

Key Criteria that Lenders and Investors consider before committing to funding

Investment ‘show-stopper’ criteria for most funders

1. Committed pipeline of projects. Why commit to resourcing and funding just one project in a new country when there is no guarantee of future investment opportunities.
2. Long term Government payment security.
3. Political will and long term commitment. A stable political environment for the entire period of pipeline procurement is desired.
4. PPP procurement law in place or procurement laws that allow for PPP.
5. Principle of ‘debt assumption’ regardless of reasons for termination.
6. Appropriate risk allocation to the private sector. Realistic and ‘best practice’ risk expectations.
7. Transparent procurement process – no perceived bias.
8. Consideration of quality and price in the tender evaluation (not price only).

Important Funder Considerations

9. Projects should have gone through a comprehensive and transparent Business Case process that justifies the project need and solution and demonstrates that PPP provides VfM.
10. Projects should be suitable for PPP procurement (i.e. greenfield and appropriately sized – not too large and complicated (needs multiple lenders and investors))
11. Use of ‘pathfinder’ or ‘pilot’ project status to start PPP pipelines
12. Government use of international best practice and competent experienced advisors (procurement, technical, legal & financial).
13. Project size must justify the procurement costs (i.e. not too small as PPP procurement costs under competitive dialogue are high).
14. Suitable Government capacity and authority for quick decision making.
15. Clear procurement process that minimises procurement times and costs.
16. Use of best practice international contract documentation and approaches.
17. Standardisation of documents and methodologies across pipeline and sectors.
18. Presence of competent contractors, sub-contractors and services providers in-country.

More Detailed Considerations

19. Development of a 'reference project' that informs the Public Sector Comparator and VfM justification but is also released in the tender documents.
20. Certified English translations of all procurement documentation.
21. Early stage risk mitigation by the Government (i.e. site ownership transfer and ground investigation etc.).
22. Early stage engagement with the market (i.e. Business Case stage market engagement and project open days).
23. Stakeholder involvement at all stages and demonstrated 'buy-in' to the project and processes (i.e. reduced risk of later challenge).
24. Realistic revenue expectations (and third party revenue expectations).
25. Land/corridor definition and ownership.
26. Social and environmental impact assessments completed and risks mitigated.
27. Construction processes that allow for independent checking and completion certification.
28. Appropriate and achievable asset management / FM services requirements.
29. Realistic payment mechanism and fair services/availability penalties. Caps on penalties.
30. Energy tariff and consumption pass-through.

Contractual Requirements

- a. Principle of debt assumption
- b. Appropriate variations procedure
- c. Provision for changes in law / standards
- d. Compensation for delay, relief and compensation events
- e. Realistic long stop dates/durations
- f. Appropriate liquidated damages (not too high)
- g. Compensation on termination
- h. Appropriate liability caps
- i. Provision for dispute resolution
- j. Appropriate risk transfer for site & ground condition risks
- k. Transparency over necessary consents and approvals
- l. Benchmarking and market testing of 'soft' services only
- m. Caps on performance and availability deductions