand for telecommunications and air transport has declined. Domestic air travel for example is down by nearly 35 percent compared with mid 1997. On the other hand, the demand for interisland sea transport and rail services has shown a marked increase as people shift to lower cost transport options. Also, the declining value of the rupiah has contributed to a sharp rise in the export demand for some commodities, for example, palm oil, and some manufacturing sectors.

Demand in the social sectors such as health care and water supply, continues to grow in line with population increases. Before the crisis, urban services such as water, sanitation, public health were already under severe strain. However, with the economic crisis, the capacity to afford basic services has declined sharply. Declining affordability has negatively impacted the cash flow of

urban utilities and is constraining the capacity to carry out maintenance, purchase chemicals and so on

Indonesia's needs for infrastructure continue and selective and focused investment in infrastructure will assist to mitigate some of the impact of the crisis and to lay the basis for a robust and sustainable recovery. This will require continuous and consistent investment in human capital and efficient physical infrastructure. However, with much more limited access to capital, such investment, particularly in physical infrastructure will need to be more efficient and more focused than in the past. This is, among others, a key reason why future infrastructure investment will be guided by market principles and with a greater consequent role for the private sector.

Reform of infrastructure provision has therefore become an important element in the Government's overall economic reform and stabilization program. Moreover, the importance of a program for promoting more cost effective infrastructure delivery is an important and ongoing aspect of policy dialogue with the IMF and World Bank.

The key policy objectives of reform in infrastructure provision include (i) ensuring co-ordination and consistency between private sector investment and overall national development planning objectives and thereby avoid imbalances, (ii) promoting greater transparency in the selection of private parties through the exclusive use of open competitive bidding processes, (iii) ensuring infrastructure is developed at the least-cost to GOI and the public, and (iv) providing a framework that affords protection of the public interest while providing a conducive and transparent environment for international and domestic private investors. The overall framework for implementing these objectives was approved by the Government on 12 January 1998 through the issuance of Presidential Decree No 7 of 1998 on (Keppres No 7/1998). Since then Bappenas has been working to finalize the implementation aspects of the overall framework which is embodied in (i) Kepmen No 319/1998 of the State Minister of National Development Planning/Chairman of Bappenas of 19 October 1998, and (ii) the (draft) Implementation Guide on *Public-Private Partnerships in the Development and/or Management Of Infrastructure*, of December 1998. Feedback from the participants of this workshop is sought to assist in the finalization of the Implementation Manual, which we anticipate will be issued formally in January 1999.

Tuesday, December 15, 1998 (Day One)

08:00-09 00 Registration of Workshop Participants

09:00-09 45 Welcome and Opening Remarks: *Introduce the participants and sponsors set the objectives of the Workshop, describe the two-day agenda*

Presenter *Dr Bambang Bintoro Soedjito,
Deputy Chairman for Infrastructure Development, Bappenas*

Welcome Address

- 1 *Dr Djunaedi Hadisumarto,
Vice Chairman, National Development Planning Agency of
the Republic of Indonesia*
- 2 *Desaix Myers,
Mission Director, United States Agency for International Development*
- 3 *Norman McDonnell,
Development Counselor, Embassy of Canada*

09 45 - 10 15 Break

10:15-12 00 a Presidential Decree No 7/1998 Framework *(1) The Project Life Cycle, (2) Components of the framework - Keppres No 7/1998, Kepmenneq PPN/Chairman of Bappenas No 319/1998, and Implementation Guide (3) The roles of Departments, Provinces, BUMN, and BUMD in identifying, procuring and implementing cooperation projects, and establishing sector specific regulations within the above framework, (4) The roles of Bappenas and TEP*

b Implementation Guide of Presidential Decree No 7 Year 1998, on Public-Private Partnerships in the Development and or Management of Infrastructure *(Pedoman Pelaksanaan Keppres Nomor 7 Tahun 1998 tentang Kerjasama Pemerintah dan Badan Usaha Swasta dalam Pembangunan dan atau Pengelolaan Infrastruktur) including (1) Purpose of the Implementation Guide, (2) Key issues examined by the Implementation Guide, and (3) Finalization of the Implementation Guide*

Moderator *Drs Sukrisno,*

Expert Staff to the Minister of Public Works for Investment on Infrastructure Development

Presenters *Ir Rusli Djalil, MPM*
Expert Staff to the Chairman of Bappenas for Research and Policies on Infrastructure Development
Mr Michael G McDonald

Questions and Answers Participants are kindly encouraged to ask questions on the above Questions and answers will be recorded as part of the Workshop Proceedings

12 00 - 13 15 Lunch and Distribution of Issues Questionnaires

Issues Questionnaires will be handed out to all participants These will cover 20 key issues associated with cooperation projects with the private sector including, for example risks and their allocation the need for and role of a public-private partnerships center sector-specific regulation the scope of application of Keppres No 7/1998 The Issues Questionnaires will be discussed in the "break-out" meetings on day 2 (December 16) The Issues Questionnaires will provide an opportunity for participants to address issues that may require further clarification, and for this reason they will be a valuable source of feedback for Bappenas in finalizing the Implementation Guide

- 13 15-15 00**
- a The Project Life Cycle Part 1. Project Identification and Procurement Processes.** (1) Transparency, efficiency and achieving value for money for the people, (2) Pre-Feasibility Studies, (3) The List of Infrastructure Development Projects, (4) Pre-qualification processes, (5) Preparation of bid documents, and (6) Conducting the bidding
 - b The Project Life Cycle Part 2. Selecting and contracting with the Preferred Bidder.** (1) Bid evaluation, (2) Role of TEP, (3) Recommendation for award of a Cooperation Agreement, and (4) Signing the agreement, (5) Essential elements of a Cooperation Agreement

Moderator *Ir Abdul Hadi, HS, MM*

Presenters *Ir Klaas Villanueva and Mr Richard Wells*

Questions and Answers Participants are kindly encouraged to ask questions on the above Questions and answers will be recorded as part of the Workshop Proceedings

15 00 - 15 30 Break

- 15 30-17:00** **Credit Enhancement and Private Sector Infrastructure Development Fund (PSIDF)** Credit Enhancement and support options to help make deserving projects become attractive to investors and bankers The role of partial and full guarantees such as purchase agreements and take or pay arrangements The menu of possible credit enhancement and guarantee

*possibilities, Avoiding needless assumption of risk by the government
Impact of country and market risk, A Private Sector Infrastructure
Development Fund (PSIDF) and Guarantee Fund, Finance facility for a
project feasibility study Case Studies of existing PSIDF's (i e Bangladesh,
Sri Lanka)*

*Moderator Dr Ir Bambang Widianto, MA,
Head of Bureau for Economics and Statistics Analysts*

Presenters Mr Matthew Hensley

*Questions and Answers Participants are kindly encouraged to ask questions
on the above Questions and answers will be recorded as part of the Workshop
Proceedings*

Wednesday, December 16, 1998 (Day Two)

09 00-09 15 *Review and Summary of Day One Session - Legal and Regulatory
Framework for Public-Private Partnerships in Indonesia Plans for providing
sustained and more permanent Legal Framework Intent to Draft an "Undang-
Undang" to encompass Keppres No 7/1998, Kepmen No 319/1998, PP No
12/1998, and other relevant laws and decrees*

Presenters Ir Rusli Djalil, MPM and Mr Michael G McDonald

09 15-10 00 *Post-Award Regulation and Institutional Options: Curbing monopoly
power, protection of the public interest, promoting rational and transparent
decision making on tariffs and charges, comparative models, sector-based
regulation, and conflict of interest*

Moderator Ir Salusra Widya, MA

Presenters Ir Klaas Villanueva, Mr David Levintow, and Mr Eric Culley

10 00 - 10 30 Break

10 30-12 15 *Break Out Sessions Four parallel break out sessions will be held These
sessions will discuss the Issues Questionnaires handed out on Day 1 The
break out sessions will be conducted in the designated rooms on the Mezzanine
Level (continued) Participants are kindly requested to complete the Issues
Questionnaires and submit them to the session moderators*

12 15 – 13 30 Lunch

13 30-14 45 *Break Out Sessions (continued)*

14 45 – 15 15 Break

15 15-16 15 *Plenary Session Conclusions, follow-up, feedback questions comments and suggestions are sought from all participants*

*Concluding Remarks Dr Bambang Bintoro Soedjito,
Deputy Chairman for Infrastructure Development,
Bappenas*

ANNEX L

**Outline of Revised Recommendations on Post-Transaction
Regulation**

Regulation of Utilities in Indonesia

What is Utility Regulation?
Why is Regulation Needed Now?
Fundamentals of Regulatory Design
Roles Regulatory Bodies Perform,

1

What is Regulation of Utilities?

- Establishing a system - insulated from political influence - for **protecting consumers** against abuses of monopoly power an orderly way of **adjusting tariffs according to an agreed formula or policy** providing a mechanism for **dispute settlement**

2

Why is Utility Regulation needed in Post-crisis Indonesia?

- Ensures competition in the provision of infrastructure services
- Gives Consumers protection against monopolistic behavior of utilities
- Removes tariff-setting from politics
- Permits cost-recovery so that service is sustainable and extended to new users
- Reduces risk by lowering cost of capital

3

What do Regulatory bodies do?

- | | |
|--|---|
| Promote efficiency & service improvement | Penalizes bad performance |
| Benchmarks performance standards | Encourages responsive customer relations |
| Sets incentives to improve O & M | Assures sustainability and expansion of service by upgrading performance and ensuring cost recovery |
| Rewards good managers | |

Regulatory Decision Issues

- Indonesia needs to decide upon either sectoral or multi-sectoral regulatory bodies
- How should the regulatory function relate to the Institutional and policy framework for private participation in infrastructure that is being established by Keppres 7/1998?
- Choices must be made between various Regulatory designs and strategies

5

Common Regulatory Design Features

- Clear legal authority
- Defined areas which regulators implement
- Well defined matters over which regulators preside, rights of parties to appeal
- Technical expertise to issue regulations and make binding decisions under law
- Authority to enforce rules, & its own orders

6

Forms of Regulation Basic Issues for Government to decide

- Independence from Government Ministry?
- Separate technical/economic regulation?
- National, provincial or local regulators?
- Profit vs price control, how often review?
- Monitoring outputs Set affordable rates?
- Allow appeals from regulatory decisions?
- Regulator's degree of discretion?

7

Definition of an independent regulator?

- Staying at "arms length" from regulated firms avoiding conflict of interest or even appearance of conflict of interest
- Staying at arms length' from politics to avoid misuse of discretion to advance short term political goals ensure stability in crisis
- Regulators/staff should be exempt from civil service salary caps, board s funding earmarked to ensure technical skills

•

Ranges of Independence - Examples from global cases

- Full autonomy to exercise decision authority Appeal to Courts is possible - e.g US, UK, Australia Bolivia, Mexico
- Full autonomy with decision authority, But an Appeal to Minister is possible-Argentina
- Full autonomy Board recommends to Minister who announces decision- Jamaica
- Semi-autonomous (Minister is a Board member) - Chile Columbia

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Regulatory Design Fundamentals

- Balance between rigidity & flexibility -
 - 1 -How easily can Govt. change rules?
 - 2 - Normal contracts Both parties agree
 - 3 - "Special" contracts have provisions setting forth rules to adjust
 - 4 - Law changes Legislature(Udang-udang)
 - 5 -Executive Decree No legislative concurrence needed (Keppres Kepmen)

10

Balancing Independence with Accountability

- Accountability - What can go wrong?
 - 1 - Regulators can be "captured" by politicians, or the industry being regulated
 - 2 - Mistakes can be made, errors occur
 - 3 - Inefficiencies can come to be tolerated
 - 4 - Regulators can promote own interests
- Conclusion Extremely difficult to balance independence with accoutability

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Independence & Accountability

- How to ensure accountability?
 - Removal for cause (proven misconduct) incapacity to perform duties and functions
 - Require rigorous transparency reasons for decisions have to be provided
 - Restrictions on conflicts of interest
 - Provision of an effective appeal process
 - Budgets examined by independent auditor

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Regulator vis-a-vis the Ministry Roles of Economic Regulators

- Grants licences & permits on technical basis
- Administers tariff prices & operating rules
- Sets economic, financial operational and technical standards
- Settles customer complaints, settles disputes between operators and the government
- Monitors performance/rules compliance
- Imposes penalties for violations

13

Regulator vis-a-vis the Ministry Role of the Ministry or Ministries

- Sector Planning and making Policy
Project Design & award of private concession agreements, procurement cycle
- Maintains legal framework, including Keppens, amendments making appointments of some key regulators
- Decides sectoral tax and subsidy issues
- Intergovernmental negotiations

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Examples of Regulatory Designs

- UK Model One Decision-maker (Czar)
- US/Canada Multiple-member bodies
- Argentina Decision-maker, but parties can appeal decisions to the Minister
- Jamaica Regulator recommends decision to the Minister who announces it
- Other countries Minister retains authority, makes all decisions

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United Kingdom Regulatory Framework

- Director General Office of Water Services
- Responsible for setting price caps, provides incentives, monitors management, settles disputes, protects consumers, enforces performance standards, sets licencing conditions promotes competition within the industry

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United Kingdom Regulatory Framework (cont'd)

- DG of OFWAT is not responsible for granting licences establishing the legal structure for the industry nor for setting water quality standards or controlling profits of providers
DG is appointed for a fixed term by the Secretary of State subject to dismissal only for cause or incapacity
- DG's decisions are final subject to High Court review

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United Kingdom Regulatory Framework (cont'd)

- Price caps are set every five years only performance is regulated Profits are realized from achieved efficiencies Cost recovery is accomplished within price cap
- Failure of a private service provider firm to meet specific performance standards requires the firm to pay penalties to the affected consumers

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U S and Canadian Regulatory Framework

State or Provincial Commissions (3 to 7 members)

- Responsible for all economic regulation including rate setting, prudence reviews territorial certificates, monitoring, rule-making, enforcement, cost reviews, and both financial and managerial auditing, as well as deciding disputes between utilities, and by customers against utilities

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US & Canadian Regulatory Framework (cont'd)

- Commissioners can be appointed or elected serve specified fixed terms removal only for cause
- Decisions are final and usually based on research, public hearings, and documents parties have right of appeal to appellate court
- Primarily use rate base/rate of return, but other methodology sometimes used

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US & Canadian Regulatory Framework (cont'd)

- High investor confidence in this system private investment capital usually available to well-run utilities in US & Canada
- Rates set provide full cost recovery for all (prudently) incurred investment costs, operating and maintenance expenses opportunity to earn a reasonable rate of return on investment

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Argentina's Regulatory Framework

- Conceived as part of Buenos Aires Water Concession, new Regulatory Law and body (ETOSS) created in 1992
- Regulatory body is independent of Water Ministry is a representative commission composed of various Ministries and labor
- ETOSS staff are mostly former employees of Buenos Aires Water Utility

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Argentina's Regulatory Framework (cont'd)

- ETOSS is financed by 2.7% surcharge on all sales of water by the concessionaire
- ETOSS commissioners serve a six year term with only one additional term renewable
- ETOSS monitors concessionaire's performance enforces compliance, and can levy fines for violations
- Tariffs are negotiated per events as listed in the contract, e.g. inflation of a set amount

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Argentina's Regulatory Framework (cont'd)

- Based on the ETOSS model, now each Governate privatizing water have set up their own regulatory bodies (seven water utility concessions have been granted in Argentina since 1992)
- Governates coordinate with ETOSS to ensure regulatory conformity and self-finance Result Low tariffs higher quality

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Regulatory Institutional Options The Case of Malaysia

- Legislation gives 13 states authority
- Six states have 'unbundled' services
- Regulation and monitoring occurs at state level, with standards set nationally
- Tariffs set by contract, Ministry approves
- Ministry of Public Works sets technical standards provides performance indicators
- Results New investment, low tariffs

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