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UNITED NATIONS ECONOMIC COMMISSION FOR EUROPE
TEAM OF SPECIALISTS ON PUBLIC-PRIVATE PARTNERSHIPS (TOS PPP)

Proposed Draft

UNECE PPP STANDARD FOR HEALTHCARE POLICY

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33 Introduction

34 The Sustainable Development Goals (“SDG”s) identify a range of measures to promote
35 healthy lives and wellbeing for the world’s population, along with an emphasis on the need
36 for sustainable development and clear mechanisms for implementation. Recognising that
37 there is a significant need for investment by governments to achieve these objectives,
38 UNECE supports the use of global partnerships for sustainable development and has
39 produced this Standard to provide guidance to governments considering the use of Public-
40 Private Partnership (“PPP”) programmes to deliver investment in healthcare infrastructure as
41 a way of meeting SDG3: “Ensure healthy lives and promote wellbeing for all at all ages”.

42 If managed well, PPP programmes can help governments tackle development needs by
43 bringing sustainable investment and expertise to complex systems, supporting the
44 successful implementation of healthcare policy, improving universal access to basic
45 healthcare services, giving patients the best care in an appropriate setting, and making
46 healthcare staff feel valued and fulfilled.

47 There are many models of PPP in the healthcare sector worldwide. The challenge for
48 governments developing a PPP programme is to ensure their PPP policy is consistent with
49 their healthcare policies and delivery strategy, and allows them to provide good quality
50 universal coverage, helping them to achieve the Sustainable Development Goals, alleviate
51 poverty and provide universal access to healthcare for their population. Since the success
52 of PPP programmes depends on the appropriate allocation of risks to the party best able to
53 manage them, governments should assess and build market capacity as necessary.

54 This UNECE Standard offers guidance on best practice in relation to the development and
55 implementation of PPP programmes in the healthcare sector, under which capital investment
56 in healthcare infrastructure (hospitals, clinics etc.) and systems such as medical equipment
57 and information / communication technology (ICT) are funded using commercial finance
58 repaid over a long-term concession period or long term public sector commitments are made
59 to private sector partners in relation to public healthcare programmes. Projects delivered in
60 this way range from acute hospitals, mental healthcare facilities and community clinics,
61 diagnostic and treatment centres to outreach services such as dialysis and radiotherapy
62 centres, and programmes of public health promotion, research, advocacy, regulation and
63 training. The Standard does not apply to partnerships to deliver healthcare services (without
64 the need for capital investment); real estate transactions; or leasing arrangements.

65 For the purpose of this Standard, the term PPP programme is defined as a framework or
66 series of projects under which a public authority grants long term contracts (with a duration
67 exceeding 10 years) to a private sector partner for the design, financing, construction or
68 refurbishment and operation of healthcare service programmes or facilities. The term ‘public
69 authority’ may include a government department, a statutory provider of health services, a
70 regulator or a health insurer. The operation of those programmes or facilities may include
71 the provision of services (which may include clinical services, the supply and operation of
72 medical equipment, management and maintenance of the facilities and the provision of non-
73 clinical services such as cleaning and catering). Under the terms of these contracts, the
74 private sector partner will raise private capital to pay for the new facilities, which will be
75 repaid by a lease or rental fee or a service concession from the public authority provided that
76 the facilities and services meet a specified outcome standard.

77 Its recommendations are based on a UNECE project which took place between June 2014
78 and June 2015, managed by a multidisciplinary team of experts with experience of PPP
79 programmes and sustainable development. The project comprised a review of published

80 information, and responses to detailed questionnaires from public and private sector
81 organisations with experience of programmes of this kind, whose contribution is gratefully
82 acknowledged. Recommendations are aimed at national and provincial governments
83 considering the delivery of PPP programmes in the healthcare sector.

84 We are very grateful for the active contribution of agencies in the following countries in
85 particular who contributed to the development of the standard by responding to detailed
86 questions on their own experience:

- 87 • The Commonwealth of Australia
- 88 • The People's Republic of Bangladesh
- 89 • Canada
- 90 • The Federal Republic of Germany
- 91 • The Republic of India
- 92 • Latvia
- 93 • The Islamic Republic of Pakistan
- 94 • The Portuguese Republic
- 95 • The United Kingdom
- 96 • The Eastern Republic of Uruguay
- 97

98 The full list of projects and programmes from which lessons and experience were considered
99 based on published information in the development of the Standard is available on the
100 project team website at <https://www2.unece.org/wiki/display/pppp/Health+Policy> for
101 governments seeking more detailed advice, experience and lessons learned from the
102 delivery of PPP programmes. The Standard will be maintained by UNECE and the
103 Healthcare PPP Centre of Excellence.

104 Recommendations are provided under six categories:

- 105 A. Policy and legislative framework
- 106 B. Economic context and affordability
- 107 C. Planning, objectives and business cases
- 108 D. Resourcing and training
- 109 E. Market assessment and engagement
- 110 F. Transparent procurement and management processes
- 111

112 **A Policy and legislative framework**

113 **1. Ensure PPP policy and legislation is robust and consistent with other policies**

114 Governments should have a formal policy for the provision of healthcare services to their
115 population (“Healthcare Policy”), and a sustainable long term strategy for delivering it
116 (“Healthcare Strategy”). They should also prepare a development programme for the
117 infrastructure that will support them (“Healthcare Infrastructure Development Programme”),
118 within which a PPP programme may play a part. Both the Healthcare Strategy and the
119 Healthcare Infrastructure Development Programme should be based on objective evidence
120 of the supply and demand for healthcare services within the government’s jurisdiction and
121 set out the reasoning behind the quantity, quality, size, geographical and social distribution
122 of healthcare facilities to be provided. The Healthcare Policy, Healthcare Strategy and
123 Healthcare Infrastructure Development Programme should be consistent with World Health
124 Organisation guidelines and government strategy and commitments to initiatives such as the
125 SDGs.

126 The policy and legislative framework for a PPP programme in the healthcare sector should
127 be consistent with governments’ Healthcare Policy and economic and fiscal policy. A formal
128 PPP policy assessment should be completed at the PPP programme’s outset to identify
129 potential conflicts between PPP policy and legislation and any established policies,
130 regulations and legal frameworks including legislation and common law. An action plan
131 should be developed identifying any enabling legislation (such as a PPP-specific law
132 allowing governments to grant the appropriate concessions and assume debt in the event of
133 termination).

134 As part of this policy assessment, the tax and accounting treatment of PPP projects should
135 be determined and the government’s taxation policy and guidance should be aligned with its
136 PPP policy, but tax and accounting treatment should not drive the decision to implement a
137 PPP programme.

138 A key consideration of the policy assessment should be the extent to which the PPP
139 programme should include clinical services. If it will, the assessment should identify the
140 specific objectives in doing so, the evidence that the PPP programme will achieve them and
141 the most appropriate public counterparty to ensure the programme’s viability. If the risk of
142 clinical service activity volumes is expected to transfer to the private sector, the government
143 should identify how payment (by public or private health insurers, or the service users) will
144 be guaranteed.

145 The government should enact any legislation necessary to enable the PPP programme,
146 which often includes PPP-specific laws. Legislation should comply with the UNCITRAL
147 Legislative Guide on Privately Financed Infrastructure Projects, and Model Legislative
148 Provisions on Privately Financed Infrastructure Projects and should be permissive rather
149 than restrictive.

150 While the PPP policy assessment should provide a clear framework for the development of
151 the policy it should not impose too much legislative rigidity early in the programme’s life, in
152 order that lessons from early projects can be adopted.

153 **2. Prepare an evidence-based delivery plan**

154 In preparing for the PPP programme, governments should draw upon experience from other
155 jurisdictions and the UNDP’s Public-Private Partnerships for Service Delivery programme to

156 develop a robust and evidence-based PPP Delivery Plan. The plan should set out the
157 process to be followed in subsequent stages of the programme's life:

- 158 • Prior to the procurement of PPP projects, in developing a policy and legislative
159 framework; preparing standard documentation and guidance; carrying out a
160 programme-wide feasibility assessment and value for money analysis; developing an
161 approval process for Project Business Cases; consulting with potential lenders and
162 other stakeholders; assessing market demand; and ensuring the right resources and
163 training are available.
- 164 • During procurement, to ensure projects remain affordable, value for money, and
165 consistent with the overall programme, policy and development strategy; and to
166 ensure the procurement process is fair and transparent.
- 167 • During construction, to ensure projects are delivered on time, to the specified
168 standards and within budget and continue to meet their brief.
- 169 • Before and during commissioning, to ensure that the staffing plan for the new
170 facilities is achieved, and that healthcare and operational staff understand how to
171 work efficiently in the new buildings to realise the project's objectives; that the
172 transition to the operational phase runs efficiently; that any cultural changes that are
173 necessary are implemented; and that changes elsewhere within the same health
174 economy are delivered in line with the Project Business Case.
- 175 • During the operational phase, to ensure that projects are managed transparently and
176 efficiently, and continue to deliver optimal value for money; and that major
177 maintenance work and any changes are managed efficiently and represent the best
178 value for money.

179 The PPP Delivery Plan should be considered a 'live' document, and be subject to strategic
180 review at routine intervals aligned with the periodic review of Healthcare Strategy.

181

182 **3 Obtain formal support for the structure and policy from potential lenders**

183 Having developed the PPP Delivery Plan but before the proposed policy, legislation and
184 governance is implemented, governments should seek formal feedback on their proposals
185 from a representative range of potential funders with experience in the successful project
186 financing of completed projects with similar characteristics to the proposed programme.
187 Where investment is likely to be needed from international financial institutions, commercial
188 lenders and institutional debt from other jurisdictions, they should be consulted on the
189 proposed policy, legislation, standard documentation and guidance, structure and
190 counterparties, governance and risk transfer.

191 The programme should be tailored in response to feedback from those potential funders,
192 and actions taken in response should be published to provide potential bidders with
193 reassurance that there is institutional support for the programme before the procurement of
194 pilot projects begins. Market engagement with the broader private sector should continue
195 throughout the programme as described in section E, but specific engagement with potential
196 lenders as PPP policy is formulated will ensure the programme can be funded.

197 **4 Ensure that there is political and civil service support**

198 Before implementing the PPP programme the government should conduct a formal
199 assessment of political and public sector / civil service support for the programme. Any
200 constraints, conditions and objections raised within each relevant government department
201 and major political party should be addressed, resulting in formal support for the policy and

202 legislation necessary to enable the programme to be delivered, emphasising the need for
203 sustainable long term investment in healthcare facilities through PPP.

204 The PPP programme should be sponsored at a senior level within the government and civil
205 service, with key individuals identified to act as promoters of the programme across the
206 public and private sectors.

207 **5 Develop a focussed specialist office to manage the programme**

208 A specialist unit, team or department (“the PPP Unit”) should be established to manage the
209 development and implementation of the programme, with support from the finance and
210 healthcare ministries, and central and local government. The size of the unit should be
211 appropriate to the anticipated volume of projects, but may also be accountable for PPP
212 programmes in other sectors.

213 The PPP Unit should have clear terms of reference and act objectively in managing the
214 programme to maximise value for money for the public. It should be funded by a long term
215 budget that will sustain it through the delivery phase of the PPP programme and at least ten
216 years into its operational phase.

217 Initially focussed on ensuring that the necessary policies, capacity, guidelines, regulations
218 and legislation are in place to enable the programme, the PPP Unit should also:

- 219 • Act as the government’s expert resource on the implementation of the programme;
- 220 • Provide programme leadership and manage the development and implementation of
221 the programme, and promote the programme in a way that ensures it has
222 widespread public understanding and support using professional communications
223 expertise;
- 224 • Identify any obligations that will remain with the public sector (such as the
225 recruitment, training and management of clinical staff to coincide with delivery of
226 new facilities);
- 227 • Approve business cases and ensure they are consistent with the guidance in
228 Section C;
- 229 • Ensure that arrangements are in place for administration of the contracts and
230 management of any risks that remain with the public sector through the
231 development, implementation and operational phases;
- 232 • Develop and implement a communication plan providing publicity around the
233 programme and projects, and evidence of a clear and well managed pipeline of
234 projects as described in E3 that is easily accessible and kept up to date.
- 235 • Ensure that sufficient resources and training are in place to manage the programme
236 as described in Section D;
- 237 • Manage any programme of capacity building as described in Section E, including the
238 training of indigenous private sector delivery, funding, technical and risk
239 management expertise;
- 240 • Production and maintenance of the risk allocation schedule described in E5; and
- 241 • Act as custodian of lessons learned from projects, and ensure that they are
242 implemented in new projects.

243

244 The PPP Unit should contain the resources necessary to develop and implement the
245 structure, processes, policies and legislation that will facilitate the programme and act as a
246 regulator in ensuring that projects comply with PPP policy and the Healthcare Infrastructure
247 Development Programme. The PPP Unit should be staffed by appropriately experienced
248 and trained staff, supported by external professional advisors with proven evidence of
249 success in delivering PPP projects in the healthcare sector into their operational phase. It

250 should comprise members drawn from the healthcare and finance civil service, and include
251 members with relevant, representative private sector expertise. It should include skills in the
252 fields of law, finance, project management, healthcare and social and environmental policy,
253 and technical specialists in the design, procurement, construction, commissioning and
254 operation of healthcare facilities. It should specifically include professional healthcare staff
255 with experience of managing facilities similar to those to be delivered under the PPP
256 programme.

257 **6 Establish a suite of standard procurement protocols and documentation**

258 A process framework, built on proven precedent, should be established within the PPP
259 Delivery Plan for the scoping, approval, procurement, delivery and management of the PPP
260 programme. This framework should include:

- 261 • Clear terms of reference for the governance and approval of the programme itself
262 and individual projects at each stage, including clear criteria against which approval
263 will be granted;
- 264 • Standard forms of Project Business Case for each project, objectively setting out
265 their scope, objectives and compliance with predetermined approval criteria;
- 266 • Standard processes for the management of procurement including standard forms of
267 procurement documentation, procurement timescales and evaluation criteria and the
268 scope for negotiation following selection of a preferred private partner;
- 269 • Standard processes for contract management and monitoring throughout the delivery
270 and operational phase; and
- 271 • Standard contract documentation including clear guidelines for its use and the extent
272 to which it can be varied to suit project-specific issues.

273

274 **B Economic context and affordability**

275 **1 Carry out transparent business case assessments for each project**

276 Within the PPP Delivery Plan, the government should develop an overall financial and
277 economic model for the PPP programme that clearly sets out what it will cost and the
278 objective criteria for the financial, social, environmental and economic benefits it will yield.
279 Each project should be costed in outline terms prior to its commencement, and should only
280 proceed to procurement if it is viable and affordable within the context of the Healthcare
281 Infrastructure Development Programme and represents the best value for money of the
282 realistically deliverable options.

283 Project Business Cases should take a standard form and be subject to approval at key
284 stages in their procurement and delivery against objective criteria as described under C2.

285 **2 Ensure the programme will enable competitive project financing**

286 In planning the PPP programme and as part of the consultation described under A3,
287 governments should carry out a formal assessment of potential sources of finance including
288 local and international commercial debt, international financial institutions (including
289 Development Finance Institutions and Export Credit Agencies), government debt and the
290 local and international capital markets. Due diligence should be carried out to assess what
291 obstacles exist to the use of multiple potential sources of funding for each project, and how
292 they will be overcome. Specific issues to be considered include the capacity and
293 sophistication of local contractors, the capacity and quality of the insurance market, and the
294 robustness of the contract structure and legal framework underpinning it. Where fiscal,
295 economic, taxation and other policies could constrain the availability of competitive finance,
296 consideration should be given to aligning them with PPP policy or procuring the programme
297 in a different way.

298 Each PPP project should be fiscally independent, and other than the arrangements agreed
299 when contracts are signed they should only be subsidised where there is demonstrable
300 value for money in doing so.

301 **3 Develop a standardised 'shadow' cost model against which to compare value**

302 Government should develop a robust and locally relevant system of capital and operating
303 cost benchmarks. This system should be used to establish transparent evidence that each
304 PPP project represents the best possible value for money as compared to alternative ways
305 of achieving its objectives – particularly the direct delivery of the same projects by the public
306 sector. If insufficient information is available, a system for making that comparison should
307 be agreed as part of the PPP Delivery Plan described in A2. The system should allow direct,
308 like-for-like comparison of all whole project life costs including insurance, maintenance
309 regimes, and historic evidence of public sector management of the delivery and
310 maintenance of capital projects of a similar size. Where there is insufficient evidence to
311 make a direct comparison, data should be gathered from equivalent economies or sectors
312 and transparent allowances made to ensure the system is appropriate to the size and scope
313 of the healthcare PPP programme.

314 The system should be developed in consultation with local and international contractors and
315 service providers, supported by suitably qualified advisors, as part of engagement with
316 potential tenderers described more fully in Section E. Where tenderers depart significantly
317 from benchmarked pricing, project teams should ensure they understand whether any

318 project-specific reasons have driven pricing to ensure the project scope is likely to deliver the
319 best value for money.

320 The cost system should reflect the requirements of national standards and policies for
321 government and private healthcare facilities and any regulations, legislation or guidance on
322 their use. It should be regularly indexed against published indices and to reflect pricing on
323 similar recent projects.

324 **4 Offer robust payment security that guarantees debt repayment**

325 PPP projects represent a long term public sector commitment. The government should
326 maximise value for money by offering bidders and investors formal instruments that provide
327 long term guarantees that payments will be made, and that a consistent approach will be
328 taken to concession management.

329 The PPP programme should be structured in such a way as to allow senior debt and other
330 long term commitments such as interest rate swaps to be assumed by government in the
331 event of a project failure leading to termination (less any costs that can be recovered from
332 other parties), and to compensate the private sector investors and service providers if
333 projects are terminated through no fault of their own. The terms under which senior debt is
334 assumed should be a matter of policy following a risk assessment once the consultation
335 described in A3 is completed, but should incentivise senior lenders to step in if junior
336 (subordinated debt and equity) investors default.

337 Payments may achieve this through sovereign guarantees, insurance, reserves, co-payment
338 commitments or other means but governments should obtain formal feedback on the
339 proposed payment security arrangements from a range of potential lenders as described
340 under A3.

341 **5 Establish robust long term governance structures and processes**

342 As part of the development of the PPP Delivery Plan, government should ensure that long
343 term budget provision is made for the governance and management of the programme
344 throughout its term, as part of its long term financial planning for the national and local
345 healthcare economy. Payments under PPP project agreements should be clearly
346 hypothecated and independent of political influence and the agreements themselves should
347 feature mechanisms for dispute resolution which are politically independent.

348 **6 Develop an economic framework for fiscal commitments**

349 A framework should be established to manage government commitments arising from the
350 PPP programme, including fiscal commitments such as ongoing subsidies or payments, and
351 contingent liabilities such as guarantees. The framework should be dynamic and include
352 review mechanisms which allow the government to evaluate government support
353 agreements and exposure to liabilities under the PPP programme in the context of the rest of
354 their economy.

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358 **C Planning, objectives and business cases**

359 **1 Develop a clear planning context for the PPP programme**

360 Before starting a PPP programme, governments should develop a Healthcare Strategy and
361 Healthcare Infrastructure Development Programme as described in A1. As a minimum
362 these should include a health needs assessment to fully assess current and future supply
363 and demand for healthcare services in the project or programme demographic area. They
364 should assess and consider national and local health trends and demands, population risk
365 factors, disease prevalence and demography-related medical care as well as the size and
366 condition of the existing healthcare infrastructure.

367 The role of PPP within the Healthcare Infrastructure Development Programme should be
368 defined in the PPP Delivery Plan as described in A2, with a clear timescale for
369 implementation. Having done so, the Healthcare Infrastructure Development Programme
370 should be published alongside those aspects of the programme to be delivered using PPP or
371 the process by which the suitability of PPP as a delivery vehicle will be assessed, including
372 specified approval points for Project Business Cases at a strategic/initial, interim and final
373 stage before construction begins.

374 **2 Establish clear and objective approval processes**

375 The PPP Delivery Plan should include a process for stakeholder engagement and formal
376 government approval of each PPP project at key stages in its development, to ensure that it:

- 377 • Is consistent with the Healthcare Infrastructure Development Programme and PPP
378 Delivery Plan;
- 379 • Is consistent with economic and fiscal policy;
- 380 • Is affordable within budget;
- 381 • Has the support of stakeholders including patients and healthcare professionals;
- 382 • Represents the best value for money of the realistic options available; and
- 383 • Has a coherent and realistic delivery plan, built on market evidence.

384 These approvals should be granted as a minimum at the following stages:

- 385 • Following the identification of a proposed strategic solution, but before the
386 development of a Project Business Case;
- 387 • Before procurement begins; and
- 388 • Before signing contracts with the preferred partner.

389 **3 Establish a robust format for business cases**

390 Projects within the PPP programme should each have a robust Project Business Case
391 setting out the project's description, rationale, objectives and measures of success. Project
392 Business Cases should follow a standard format, which is updated at each approval stage
393 described above.

394 The format of Project Business Cases should consider of the economic, social,
395 environmental, commercial and legal context and acceptability of the projects and compare
396 the relative benefits and value for money represented by delivering them under the PPP
397 programme against alternative options on a like-for-like basis.

398 In developing the format for Project Business Cases to be adopted, governments should
399 draw on experience from other jurisdictions as described under A2. Project Business Cases
400 should clearly set out the objectives, measurable benefits or outcomes and key success

401 factors for each project, the role of each of the institutions that will participate, and the
402 allocation of risks between them.

403 Project Business Cases should be subject to independent audit or review of the assumptions
404 underlying them at key points in their development. Upon completion and commissioning of
405 the projects, the actual benefits or outcomes and key success factors should be assessed
406 against those in the Project Business Case approved prior to Financial Close, and this
407 information should be published to provide lessons for future projects and improve market
408 confidence in the PPP programme.

409 Each Project Business Case should include a detailed transition plan setting out
410 arrangements for the transfer of services to the new facilities and/or service arrangements.

411 Project Business Cases themselves should be published except where information they
412 contain would be prejudicial to the competitiveness of tenders.

413 **4 Use clear and objective output-based specifications**

414 By the time projects are approved to begin procurement, each Project Business Case should
415 feature output-based specifications (identifying what the government actually wants from
416 delivery of the project services, rather than how they are to be performed) that set the
417 performance standards for the project. These should be directly related to the government's
418 Healthcare Infrastructure Development Programme and Healthcare Strategy, and any
419 national standards for healthcare facilities. They should be capable of objective
420 measurement, with clear and realistic contractual sanctions on the private sector partner if
421 they are not achieved.

422 Standard output specifications should be developed, initially based on lessons from other
423 jurisdictions as described under A2 but then developed based on experience from pilot
424 projects. Output specifications should be clearly defined and measurable, and only relate to
425 issues that genuinely affect the ability of the authority to deliver public services in
426 accordance with the Healthcare Strategy.

427 **5 Consider the use of a 'Reference Solution'**

428 The PPP Delivery Plan and process for the development of Project Business Cases should
429 include consideration of the advantages and disadvantages of developing a Reference
430 Solution as part of the development of the Project Business Case. Reference Solutions are
431 design and implementation solutions developed by the public sector before procurement
432 begins, and can be helpful in articulating the scope and specification of projects, and better
433 understanding likely costs and risks. Any Reference Solution should clearly identify how it
434 meets the PPP programme's objectives, particularly service quality and performance
435 improvements if clinical services are included in the programme. They should be shared
436 with tenderers, except where information they contain is likely to compromise the
437 competitiveness of tenders or restrict their ability to present alternative solutions that achieve
438 the specified outcomes.

439 Reference Solutions should include a protocol to determine the point to which work on a
440 Reference Solution is completed ahead of procurement, which offers the best balance
441 between the need to clarify the project's needs and expectations, and the ability of tenderers
442 to offer alternative solutions which meet the project's requirements. If project teams elect to
443 develop a Reference Solution, they should appoint suitably qualified specialists, designers
444 and advisors to develop a Reference Solution before the procurement phase commences.

445 **6 Incorporate robust business case risk allocation and value for money**
446 **assessment**

447 Project Business Cases should include a value for money analysis that compares the PPP
448 model against the cost of delivering and operating the facility using alternative means. These
449 should include an objective comparison with the likely cost and risk of delivery using public
450 sector resources, which is externally audited or reviewed. The process for doing so should
451 draw on experience from other jurisdictions as described under A2 and should be supported
452 by suitably experienced advisors under the oversight of the PPP Unit.

453 PPP contracts should specifically feature a simple and efficient process for making changes
454 during the life of the concession. Standardised documents should include a change process
455 which makes the adaptation of PPP hospitals no more expensive in whole-life terms than
456 equivalent traditionally procured infrastructure which is managed to the same standards.
457 Project Business Cases should specifically consider the cost and operational implications of
458 adapting services and facilities to changing healthcare needs.

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460

461 **D Resourcing and training**

462 **1 Develop a coherent staffing & training policy**

463 Prior to commencing procurement, the government should carry out a formal assessment of
464 current and future staffing needs for any new services and facilities to be included in the
465 programme, to meet the aims of the Healthcare Strategy. This should include the staff to be
466 provided by the public sector to projects delivered under the PPP programme. In parallel
467 with the development of the PPP projects, a programme of recruitment and training should
468 be implemented to ensure that suitable staff are available when the facilities are completed.
469 This should include an assessment of currently available staff and the likely pipeline of new
470 staff. Where there is a short term need for a substantial increase in skilled staff, government
471 should comply with ILO guidance on the national and international movement of personnel
472 and ensure that these plans are consistent with immigration regulations, and plans should be
473 made to train sufficient staff to provide healthcare services sustainably in the long term.

474 If the PPP programme includes clinical services, the risk of providing suitably trained staff
475 would normally transfer to the private sector operator upon their appointment. There should
476 be very clear protocols setting out the respective roles of government and the private sector
477 in providing and subsidising training for staff, particularly clinical and operational staff.

478 Where there is a requirement for staff to transfer from the public to the private sector under
479 the PPP programme, it should include measures to protect their statutory rights and
480 employment terms and conditions where appropriate under law.

481 Where the public sector intends to retain the provision of clinical (or other) services, they
482 should ensure that the design of the PPP projects will not compromise the terms, conditions
483 and statutory rights of the staff who deliver them.

484 **2 Plan programme management resources and training**

485 Prior to the implementation of a PPP programme, governments should develop a resource
486 plan setting out the people and costs that will be needed to implement it successfully on
487 behalf of the public sector. The timing and key skills needed for each role should be clearly
488 identified, and suitable funding made available for the recruitment and continuing
489 professional development of those staff. The resource plan should cover the development of
490 PPP legislation and policy, the scoping of the programme and production of Project
491 Business Cases, the procurement of projects, their delivery and commissioning, and their
492 operation in the steady state.

493 Teams need support in advance of a PPP programme to gain understanding and experience
494 and to develop a clear vision of what they wish to achieve. Whilst consultants will support
495 this, the culture and drive will come from leadership within the health and finance Ministries,
496 the PPP Unit and project teams, who must be trained accordingly – particularly if they have
497 not previously worked on PPP programmes or similarly complex projects. The PPP Delivery
498 Plan should feature clear plans for training staff, including the use of external courses,
499 mentoring and practical learning from other jurisdictions in the application of lessons learned.
500 “Refresher” training should be mandated for all programme and project staff throughout the
501 programme, to ensure that they keep abreast of PPP market developments and ensure that
502 standard contract, risk, management and procurement methodologies are applied
503 consistently.

504 A critical success factor in the delivery of PPP programmes is strong leadership. The
505 government should identify and empower leaders within the PPP Unit and elsewhere within

506 government to support strong partnerships with government departments, particularly those
507 with responsibility for healthcare and finance. There should be a sustainable succession
508 plan for the programme and project leadership, under which a training programme develops
509 the leaders needed to deliver the programme successfully throughout its term.

510 Each project team should have a designated leader, the Project Director. The Project
511 Director is a critical role, whose experience and understanding of the PPP programme and
512 processes and how they align with the Healthcare Strategy and Healthcare Infrastructure
513 Development Programme are vital. Project Directors should have experience of a least one
514 health PPP or major complex project previously and have received formal training in the
515 objectives of the Healthcare Strategy.

516 The planning of resources and training for the transition of services into the new facilities
517 and/or arrangements for healthcare service delivery is particularly important. The Project
518 Business Case should include detailed arrangements for the transition phase, and
519 appropriate resources and training should be provided for its implementation.

520 **3 Ensure that the model and process is clearly understood by stakeholders**

521 Clear understanding of the Healthcare Strategy and Healthcare Infrastructure Development
522 Programme are essential in the early planning stages of a PPP programme. These should
523 be linked to an understanding of the key risks inherent within a healthcare PPP project,
524 especially if it includes clinical services. Where governments have a limited PPP track
525 record, they should draw on experience from other jurisdictions as described under A2 and
526 make use of suitably experienced advisors.

527 Before the PPP programme is implemented, a formal advocacy plan setting out how
528 politicians, public/civil servants, patients, clinicians, other healthcare staff and any other
529 stakeholders will be consulted in the development of the programme should be developed
530 and discussed with those stakeholders. Where there are potential gaps or overlapping
531 responsibilities in accountability among stakeholder groups, a plan should be developed to
532 overcome them.

533 It is particularly important to communicate clearly with healthcare professional groups about
534 the Healthcare Strategy and how it will improve population health, and the role of the PPP
535 programme in delivering it.

536 With their knowledge of local conditions and traditions, local stakeholders are particularly
537 important. Their advice should be sought on how to adapt best practice to suit local needs,
538 expectations and constraints.

539 **4 Build strong, objective commercial understanding into project teams**

540 Project teams should develop a clear understanding of the field of potential private sector
541 firms that will potentially tender for the projects, and the commercial drivers of those firms.
542 This should include their potential interaction (for example, the respective surety bonding
543 expectations of contractors and lenders) to ensure that projects will be realistically
544 deliverable. To do this they should draw on experience from other jurisdictions as described
545 under A2 and make use of suitably experienced independent advisors who have participated
546 in successful healthcare PPP projects previously and have an objective, demonstrable
547 understanding of the way locally relevant commercial organisations operate; their appetite
548 for risk and speculative costs; their commercial maturity; and their contractual expectations.
549 To support this, project team members should actively engage in the market engagement
550 programme described in E1.

551 **5 Develop a robust induction and support programme for stakeholders**

552 A stakeholder engagement plan should be developed for each project, incorporating plans
553 for engagement with key clinical, management and public/civil service stakeholders (and any
554 other stakeholders needing to participate in the development of the project and the
555 preparation of the Project Business Case). Those stakeholders should be inducted, with
556 training to clearly explain what their involvement will be and how it will influence the project's
557 outcome, as well as clearly defining the critical parameters that the project must operate
558 within in terms of timescales, risk and affordability. The terms of reference and scope of
559 their involvement should be clearly explained and formally agreed with them. As part of the
560 development programme described under D2, each project team should receive training in
561 the management of stakeholders, and specifically healthcare professionals, in order that
562 project teams clearly understand their challenges and priorities.

563 **6 Carefully plan projects requiring staff transfer**

564 An appropriate HR strategy should be developed for any projects requiring the transfer of
565 clinical, management or Facilities Management staff from the public sector to the private
566 sector or between private sector providers under the PPP programme, because its success
567 can be affected by employees' statutory rights and by legal, cultural and political
568 considerations. Specialist advisory support in developing the strategy may be required
569 where transferring staff to private sector organizations is complex and there is a risk of an
570 adverse impact on long term service delivery if the staff transfer is not managed effectively.
571 This should include the development of specific support arrangements for staff whose role
572 will change or relocate, and a communications strategy that enables staff engagement and
573 explains clearly the programme's objectives, and how it will improve population healthcare.

574 Any transfer of clinical services requires a clear understanding of how the private sector
575 partner will maintain quality of service delivery - including training - alongside the
576 development of long term, sustainable staffing plans. This must have support from the
577 clinical and management teams who will work within the new facilities, and governments
578 should ensure that project teams are supported by specialists with experience in this field
579 who have successfully delivered staff transfers under PPP arrangements and understand
580 the commercial objectives of potential service providers.

581

582

583 **E Market assessment and engagement**

584 **1 Realistically match capacity**

585 In developing the PPP programme, the PPP Unit should formally consult with private sector
586 contractors, service providers, investors and advisors, to:

- 587 • Assess market capacity to deliver the programme, and develop a programme of
588 capacity building if necessary; and
- 589 • Ensure that there is capacity and capability to accurately assess and accept the risks
590 it is proposed will transfer to the private sector.

591 This engagement should take place during the development of the PPP Delivery Plan in
592 relation to its content; and in relation to specific projects, private sector feedback should be
593 obtained before procurement begins; once a preferred tenderer has been selected; and after
594 contracts have been signed.

595 The scope of the programme and each project should only be finalised once a formal
596 consultation has taken place, and the government should publish clear advice on the
597 measures that have been taken to change the content, structure and risk allocation of the
598 PPP programme in response to the consultation.

599 Consultees should include the following:

- 600 • Contractors;
- 601 • Facilities Management, clinical and equipment service providers;
- 602 • Designers;
- 603 • Sponsors / equity investors;
- 604 • Legal, financial, technical and insurance advisors;
- 605 • Senior lenders and, where appropriate, international financial institutions;
- 606 • Insurance and reinsurance companies;
- 607 • Stakeholders as described under D3; and
- 608 • Civil Society Organisations and patient/community groups.

609 Where gaps in capacity are identified, a formal capacity building programme should be
610 established with clear aims and specific objectives in relation to the scale and/or scope of
611 improvements needed to deliver the necessary capacity to implement the programme
612 successfully. The PPP programme should not be implemented until there is objective
613 evidence that the capacity is available to deliver it.

614 **2 Draw on proven experience**

615 In developing the PPP Delivery Plan, governments should carry out a systematic analysis of
616 best practice as it applies to their own needs, and ensure that the scope of the programme
617 and the transfer of risks is consistent with realistic market capacity. The advisors they use in
618 doing so should draw on demonstrable experience of successful delivery in proven markets.

619 **3 Develop a predictable pipeline of projects**

620 There should be a transparent process by which the scope of the PPP programme and
621 specific projects are developed. To allow both the public and private sector to establish
622 competent and experienced teams, governments should publish realistic 5-year 'look-ahead'
623 schedules identifying the projects they anticipate procuring over that term.

624

625 **4 Implement pilot projects and apply learning from them**

626 Before full-scale implementation of the PPP programme, a representative sample of pilot
627 projects should be procured to test the proposed approach, structure and risk allocation.
628 Before and after the procurement phase, feedback should be sought from the range of
629 consultees set out in recommendation 1 who participate in the pilot programme and used to
630 modify the approach, structure and risk allocation for the remainder of the programme.

631 **5 Clearly set out risk transfer proposals**

632 A formal schedule of risks and their allocation should be produced for the whole programme
633 and for each PPP project as part of the PPP Delivery Plan. The schedule should clearly set
634 out how risks will be allocated between parties, and should be developed in consultation with
635 the private sector consultees listed in E1. Where risks are to be insured, the schedule should
636 clearly allocate responsibility for arranging insurances, processing claims and paying
637 deductibles to help potential investors understand what costs and variables they should
638 include in their assessment from the outset.

639 The schedule should be developed and managed by the PPP unit with a remit to ensure that
640 it reflects market-wide commercial drivers, and agreement to depart from that risk allocation
641 for project-specific or bidder-specific reasons should only be agreed with the authorisation of
642 the PPP unit. It should be published each time it is updated.

643 The PPP Unit should understand what risks can be transferred to insurers, as parties will be
644 more willing to accept a risk allocated to them if they know it can be insured, and it will help
645 to more accurately price that risk.

646 **F Transparent procurement and management processes**

647 **1 Implement robust and transparent programme governance**

648 The PPP Delivery Plan should feature an institutional and regulatory framework which
649 details the roles of various stakeholders in the procurement process. The PPP Unit
650 responsible for implementation of the PPP programme should represent the government
651 counterparty which is the contracting authority under the PPP contracts, with clear
652 governance set out in the PPP Delivery Plan as to accountability between the two. The
653 Healthcare Strategy, Healthcare Infrastructure Development Programme and PPP Delivery
654 Plan should clearly set out which documents are to be available to the public, which should
655 be the default for all but commercially sensitive information. The PPP Unit should ensure
656 that the programme meets best practice in relation to the transparent procurement and
657 management of projects, using independent specialists to review and audit the programme's
658 compliance with national and international transparency and anti-corruption guidance.

659 The review of Project Business Cases should be carried out by a committee established by
660 the PPP Unit with representation from government departments including those responsible
661 for finance, planning and healthcare. The committee should also include representation
662 from neutral agencies such as transparency specialists and academia where necessary to
663 verify the transparency of the procurement and management of the projects, and should
664 feature technical, financial, legal and commercial specialists as well as members with
665 experience of the successful implementation of PPP transactions. The committee should
666 review Project Business Cases by reference to the standardised procurement
667 documentation, contract documentation and risk allocation schedules developed by the PPP
668 Unit and described under A6.

669 **2 Standardise the procurement process and procedures**

670 The procurement process for PPP projects should be clearly set out in the PPP Delivery
671 Plan, and its governance should guarantee a high degree of objectivity and transparency in
672 the invitation, receipt and evaluation of tenders. Qualitative and quantitative evaluation
673 criteria, and their relative weighting, should be established with stakeholders prior to tenders
674 being issued and should be made transparent to bidders when they are invited to tender.
675 The Project team should employ competent and experienced technical, financial and legal
676 advisors to assist in the tender evaluation. The protocols used for evaluating tenders should
677 include a transparent process for assessing the relative cost of tenders with different risk
678 allocation, and any selection criteria that would favour particular technology providers or
679 other proprietary products or services that could restrict open competition should be avoided.

680 The procurement process should allow for interaction between the project team and
681 tenderers, and if appropriate with the PPP Unit and stakeholders, to allow tenderers to tailor
682 their solution to offer the best possible value for money to the public sector. Any such
683 interaction must be managed in a way that gives all tenderers access to any potential
684 change in specifications, scope or requirements of the project while maintaining the
685 confidentiality of each tenderer's solutions. All tenderers should be offered fair and equal
686 access to meetings with the procuring authority and other stakeholders.

687 The extent of dialogue during the procurement process and subsequent re-submission of
688 refined proposals should be appropriate to the scope, type and complexity of the technical
689 and commercial solutions and service delivery requirements. Sufficient time should be
690 provided in the procurement process to allow detailed solutions to be submitted by
691 tenderers, which keeps to a minimum any changes in scope or specification between the
692 acceptance of a tender and the signature of contracts.

693 **3 Evaluate tenders transparently and publish formal evidence of value for money**

694 As part of its review and approval of the Project Business Case prior to signature of
695 contracts for a project as described in C2, the government should conduct a value for money
696 assessment. This assessment should be published to give the public evidence that
697 delivering the project as a public-private partnership represents the best possible value for
698 money.

699 Innovation and alternative solutions should be encouraged during the tender stage but their
700 scope and any consequential reallocation of risk against the preferred strategic solution or
701 Reference Solution should be clearly defined before a preferred partner is appointed. Any
702 constraints that could be placed on the competitiveness of funding should be identified
703 before any alternative solution is accepted, and any relaxation of specifications or scope
704 should be made clear during the procurement phase to all tenderers.

705 Certain objective criteria should be established before procurement begins which represent
706 a pass/fail test in the suitability of a potential partner to deliver projects. The published
707 evaluation criteria should make clear which aspects of tenders are pass/fail and which will be
708 judged against weighted qualitative and quantitative criteria.

709 An evaluation report should be produced for each tender, objectively scoring tenders against
710 the objective published criteria. The tender evaluation committee should have proven
711 experience and expertise in evaluate similarly complex tenders and feature technical,
712 commercial, financial and legal skills. Their conclusions should be subject to independent
713 review by a specialist audit office or independent agency.

714 **4 Promote Zero Tolerance to Corruption**

715 The government should develop standard definitions of corrupt practices in public
716 procurement and management, and ensure they are applied to the PPP programme. They
717 should be published as a matter of policy, and the PPP Delivery Plan should set out how
718 they will be incorporated in the PPP programme. Tenderers for each project should be
719 required to confirm their willingness to comply with anti-corruption policies and should be
720 eliminated from a tender if they are unable to do so, or if there is evidence that they have
721 exhibited corrupt practice. Acceptance of this principle should be a pass/fail tender
722 requirement. Compliance with this policy for each Project Business Case should be the
723 subject of an independent review and audit on behalf of the PPP Unit.

724 The following measures should be considered to minimise the risk of corruption:

- 725 • A requirement for tenderers to comply with a general policy on conflicts of interests
726 including obligations to disclose and report potential corrupt practices, as well as
727 remedies applicable to all participants and for dispute settlement;
- 728 • A mandatory code of conduct for any potential preferred provider;
- 729 • A set list of duties required of the preferred provider to be delivered as evidence of
730 compliance with a code of conduct, aligned with public sector best interest standards
731 and fiduciary duties;
- 732 • The use of statements of compliance and integrity to be signed by the bidders,
733 subcontractors, consultants and any third party involved in the bidding process;
- 734 • Ongoing compliance guarantees by the successful tenderer, and their main
735 contractors and sub-contractor;
- 736 • Disbarment from future PPP tenders by tenderers where evidence of corrupt
737 practices is evident;

- 738 • Sanctions in the event of attempts to influence public officials or collude with other
- 739 tenderers (either in relation to an individual tender, or multiple tenders);
- 740 • Preventative measures to hold public officials accountable and sanctions should
- 741 preventive measures fail;
- 742 • Minimum and maximum preparation time for tenders at each stage;
- 743 • Internal control and audit systems; and
- 744 • Immunity for whistleblowers.

745 **5 Record and publish procurement and management information**

746

747 Project Business Cases should have clear and objective measures of value for money, and

748 outputs compared to the base case upon award of a contract. The PPP Delivery Plan

749 should include measures to encourage the recording and publication of procurement and

750 management information for each project, in the interest of demonstrating long term value

751 for money. The following measures should be considered:

- 752 • Publication of the Project Business Case, and specifically the Value for Money
- 753 assessment, prior to signature of contracts;
- 754 • The publication of procurement evaluation reports (redacting commercial information
- 755 with the consent of tenderers being sought prior to shortlisting);
- 756 • Publication of a procurement audit report following appointment of a preferred
- 757 provider;
- 758 • Publication of feasibility studies and details of the proposed strategic solution or
- 759 Reference Solution;
- 760 • Publication of details of any government financial support to projects and the PPP
- 761 programme;
- 762 • Routine public engagement sessions during the operational phase by the PPP Unit,
- 763 the project team and the private provider;
- 764 • Whenever major changes are made to a project or significant maintenance work is
- 765 carried out, a review to confirm that this investment is consistent with the Healthcare
- 766 Strategy and represents the best possible value for money for the public sector; and
- 767 • The publication of routine project management reports demonstrating that projects
- 768 continue to represent value for money, including headline details of risk allocation
- 769 and private sector returns.

770

771 **Annex 1**

772

773 Projects and programmes in the following countries were considered by the team developing
774 the Standard as sources of lessons and experience based on published information.

- Australia
- Austria
- Bahrain
- Bangladesh
- Belgium
- Benin
- Brazil
- Canada
- Chile
- China
- Croatia
- Czech Republic
- Denmark
- Egypt
- Finland
- France
- Germany
- Ghana
- Greece
- Grenada
- Hungary
- India
- Ireland
- Italy
- Japan
- Kazakhstan
- Kenya
- Kuwait
- Lesotho
- Malaysia
- Mauritius
- Mexico
- Moldova
- Montenegro
- Netherlands
- Nigeria
- Norway
- Pakistan
- Peru
- Philippines
- Poland
- Portugal
- Puerto Rico
- Republic of Korea
- Romania
- Russian Federation
- Slovakia
- South Africa
- South Korea
- Spain
- Sweden
- Turkey
- Turks and Caicos
- United Arab Emirates
- United Kingdom
- United States of America
- Uzbekistan

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