PUBLIC–PRIVATE PARTNERSHIP MONITOR
PHILIPPINES

APRIL 2025

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ASIAN DEVELOPMENT BANK

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On the cover: Workers picking coffee at a farm in Amadeo, Cavite; sea turtle in Apo Reef Natural Park; children in Mindanao; hospital staff during the inauguration and turnover of the Pandemic Subnational Reference Laboratory in San Fernando, Pampanga; overpass connecting to light-rail transit line in Divisoria, Manila; and cattle raising near the wind farm in Saoit, Ilocos Norte.
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Foreword

The Public–Private Partnership Monitor, a key publication of the Asian Development Bank (ADB), presents a detailed review of the current state of the public–private partnership (PPP) enabling environment for selected countries. The PPP Monitor for the Philippines includes more than 500 qualitative and quantitative indicators to profile the national PPP environment, the sector (for twelve identified sectors) and local government specific PPP landscape. The PPP Monitor also features an interactive online version allowing users to compare the key PPP parameters and features across ADB's developing member countries (DMCs). We are grateful for the valuable contributions made by the Public–Private Partnership Center of the Philippines (PPP Center), which enriched the analysis and findings presented in this document.

The evolution of the Philippines' PPP framework began in the 1990s, with 305 projects in the roads, railways, ports, airports, energy, water and wastewater, ICT, agriculture and fisheries, social infrastructure, and solid waste sectors reaching financial close between 1990 and 2023 (excluding canceled projects). Most of these initiatives have focused on the energy, transport, and water and wastewater sectors, marking key areas for private sector engagement. Despite this early push, the Philippines still has vast unrealized potential for private sector investment in infrastructure. Given the vast need for to upgrade infrastructure to continue economic growth, PPPs are now more essential than ever for infrastructure and social projects in the Philippines. Increased private sector participation can relieve the fiscal strain on the government while accelerating project execution and enhancing technical, operational, and cost efficiencies.

The Philippines is among the fastest-growing economies in the region, boosted by a robust investment grade rating and increased public spending, which have attracted more foreign investments. However, the coronavirus disease (COVID-19) pandemic has widened the infrastructure funding gap, and well-structured PPPs delivered within a robust enabling environment will drive sustainable infrastructure development. Consistency in policy and a robust regulatory framework are crucial to encourage private sector involvement in large-scale infrastructure projects.

ADB has been working closely with the Philippines to create a strong enabling environment for PPPs. Fostering private sector development by promoting green growth and PPPs is one of the key strategic objectives and priority areas in ADB's country partnership strategy for the Philippines, 2024–2029. The partnership between the Philippines and ADB has reached an all-time high, with the Philippines emerging as one of ADB's largest client DMCs. ADB assisted the Philippines in developing its PPP Code, which became law in 2023, and its implementing rules and regulations issued in 2024.

Since its establishment in 2010, ADB has been in close partnership with the PPP Center and with support focused on strengthening governance, advancing PPP advocacy, and building capacity within the PPP Center and implementing agencies in the Philippines, both national and local. Working in concert with the PPP Center, ADB has been supporting the Government of the Philippines via the provision of transaction advisory services including for the Ninoy Aquino International Airport upgrade project that financially closed in 2024.

Publications like ADB's PPP Monitor serve as valuable diagnostic tools, highlighting where the comparative advantages and gaps in legal, regulatory, and institutional frameworks are for investor and government consideration.

We hope that this PPP Monitor will be informative to the continued dialogue between the public and private sectors and further support the Philippines as an attractive PPP market to fill the gaps in the infrastructure sector that will improve the lives and livelihood of the citizens.

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The Public–Private Partnership Monitor—Philippines was prepared by the Asian Development Bank (ADB) Office of Markets Development and Public–Private Partnership (OMDP) in close coordination with the Philippines Country Office.

A team of market development advisory specialists from OMDP led the effort in developing, refining, and streamlining the analytical framework for capturing the national, subnational, and sectoral PPP-related landscape that has been drawn on to produce this document.

The PPP Monitor uses data published by the governments of ADB developing member countries—on their official websites and in reports, publications, laws, and regulations—as well as data published by ADB and other multilateral development agencies and included in industry publications and databases such as those of the World Bank, the European Bank for Reconstruction and Development, the Organisation for Economic Co-operation and Development, the World Economic Forum, the International Monetary Fund, Economist Impact (Infrascope index scores), the Global Infrastructure Hub, TheGlobalEconomy.com, Bloomberg, S&P Global, Trading Economics, and the PPP Legal Resource Center.

ADB has partnered with Tantoco Villanueva & De Guzman Law Offices (Tavidell Law), which shared its deep expertise on the Philippines PPP market and provided inputs in developing the PPP Monitor for the Philippines.

Definition of Terms

Term	Definition
Public–private partnership (PPP)	Contractual arrangement between public (national, state, provincial, or local) and private entities through which the skills, assets, and/or financial resources of each of the public and private sectors are allocated in a complementary manner, thereby sharing the risks and rewards, to seek to provide optimal service delivery and good value to citizens. In a PPP, the public sector retains the ultimate responsibility for service delivery, although the private sector provides the service for an extended time. Within Asian Development Bank operations, all contracts, such as performance-based contracts (management and service contracts), lease-operate-transfer, build-own-operate-transfer, design-build-finance-operate, variants, and concessions, are considered as various forms of PPP. Excluded are: • contracts involving turnkey design and construction as part of public procurement (engineering, procurement, and construction contracts); • simple service contracts that are not linked to performance standards (those that are more aligned with outsourcing to private contractor staff to operate public assets); • construction contracts with extended warranties and/or maintenance provisions of, for example, up to 5 years post-completion (wherein performance risk sharing is minimal as the assets are new and need only basic maintenance); and • all privatization and divestures.
Approving body	A national or local government body authorized to approve a project as a PPP in the Philippines.
Availability-/performance-based payments	Method of investment recovery in PPP projects, whereby payments to the private party are made by the implementing agency over the lifetime of a PPP contract in return for making infrastructure or services available for use at acceptable and contractually agreed performance standards.
Build–lease–transfer (BLT)	A PPP contractual arrangement whereby a private partner is authorized to finance and construct an infrastructure or development facility and, upon its completion, turns it over to the implementing agency concerned on a lease arrangement for a fixed period after which ownership of the facility is automatically transferred to the implementing agency.
Build–own–operate (BOO)	A PPP contractual arrangement whereby a private partner is authorized to finance, construct, own, operate and maintain an infrastructure or development facility from which the private partner is allowed to recover its total investment, operating, and maintenance costs plus a reasonable return thereon by collecting tolls, fees, rentals, or other charges from facility users.

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Term	Definition
Build–operate–transfer (BOT)	BOTs and similar arrangements are specialized concessions in which a private firm or consortium finances and develops a new infrastructure project or a major component according to performance standards set by the government. Under BOTs, the private sector developer provides the capital required to build a new facility. Importantly, the private operator now owns the assets for a period set by contract—sufficient to give the developer time to recover investment costs through user charges.
Build–transfer (BT)	A PPP contractual arrangement that may be used in the construction of any infrastructure or development project, including critical facilities that, for security or strategic reasons, must be operated directly by the government, whereby the private partner undertakes the financing and construction of a given infrastructure or development facility and, after its completion, turns it over to the implementing agency concerned, which pays the proponent on an agreed schedule its total investments expended on the project, plus a reasonable rate of return thereon.
Build–transfer–operate (BTO)	A PPP contractual arrangement whereby the public sector contracts out the building of an infrastructure facility to a private entity such that the contractor builds the facility on a turnkey basis, assuming cost overrun, delay, and specified performance risks. Once the facility has been commissioned satisfactorily, title is transferred to the implementing agency. The private entity, however, operates the facility on behalf of the implementing agency.
Commercial close	Indicates the signing of the PPP contract between the implementing agency and the private partner. Usually occurs after the terms and conditions of the draft PPP contract are negotiated and agreed between the implementing agency and the identified private sector developer.
Concession	A PPP type that makes the concessionaire (established by the selected private sector developer) responsible for the full delivery of services in a specified area, including operation, maintenance, collection, management, and construction and rehabilitation of the system. Importantly, the private sector developer is responsible for all capital investment. Although the concessionaire is responsible for providing the assets, such assets are publicly owned even during the concession period. The public sector is responsible for establishing performance standards and ensuring the concessionaire meets them. In essence, the public sector's role shifts from being the service provider to regulating the price and quality of service.
Direct agreement	An agreement normally made between the concessionaire (established by the private sector developer), the implementing agency, and the lenders. The agreement usually gives the lenders step-in rights to take over the operation of the key PPP contracts.
Dispute resolution	A process to resolve any dispute between the implementing agency and the private sector developer as agreed in the PPP contract. The possible dispute resolution mechanisms in a PPP contract could include resolution through: • discussion between both parties, • a dispute resolution board, • expert determination, • mediation or conciliation, or • arbitration.
Environmental impact assessment	A process of evaluating the likely environmental impacts of a proposed project or development, taking into account interrelated socioeconomic, cultural, and human health impacts, both beneficial and adverse.
Feed-in-tariff (FIT)	A policy mechanism designed to accelerate investment in renewable energy technologies by offering long-term purchase agreements for the sale of renewable energy electricity.

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Term	Definition
Financial close	The specific milestone in a PPP contract where the private partner successfully secures all necessary project and financing agreements, which confirms that all prior conditions have been met, allowing the private partner to draw down the financing, as applicable, to commence work on the PPP project.
Financial equilibrium	A mechanism in a PPP contract for dealing with changes, when changes in specified conditions and circumstances trigger compensating changes to the terms of the agreement. Some civil law jurisdictions emphasize economic or financial equilibrium provisions that entitle a partner to changes in the key financial terms of the contract to compensate for certain types of exogenous events that may otherwise impact returns. The partner is protected as the economic balance of the contract must be maintained and adequate compensation paid for damages suffered. Unexpected changes that merit financial equilibrium may arise from force majeure (major disasters or civil disturbances), government action, and unforeseen changes in economic conditions.
Force majeure	An event that is beyond the reasonable control of the affected party, as a result of which such party's performance of its obligations under the PPP contract is prevented or rendered impossible. Force majeure events may include: • war, civil war, armed conflict, or terrorism; • nuclear, chemical, or biological contamination, unless the source or the cause of the contamination is the result of the actions of or breach by the concessionaire or its subcontractors; • pressure waves caused by devices traveling at supersonic speeds, which directly causes either party (the "affected party") to be unable to comply with all or a material part of its obligations under the contract; or • any other similar events that are beyond the reasonable control of the affected party and prevent or render impossible the performance by such party of its obligations under the PPP contract.
Government guarantee	An agreement under which the government agrees to bear some or all risks of a PPP project. It represents a secondary obligation that legally binds the government to take on an obligation if a specified event occurs. A government guarantee constitutes a contingent liability, for which there is uncertainty as to whether the government may be required to make payments, and, if so, how much and when it will be required to pay. In practice, government guarantees are used when debt providers are unwilling to lend to a private party in a PPP because of concerns over credit risk and potential loan losses. Government guarantees can also be used to benefit equity investors in a PPP company when they require protection against the investment risks they bear.
Government pays (off-take)	Represents the payment made by the implementing agency to the concessionaire (established by the private sector developer) for the infrastructure assets provided and services delivered through a PPP project. These payments could be: • usage-based—for example shadow tolls or output-based subsidies; • based on availability—that is, conditional on the availability of an asset or service to the specified quality; and • upfront subsidies based on achieving certain agreed milestones.
Hybrid arrangement	A method of investment recovery in PPP projects when payments to the private party are made as a combination of user charges and availability payments over the lifetime of a PPP contract, in return for making infrastructure or services available for use at acceptable and contractually agreed performance standards.
Implementing agency	A national or local government entity authorized to undertake PPP projects in the Philippines.

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Term	Definition
Independent power producer (IPP) scheme	A method of investment recovery in PPP projects whereby payments to the private party are made as a combination of user charges and availability payments over the lifetime of a PPP contract, in return for making infrastructure or services available for use at acceptable and contractually agreed performance standards.
Institutional arbitration	An arbitration process in which a specialized institution intervenes and takes on the role of administering the arbitration process between the implementing agency and the private sector developer for a PPP project-related dispute. This institution would have its own set of rules, which would provide a framework for the arbitration, and its own form of administration to assist in the process.
Joint venture	A PPP contractual arrangement whereby the implementing agency performing its proprietary function and the private partner pool resources comprising capital, services, or assets, including equipment, land, or intellectual property, to jointly undertake a specific activity within a specific period of cooperation, to deliver an infrastructure or development project and service that the public sector typically provides.
Lease contract	Under a lease contract, the private sector developer is responsible for the service in its entirety and undertakes obligations relating to quality and service standards. Except for in new and replacement investments, which remain the responsibility of the government contracting agency, the operator provides the service at their expense and risk. The duration of the leasing contract is typically 10 years and may be renewed for up to 20 years. Responsibility for service provision is transferred from the public sector to the private sector and the financial risk for operation and maintenance is borne entirely by the private sector operator. In particular, the operator is responsible for losses and for unpaid consumers' debts. Leases do not involve any sale of assets to the private sector.
Lenders' step-in rights	Lenders' rights in project-financed arrangements to "step in" to the project company's position in the contract to take control of the infrastructure project where the project company is not performing.
Local government unit (LGU)	A territorial and political subdivision of the Philippines at the local level, which may be a barangay, municipality, city, or province.
Management contract	A PPP type that expands the services to be contracted out to include some or all of the management and operation of the public service (e.g., utility, hospital, port authority). Although ultimate obligation for service provision remains in the public sector, daily management control and authority are assigned to the private partner or contractor. In most cases, the private partner provides working capital but no financing for investment.
Material adverse government action	An act of the government of which the private partner had no knowledge, or of which it could not be reasonably expected to have had knowledge, prior to, and that occurs after, the effectivity of the PPP contract, other than an act that is authorized or permitted under the PPP contract, which (i) specifically discriminates against the sector, industry, or project and (ii) has a significant negative effect on the ability of the private partner to comply with any of its obligations under the approved PPP contract. This may include unanticipated regulatory risks.
Nominal interest rate	The interest rate applicable to a borrowing before taking inflation adjustment into account. In certain cases, nominal interest rate also refers to the advertised or stated interest rate on a borrowing, without taking into account any fees or compounding of interest. Nominal interest rate = Real interest rate + Inflation rate

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Term	Definition
Non-recourse/limited-recourse project financing	The financing of the development or exploitation of a right, natural resource, or other asset where the bulk of the financing is to be provided by way of debt and is to be repaid principally out of the assets being financed and their revenues.
Project bond financing	An alternative source of financing infrastructure project by means of placing bonds.
Project development	Indicates the stage of the PPP project life cycle, including PPP project identification, preparation, structuring, and procurement up to commercial close between the implementing agency and the private sector developer.
Real interest rate	The interest rate applicable to a borrowing that takes the inflation rate into account. Real interest rate = Nominal interest rate – Inflation rate
Rehabilitate–operate–transfer (ROT)	A PPP contractual arrangement whereby an existing facility is turned over to the private sector to refurbish, operate, and maintain for a franchise period, at the expiry of which the legal title to the facility is turned over to the implementing agency.
Regulatory framework	A framework encompassing all laws, regulations, policies, binding guidelines or instructions, other legal texts of general application, judicial decisions, and administrative rulings governing or setting precedent in connection with PPPs. In this context, the term “policies” refers to other government-issued documents, which are binding on all stakeholders, are enforced in a manner similar to laws and regulations, and provide detailed instructions for the implementation of PPPs.
Risk allocation matrix	Matrix indicating the allocation of the consequences of each risk to one of the parties in the PPP contract or agreeing to deal with the risk through a specified mechanism that may involve sharing the risk.
Sanggunian	The body that exercises the local legislative power of the LGU.
Service contract	A PPP type under which the government contracting agency hires a private company or entity to carry out one or more specified tasks or services for a period, typically 1–3 years. The government contracting agency remains the primary provider of the infrastructure service and contracts out only portions of its operation to the private partner. The private partner must perform the service at the agreed cost and must typically meet performance standards set by the government contracting agency. Government contracting agencies generally use competitive bidding procedures to award service contracts, which tend to work well given the limited period and narrowly defined nature of these contracts.
Social impact assessment	Includes the processes of analyzing, monitoring, and managing the intended and unintended social consequences—both positive and negative—of planned interventions (policies, programs, plans, projects) and any social change processes invoked by those interventions. Its primary purpose is to bring about a more sustainable and equitable biophysical and human environment.
Social infrastructure	Covers social services, including hospitals, schools and universities, prisons, housing, and courts.
State-owned enterprise	A company or enterprise owned by the government or in which the government has a controlling stake.
Swiss challenge or comparative challenge	A process in public procurement whereby an implementing agency that has received an unsolicited bid for a project publishes details of the bid and invites third parties to match or exceed it.
Tax holiday	A government incentive program that offers tax reduction or elimination to projects and/or businesses. In the context of a PPP project, tax holidays are provided to exempt the concessionaire from making any tax payments during the initial demand ramp-up period to make the project financially viable.

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Term	Definition
Unsolicited proposal (USP)	A proposal made by a private party to undertake a PPP project. It is submitted at the initiative of the private party rather than in response to a request from the implementing agency.
User charges	The method of investment recovery in a revenue-based PPP, whereby payments to the private party are fully derived from tariffs paid by users or off-takers over the lifetime of a PPP contract, in return for making infrastructure or services available for use at acceptable and contractually agreed performance standards.
Viability gap funding	A type of subsidy that the government may extend to make an economically viable revenue-based PPP project financially viable but that does not include government payments for right-of-way and resettlement.

Abbreviations

4PH	–	*Pambansang Pabahay Para sa Pilipino* (National Housing for Filipinos Program)
ACMF	–	ASEAN Capital Markets Forum
ADB	–	Asian Development Bank
ADR	–	alternative dispute resolution
ASEAN	–	Association of Southeast Asian Nations
BCDA	–	Bases Conversion Development Authority
BEDP	–	Basic Education Development Plan
BFAR	–	Bureau of Fisheries and Aquatic Resources
BLGF	–	Bureau of Local Government Finance
BLT	–	build–lease–transfer
BOO	–	build–own–operate
BOT	–	build–operate–transfer
BSP	–	Bangko Sentral ng Pilipinas (Central Bank of the Philippines)
BTO	–	build–transfer–operate
CAAP	–	Civil Aviation Authority of the Philippines
CDC	–	Clark Development Corporation
CDIA	–	Cities Development Initiative for Asia
CHEd	–	Commission on Higher Education
CIAC	–	Construction Industry Arbitration Commission
CLIPs	–	Consolidated List of Investment Programs
COA	–	Commission on Audit
ComDev	–	Committee on Devolution
COVID-19	–	coronavirus disease
DBCC	–	Development Budget Coordination Committee
DBM	–	Department of Budget and Management
DBP	–	Development Bank of the Philippines

DENR	–	Department of Environment and Natural Resources
DepEd	–	Department of Education
DHSUD	–	Department of Human Settlements and Urban Development
DICT	–	Department of Information and Communications Technology
DILG	–	Department of Interior and Local Government
DMC	–	developing member country
DOE	–	Department of Energy
DOF	–	Department of Finance
DOH	–	Department of Health
DOJ	–	Department of Justice
DOTr	–	Department of Transportation
DPWH	–	Department of Public Works and Highways
DTP	–	devolution transition plan
DWR	–	Department of Water Resources
ECC	–	environmental compliance certificate
ECCD	–	early childhood care and development
EIS	–	Environmental Impact Statement
EMB	–	Environmental Management Bureau
EPIRA	–	Electric Power Industry Reform Act (Republic Act No. 9136)
ERC	–	Energy Regulatory Commission
FIT	–	feed-in tariff
FIT-All	–	FIT Allowance
GAA	–	General Appropriations Act
GDP	–	gross domestic product
GEDSI	–	gender equality, disability, and social inclusion
GOCC	–	government-owned and controlled corporation
GPRAM	–	Generic Preferred Risk Allocation Matrix
HEI	–	higher education institution
HSH	–	High Standard Highway
ICC	–	Investment Coordination Committee of the NEDA Board
ICC-CC	–	ICC Cabinet Committee
ICC-TB	–	ICC Technical Board
ICT	–	information and communication technology

IFC	–	International Finance Corporation
IFP	–	infrastructure flagship project
IPP	–	independent power producer
IRR	–	Implementing Rules and Regulations
IWMP	–	Integrated Water Resources Master Plan
JICA	–	Japan International Cooperation Agency
LBP	–	Land Bank of the Philippines
LDC	–	local development council
LGC	–	Local Government Code of 1991
LGU	–	local government unit
LRT	–	Light Rail Transit
LRTA	–	Light Rail Transit Authority
LTFRB	–	Land Transportation Franchising and Regulatory Board
LUCs	–	local universities and colleges
LWUA	–	Local Water Utilities Administration
M&E	–	monitoring and evaluation
MAGA	–	material adverse government action
MARINA	–	Maritime Industry Authority
MCA	–	Multi-Criteria Analysis
MCIA	–	Mactan–Cebu International Airport
MCIAA	–	Mactan–Cebu International Airport Authority
MIAA	–	Manila International Airport Authority
MRT	–	Metro Rail Transit
MWSS	–	Metropolitan Waterworks and Sewerage System
NAIA	–	Ninoy Aquino International Airport
NEDA	–	National Economic and Development Authority
NGA	–	national government agency
NGCP	–	National Grid Corporation of the Philippines
NHA	–	National Housing Authority
NHMFC	–	National Home Mortgage Finance Corporation
NIA	–	National Irrigation Administration
NLEX	–	North Luzon Expressway
NPC	–	National Power Corporation

NREB	–	National Renewable Energy Board
NSSMP	–	National Sewerage and Septage Management Program
NSWMC	–	National Solid Waste Management Commission
NTA	–	national tax allotment
NTC	–	National Telecommunications Commission
NWRB	–	National Water Resources Board
O&M	–	operation and maintenance
ODA	–	official development assistance
OECD	–	Organisation for Economic Co-operation and Development
OMDP	–	Office of Markets Development and Public–Private Partnership
OPS	–	original proponent status
PBAC	–	Prequalification, Bids, and Awards Committee
PCG	–	Philippine Coast Guard
PDMF	–	Project Development Monitoring Facility
PDP	–	Philippine Development Plan 2023–2028
PEZA	–	Philippine Economic Zone Authority
PFDA	–	Philippine Fisheries Development Authority
PHFDP	–	Philippine Health Facility Development Plan
PhilGuarantee	–	Philippine Guarantee Corporation
PhilHealth	–	Philippine Health Insurance Corporation
PhilSys	–	Philippine Identification System
PNR	–	Philippine National Railways
PPA	–	Philippine Ports Authority
PPP	–	public–private partnership
PPPGB	–	PPP Governing Board
PSA	–	Philippine Statistics Authority
PSALM	–	Power Sector Assets and Liabilities Management Corporation
PSIP	–	PPP for School Infrastructure Project
PTCs	–	parameters, terms and conditions
PTMRF	–	Port Terminal Management Regulatory Framework
PWSSMP	–	Philippine Water Supply and Sanitation Master Plan
RDC	–	regional development council
REPA	–	renewable energy payment agreement

RESA	–	renewable energy supply agreement
ROT	–	rehabilitate–operate–transfer
ROW	–	right-of-way
RPS	–	Renewable Portfolio Standards
RROR	–	reasonable rate of return
RRU	–	Railway Regulatory Unit
SBL	–	single borrower’s loan limit
SBMA	–	Subic Bay Metropolitan Authority
SEC	–	Securities and Exchange Commission
SLEX	–	South Luzon Expressway
STOA	–	supplemental toll operation agreement
SUC	–	state university or college
SWRB	–	Subic Water Regulatory Board
TESDA	–	Technical Education and Skills Development Authority
TIEZA	–	Tourism Infrastructure Enterprise Zone Authority
TLBA	–	Trust Liability Bank Account
TransCo	–	National Transmission Corporation
TRB	–	Toll Regulatory Board
UHC	–	Universal Health Care
UNCITRAL	–	United Nations Commission on International Trade Law
UNICEF	–	United Nations Children’s Fund
USP	–	unsolicited proposal
VFM	–	value for money
VGF	–	viability gap funding
WESM	–	Wholesale Electricity Spot Market
WRC	–	Water Regulatory Commission
WRMO	–	Water Resources Management Office
WTE	–	waste-to-energy
kbps	–	kilobits per second
km	–	kilometer
km^2	–	square kilometer
kWh	–	Kilowatt-hour
m^3	–	cubic meter

MW	–	megawatt
MWp	–	megawatt peak
₱	–	Philippine peso
%	–	percent
$	–	United States

Currency Equivalents

(As of 28 October 2024)

₱1	–	$0.01715
$1	–	₱58.30

Guide to Understanding the Public–Private Partnership Monitor

The Public–Private Partnership Monitor (PPP Monitor), a flagship publication of the Asian Development Bank (ADB), profiles the current state of the PPP enabling environment in ADB's developing member countries (DMCs) in Asia and the Pacific. The PPP Monitor features also a data-driven, interactive online version that allows users to compare and contrast the key PPP parameters and attributes across the featured DMCs. While the featured countries represent a small sample, more countries will be continually added into the PPP Monitor, which is expected to become a knowledge base for the government and the business community for assessing a country's PPP environment.

The PPP Monitor provides a snapshot of the overall PPP landscape in the country. This downloadable guide also assesses more than 500 qualitative and quantitative indicators that have been structured per topic—the national PPP landscape, the sector-specific PPP landscape (for nine identified infrastructure sectors with a separate section for other sectors), and the PPP landscape for local government projects. The PPP Monitor also captures the critical macroeconomic and infrastructure sector indicators (including the new Business Ready [B-Ready] 2024 scores) from globally accepted sources.

Each of the topics and associated subtopics presented below is characterized by qualitative and quantitative indicators. Qualitative indicators take the form of a question to which "Yes," "No," "Not Applicable," or "Unavailable" answers can be given. Quantitative indicators are represented in the form of numbers, ratios, investment value, and duration.

For each of the DMCs covered, the information and data are organized along the following topic clusters:

Overview

Topic	Subtopics
Overview	• Overview of the PPP legal and regulatory framework • Number of PPP projects reaching financial close from 1990 till end of 2023 across sectors • Total investment made in PPPs from 1990 to 2023 across sectors • Features of past PPP projects including number of PPPs procured through various modes • Number of PPP projects under preparation and procurement • Number of PPP projects supported by the government • Payment mechanism for PPPs • Foreign sponsor participation in PPPs from 1990 to 2023 • Challenges associated with the PPP landscape in the country

National Public–Private Partnership Landscape Indicators

To profile the national PPP landscape, the indicators are grouped into three major categories: national PPP enabling framework, government support for PPP projects, and maturity of the PPP market.

Topic	Subtopics
National PPP legal and regulatory framework	• Details on the legal and regulatory framework applicable to PPPs and its evolution since the introduction of PPPs in the country • Details on the other supporting laws and regulations governing PPPs in the country
PPP types	• Details on the PPP types allowed to be used according to the PPP legal and regulatory framework. In case the PPP legal and regulatory framework does not specify PPP types, this section provides the details on the specific PPP types that have been adopted for various PPP projects at various stages of the PPP life cycle
Eligible sectors	• Details on various infrastructure sectors for which projects could be procured via the PPP route according to the PPP legal and regulatory framework
PPP institutional framework	• Details on the PPP institutional framework, including availability of a PPP unit, functions of the PPP unit, principal public entities associated with PPPs and their respective functions, and public entities responsible for PPP project identification, appraisal, approval, oversight, and monitoring
The PPP process	• Details on the various stages of the PPP process, including PPP project identification, preparation, structuring, procurement, and management according to the PPP legal and regulatory framework in the country
PPP standard operating procedures, toolkits, templates, and model bid documents	• Details on the standard operating procedures, and standard templates or model bidding documents available for PPPs (if any) • Details on the key clauses in a PPP agreement based on review of select PPP agreements already executed and/or of the PPP legal and regulatory framework
Lenders' security rights	• Rights of lenders, including the charge of project assets
Termination and compensation	• Definition on whether the private player is eligible for compensation in case of PPP project termination for various reasons
Unsolicited PPP proposals	• Details on the possibility of submission of unsolicited PPP proposals, and their treatment, including potential advantages provided to the unsolicited PPP proposal proponent at the PPP procurement stage
Foreign investor participation restrictions	• Definition on whether there are any statutory restrictions on foreign equity investments and ownership in PPP projects
Dispute resolution	• Definition of the dispute resolution process and the mechanisms available in the country
Environmental and social issues	• Details on whether the legal and regulatory framework governing PPPs stipulates a mechanism for managing the environmental and social impacts of a PPP project, including potential environmental and social issues that a PPP project could cause
Land rights	• Definition of the various mechanisms through which landownership and/or land use rights could be provided to the private partner in respect of the project site for a PPP project • Details on land records and registration that could be provided to the private partner
Government financial support for PPP projects	• Details on the various mechanisms of government financial support available to make PPP projects financially viable, including funding and revenue support • Salient features of government financial support mechanisms available

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Topic	Subtopics
Project development funding support	• Details on the various sources through which funding could be availed for the development activities (preparation, structuring, and procurement) of a PPP project • Details on stages of the PPP project development during which such funding could be availed and utilized, including payments to transaction advisors
PPP project statistics	• Details on the key PPP statistics in the country, such as availability of (i) a PPP database showing distribution of PPP projects across sectors and across various stages of the PPP life cycle and (ii) a national PPP project pipeline and its alignment with the National Infrastructure Plan for the country
Sources of PPP financing	• Details on the sources of financing for PPP projects in the country • Details on typical key financing terms for various sources of financing, banks active in project finance for the past 24 months, active PPP project sponsors in the country for the past 24 months, availability of a derivatives market, and availability of credit rating agencies in the country

Sector-Specific Public–Private Partnership Landscape Indicators

To profile the sector-specific PPP landscape, the indicators are grouped into five major categories: (i) sector-specific PPP contracting agencies, (ii) sector laws and regulations, (iii) sector master plan (including sector-specific PPP pipeline), (iv) features of past PPP projects in the sector, and (v) sector-specific challenges for PPPs. Sectors that do not appear consistently across the featured countries are covered under the “Other Sectors” category in the sector-specific PPP landscape.

Topic	Subtopics
Implementing agencies in the sector	• Details on which government agencies could act as the contracting agencies for a PPP project
Sector laws and regulations	• Details on the applicable sector laws and regulations for PPP projects, including the sector regulators and their respective functions
Foreign investment restrictions in the sector	• Details on the maximum allowed foreign equity investment in greenfield PPP projects in the sector
Standard contracts in the sector	• Specification on whether standard contracts are available for PPP projects in the sector
Sector master plan	• Details on the master plan and/or road map adopted for infrastructure development in the sector by the national government and the corresponding line ministry • Details on the pipeline of PPP projects for the sector aligned with this sector master plan and/or road map • Details on the PPP projects under preparation and procurement in the sector
Features of past PPP projects	• Features of past PPP projects based on supporting indicators in terms of the number and value (where applicable) of PPP projects for each supporting indicator
Tariffs applicable to the sector	• Details on the indicative tariffs applicable in the sector based on the examples of select PPP or other projects operational in the sector

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Topic	Subtopics
Typical risk allocation for PPP projects in the sector	• Details on the typical risk allocation between the government contracting agency and the private partner based on examples of select PPP projects that have achieved commercial close
Financing details for PPP projects in the sector	• Typical financing details based on past PPP projects on the lines of the supporting indicators
Challenges associated with PPPs in the sector	• Details on the PPP-related and sector-specific challenges facing PPP projects in the sector

Local Government Public–Private Partnership Landscape

To profile the PPP landscape for local government projects, the indicators are grouped into seven major categories: (i) local governance system, (ii) infrastructure development plans for local governments, (iii) sectors in which local governments can implement PPPs, (iv) revenue sources for local governments, (v) borrowings by local governments, (vi) budgetary allocation to local governments, and (vii) credit rating of local governments.

Topic	Subtopics
Key indicators related to local governments in the country	• Details on the local governments using select key indicators on (i) number and levels of local governments, (ii) typical expenditure profile and heads, (iii) typical revenue profile and heads, (iv) typical debt profile and heads, and (v) grants and transfers from the higher levels of government
Local governance system	• Details on the local governance system in the country, including the various levels of local governments; their roles, responsibilities, and functions; and the devolution of powers from the higher levels of government to the various levels of local governments
Infrastructure development plan for local governments	• Details on the infrastructure development plans prepared by the local governments based on their capital investment projects in the pipeline, and the coverage of such infrastructure development plans
PPP enabling framework for local governments	• Details on the PPP enabling framework applicable to local government PPP projects, including PPP legal and regulatory framework, PPP policy framework, and PPP institutional framework
Eligible sectors for PPPs for local governments	• Details on the eligible sectors in which PPPs could be undertaken by the local government as government contracting agency
Revenues for local governments	• Details on the typical sources of revenue for local governments
Borrowings by local governments	• Details on the typical sources of debt financing available for local governments and the purpose for which borrowed funds could be used
Budgetary allocation to local governments	• Details on the budgetary allocations and transfers to the local governments from the higher levels of government
Credit rating of local governments	• Details on the precedence of local governments being rated by credit rating agencies in the country, and the details of credit ratings obtained by select local governments in the past

Time Periods

The research was carried out in 2024 to reflect its status as of the end of 2023. Therefore, some indicator data may have changed between the said period and the publication date of this report.

In country- and sector-level sections, quantitative data in relation to the number of projects reflect the cumulative number of projects over the periods 1990–2021, 1990–2022, and 1990–2023. Otherwise, the data represent the status of each year.

The listed pipeline projects per sector, however, cover PPP pipeline projects published by the PPP Center as of October 2024.

I. Overview

The Philippines recognizes the indispensable role of the private sector, encourages private enterprise, and provides incentives for needed investments.[1] This state policy, embodied in the 1987 Philippine Constitution, provides the impetus for public–private partnerships (PPPs) in the Philippines. These have been a key component of the overall strategy and development agenda of the Government of the Philippines for inclusive growth.

The country prides itself on having had a well-developed and vibrant PPP framework since the 1990s, with the advent of its build–operate–transfer (BOT) law, Republic Act No. 6957, and its amendatory legislation, Republic Act No. 7718 ("Amended BOT Law"). Since 2010, the Philippine government has introduced many governance reforms to the BOT framework governing PPPs. These reforms include the establishment of the PPP Governing Board (PPPGB), the Public–Private Partnership Center of the Philippines (PPP Center), and the Project Development and Monitoring Facility (PDMF) to provide financial support in preparing PPP projects. The PPPGB issues policy circulars and resolutions clearly defining and detailing PPP processes and mechanisms, including the roles, responsibilities, and functions of various parties involved in a PPP; ways to identify PPP projects (via Multi-Criteria Analysis [MCA]); termination payments; preferred risk allocation; and environmental and social safeguards for PPPs, among others.

The PPP Center has proved to be working efficiently in facilitating PPP project preparation and development, building the capacity of government contracting agencies, advocating policy reforms, monitoring the implementation of PPP projects, and building up a PPP knowledge system. It also builds partnerships with organizations that aim to accelerate infrastructure development in the countryside, such as the Mindanao Development Authority, the Development Academy of the Philippines, and the League of Cities of the Philippines. The project preparation and bidding are generally carried out using experienced, international transaction advisors through the PDMF.[2] In addition to performing its coordination and monitoring functions, the PPP Center has been actively implementing capacity-building activities with implementing agencies, including local government units (LGUs) and water districts, in partnership with the Asian Development Bank (ADB), World Bank, and Infrastructure Asia among others.

In 2020, coronavirus disease (COVID-19) was declared a global pandemic. According to the World Bank, the Philippines was one of the countries hit hardest in the East Asia and Pacific region.[3] The country went into one of the world's longest and strictest lockdowns beginning in March of that year. For more than a year, most of the country was under some form of mobility restriction. In the second quarter of 2020, the economy went into its deepest contraction, at −16.9%.[4] Nevertheless, the Philippines is still one of the most dynamic economies in the East Asia and Pacific region. Its economic dynamism is rooted in strong consumer demand supported by a vibrant labor market and robust remittances. The poverty rate declined from 23.3% in 2015 to 18.1% in 2021 despite the

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1 Republic of the Philippines. 1987. *The Constitution of the Republic of the Philippines.*
2 ADB. 2020. *Public–Private Partnership Monitor: Philippines.*
3 World Bank. 2022. Supporting the Philippines' COVID-19 Emergency Response.
4 Government of the Philippines. 2023. *Philippine Development Plan 2023–2028.*

shocks endured by the COVID-19 pandemic and other global headwinds, such as high global commodity prices and tight global financial conditions. The Philippine economy remained robust at 5.5% growth in 2023, which is among the top growth performances in the East Asia and Pacific region. Over the medium term, the growth outlook continues to be supported by strong domestic demand, driven by a robust labor market, continued public investments, and the positive effects of recent investment policy reforms that could boost private investment.[5]

The global economy was expected to rebound after the pandemic, but Russia's war in Ukraine from February 2022 caused commodity prices to increase. The Philippines' nominal debt nearly doubled, from ₱7.7 trillion ($132.06 billion as of 28 October 2024) in 2019 to around ₱13.4 trillion ($229.81 billion as of 28 October 2024) right after the pandemic. Geopolitical tensions meant the cost of borrowings climbed post-pandemic as central banks raised their interest rates to combat inflation. The Philippines is refinancing the large borrowings contracted during the low interest period in 2020–2022 with new debts that bear higher interest rates. The country is using debt to spur economic recovery by investing in more infrastructure and human capital development, even as it aims to push its debt-to-gross domestic product (GDP) ratio below 60% in the medium term.[6] As of the first half of 2024, the Philippines' debt-to-GDP ratio stood at 60.9%, down from 61.0% a year before.[7]

Taking off from lessons learned from the COVID-19 pandemic, the Philippine government adopted the Philippine Development Plan 2023–2028 (PDP) in early 2023.[8] The PDP is based on an eight-point socioeconomic agenda consisting of food security, improved transportation, affordable and clean energy, health care, education, social services, sound fiscal management, and bureaucratic efficiency. It seeks to enhance connectivity through infrastructure and transport to link markets to each other, as well as to pursue greater collaboration between the local and national governments and operationalize the Philippine Supreme Court's ruling in the Mandanas-Garcia case to optimize the sharing of responsibility between them.[9] It also recognizes the rationale for favoring PPPs in enhancing and upgrading infrastructure, given the country's tight national fiscal space constraining public investments. Over the PDP's implementation period, annual spending on infrastructure is estimated at 5%–6% of GDP, and, in line with this, the government will continue to tap viable funding mechanisms to augment public resources in financing critical infrastructure projects, such as reinvigorating PPPs in financing priority infrastructure projects.[10]

Challenges encountered by various implementing agencies and lessons learned in PPPs for over 3 decades led to the passage in December 2023 of the Public–Private Partnership Code of the Philippines (Republic Act No. 11966) ("PPP Code"). The PPP Code effects major reforms in the PPP framework to achieve three main objectives: addressing ambiguities in the existing law, responding to key challenges affecting the implementation of PPP projects, and fostering a more competitive and enabling environment for PPPs. The PPP Code repeals, among others, the Amended BOT Law and consolidates the legal frameworks for private sector participation in both national and local infrastructure and development projects, including joint venture arrangements and other contractual arrangements for toll road projects or toll facilities. The Implementing Rules and Regulations (IRR) of the PPP Code were issued in 2024.

Apart from the PPP Code, a key reform supporting PPPs has been relaxation of the nationality requirement for investment in certain sectors. Earlier, in 2022, the Philippines amended the Public Service Act by limiting the

[5] World Bank. Philippines Overview.
[6] Department of Finance. 2024. Agenda for Prosperity: Fulfilling the Needs and Aspirations of the Filipino People – Revenue and Financing Program.
[7] Bureau of the Treasury. 2024. National Government H1 2024 Fiscal Deficit at 4.9% of GDP Debt Ratio Recorded at 60.9%.
[8] Government of the Philippines. 2023. *Executive Order No. 14, Series of 2023.*
[9] See Supreme Court of the Philippines. 2018. *Mandanas v. Ochoa, G.R. No. 199802*.
[10] Government of the Philippines. 2023. *Philippine Development Plan 2023–2028*.

public utilities that are subject to the 60% Filipino nationality requirement under the Philippine Constitution to only those that operate, manage, or control in the following sectors: distribution or transmission of electricity; petroleum and petroleum product pipeline transmission systems; water pipeline distribution systems and wastewater pipeline systems, including sewerage pipeline systems; seaports; and public utility vehicles.[11] Also in 2022, the Department of Energy (DOE) removed the nationality requirement for renewable energy in relation to the exploration, development, and utilization of solar, wind, hydro, and ocean or tidal energy.[12] The government continues to push for further critical reforms to sustain economic growth in the medium to long term, such as reforms to the Philippine capital markets, amendments to the Right-of-Way Act, creation of a Department of Water Resources, amendments to the Foreign Investors' Long-Term Lease Act, and amendments to the Electric Power Industry Reform Act (EPIRA).[13]

Despite these reforms, the Philippines' world competitiveness is far from ideal. Out of 67 countries, it currently ranks 52nd in terms of overall performance, dropping seven notches from 45th place in 2020 to 52nd place in 2023 in IMD's World Competitiveness Rankings. The Philippines is also at the bottom of the list among its neighboring peers, ranking 13th out of 14 countries in Asia and the Pacific. In infrastructure, the Philippines ranks 61st out of 67 countries, with its positions for infrastructure for health and environment and for education at a low 61 and 63, respectively.[14]

To bridge the infrastructure gap, the National Economic and Development Authority (NEDA) approved 75 infrastructure flagship projects (IFPs) in 2017 under the Build-Build-Build Program of the previous administration, costing ₱1.6 trillion ($27.44 billion as of 28 October 2024), which was later increased to 112 in 2021 with a total cost of ₱4.7 trillion ($80.6 billion as of 28 October 2024). However, most of these IFPs were financed through official development assistance (ODA), and not PPPs. In 2023, NEDA introduced the IFPs under the Build-Better-More Program.[15] The IFPs represent vital and transformative infrastructure initiatives that are urgently required to exemplify the overall Build-Better-More Program. They will be incentivized and be given priority in budget preparation and review and processing of approvals, clearances, and authorizations, within the processing time and deadlines provided by law.[16] As of August 2024, there are 47 IFPs that are identified as PPP projects under physical connectivity (roads and bridges, rail, air, urban transport, maritime, and data management) and health, with a indicative total project costs of ₱2,852.05 billion ($48.92 billion as of 28 October 2024).[17]

In the government's approved national budget of ₱6.326 trillion ($108.49 billion as of 28 October 2024) under the General Appropriations Act (GAA) for the fiscal year 2025, education and health are top priorities. Education has the highest allocation at 16.7%, or ₱1.055 trillion ($18.09 billion as of 28 October 2024), while health accounts for 4.2% of the national budget, or ₱267.8 billion ($4.59 billion as of 28 October 2024). The government will finance the construction of at least 6,000 classrooms and continue the implementation of the Universal Health Care Act. Agriculture receives 3.8%, or ₱237.4 billion ($4.07 billion as of 28 October 2024) to support farmers and fisherfolk. To finance the administration's flagship Build-Better-More Program, the

11 Government of the Philippines. 2021. *Republic Act No. 11659*. However, the amendment restricts foreign equity in entities engaged in the operation and management of critical infrastructure such as telecommunications to 50%, unless the country of the foreign investor accords reciprocity to Philippine nationals.

12 See section on Foreign Investor Participation Restrictions for details on the current nationality requirements of the Philippines.

13 National Economic and Development Authority (NEDA). 2024. Agenda for Prosperity: Fulfilling the Needs and Aspirations of the Filipino People – Updates on the Philippine Development Plan and Recent Economic Outlook.

14 IMD. Philippines.

15 The Build-Better-More Program is the infrastructure program of the Philippine government. Under the strategy framework of the PDP, the overarching objective for the infrastructure sector over the medium term is to build better more, to enable economic transformation for a prosperous, inclusive, and resilient society.

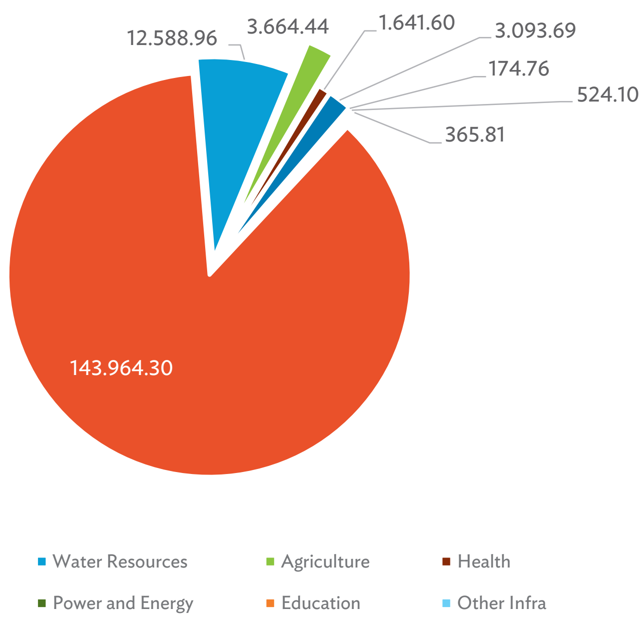
16 NEDA. 2023. Infrastructure Flagship Projects (IFPs) under the Build-Better-More Program.

17 NEDA. 2024. Infrastructure Flagship Projects (accessed 27 October 2024).

Department of Public Works and Highways (DPWH) has been allocated the second-highest budget at 15.9%, or ₱1.007 trillion ($17.27 billion as of 28 October 2024) while the Department of Transportation (DOTr) receives the highest increase, from ₱74 billion ($1.27 billion as of 28 October 2024) in 2024 to ₱123.7 billion ($2.12 billion as of 28 October 2024), accounting for 2% of the national budget for 2025.[18]

The Philippines currently maintains two lists of infrastructure projects. The PPP Center maintains a database of PPP projects and publishes a list of PPP projects identified across various sectors. NEDA publishes the list of IFPs that are funded by government appropriations under the General Appropriations Act (GAA), ODA and/or PPPs. Figure 1 shows the priority infrastructure projects that are ongoing and planned across the various IFP sectors (physical connectivity, water resources, agriculture, health, digital connectivity, power and energy, education, and other infrastructure), regardless of funding source, with the indicative total project costs per sector (in $ million). Projects in the physical connectivity sector account for the largest share in value, with 135 projects for roads, railways, ports, airports, and other transport having a total indicative project cost of ₱8,394.42 billion ($143,964.30 million as of 28 October 2024).

Figure 1: Indicative Total Project Costs of Infrastructure Flagship Projects by Sector, as of August 2024
($ million)

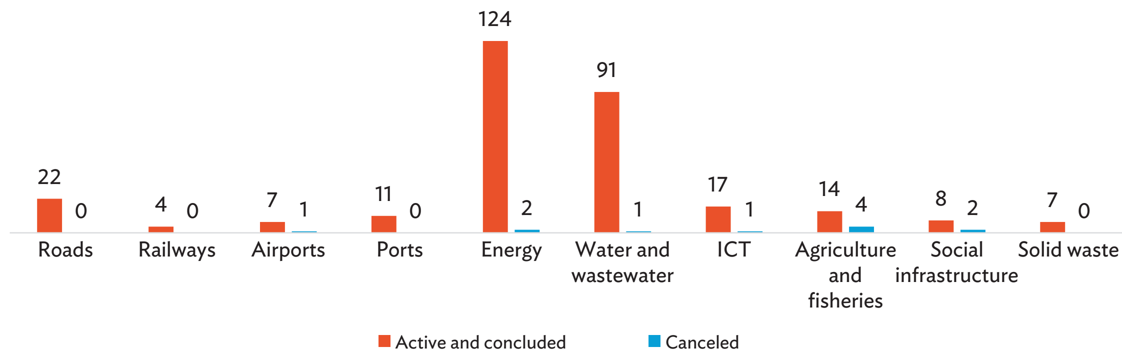


Note: Physical connectivity projects include roads, railways, ports, airports, and other transport projects while digital connectivity projects include broadband, data center, digital infrastructure, and Philippine Identification System.
Source: NEDA. 2024. Infrastructure Flagship Projects (accessed 27 October 2024).

[18] Department of Budget and Management (DBM). 2024. Agenda for Prosperity: Fulfilling the Needs and Aspirations of the Filipino People – FY 2025 Total Expenditure Program; Department of Budget and Management. 2024. Briefer on the 2025 Proposed National Budget AGENDA FOR PROSPERITY: Fulfilling the Needs and Aspirations of the Filipino People; Government of the Philippines. 2025. *General Appropriations Act (GAA) FY 2025*; Presidential Communications Office. 2024. Education remains top priority in ₱6.32T nat'l budget.

From 1990 to 2023, about 305 PPP projects from different sectors successfully achieved financial closure, excluding those that were canceled.[19] During this period, 11 PPP projects were canceled (3.48% of the total number of projects).[20] Figure 2 shows the number of PPP projects that achieved financial closure and that were canceled.

Figure 2: Public–Private Partnership Projects Financially Closed and Canceled, 1990–2023

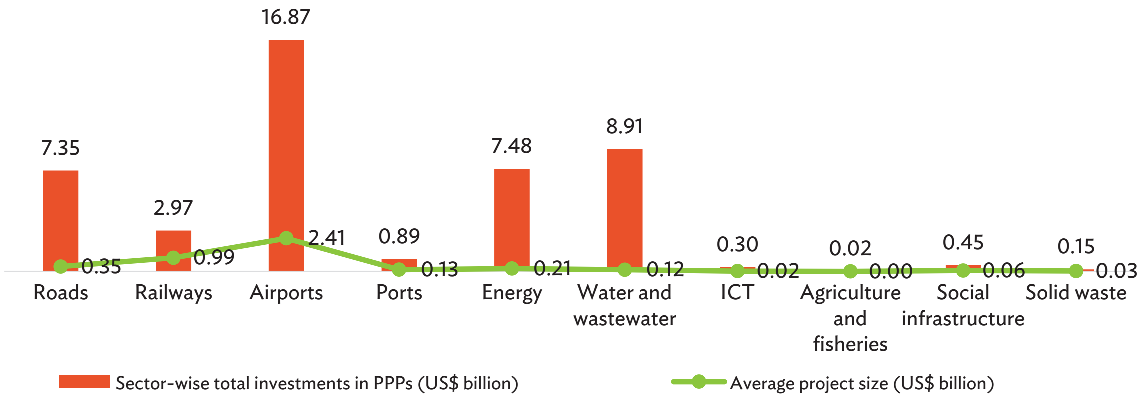


ICT = information and communication technology.
Note: Total projects include projects that are active, concluded, and canceled. For the purpose of the graph, PPP projects noted as "under implementation" in the PPP Center Projects List/Database are assumed to have reached financial closure. The roads sector includes road transport projects such as terminals. The energy sector includes FIT projects. The agriculture and fisheries sector includes public market projects.
Sources: Department of Energy (DOE). 2024. List of Renewable Energy (RE) Plants with Certificate of Endorsement (COE) to Energy Regulatory Commission (ERC) for Feed-in Tariff (FIT) Eligibility as of March 2024; PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. Infrastructure Finance, PPPs and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 28 August 2024); Tavidell Law.

[19] PPP projects "under implementation" in the PPP Center database are assumed to have reached financial closure.
[20] PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. Infrastructure Finance, PPPs and Guarantees. Country Snapshots. Philippines.

Figure 3 depicts total investment in each sector from 1990 to 2023, and the average size of a PPP project in each of these sectors. Table 1 lists the major sponsors that are active in the infrastructure sector.

Figure 3: Investments in Public–Private Partnerships by Sector, 1990–2023



ICT = information and communication technology.
Note: Total projects include projects that are active, concluded, and canceled. Energy projects under a feed-in tariff scheme are not considered for the purpose of this graph. Projects for which the value of PPP is unavailable have been excluded for the purpose of total and average investment calculations.
Sources: DOE. 2024. List of Renewable Energy (RE) Plants with Certificate of Endorsement (COE) to Energy Regulatory Commission (ERC) for Feed-in Tariff (FIT) Eligibility as of March 2024; PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. Infrastructure Finance, PPPs and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 28 August 2024); Tavidell Law.

Table 1 lists the major sponsors active in the infrastructure sector in the Philippines, with at least three PPP projects under implementation, preparation, or procurement for the period 1990–2023.

Table 1: Major Sponsors Active in the Infrastructure Sector

Project Sponsor	Country of Origin	Number of PPP Projects
Aboitiz InfraCapital, Inc./Aboitiz Equity Ventures/Aboitiz Power	Philippines	8
Alsons Power Group	Philippines	4
Ayala Corporation	Philippines	6
Citicore Holdings Investment, Inc.	Philippines	5
International Container Terminal Services Inc.	Philippines	3
JG Summit Holdings, Inc.	Philippines	3
Manila Water Company, Inc.	Philippines	11
Marubeni Corporation	Japan	8
Megawide Construction Corporation	Philippines	7
Metro Pacific Investments Corporation	Philippines	19

continued on next page

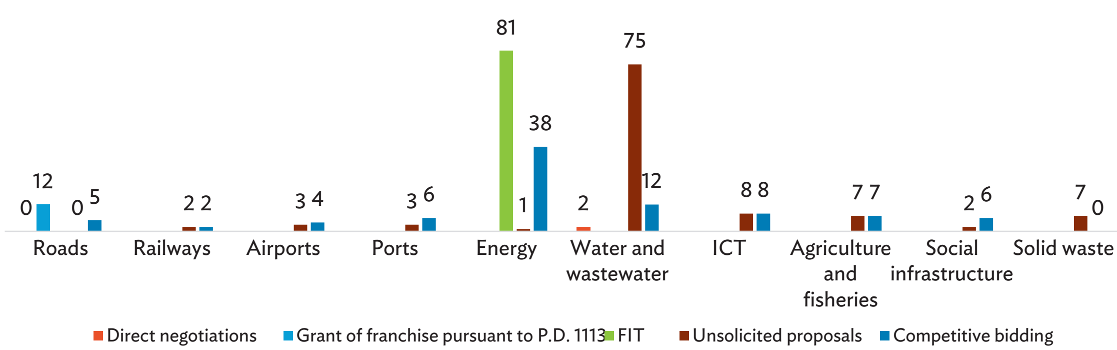
Table 1 *continued*

Project Sponsor	Country of Origin	Number of PPP Projects
MTD Capital Berhad	Malaysia	4
Ormat Inc.	United States	3
Pamana Water Corporation	Philippines	4
Prime Asset Ventures, Inc./PrimeWater Infrastructure Corporation	Philippines	55
SMC Infrastructure/San Miguel Holdings Corporation	Philippines	23
Udenna Infrastructure Corporation	Philippines	5
Unisys Australia, Limited	Australia	4

Sources: DOE. 2024. List of Renewable Energy (RE) Plants with Certificate of Endorsement (COE) to Energy Regulatory Commission (ERC) for Feed-in Tariff (FIT) Eligibility as of March 2024; PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. Infrastructure Finance, PPPs and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 28 August 2024); Tavidell Law.

From 1990 to 2023, 88 PPP projects were procured through a competitive bidding process and 108 through unsolicited proposals (USPs) across various infrastructure sectors. Further, 12 PPP projects were procured through the granting of a franchise (a supplemental toll operation agreement) for road projects pursuant to Presidential Decree Nos. 1112 (Toll Operation Decree) and 1113, as amended. In addition, 81 renewable energy projects were issued certificates of endorsement by the DOE to the Energy Regulatory Commission (ERC) for feed-in-tariff (FIT) eligibility.

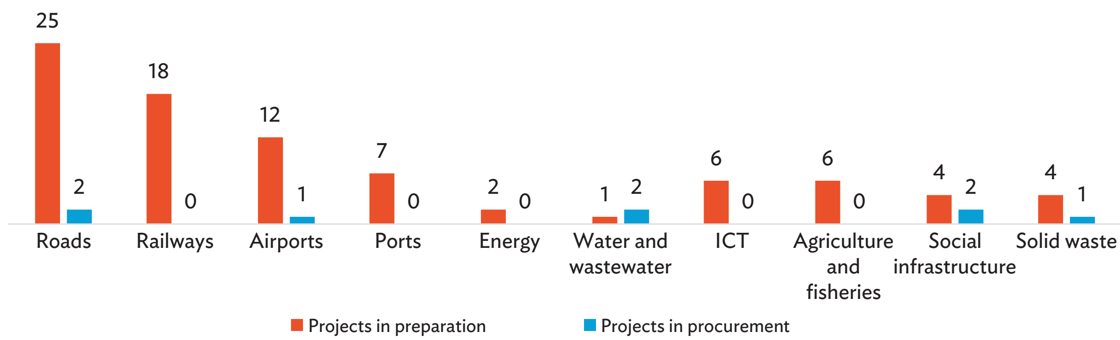
Figure 4: Various Modes of Procuring Public–Private Partnership Projects, 1990–2023



FIT = feed-in-tariff, ICT = information and communication technology, P.D. = Presidential Decree.
Note: Total projects include projects that are active and concluded, and for which procurement information is available.
Sources: DOE. 2024. List of Renewable Energy (RE) Plants with Certificate of Endorsement (COE) to Energy Regulatory Commission (ERC) for Feed-in Tariff (FIT) Eligibility as of March 2024; PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. Infrastructure Finance, PPPs and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 28 August 2024); Tavidell Law.

Figure 5 shows the number of projects under preparation and procurement in 2023.

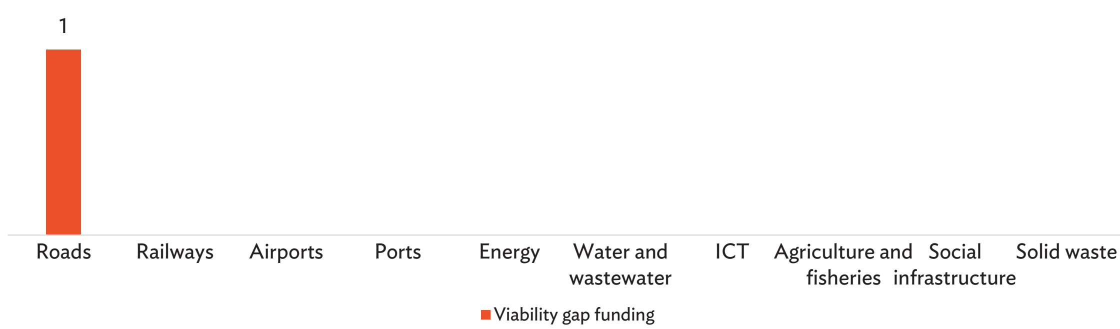
Figure 5: Public–Private Partnership Projects Under Preparation and Procurement, 2023



ICT = information and communication technology.
Note: The roads sector includes road transport projects such as bus transport, public transport modernization, transportation database, terminal, and active transport projects. The ports sector includes port services and transport such as ferry system projects. The air traffic services-air navigation services project is under ICT. The agriculture and fisheries sector includes food hub, slaughterhouse and public market projects.
Source: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024).

From 1990 to 2023, one project was supported through viability gap funding (VGF) and none of the PPPs benefited from a government guarantee (Figure 6).

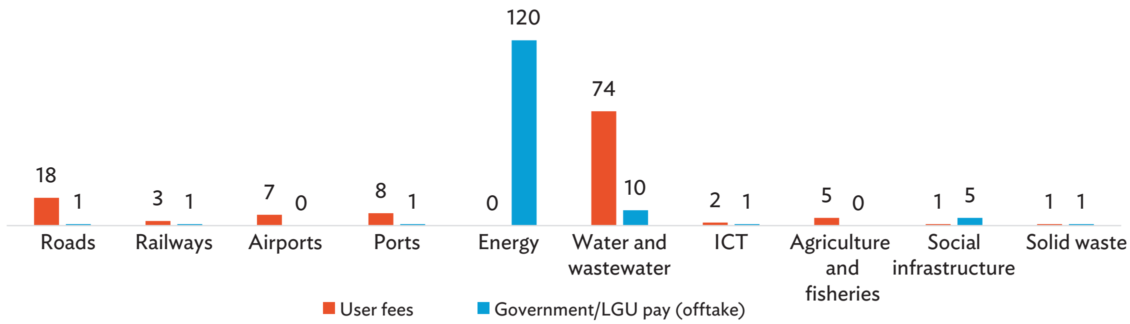
Figure 6: Public–Private Partnership Projects with Government Support, 1990–2023



ICT = information and communication technology.
Sources: DOE. 2024. List of Renewable Energy (RE) Plants with Certificate of Endorsement (COE) to Energy Regulatory Commission (ERC) for Feed-in Tariff (FIT) Eligibility as of March 2024; PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. Infrastructure Finance, PPPs and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 28 August 2024); Tavidell Law.

During the same period, 119 PPP projects were awarded based on user charges, and 140 PPP projects based on government/LGU pay (offtake) (Figure 7).

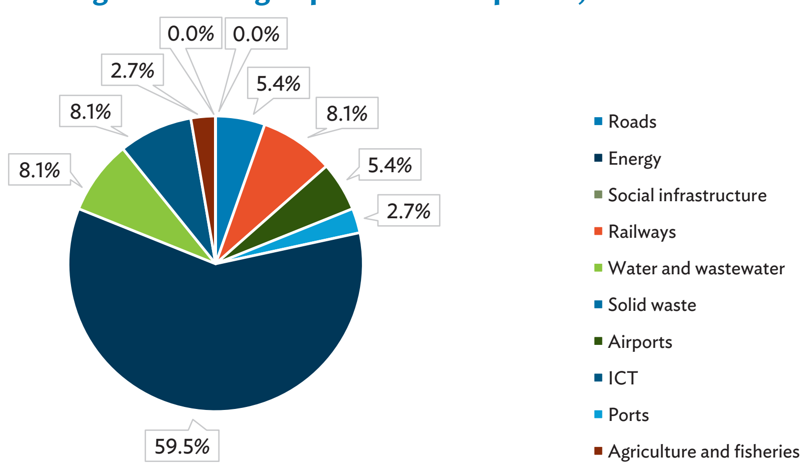
Figure 7: Payment Mechanism for Public–Private Partnerships, 1990–2023



ICT = information and communication technology, LGU = local government unit.
Note: The graph does not reflect projects where information on their respective payment mechanisms is unavailable.
Sources: DOE. 2024. List of Renewable Energy (RE) Plants with Certificate of Endorsement (COE) to Energy Regulatory Commission (ERC) for Feed-in Tariff (FIT) Eligibility as of March 2024; PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. Infrastructure Finance, PPPs and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 28 August 2024); Tavidell Law.

Over the past decade, the Philippines has witnessed the active participation of foreign sponsors. A total of 37 projects have attracted participation from foreign sponsors, predominantly in the energy sector. Figure 8 shows the distribution of PPP projects across various infrastructure sectors.

Figure 8: Foreign Sponsor Participation, 1990–2023



ICT = information and communication technology.
Note: The graph does not reflect projects where information on foreign sponsor participation is unavailable.
Sources: DOE. 2024. List of Renewable Energy (RE) Plants with Certificate of Endorsement (COE) to Energy Regulatory Commission (ERC) for Feed-in Tariff (FIT) Eligibility as of March 2024; PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. Infrastructure Finance, PPPs and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 28 August 2024); Tavidell Law.

Government's Strategy Action Plan for Public–Private Partnerships

Through the years, the Philippine government has made great strides in pursuing an enabling environment for PPPs in the country. Its efforts to address regulatory roadblocks have included lifting foreign ownership restrictions on certain sectors, enacting the PPP Code, and prioritizing bills to improve institutional arrangements and introduce reforms in key sectors, among others. The PDP highlights the importance of PPPs at the national and local levels and, as such, the Philippine government continues to pursue efforts to improve the enabling environment for PPPs.

The PDP's strategy action plans for private sector participation/engagement include the following

- Reconfigure PPPs through the enactment of the PPP Code to address crosscutting issues of a weak competition environment and attract foreign investments.
- Prepare infrastructure sectoral master plans and road map to provide a more comprehensive understanding of infrastructure gaps and needs and serve as a sound basis for identifying PPPs.
- Strengthen PPPs on technical and vocational education and training.
- Create and facilitate the adoption of modern production technologies for the agriculture, forestry, and fisheries sector.
- Strengthen the role of domestic investor firms, especially in rural areas, in drawing foreign partnerships in greenfield investments.
- Examine unique PPP transaction arrangements with the private sector, especially for the agriculture, forestry, and fisheries sector.
- Foster capital market development by incentivizing PPPs to become publicly listed firms and supporting the development of a local credit market and a credible and independent LGU credit rating system.
- Improve/upgrade existing airports to meet aerodrome design safety standards set by international and local airport authorities.
- Encourage PPPs to enhance and strengthen investments in managing and developing water infrastructure and services and manage obstacles to private sector participation.
- Foster the resilience of communities and institutions.
- Support private sector partners in aligning their respective environmental, social, and governance targets and investments (e.g., corporate social responsibility programs) with local priorities and targets on climate change adaptation and disaster risk reduction to efficiently allocate limited resources toward building resilience.[21]

[21] Government of the Philippines. 2023. *Philippine Development (PDP) Plan 2023–2028.*

Challenges to Public–Private Partnerships in the Philippines

Government spending, along with the timely implementation of programs and projects under the national budget and capital formation through the implementation of the government's infrastructure and PPP programs, is expected to drive growth. On the other hand, risks to the growth outlook include, among others, the effects of climate change, delays in the enactment of critical reforms, weak absorptive capacity of implementing agencies and LGUs, and geopolitical tensions and conflicts.[22]

The PPP Code has come a long way in relation to addressing the major issues that have hounded PPPs in the Philippines over the years. Still, further legal, regulatory, and institutional reforms are necessary to address the following remaining key challenges to PPPs

- delays in right-of-way (ROW) or site acquisition by the government, which delay/adversely affect the implementation of PPP projects;
- political and regulatory risks occasioned by political interference in the rate-setting and adjustment mechanisms of PPP contracts, and inability of PPP contracts to endure changes in the administration, which are among the major deterrents in attracting investors, especially international entities, to participate in the country's PPP program;
- lack of clarity and efficiency in the payment of government compensation or financial support to the concessionaire, which requires an appropriation and a determination by the Commission on Audit (COA), which has jurisdiction over money claims against the Philippine government, as well as lack of a robust framework for managing fiscal commitment and contingent liabilities;
- application of the nationality requirement to sectors as required by the Constitution and certain laws, especially since the nationality requirement not only limits the ownership of the entity and the composition of the board of directors but also requires that all executive and managing officers of the entity must be Filipinos. Meeting qualification and prequalification requirements to comply with nationality requirements, especially for listed companies, is also a challenge during procurement, thus limiting competition;
- major changes to the project structure, terms, and conditions of PPP projects after they are already launched for bidding, thereby delaying procurement or even resulting in bidding failure;
- the assessment of unpaid real property tax and related enforcement actions taken by certain LGUs on certain PPP project assets, which has become an issue during the procurement of some PPP projects, such as the Manila Light Rail Transit (LRT)-1 Cavite Extension Operation and Maintenance, Mactan–Cebu International Airport (MCIA), and Cavite–Laguna Expressway projects;[23]
- challenges within the implementing agency, including lack of capacity to review and appraise projects and related contracts, interface issues related to the coordination of various teams within the implementing agency, and limited capacity and lacking guidelines for monitoring and evaluation (M&E) of projects;

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22 NEDA. 2024. Agenda for Prosperity: Fulfilling the Needs and Aspirations of the Filipino People – Updates on the Philippine Development Plan and Recent Economic Outlook.

23 Following issues raised by bidders during the procurement of these projects concerning real property tax, the government assumed liability for real property tax due to LGUs on project assets, except those relating to the commercial business of the concessionaire.

- unwillingness on the part of implementing agencies to enter into a direct agreement with project finance lenders. Existing PPP contracts permit only an acknowledgment and consent agreement (in prescribed form annexed to the PPP contract) to be signed among the implementing agency, the concessionaire and the lender's agent, wherein the implementing agency acknowledges the assignment by the concessionaire of its rights under the PPP contract and the creation of permitted security interest;
- despite improvements in the USP framework under the PPP Code, presence of the original proponent's right to match continuing to act as a deterrent to comparative bidders, making USPs less competitive and not aligned with the framework for solicited PPPs and best practices;
- challenges to arbitration, which include a legal framework imposing mandatory referral of construction-related disputes to a Philippine quasi-judicial institution, the Construction Industry Arbitration Commission, and the related judicial process, which often takes several years to conclude; and
- natural hazards, especially strong typhoons that hit the country every year, which are among the greatest challenges to PPP infrastructure in the Philippines. Infrastructure has to be designed, built, operated, and maintained to be climate and disaster resilient.

It is crucial that a pragmatic approach be put in place to address these challenges. This will require the cooperation of all three branches of the Philippine government: executive, legislative, and judicial.

II. National Public–Private Partnership Landscape

The Amended BOT Law and its IRR provided the primary enabling legal framework for PPPs in the Philippines in the 1990s. The enactment of the PPP Code on 5 December 2023 and the issuance of its IRR on 22 March 2024 significantly improved the enabling environment for PPPs in the country. The PPP Code repeals, among others, the Amended BOT Law and consolidates the legal frameworks for private sector participation in both national and local infrastructure and development projects, including joint venture arrangements and other contractual arrangements for toll road projects or toll facilities.

The PPP enabling framework in the Philippines now comprises the PPP Code, its IRR, and the guidelines issued by each of the Investment Coordination Committee (ICC) of the NEDA Board, the PPPGB, the PDMF Committee, the Development Budget Coordination Committee (DBCC), the COA, the regulatory boards, and the implementing agencies. On 25 April 2024, the NEDA Board approved the new NEDA Board–ICC Guidelines on the Review and Approval of PPP Proposals Requiring ICC and/or NEDA Board Approval pursuant to the PPP Code. The PPP Code and its IRR mandate the issuance of other guidelines to operationalize their provisions and to ensure efficient submission by implementing agencies.[24]

The PPP Code institutionalizes and strengthens the PPP Center and the PPPGB.

The powers and functions of the PPP Center include

- assisting implementing agencies in identifying, prioritizing, developing, and maintaining a pipeline of PPP projects;
- providing project advisory services and technical assistance to implementing agencies, approving bodies, and other oversight agencies in all PPP-related matters;
- reviewing PPP contracts for national PPP projects;
- providing regular monitoring and status reports on the implementation of the PPP program;
- developing the capacities of implementing agencies, approving bodies, PPP units, and other relevant government stakeholders on PPPs;
- serving as the central repository of all PPP project information;
- acting as procurement agent upon the request of the implementing agency;
- acting as secretariat to the PDMF Committee; and
- managing and administering the PDMF and now also the new PPP Risk Management Fund created under the PPP Code.

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[24] Please refer to Table 6 for the list of these guidelines. Although there are still some guidelines that have yet to be issued, this does not in any way prevent PPPs from proceeding pursuant to the PPP Code and its IRR. The guidelines, once issued, are, as a general rule, applied prospectively.

The PPP Center reports to the PPPGB and is attached to NEDA for policy and program coordination. The PPPGB is the overall policymaking body for all PPP-related matters, including the PDMF, and is responsible for setting the strategic direction of the PPP program and PPP projects and creating an enabling policy and institutional environment for PPPs.

As of August 2024, the NEDA Board has approved 186 IFPs with an indicative total project costs of ₱9,680.33 billion ($166.02 billion as of 28 October 2024) and were identified as PPP projects under physical connectivity (roads and bridges, rail, air, urban transport, maritime, and data management) and health for an indicative total project costs of ₱2,852.05 billion ($48.92 billion as of 28 October 2024).[25]

National Public–Private Partnership Enabling Framework

1. National Public–Private Partnership Legal and Regulatory Framework

Parameter	
Does the country have:	
• National PPP laws and regulations?	✓
• Public financial management laws and regulations?	✓
• Sector-specific laws and regulations?	✓
• Procurement laws and regulations?	✓
• Environmental laws and regulations?	✓
• Laws and regulations for social compliance?	✓
• Laws and regulations governing land acquisition and ownership?	✓
• Taxation laws and regulations?	✓
• Employment laws and regulations?	✓
• Licensing requirements?	✓
What are the other components of the PPP legal and regulatory framework?	Other key supporting components (elaborated below) include NEDA Board–ICC Guidelines on the Review and Approval of PPP Proposals Requiring ICC and/or NEDA Board Approval pursuant to the PPP Code, 25 April 2024; and other guidelines to be issued pursuant to the PPP Code and its IRR.

ICC = Investment Coordination Committee, IRR = Implementing Rules and Regulations, NEDA = National Economic and Development Authority, PPP = public–private partnership.
✓ = Yes, ✗ = No, NA = Not Applicable, UA = Unavailable.

[25] NEDA. 2024. Infrastructure Flagship Projects (accessed 27 October 2024).

Evolution of the Public–Private Partnership Legal and Regulatory Framework in the Philippines

For more than 3 decades, the Amended BOT Law had been the enabling law for PPPs in the Philippines—until the PPP Code took effect in December 2023. Although there were no changes to the Amended BOT Law after it took effect in 1994, its IRR was revised four times—in 2008, 2012, March 2022, and September 2022. Table 2 presents the evolution of the legal and regulatory framework of PPPs in the Philippines across the various administrations.

Table 2: Evolution of the Public–Private Partnership Legal and Regulatory Framework in the Philippines

Year	Enactment/Issuance	Description
President Corazon Aquino		
1987	Philippine Constitution	Declared that the state recognizes the indispensable role of the private sector, encourages private enterprise and provides incentives to needed investments
1989	Administrative Order No. 105	Create the Coordinated Council on Philippines Assistance Program (CCPAP) to take the lead role in coordinating efforts to effectively mobilize international aid and to ensure its successful implementation
1990	Build–Operate–Transfer Law (Republic Act No. 6957)	Authorized all government infrastructure agencies, including government-owned or controlled corporations (GOCCs) and LGUs to enter into contract with the private sector for the financing, construction, and operation and maintenance (O&M) of any financially viable infrastructure facility, but only through the build–operate–transfer (BOT) and build–transfer (BT) schemes, and on a solicited basis
1991	Local Government Code of 1991 (Republic Act No. 7160)	Empowered LGUs to exercise powers for its efficient and effective governance and those essential to the promotion of general welfare; authorized LGUs to discharge functions and responsibilities necessary, appropriate, or incidental to the efficient and effective provision of basic services and facilities through joint ventures and other cooperative arrangements with the private sector, such as PPPs
President Fidel Ramos		
1993	Memorandum Order No. 166	Directed the CCPAP chair, with the assistance of the CCPAP Secretariat, to establish and operate a one-stop BOT Center, to be accessible to both the public and private sectors
1994	Administrative Order No. 109	Created the Presidential Committee on Flagship Programs and Projects to orchestrate the identification, prioritization, and implementation of flagship programs and projects—that is, highly strategic infrastructure programs and projects approved by the President and the Cabinet
	Republic Act No. 7718	Authorized private sector participation not only in infrastructure projects but also in development projects, to be implemented through the various BOT schemes described therein and other variations approved by the President of the Philippines; authorized unsolicited proposals and direct negotiation; designated the CCPAP as the agency responsible for the coordination and monitoring of projects implemented under the law
	IRR of the Amended BOT Law	Implemented the provisions of the Amended BOT Law (Republic Act No. 6957, as amended by Republic Act No. 7718)

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Table 2 *continued*

Year	Enactment/Issuance	Description
President Joseph Estrada		
1999	Administrative Order No. 67	Converted the CCPAP into the Coordinating Council for Private Sector Participation (CCPSP), which was tasked to coordinate and monitor the program of the government on private sector participation (PSP) in its infrastructure and other development activities, expanded the coverage of the BOT Program into other forms of PSP; formalized provision by the CCPSP of technical assistance support through technical assistance agreements with implementing agencies
	Administrative Order No. 69	Prescribed procedures for review by the Local Water Utilities Administration (LWUA) of BOT and similar proposals on water supply and water districts
2000	Administrative Order No. 103	Reorganized the CCPSP by designating the chair of the Presidential Committee on Flagship Programs and Projects as ex-officio chair of the CCPAP
President Gloria Macapagal-Arroyo		
2002	Executive Order No. 144	Converted the CCPSP into the BOT Center to undertake activities related to the development of BOT, and also PSP programs and projects, including projects with ODA under the BOT Law, and assisting in BOT/PSP project development by providing technical assistance to national implementing agencies, including GOCCs and LGUs; empowered the BOT Center to establish, manage, and administer the Project Development Facility (PDF), a revolving fund technical assistance fund for the preparation of feasibility studies and bid documents
2008	Revised IRR of the Amended BOT Law	Revised the original IRR of the Amended BOT Law
President Benigno Simeon Aquino III		
2010	Executive Order No. 8	Issued to fast-track the implementation of PPP programs and projects, as a cornerstone strategy of the national development plan to accelerate the infrastructure development of the country and sustain economic growth Renamed the BOT Center as the PPP Center, tasked to conduct project facilitation and assistance to national government agencies (NGAs) and LGUs; provide advisory services, technical assistance, trainings, and capacity development in PPP project preparation and development; monitor and facilitate the implementation of their priority PPP programs and projects; manage and administer the Project Development and Monitoring Facility (PDMF) (formerly the PDF) for the preparation of business cases, pre-feasibility and feasibility studies, and tender documents of PPP programs and projects; and establish and manage a central database system of PPP programs and projects
2012	Revised IRR of the Amended BOT Law	Further revised the revised IRR of the Amended BOT Law
2013	Executive Order No. 136	Amended Executive Order No. 8 to create the PPP Governing Board (PPPGB), to be headed by the secretary of socioeconomic planning as chair, as the overall policymaking body for all PPP-related matters, including the PDMF; tasked the PPPGB to set the strategic direction of the PPP Program and create an enabling policy and institutional environment for PPP; created the PDMF Committee to approve applications to avail of the PDMF and to formulate, prescribe, and recommend policies, procedures, and guidelines for the use of the PDMF for the development of PPP projects and recovery of costs charged to the fund

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Table 2 *continued*

Year	Enactment/Issuance	Description
President Rodrigo Duterte		
2022	Revised IRR of the Amended BOT Law (March 2022)	Further revised the revised IRR of the Amended BOT Law to clarify ambiguous provisions
President Ferdinand Marcos, Jr		
2022	Revised IRR of the Amended BOT Law (September 2022)	Further revised the IRR of the Amended BOT Law to clarify and streamline the timelines, conform provisions to best practices, and address stakeholder concerns on the financial viability and bankability of PPP projects and potential delays owing to extra steps, rigid processes, or ambiguous provisions
2023	Executive Order No. 30	Added a private sector representative to the PPPGB members, coming from a reputable organization in the banking, business, or infrastructure sector, to be appointed by the President
	PPP Code of the Philippines (Republic Act No. 11966)	Enacted to provide an enabling environment for the private sector to mobilize its resources to finance, design, construct, operate, and maintain infrastructure or development projects and services
2024	IRR of the PPP Code	Implemented the provisions of the PPP Code

BOT = build–operate–transfer, BT = build–transfer, CCPAP = Coordinating Council on the Philippine Assistance Program, CCPSP = Coordinating Council for Private Sector Participation, GOCC = government-owned or controlled corporation, IRR = Implementing Rules and Regulations, LGU = local government unit, LWUA = Local Water Utilities Administration, NGA = national government agency, O&M = operation and maintenance, PDF = Project Development Facility, PDMF = Project Development and Monitoring Facility, PPPGB = PPP Governing Board, PPP = public–private partnership, PSP = private sector participation.

Although the Amended BOT Law and its revised IRR comprised the enabling framework for PPPs in the Philippines through the years, other laws and regulations enabled cooperation between the private sector and public entities to deliver infrastructure and public service. Table 3 sets these out.

Table 3: Laws and Regulations Enabling Private Sector Participation in the Philippines

Date	Law/Regulation	Private Sector Participation Enabled
19 June 1971	Republic Act No. 6234, as amended: MWSS Charter	Reorganization of Metropolitan Waterworks and Sewerage System (MWSS), including privatization of its operations to address the looming water crisis, by authority of the President
31 March 1977	Presidential Decree No. 1112: Toll Operation Decree[a]	Toll road projects through toll operation agreements and supplemental toll operation agreements (STOAs) entered into with the Toll Regulatory Board (TRB)
9 July 1990, amended 5 May 1994	Republic Act No. 6957, as amended by Republic Act No. 7718: Amended BOT Law; and its revised IRR[b]	BOT contracts for the design, financing, construction, and O&M of infrastructure or development projects by the private sector
10 October 1991	Republic Act No. 7160, as amended: Local Government Code of 1991	Contracts for basic services and facilities of LGUs, including joint venture agreements
5 April 1993	Republic Act No. 7648: Electric Power Crisis Act[c]	Negotiated contracts entered into by the President of the Philippines for the construction, repair, rehabilitation, improvement, or maintenance of power plants, projects, and facilities to address the electric power crisis

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Table 3 *continued*

Date	Law/Regulation	Private Sector Participation Enabled
7 June 1995	Republic Act No. 8041: National Water Crisis Act of 1995; Executive Order No. 286 dated 6 December 1995 and Executive Order No. 311 dated 20 March 1996[c]	Reorganization of MWSS, including privatization of its operations to address the looming water crisis, by authority of the President of the Philippines
30 April 2005	Executive Order No. 423, Series of 2005	Authorized NEDA to issue the guidelines for joint ventures between the public and private sectors
2013, 2023	Revised Guidelines and Procedures for Joint Venture Agreements Between Government and Private Entities pursuant to Executive Order No. 423 (NEDA Joint Venture Guidelines)[b]	Joint ventures between the public and private sectors, except LGUs and government corporate entities in the exercise of their primary mandate to dispose of government assets and properties (revised in 2023)
	Joint Venture Guidelines of GOCCs[b]	Joint venture projects of concerned GOCCs
	Local PPP Codes[b]	PPPs (including joint ventures) of LGUs

BOT = build–operate–transfer, GOCC = government-owned or controlled corporation, IRR = Implementing Rules and Regulations, LGUs = local government unit, MWSS = Metropolitan Waterworks and Sewerage System, NEDA = National Economic and Development Authority, O&M = operation and maintenance, STOA = supplemental toll operation agreement, TRB = Toll Regulatory Board.

Notes:

[a] The PPP Code has repealed Section 3(a) of the Toll Operation Decree authorizing the TRB to enter into STOAs with private parties for toll road operation.

[b] The PPP Code has repealed these laws and issuances.

[c] These laws are timebound and have lapsed.

Among the notable PPP contracts entered into pursuant to the above laws are (i) the concession agreements of MWSS for its east and west zones, which were executed pursuant to the Water Crisis Act (Republic Act No. 8041) and its charter (Republic Act No. 6234, as amended); and (ii) the STOAs for the North Luzon Expressway (NLEX) and the South Luzon Expressway (SLEX), which the TRB executed pursuant to the Toll Operation Decree (Presidential Decree No. 1112).

The Public–Private Partnership Code of the Philippines

Republic Act No. 11966, otherwise known as the Public–Private Partnership (PPP) Code of the Philippines, was signed into law on 5 December 2023 and came into effect on 23 December 2023. Its IRR was issued on 21 March 2024. The PPP Code governs national and local PPP contracts and repeals, among others, the Amended BOT Law, the provision of the Toll Operation Decree (Presidential Decree No. 1112) granting the TRB the authority to enter into toll operation agreements, the joint venture guidelines issued by NEDA and GOCCs, and the local PPP codes. It consolidated the legal frameworks for private sector participation in both national and local infrastructure and development projects, including joint venture arrangements and other contractual arrangements for toll road projects or toll facilities.

The PPP Code effected the following major reforms to achieve three main objectives: address ambiguities in the existing law, respond to key challenges affecting the implementation of PPP projects, and foster a more competitive and enabling environment for PPPs.

Table 4: Major Reforms Under the Public–Private Partnership Code of the Philippines

Major Reforms	Details
Improve and consolidate the legal frameworks for PPPs in the Philippines	• Consolidates the PPP frameworks embodied in the BOT Law, the NEDA joint venture guidelines, local PPP/joint venture ordinances and codes, guidelines issued by agencies with special charters, and the STOAs entered into by the TRB in relation to NLEX, SLEX, and the Metro Manila Expressway • Clarifies tariff regulation to remove uncertainty and make it predictable, prevent conflict of interest, and protect public interest, by requiring all regulatory approvals to be made prior to the approval of the PPP project, with the private partner having the right to file the application for tariff and its adjustments during project implementation • Clarifies the rules on the following: – Allowable investment recovery mechanisms— that availability payments are not considered government undertakings, subsidy, or government contribution (see section Types of Public–Private Partnership for details) – When failure of bidding should be declared – Instances when the implementing agency may consider, on a negotiated basis, a single complying and responsive bid – When the variation, expansion, or extension of an existing PPP project is subject to the prior approval of the approving body (see paragraph Adjustment and revision to the PPP contract for details) – Divestment of ownership, rights, or interests in a PPP project by the private partner or the implementing agency (see paragraph Lock-in condition for details) – Wind-up and transfer measures (see paragraph Wind-up and transfer measures for details)
Address key challenges of implementing PPP projects	• Provided for new approval thresholds for national PPP projects by the appropriate approving bodies (see Table 12 for details) • Removes approval thresholds for local PPP projects based on project cost but requires regional development council (RDC) endorsement for local PPP projects with proposed government undertakings or availability payments using national government funds (for which ICC approval is required in this case) and/or those that affect national or sectoral development plans, prior to confirmation by the local development council (LDC) and approval by the local approving body (see section Review and Approval of Local Public–Private Partnership Projects and Figure 80 for details) • Lengthens approval timeline of approving bodies to a maximum of 120 calendar days from receipt of complete requirements from the implementing agency but clarifies that failure to act on the part of the approving body within such period shall be deemed an approval and the implementing agency may proceed with the procurement of the PPP project (see section Review and Approval of the Project for details)
Institutionalize and strengthen the PPP Center, the PPPGB, and the PDMF	• Further empowers the PPP Center for more efficient and effective performance of its mandate and gives it powers and functions involving the provision of assistance and capacity building to national and local implementing agencies, program and project monitoring, policy formulation and recommendation, and promotion of the PPP program (see section Public–Private Partnership Institutional Framework and Table 10 for details) • Mandates the PPPGB as the overall policymaking body for all PPP-related matters, including the PDMF, and responsible for setting the strategic direction of the PPP program and PPP projects and creating an enabling policy and institutional environment for PPPs (see section Public–Private Partnership Institutional Framework and Table 10 for details) • Institutionalizes the PDMF, which the PPP Center continues to manage and administer as a revolving fund, to be used for the procurement of advisory and support services related to the preparation, structuring, evaluation, procurement, probity management, financial close, and monitoring of implementation of PPP projects (see section Project Development Funding for details)

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Table 4 *continued*

Major Reforms	Details
Provide a more competitive environment for USPs	• Allows USPs for projects included in the list of PPP projects of implementing agencies, subject to reimbursement by the private proponent of the implementing agency's documented development costs for a project incurred over the past 3 years, subject to a cap • Clarifies prohibited government undertakings for USPs • Gives implementing agencies the right to consider multiple USP submissions (subject to their determination of the most advantageous proposal for the government and the public) • Grant of original proponent status (OPS) is only after completion of negotiation, with the OPS valid for 1 year • Lengthens the period to conduct the comparative challenge (which the implementing agency has the right to propose, for the approving body's approval) from the previous 60 working days to 1 year, provided it is not less than 90 calendar days • Shortens the period for the original proponent to match the superior proposal submitted by a challenger from the previous 30 working days to 30 calendar days (See section Unsolicited Public–Private Partnership Proposals for details)
Foster an enabling environment for PPPs by institutionalizing PPP best practices	• **Equitable risk allocation, value for money (VFM), and sustainability**—requires the approving body to assess all PPP projects based on its overall feasibility and VFM, and in accordance with the principle of protecting public interest by providing affordable, accessible, and efficient public services, and to adhere to the principles stipulated under the Generic Preferred Risk Allocation Matrix (GPRAM) and that deviations therefrom must be justified by the implementing agency and approved by the approving body (see Table 14 and section Risk Allocation for details) • **Parameters, terms, and conditions (PTCs)**—requires the approving body to evaluate and render its decision on the PPP project, and set forth the required PTCs, considering the nature and complexity of the PPP project, which will be the basis for the drafting and approval of tender documents and the PPP contract (see section Review and Approval of the Project for details) • **Dispute avoidance and alternative dispute resolution (ADR) mechanisms**—requires all PPP contracts to include provisions on the use of dispute avoidance and ADR mechanisms based on the Alternative Dispute Resolution Act of 2004 (see section Dispute Resolution for details) • **Contract management and risk mitigation plans** —requires PPP projects to adopt contract management and risk mitigation plans, which include the agreed project execution plan, all risks assumed by the government under the contract, risks assumed by the implementing agency, risk-mitigating measures, estimated costs to be incurred, a target timeline to have each measure in place, and the appropriate action plan by the implementing agency to manage each type of risk (see section Public–Private Partnership Project Development, Table 14, and section Risk Allocation for details) • **Mitigation of interconnectivity and interface risks**—requires PPP projects that will interconnect or interface with a local or national facility to submit to the PPP Center and the ICC, in the case of national PPP projects, or to the appropriate approving body, in the case of local PPP projects, a memorandum of agreement containing an interconnection/interface plan agreed upon by all relevant parties (see section Public–Private Partnership Project Development, Table 14, and section Risk Allocation for details) • **Creation of a PPP Risk Management Fund and management of contingent liabilities**—created a PPP Risk Management Fund to be managed by the PPP Center, to be used for the payment of contingent liabilities arising from PPPs in accordance with their contract terms, which will be funded by general appropriations, income from existing PPP projects, and other sources as may be determined by the DBCC (see section PPP Risk Management Fund for details) • **Establishment of a PPP unit**—authorizes the head of the implementing agency to establish a PPP unit or assign responsibility to an appropriate unit to act as its PPP unit, which will plan, oversee, and monitor PPP projects of the implementing agency

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Table 4 *continued*

Major Reforms	Details
	• **Public disclosure of tender documents and PPP contracts**—requires the implementing agency and the PPP Center to publish, through their respective websites, copies of all tender documents and PPP contracts executed under the PPP Code • **Procurement of independent consultants**—institutionalizes the procurement of independent consultants to provide independent advice to both parties during the design and construction, as well as O&M, phases of the PPP project • **Alternative sources of funding**—allows alternative financial instruments for PPP projects, such as green financing, corporate or project bonds and securities, and other forms of capital market financing • **Land value capture strategies**—requires PPP project design to consider adopting land value capture strategies to optimize financial and economic value of the PPP project

ADR = alternative dispute resolution, BOT = build–operate–transfer, DBCC = Development Budget Coordination Committee, ICC = Investment Coordination Committee of the NEDA Board, LDC = local development council, NEDA = National Economic and Development Authority, NLEX = North Luzon Expressway, O&M = operation and maintenance, OPS = original proponent status, PDMF = Project Development Monitoring Facility, PPP = public–private partnership, PPPGB = PPP Governing Board, PTC = parameters, terms, and conditions, RDC = regional development council, STOA = supplemental toll operation agreement, SLEX = South Luzon Expressway, USP = unsolicited proposal, TRB = Toll Regulatory Board, VFM = value for money.

Sources: Government of the Philippines. 2023. *Public–Private Partnership Code of the Philippines*; 2024. *Implementing Rules and Regulations of the PPP Code*.

The PPP Code has addressed most of the bankability issues that have discouraged bidders in past PPPs in the Philippines. However, there remain a few issues that need to be addressed (Table 5).

Table 5: Outstanding Bankability Issues in the Public–Private Partnership Legal and Regulatory Framework

Issue	Status Quo	International Best Practice
USPs	The original proponent has the right to match the superior proposal of a challenger within 30 calendar days	The right to match in USPs is discouraged.
Lenders' direct agreement	The implementing agency only allows an acknowledgment and consent agreement (in prescribed form annexed to the PPP contract) to be signed among the implementing agency, the concessionaire, and the lender's agent, wherein the implementing agency acknowledges the assignment by the concessionaire of its rights under the PPP contract and the creation of permitted security interest.	Allow lenders' direct agreements for PPPs.
International arbitration	While it is mandatory for all PPP contracts to include provisions on ADR mechanisms, such as international arbitration, and the parties are given complete freedom to choose which ADR mechanisms are to be followed, this is subject to applicable laws, rules, and regulations. Philippine law requires that arbitration of construction-related disputes in the Philippines be referred to the Construction Industry Arbitration Commission (CIAC), with the legal seat to be the Philippines and the venue to be in Metropolitan Manila.	Allow international arbitration for all types of disputes in PPPs.

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Table 5 *continued*

Issue	Status Quo	International Best Practice
Government payment and fiscal commitment and contingent liabilities (FCCL) framework	Government payment to the private partner under the PPP contract for contingent liabilities remains a significant issue given the rule that government is obligated to pay only pursuant to an appropriation law, and there is still no clear framework on managing FCCL in PPPs. As per the PPP Code, the PPP Center, in coordination with the Inter-Agency Technical Working Group, has been tasked to formulate guidelines on the management of contingent liabilities arising from PPP projects and use of the PPP Risk Management Fund for approval by the DBCC.	Incorporate FCCL principles based on best practices in the PPP framework.

ADR = alternative dispute resolution, DBCC = Development Budget Coordination Committee, CIAC = Construction Industry Arbitration Commission, FCCL = fiscal commitment and contingent liabilities, PPP = public–private partnership, USP = unsolicited proposal.
Sources: Government of the Philippines. 1985. *Executive Order No. 1008*; 2023. *Public–Private Partnership Code of the Philippines*.

Public–Private Partnership Regulatory Framework in the Philippines

The existing legal and regulatory framework governing PPPs in the Philippines currently includes

- the PPP Code of the Philippines and its IRR and
- other guidelines issued pursuant to the PPP Code and its IRR, as listed in Table 6.

The PPP Code and its IRR mandate the issuance of guidelines and requirements to operationalize their provisions, as set out in Table 6. Although some of these guidelines have yet to be issued, the PPP Code does not impose any strict deadline for their issuance. The absence of these guidelines also does not prevent any PPP contract being developed, tendered, and signed pursuant to the PPP Code and its IRR.

Table 6: Guidelines and Requirements to Be Issued Pursuant to the Public–Private Partnership Code and Its Implementing Rules and Regulations

Issuing Agency	Guidelines to Be Issued
NEDA Board	• Supplemental guidelines to ensure efficient submission and publication of Consolidated List of Investment Programs (CLIPs), in coordination with the PPP Center
NEDA Board-Investment Coordination Committee (ICC)	• Detailed guidelines on the process and procedures for the review and approval of national PPP projects, including the forms and templates to be used by the implementing agency and the approving body, which shall clearly define the timelines for approval (not to exceed 120 calendar days from receipt of complete requirements), actions required from entities involved, and the list of complete set of documentary requirements, which shall also cover: – review and approval of proposed changes for approved PTCs prior to bid submission[a] – in case of USPs, guidelines on cases where the approving body requires PTCs outside of the negotiated PTCs[a] – in case of a single complying and responsive solicited bid, the reasonable rate of return (RROR), detailed process in approving the RROR, and the methodology in calculating the RROR to be set[a] – review and approval of proposed variation, expansion, or extension of an existing PPP project requiring the approval of the approving body[a] – procedure on cases where the approving body failed to render its decision within the 120 calendar day mandatory period[a] – further specifying the requirements on the scope and detail of the feasibility study in accordance with prudent industry practice[a] – completeness of submitted requirements for purposes of approval, list of documentary requirements, guidance on what constitutes government undertakings, and procedures and mechanisms to facilitate, simplify, and expedite the approval process for projects under the fast-track (green lane) process, such as the creation of a subcommittee to which the review of projects under the green lane can be delegated[a] • Procedural guidelines for stakeholder consultations for national PPP projects, which shall contain the target stakeholders, which may include, among others, facility users, landowners, informal settlers, businesses or existing operators, and project-affected persons • Procedural guidelines for national PPP projects on the contents, process of submission, and further operationalization of the PPP Code IRR provision on mitigation of interconnectivity and interface risks • Detailed guidelines on the methodology to establish the legal, technical, and financial qualifications of private proponents for national PPP projects[b] • Guidelines on validation of the determination by the implementing agency that its project does not fall under any of the scenarios contemplated under the PPP Code IRR requiring ICC approval of the PPP project • Guidelines or protocols in reviewing and updating the project cost threshold amounts • Guidelines on cases where the implementing agency intends to procure an approved PPP project through a different procurement modality[a] • Guidelines on the conduct of valuation for national PPP projects

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Table 6 *continued*

Issuing Agency	Guidelines to Be Issued
PPP Governing Board (PPPGB)	• Detailed guidelines, forms, and templates that the appropriate body shall use in reviewing and approving local PPP projects, which shall adhere to the same principles guiding the ICC in developing guidelines, forms, and templates in processing national PPP projects, specifying the requirements on the scope and detail of the feasibility study in accordance with prudent industry practice[c] • Procedural guidelines for stakeholder consultations for local PPP projects, which shall contain the target stakeholders, which may include, among others, facility users, landowners, informal settlers, businesses or existing operators, and project-affected persons • Procedural guidelines for local PPP projects on the contents, process of submission, and further operationalization of the PPP Code IRR provision on mitigation of interconnectivity and interface risks • Guidelines on land value capture strategies • Guidelines and requirements to be followed by all LDCs when endorsing local PPP projects[c] • Guidelines and requirements to be followed by all RDCs when endorsing local PPP projects affecting national or sectoral development plans and national projects or involving government undertakings and/or availability payments[c] • Supplemental guidelines on the operationalization of the reimbursement of development costs of the government in USPs • Guidelines on fees the PPP Center may collect from private proponents submitting USPs • Guidelines to operationalize the PPP Code IRR provision that no USP submitted by a certain private proponent subsequently determined by the PPP Center to be incomplete three times on separate occasions may be entertained for determination of completeness by the approving body [d] • Detailed guidelines on the methodology to establish the legal, technical, and financial qualifications of private proponents for local PPP projects • Guidelines on reimbursement of appeal fees for appeals that are found meritorious • Guidelines on the requirements and procedures governing cases where the PPP Center is requested by the implementing agency to act as the procurement agent, and where the PPP Center acts as such accordingly • Guidelines on the procurement of and fees to be paid to a transaction advisor • Guidelines on RROR trust accounts • Guidelines on the amount of termination payments and related reportorial requirements • Guidelines for the PDMF use and recovery of costs charged to the fund, including reporting mechanism on the use of the fund, as recommended by the PDMF Committee • Guidelines on the establishment of a PPP Risk Management Fund by local implementing agencies • Guidelines and policy matter opinions on other punishable acts or omissions not enumerated in the PPP Code and its IRR
PPP Center	• Guidelines, forms, and templates for the preparation of the lists of PPP projects of implementing agencies • Supplemental guidelines to ensure efficient submission of the list of PPP projects of implementing agencies, in coordination with oversight agencies • Detailed guidelines on the procedures for submitting USPs, including a list of requirements to determine completeness of the submitted USP, the descriptions for each requirement, and the use of a digital platform to facilitate efficient processing[e]
Implementing agency	• If the approving body is head of the implementing agency, guidelines for approval that outline the process of its review and approval of national PPP projects with a project cost of below ₱15 billion, to be submitted to the PPP Center within 7 calendar days from approval by the head of the implementing agency • Guidelines on the provision of medical assistance to government employees and officials processing PPP projects, the Prequalification, Bids, and Awards Committee (PBAC) members, and other public officials providing services to the PBAC (Section 170 of PPP Code IRR)
Commission on Audit (COA)	• Necessary framework and guidelines on accounting and auditing PPP projects (in consultation and coordination with the PPP Center)

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Table 6 *continued*

Issuing Agency	Guidelines to Be Issued
Development Budget Coordination Committee (DBCC)	• Guidelines on the nature and authorization of the PPP Risk Management Fund; mechanisms on the management of contingent liabilities arising from PPP projects; determination of amount, timing, and process for the payment of contribution to be made by the implementing agency for each project; process for the application of implementing agency for fund support; process and criteria for evaluation and approval by the DBCC of fund support applications; process for disbursement of funds (subject to applicable legal requirements); protocols for reporting project risks and contingent liabilities; the status of contribution of implementing agencies; applications for fund support; and disbursements made (to be formulated by the PPP Center in coordination with the Inter-Agency Technical Working Group on Contingent Liabilities created under DBCC Resolution No. 2015-2)
Regulatory bodies	• Within 180 calendar days from effectivity of the IRR (in coordination with the PPP Center), issuance of a policy document, detailing the guidelines, frameworks, or mechanisms for the consultation, application, review, and approval of the initial tariff and adjustments, which shall include: – procedures in securing regulatory approvals of the initial tariff and its adjustments, for solicited projects and USPs – procedures for publication of, hearing for, and decision and order on the proposed initial tariff, and its adjustments – factors in setting and adjusting the tariff, which may include a parametric formula – appeal process for decisions of the regulatory bodies

COA = Commission on Audit, CLIPs = Consolidated List of Investment Programs, DBCC = Development Budget Coordination Committee, ICC = NEDA Board-Investment Coordination Committee, IRR = Implementing Rules and Regulations, LDC = local development council, NEDA = National Economic and Development Authority, PBAC = PPP Prequalification, Bids, and Awards Committee, PDMF = Project Development Monitoring Facility, PPP = public–private partnership, PPPGB = PPP Governing Board, PTCs = parameters, terms and conditions, RDC = regional development council, RROR = reasonable rate of return, USP = unsolicited proposal.

Notes:

[a] The NEDA Board issued these guidelines in April 2024 under ICC Guidelines on the Review and Approval of Public–Private Partnership Proposals Requiring ICC and/or NEDA Board Approval (ICC PPP Approval Guidelines).

[b] These guidelines are in Annex 10 to the ICC PPP Approval Guidelines but cover only unsolicited proposals.

[c] The PPPGB issued interim guidelines for the approval of local PPP projects under PPPGB Resolution No. 2024-04-02, pending issuance of the detailed guidelines after stakeholder consultation. In July 2024, it issued Resolution No. 2024-07-02, containing the final guidelines for the approval of local PPP projects, as well as the prescribed forms and templates, which were made available to the public in September 2024.

[d] The PPPGB issued these guidelines under PPPGB Resolution No. 2024-07-03.

[e] The PPP Center issued the Procedures for the Submission of Unsolicited Proposals to the PPP Center for Determination of Completeness and Appropriate Approving Body on 6 April 2024.

Sources: Government of the Philippines. 2023. *Public–Private Partnership Code of the Philippines*; 2024. *Implementing Rules and Regulations of the PPP Code.*

2. Types of Public–Private Partnership

The PPP Code IRR defines “PPP” as “a contractual arrangement between an implementing agency and a private partner to finance, design, construct, operate, and maintain, or any combination or variation thereof, infrastructure or development projects and services which are typically provided by the public sector, where each party shares in the associated risks, and where the investment recovery of the private partner is linked to performance.” The PPP Code and its IRR cover all contractual arrangements that satisfy this definition of a PPP, including but not limited to the following:

- joint ventures;
- toll operation agreements or STOAs, or any contractual arrangement involving the construction, operation, and maintenance, or their combination or variation, of toll facilities in accordance with Presidential Decree No. 1112 (Toll Operation Decree) and Presidential Decree No. 1113, as amended by Presidential Decree No. 1894 (Philippine National Construction Corporation Franchise);
- lease agreements providing for the rehabilitation, operation, and/or maintenance, including the provision of working capital and/or improvements, by the private partner of an existing land or facility owned by the government for a fixed period covering more than 1 year;
- lease agreements, when such lease is a component of a PPP project;
- BOT and its variants, as provided by the former Amended BOT Law and detailed in Table 7; and
- O&M.

The Amended BOT Law provided for nine specific types of PPP contractual arrangements or schemes the public sector and private sector could enter into to implement an infrastructure or development project. Other than these nine schemes, variations approved by the President of the Philippines may likewise be undertaken under the Amended BOT Law.

Table 7: Build–Operate–Transfer Contractual Arrangements Under the Amended BOT Law

Contractual Arrangement	Definition	Role of Private Partner	Role of Implementing Agency
Build–operate–transfer	A contractual arrangement whereby the private partner undertakes the construction, including financing, of a given infrastructure facility and its O&M. The private partner operates the facility over a fixed term during which it is allowed to charge facility users appropriate tolls, fees, rentals, and charges not exceeding those proposed in its bid or as negotiated and incorporated in the contract to enable the private partner to recover its investment, and O&M expenses in the project. The private partner transfers the facility to the government agency or local government unit concerned at the end of the fixed term, which shall not exceed 50 years. This arrangement includes a supply-and-operate situation, which is a contractual arrangement whereby the supplier of equipment and machinery for a given infrastructure facility, if the interest of the government so requires, operates the facility providing in the process technology transfer and training to Filipino nationals.	• Undertakes financing, construction, O&M of facility for a fixed term • Collects tolls, fees, and other charges to recover investment plus profit • Transfers ownership of facility after contract term to government entity • May assign O&M to a facility operator	• Provides concession and regulates activities of BOT contractor • Acquires ownership of facility at the end of contract term • May opt to share in the profits of the private partner

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Table 7 *continued*

Contractual Arrangement	Definition	Role of Private Partner	Role of Implementing Agency
Build–transfer	A contractual arrangement whereby the private partner undertakes the financing and construction of a given infrastructure or development facility and after its completion turns it over to the implementing agency concerned, which shall pay the proponent on an agreed schedule its total investments expended on the project, plus a reasonable rate of return thereon. This arrangement may be employed in the construction of any infrastructure or development project, including critical facilities that, for security or strategic reasons, must be operated directly by the government.	• Finances and constructs infrastructure or development facility • Turns over ownership of facility to government after project completion	• Acquires ownership of facility after construction • Compensates project proponent at agreed amortization schedule
Build–own–operate	A contractual arrangement whereby a private partner is authorized to finance, construct, own, operate, and maintain an infrastructure or development facility from which the private partner is allowed to recover its total investment and O&M costs plus a reasonable return thereon by collecting tolls, fees, rentals, or other charges from facility users.	• Finances, constructs, owns, operates, and maintains facility in perpetuity • Collects tolls, fees, rentals, and other charges to recover investments and profits • May assign O&M to a facility operator	• Provides authorization and assistance in securing approval of BOO contract • Can opt to buy the output/service provided by the BOO operator
Build–lease–transfer	A contractual arrangement whereby a private partner is authorized to finance and construct an infrastructure or development facility and upon its completion turns it over to the implementing agency concerned on a lease arrangement for a fixed period after which ownership of the facility is automatically transferred to the implementing agency concerned.	• Finances and constructs facility • Turns over project to government after completion under lease arrangement • Turns over ownership of facility to government after lease period	• Compensates proponent for lease of facility at agreed term and schedule • Acquires ownership of facility after lease period
Build–transfer–operate	A contractual arrangement whereby the public sector contracts out the building of an infrastructure facility to a private entity such that the contractor builds the facility on a turnkey basis, assuming cost overrun, delay, and specified performance risks. Once the facility is commissioned satisfactorily, title is transferred to the implementing agency. The private entity, however, operates the facility on behalf of the implementing agency under an agreement.	• Finances and constructs facility on a turnkey basis (assumes cost overrun, delay, specified performance risks) • Transfers title of facility to implementing agency after commissioning • Operates the facility for implementing agency under an agreement • May assign O&M to a facility operator	• Assumes ownership of facility after commissioning • Allows private proponent to receive compensation for the proponent's investment costs and reasonable return thereon, and the operating charges

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Table 7 *continued*

Contractual Arrangement	Definition	Role of Private Partner	Role of Implementing Agency
Contract–add–operate	A contractual arrangement whereby the implementing agency adds to an existing infrastructure facility that it is renting from the government. It operates the expanded project over an agreed franchise period. There may or may not be a transfer arrangement with regard to the facility.	• Adds to an existing facility that the private partner is renting and operates an expanded project for an agreed franchise period • May assign O&M to a facility operator	• Collects rental payment from private partner under agreed terms and schedule • Re-acquires control over rented property/ facility at the end of lease term, normally including improvements thereon
Develop–operate–transfer	A contractual arrangement whereby favorable conditions external to a new infrastructure project that is to be built by a private project proponent are integrated into the arrangement by giving that entity the right to develop adjoining property and, thus, to enjoy some of the benefits the investment creates, such as higher property or rent values.	Has the right to develop adjoining property of an infrastructure to enjoy external benefits that the primary investment creates (such as higher property values or commercial development rights) May assign O&M to a facility operator	May opt to share in the financial benefits of the investment Re-acquires ownership of properties turned over to investor after concession period
Rehabilitate–operate–transfer (ROT)	A contractual arrangement whereby an existing facility is turned over to the private sector to refurbish, operate, and maintain for a franchise period, at the expiry of which the legal title to the facility is turned over to the government. The term is also used to describe the purchase of an existing facility from abroad, importing, refurbishing, erecting, and consuming it within the host country.	Takes over O&M of an existing facility for a franchise period and/or imports existing facility for refurbishing, erecting, and maintaining it within the host country Transfers ownership of a facility or equipment to government after franchise period May assign O&M to a facility operator	Provides franchise to ROT company May opt to share in the profits of the ROT company Re-acquires ownership of facility equipment after franchise period
Rehabilitate–own–operate (ROO)	A contractual arrangement whereby an existing facility is turned over to the private sector to refurbish and operate with no time limitation imposed on ownership. As long as the operator is not in violation of its franchise, it can continue to operate the facility in perpetuity.	Takes over an existing facility to refurbish and operate with no time limitation imposed on ownership Can continue to operate the facility in perpetuity May assign O&M to a facility operator	Turns over existing facility to ROO proponent, with franchise to operate May opt to share in the income of ROO company

O&M = operation and maintenance, ROO = rehabilitate-own-operate, ROT = rehabilitate–operate–transfer.
Note: The term "project proponent" in the Amended BOT Law has been replaced with "private partner" to be consistent with the term used in the PPP Code.
Source: Government of the Philippines. 2022. *The Philippine Amended BOT Law*.

The above enumeration of contractual arrangements is not exhaustive. Other forms of contractual arrangements may now qualify as a PPP under the PPP Code, provided that such arrangements satisfy the elements of a PPP as defined in the IRR of the PPP Code or are as may be approved by the appropriate approving body.

Table 8: Contractual Arrangements of Successfully Procured Projects

Project	Sector	Contractual Arrangement
Manila Metro Rail Transit Line 3 (1993)	Railways	Solicited build–lease–transfer
Ninoy Aquino International Airport Expressway Project (2013)	Roads	Solicited build–transfer–operate variant
Automatic Fare Collection System Project (2014)	Railways	Solicited mixed
Mactan–Cebu International Airport Passenger Terminal Building Project (2014)	Airports	Solicited build–operate–transfer
Light Rail Transit Line 1 Cavite Extension Operation and Maintenance Project (2014)	Railways	Solicited build–transfer–operate
Bulacan Bulk Water Supply Project (2016)	Water	Solicited build–operate–transfer
Cavite–Laguna Expressway Project (2015)	Roads	Solicited build–transfer–operate
North Luzon Expressway–South Luzon Expressway Connector Road Project (2016)	Roads	Unsolicited build–operate–transfer
Clark International Airport Expansion Project—Engineering, Procurement and Construction Project (2018)	Airports	Solicited build–transfer
Clark International Airport Expansion Project—Operation and Maintenance Project (2019)	Airports	Solicited build–operate–transfer
New Manila International Airport (Bulacan International Airport) Project (2019)	Airports	Unsolicited build–operate–transfer
Civil Registry System—Information Technology Project Phase II Project (2016)	Information and communication technology	Solicited Build–Transfer–Operate
PPP for School Infrastructure Project I Project (2012)	Education	Solicited build–lease–transfer
PPP for School Infrastructure Project II Project (2014)	Education	Solicited build–transfer
Ninoy Aquino International Airport PPP Project (2024)	Airports	Solicited rehabilitate-operate-expand-transfer

PPP = public–private partnership.
Source: PPP Center. Projects Database (accessed 27 October 2024).

The type of PPP is also based on the investment recovery scheme used for the project. In undertaking PPP projects in the Philippines, the private partner is allowed by the PPP Code to recover its investments and earn reasonable profit through any of the following investment recovery schemes or a combination of them. These two forms are distinguished from each other based on the rights, obligations, and risks assumed by the public and private parties in the PPP.

- **Revenue-based PPP.** In a revenue-based investment recovery scheme, the private partner is authorized to charge and collect, in whole or in part, from the users, reasonable tolls, fares, fees, rentals, and other charges, subject to appropriate regulation. Where applicable, the private partner may likewise be repaid in the form of a share in the revenue of the PPP project. This is also referred to as a concession-based PPP.
- **Availability-based PPP.** In an availability-based investment recovery scheme, the implementing agency commits to make predetermined payments to the private partner, which do not take the form of charges paid by the users of the works or of the service, but of regular payments, known as “availability payments,” by the implementing agency in exchange for delivering an asset or service in accordance with the PPP contract. Availability payments are not considered government undertakings, subsidies, or government contributions.

Other allowable investment recovery schemes that may supplement the above schemes are commercial development rights and the granting of a portion or percentage of a reclaimed land, subject to fair valuation and the constitutional requirements on landownership. The granting of commercial development rights is a standard provision supplementing the rights and obligations of the concessionaire in PPP toll road, airport, and rail projects in the Philippines. However, on a stand-alone basis, they are not considered PPPs.

3. Eligible Sectors for Public–Private Partnerships

The PPP Code covers all infrastructure or development project or services that are typically provided by the public sector.

The September 2022 revised IRR of the Amended BOT Law provided an expanded non-exclusive list of the types of projects that may be undertaken as PPP, including more land transportation systems (not just railways), transport and traffic management projects, flood control projects, urban development and township projects, heritage preservation and adaptive reuse projects, agri-fishery projects, and disaster risk reduction and management projects. The IRR of the PPP Code includes a similar but even more expanded non-exclusive list of eligible types of projects, as detailed in Table 9. The implementing agency may request a non-policy matter opinion from the PPP Center on whether a project is covered by the PPP Code and its IRR.

Table 9: Eligible Types of Projects Under the Public–Private Partnership Code

Sector	Eligible Projects
Roads	• Highways, including expressways, roads, bridges, interchanges, tunnels, viaducts, and related facilities
Transport	• Land transportation systems, including railways, road-based transportation systems, bus rapid transit, high priority public utility vehicle systems, active transportation, transit-oriented developments, public utility vehicle stations, transport plazas, intermodal terminals, park and ride, and related facilities • Transport and traffic management projects, including transportation databases, automated fare and toll collection systems, traffic signaling, traffic monitoring systems, traffic enforcement systems, congestion and management systems, and related facilities
Ports	• Port infrastructure like piers, wharves, quays, storage, handling, roll-on roll-off facilities, and other related facilities
Maritime	• Maritime infrastructure like navigable inland waterways, shipping and ferry services, shipping vessels or components thereof, shipping and freight enterprises, and related facilities
Airports	• Airports, air navigation, and related facilities
Energy	• Power generation, transmission, sub-transmission, distribution, including hydropower plants, and related facilities • Downstream oil and gas industry facilities, and other energy-related facilities • Energy efficiency and conservation, renewable energy, electric vehicle charging stations, and related infrastructure

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Table 9 *continued*

Sector	Eligible Projects
ICT	• Telecommunications, backbone network, terrestrial, aerial, and space infrastructure, and related service facilities • Information technology networks and database infrastructure, geospatial resource mapping and cadastral survey for resource accounting and planning, and related facilities
Water and sanitation	• Irrigation and related facilities • Water supply, sewerage, drainage, wastewater and water treatment, desalination, and related facilities • Multipurpose water resources projects covering a combination of irrigation, power, water supply, flood control, and related facilities
Social infrastructure	• Educational infrastructure, including technological equipment used to facilitate learning and teaching, and related facilities • Health infrastructure, hospitals, clinics, research facilities, clinical laboratories, and other related facilities • Prisons, lease of security-related government assets, O&M of military facilities and equipment, and other national defense or security-related facilities
Property development	• Land reclamation, dredging, flood control projects, and related facilities • Government buildings, convention centers, and other related facilities • Urban redevelopment, townships, and housing projects
Tourism/ heritage	• Industrial and tourism estates or townships, including ecotourism projects such as terrestrial and coastal/marine nature parks, among others, and related infrastructure facilities and utilities • Heritage preservation and adaptive reuse projects
Agri-fishery/ agribusiness	• Markets, slaughterhouses, trading posts, and related facilities • Warehouses and postharvest facilities • Public fish ports and fishponds, including storage and processing facilities • Agri-fishery industrial hubs, agribusiness facilities, agricultural research facilities, agricultural estates, agri-logistics systems, contract farming, and related facilities • Cold chain systems or centers, and related facilities
Environment	• Environmental and solid waste management-related facilities such as but not limited to waste collection, transportation and disposal facilities, transfer stations, composting plants, material recovery, landfill and tidal barriers, among others • Climate change adaptation and mitigation and disaster risk reduction and management infrastructure projects, biodiversity projects, and related facilities
Other sectors/ projects	Other infrastructure or development projects and services, as may be authorized by the implementing agency pursuant to the Public–Private Partnership Code and its Implementing Rules and Regulations, and following applicable laws, rules, and regulations

ICT = information and communication technology, O&M = operation and maintenance.
Note: All items in the column for Eligible Projects that appear in blue font are the changes effected by the PPP Code IRR to the previous list provided by the revised IRR of the Amended BOT Law.
Source: Government of the Philippines. 2023. *Public–Private Partnership Code of the Philippines*; 2024. *Implementing Rules and Regulations of the PPP Code.*

4. Public–Private Partnership Institutional Framework

Does the country have a national PPP unit?	✓
What are the functions of the national PPP unit?	
• Supporting the design and operationalization of the National PPP Enabling Framework?	✓
• Helping develop a national PPP pipeline?	✓
• Supporting the arrangement of funding for project preparation (budgetary allocations, technical assistance funding from multilateral development agencies, operating a dedicated project preparation/project development fund)?	✓
• Guidance for project preparation and coordination with government agencies responsible for sponsoring the projects?	✓
• Making recommendations to the appropriate approving body and/or other approving authorities to provide approvals associated with various stages of the PPP process?	✓

PPP = public–private partnership.
✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
Source: Tavidell Law.

Table 10 summarizes the institutional framework for PPPs under the PPP Code and its IRR.

Table 10: National Economic and Development Authority Entities Supporting Public–Private Partnerships in the Philippines

Entity	Powers and Functions
NEDA and NEDA Board	• Independent planning agency of the Philippine government headed by the President of the Philippines • Primarily responsible for formulating continuing, coordinated, and fully integrated social and economic policies, plans, and programs of the country, such as the Philippine Development Plan 2023–2028; the NEDA Board is the decision/policymaking body of NEDA • Composed of two separate distinct entities: the NEDA Board and the Secretariat • The NEDA Board is the approving body for national PPP projects and PPP projects implemented by a national and local implementing agency, with project cost of ₱15 billion and above, upon favorable recommendation of the ICC.
NEDA Board Executive Committee	• Provides policy direction and resolves policy issues involving few agencies or a specific socioeconomic sector, without the necessity of convening the entire NEDA Board, and in accordance with existing laws, rules, and regulations • Approves development plans and programs consistent with the policies set by the President of the Philippines • confirms ICC-approved projects that are classified as extremely urgent by the ICC

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Table 10 *continued*

Entity	Powers and Functions
NEDA Secretariat	• Research and technical support arm of the NEDA Board • Provides, through its various organizational units, technical staff support and assistance, including the conduct of studies and development of policy measures and other recommendations, on the various aspects of the substantive functions of development planning and policy formulation, and coordination, evaluation, and monitoring of plan implementation • Secretariat of the NEDA Board • Provides macroeconomic forecasting, and policy analysis and research and high-level advice, to the Congress and the Executive Branch, with key responsibilities including: – coordination of such activities as the formulation of policies, plans, and programs to efficiently set the broad parameters for national and subnational (area-wide, regional, and local) development – review, evaluation, and monitoring of infrastructure projects identified under the Comprehensive and Integrated Infrastructure Program consistent with the government's thrust of increasing investment spending for the growing demand on quality infrastructure facilities[a] – undertaking of short-term policy reviews to provide critical analyses of development issues and policy alternatives to decision-makers
Investment Coordination Committee of the NEDA Board (ICC)	• A Cabinet-level inter-agency committee of the NEDA Board created to assist the NEDA Board in the performance of its duties • Evaluates the fiscal, monetary, and balance of payments implications of major national projects (including PPPs) and recommends to the President the timetable for the implementation of these projects on a regular basis • Advises the President on matters related to the domestic and foreign borrowings program • Submits to the President a status of the fiscal, monetary, and balance of payments implications of major national projects • Approving body for proposed national PPP projects costing below ₱15 billion but falling under any of the scenarios under the PPP Code (see Table 12 for further details) • Authorized to update the approval threshold amounts under the PPP Code (see Table 12 for further details)
ICC Cabinet Committee (ICC-CC)	Deliberates on PPP projects based on the recommendation of the ICC-TB, the report and recommendations of the PPP evaluating units (NEDA, Department of Finance [DOF], and PPP Center) during the approval process in the PPP project evaluation report, and other relevant information that may be presented to it
ICC Technical Board (ICC-TB)	Deliberates on PPP projects based on the PPP Project Evaluation Report/recommendations, and other relevant information that may be presented to it, before the proposal is elevated to the ICC-CC, with or without conditions, upon majority vote of the ICC-TB
PPP Governing Board (PPPGB)	• Overall policymaking body for all PPP-related matters, including the PDMF • Responsible for setting the strategic direction of the PPP program and PPP projects and creating an enabling and institutional environment for PPP

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Table 10 *continued*

Entity	Powers and Functions
PPP Center of the Philippines	• Reports to the PPPGB and is an attached agency of NEDA for budgetary purposes and administrative supervision • Acts as secretariat to the PDMF Committee and the PPPGB • Manages and administers the PDMF • Manages the PPP Risk Management Fund established under the PPP Code • Provides assistance and capacity building: – assists implementing agencies in identifying, prioritizing, developing, and maintaining a pipeline of PPP projects; provides project advisory services and technical assistance to implementing agencies, approving bodies, and other oversight agencies in all PPP-related matters – facilitates appraisal and approval of PPP projects by the NEDA Board and the ICC – reviews PPP contracts for national PPP projects; develops the capacities of implementing agencies, approving bodies, PPP units, and other relevant government stakeholders on PPPs – advises and assists implementing agencies and oversight agencies in developing and periodically updating an organizational development plan that will enable them to competently perform their functions under the PPP Code and recommends to the Department of Budget and Management (DBM) the standards of training, qualification, and compensation for necessary personnel under these organizational development plans – acts as procurement agent upon the request of the implementing agency • For monitoring purposes: – serves as the central repository of all PPP project information and is obliged to publish through its website copies of all tender documents and PPP contracts – is authorized to require submission of PPP project documents (including executed PPP contracts and their amendments or supplements, including settlement agreements) – is required to provide regular monitoring and status reports on the implementation of the PPP program and all PPP projects under implementation – ensures sustainability of the implemented PPP program and projects through monitoring, documenting, and sharing lessons learned and best practices to implementing agencies, approving bodies, oversight committees or agencies, and other relevant stakeholders • For purposes of policy formulation and recommendation: – recommends plans, policies, and implementation guidelines related to PPPs – drafts policy in response to requests by government agencies and private entities – issues non-policy matter opinions related to PPPs • Promotes and markets the PPP program and PPP projects, in collaboration with other government investment promotion agencies
Regional development council (RDC)	• The highest planning and policymaking body in the region, serving as the counterpart of the NEDA Board at the subnational level • Coordinates and sets the direction of all economic and social development efforts in the region • Serves as a forum where local efforts can be related and integrated with regional and national development activities • Acts through its sub-committee, the Regional PPP Center, in the endorsement process for local PPP projects, where required
NEDA regional office	• Serves as the technical and administrative secretariat of the RDC

DBM = Department of Budget and Management, DOF = Department of Finance, ICC = Investment Coordination Committee of the NEDA Board, ICC-CC = ICC Cabinet Committee, ICC-TB = ICC Technical Board, NEDA = National Economic and Development Authority, PDMF = Project Development and Monitoring Facility, PPP = public–private partnership, PPPGB = PPP Governing Board, RDC = regional development council.

Note:

[a] The Comprehensive and Integrated Infrastructure Program contains public infrastructure projects funded by the government through sources such as official development assistance loans, the General Appropriations Act, the corporate budget, PPPs, and purely by the private sector (i.e., private-led energy projects, among others).

Sources: Government of the Philippines. 1987. *Executive Order No. 230*; *Executive Order No. 292*; 2010. *Administrative Order No. 8*; 2013. *Executive Order No. 136*; 2023. *Public–Private Partnership Code of the Philippines*; NEDA. Comprehensive and Integrated Infrastructure Program (CIIP); NEDA Board; NEDA Secretariat; Investment Coordination Committee (ICC); About RDC; FAQs.

Table 11: Other Principal Public Entities Supporting Public–Private Partnerships in the Philippines

<table>
<tr><th>Entity</th><th colspan="2">Powers and Functions</th></tr>
<tr><td>Department of Finance (DOF)</td><td colspan="2">• Primarily responsible for the sound and efficient management of the financial resources of the Philippine government and its subdivisions, agencies, and instrumentalities
• Following the abolition of the Municipal Development Fund Office in 2022, now serves as fund administrator for ODA projects, including specific undertakings executed in the Municipal Development Fund Office's favor by beneficiary LGUs
• With respect to PPP projects, has the following duties:
– prior to approval of national PPP projects with a project cost of below ₱15 billion, may be consulted by the approving body in relation to the feasibility of the government undertakings and/or availability payments, issuing a non-binding letter in relation to the results of such consultation within 20 calendar days from request of the implementing agency
– prior to confirmation by LDCs of local PPP projects, may be consulted by LDCs in relation to the feasibility of the LGU's government undertakings and/or availability payments, and issues a non-binding letter in relation to the results of such consultation within 20 calendar days from request of the implementing agency
– prior to endorsement of local PPP projects that involve government undertakings and/or availability payments using national government funds, may be consulted by the RDC in respect of the feasibility of the government undertakings and/or availability payments, and issues a non-binding letter in relation to the results of such consultation within 20 calendar days from request of the implementing agency
– may be involved to assist in the negotiation process for USPs
– mandated to review the draft PPP contract (for a national PPP project or local project with national government undertaking or availability payment) and provide initial comments on it (with respect to national government undertakings or availability payments) within 15 calendar days from receipt of the draft PPP contract
– undertakes final review of the draft PPP contract, as revised and to issue its clearance of the draft PPP contract (with respect to national government undertakings or availability payments), for consideration of the head of the implementing agency</td></tr>
<tr><td>Department of Interior and Local Government</td><td colspan="2">• Coordinates PPP programs and projects at the local government level
• Organizes capacity building, training, and technical assistance programs for LGUs and their key officials, in coordination with the PPP Center
• Assists the PPP Center in gathering reports on the implementation of PPP programs and projects of LGUs and in addressing impediments or bottlenecks
• Provides inputs for and assists in disseminating the PPP resource materials to LGUs</td></tr>
<tr><td>Office of the Solicitor-General</td><td>• Statutory counsel of the Philippine government and its instrumentalities and agencies, officials, and agents, and reviews PPP contracts to which they are parties</td><td rowspan="2">• With respect to PPP projects, has the following duties:
– may be involved to assist in negotiation process for USPs for national projects of implementing agencies where it is the statutory counsel
– has a representative as a non-voting member in the PBAC of national implementing agencies, where it is a statutory counsel
– reviews the draft PPP contract (for a national PPP project where it is the statutory counsel of the implementing agency) and provides initial comments on it within 15 calendar days from receipt of draft PPP contract
– undertakes final review of the draft PPP contract, as revised, and issues its clearance of the draft PPP contract, for consideration of the head of the implementing agency
– may provide assistance to implementing agencies (where it is the statutory counsel) in drafting the memorandum of agreement addressing the interconnectivity and interface risks of the PPP project</td></tr>
<tr><td>Office of the Government Corporate Counsel</td><td>• Statutory counsel of all GOCCs (including government instrumentalities vested with corporate powers or government corporate entities), except as may otherwise be provided by their respective charters or authorized by the President, their subsidiaries, corporate offsprings, and government-acquired asset corporations</td></tr>
</table>

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Table 11 *continued*

Entity	Powers and Functions
Commission on Audit (COA)	• One of the three independent constitutional commissions • All PPP projects are subject to the Government Auditing Code of the Philippines and the 2009 Revised Rules of Procedure of the COA and any amendments thereto • All revenues, share, and/or receipts pertaining to or accruing to the implementing agency or to the government derived from any PPP contract are subject to examination/audit by COA • In consultation and coordination with the PPP Center, is mandated to adopt and promulgate the necessary framework and guidelines on accounting and auditing PPP projects • Has one representative as an observer in the national or local implementing agency PBAC
Development Budget Coordination Committee (DBCC)	• Primarily reviews and approves the macroeconomic targets, revenue projections, borrowing level, aggregate budget level, and expenditure priorities and recommends to the Cabinet and the President on the consolidated public sector financial position and the national government fiscal program • Recommends for presidential approval the level of the annual government expenditure program and the ceiling of government spending for economic and social development, national defense, general government, and debt service, and allocation of expenditures for each development activity between current operating expenditures and capital outlay • Recommends to the President the amount set to be allocated for capital outlay under each development activity for various capital or infrastructure projects • Will approve the guidelines on the management of contingent liabilities arising from PPP projects and the use of the PPP Risk Management Fund to be formulated by the PPP Center, in coordination with the Inter-Agency Technical Working Group on Contingent Liabilities
PPP Unit of implementing agency	• Unit created or assigned by the head of the implementing agency responsible for planning, overseeing, and monitoring PPP projects of the implementing agency
Prequalification, Bids, and Awards Committee (PBAC) of implementing agency	• Committee created by the head of the implementing agency that shall be responsible for all aspects of the pre-bidding and bidding processes

COA = Commission on Audit, DOF = Department of Finance, DBCC = Development Budget Coordination Committee, GOCC = government-owned or controlled corporation, LDC = local development council, LGUs = local government unit, ODA = official development assistance, PBAC = Prequalification, Bids, and Awards Committee, RDC = regional development council, PPP = public–private partnership, USP =- unsolicited proposal.
Sources: DBM. *About the DBCC*; Government of the Philippines. 1970. *Executive Order No. 232*; 1987. *Executive Order No. 292*; 2022. *Executive Order No. 173*; 2023. *Public–Private Partnership Code of the Philippines.*

Implementing agencies

The government entities specifically authorized to enter into contracts pursuant to the PPP Code ("implementing agencies") are departments, bureaus, offices, instrumentalities, commissions, and authorities of the national government, state universities and colleges (SUCs), local universities and colleges (LUCs), LGUs, and GOCCs.

Implementing agencies are required to identify, develop, and prepare their respective lists of PPP projects in accordance with the PPP Code and its IRR, and to submit these lists to NEDA and the PPP Center. They should include in their development plans, strategies, and investment programs such lists of PPP projects that they intend to implement by soliciting proposals from private proponents, without prejudice to the right of private proponents to submit USPs. In developing their respective list of PPP projects, implementing agencies must consider the Consolidated List of Investment Programs (CLIPs), including national, local, regional, and sectoral development plans and investment programs of relevant government agencies. Only projects that are included in the CLIPs may be included in the list of PPP projects of implementing agencies. The various CLIPs are programming documents that contain the priority programs and projects to be implemented by national and local implementing agencies to meet the PDP targets and results matrix.[26]

Entities responsible for PPP project identification, approval, and oversight

Parameter	
Who is responsible for identifying, preparing, and procuring the PPP projects?	Respective national and local implementing agencies with the support of the PPP Center and in coherence with the CLIPs
Is there a PPP committee for providing approvals at various stages of PPP projects?	✓
Who are the approving authorities?	• For national PPPs: NEDA Board, ICC, head of national implementing agency or board of GOCC or SUC, as the case may be, depending on project approval threshold • For specific national and local PPPs: ICC • For local PPPs: *Sanggunian* for LGUs or Board for LUCs, after confirmation by the LDC and/or RDC, as the case may be (See Table 12 and Figure 80 for further details)
Does the country have an independent think-tank for various PPP planning, budgeting, and policy decisions?	✓ NEDA for programs and policies for national development PPPGB for programs and policies for local development
Is there a legislature for the PPP program oversight?	✓ Joint Congressional Oversight Committee created under the PPP Code

CLIPS = Consolidated List of Investment Programs, GOCC = government-owned or controlled corporation, ICC = Investment Coordination Committee of the NEDA Board, LGU = local government unit, LDC = local development council, LUCs = local universities and colleges, NEDA = National Economic and Development Authority, PPP = public–private partnership, PPPGB = PPP Governing Board, RDC = regional development council, *sanggunian* = local legislative body of the LGU, SUC = state university or college.
✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
Sources: Government of the Philippines. 2023. *Public–Private Partnership Code of the Philippines*; Tavidell Law.

In 2015, the PPPGB issued guidelines on the identification, selection, and prioritization of PPP projects, which institutionalize the criteria and process in the identification, selection, and prioritization of PPP projects using the Multi-Criteria Analysis (MCA) approach in determining potential PPP projects to ensure a credible list of PPP projects. These guidelines prescribe the process of identifying PPP projects. They also prescribe the MCA screen drivers, evaluation criteria, relative weights, as well as scoring guidelines.[27] The PPP Center may update these guidelines, which were issued under the previous Amended BOT Law, but there is no requirement to issue these guidelines under the PPP Code.

The PPP Center maintains a comprehensive database of PPP projects, which it makes available to the public through its website. The database classifies projects as projects in the pipeline, those under implementation,

[26] CLIPs refer to national, local, regional and sectoral investment programs such as, but not limited to, the Public Investment Program, the Three-Year Rolling Infrastructure Program, Infrastructure Flagship Projects, Regional Development Investment Programs, Provincial Development Investment Programs, City Development Investment Programs, Local Development Investment Programs, Annual Investment Programs, Land Use Development and Infrastructure Plans, Institutional Development Plan, and their successors.

[27] PPPGB. 2015. *Guidelines on the Identification, Selection, and Prioritization of Public–Private Partnership (PPP) Project.*

and concluded projects. Projects in the pipeline are further classified into projects under the preparation phase, approval phase, negotiation phase, and procurement phase.[28]

Oversight agencies for national PPP projects are NEDA, the PPP Center, and RDCs. For local PPP projects, the oversight agencies are the aforementioned agencies and the local *sanggunian* concerned. Any updates to the lists of PPP projects should also be submitted to these oversight agencies within 7 calendar days from approval of the implementing agency.

The appropriate approving body for a particular PPP project depends on whether it is a national or a local PPP project. For national PPP projects, there are also approval thresholds that determine the appropriate approving body for the project based on its project cost, as detailed in Table 12.[29] The approval requirements for local PPP projects are indicated in Figure 80 and further discussed in Chapter IV (*Local Government Public–Private Partnership Landscape*).

Table 12: Approving Bodies and Approval Thresholds/Coverage for National Public–Private Partnership Projects

Approving Body	Approval Thresholds
NEDA Board, upon favorable recommendation of the ICC Cabinet Committee (ICC-CC)	• National PPP projects costing ₱15 billion ($257.25 million as of 28 October 2024) and above • PPP projects of state universities and colleges costing ₱15 billion and above and not requiring any financial government undertakings from the national government, to be processed through a fast-track (green lane) process to be established by the ICC • National PPP projects costing ₱15 billion and above and implemented by more than one national implementing agency • PPP projects costing ₱15 billion and above and implemented by a national implementing agency and a local implementing agency
ICC Cabinet Committee (ICC-CC)	• National PPP projects costing below ₱15 billion that meet any of the following criteria: – physically overlaps with a project approved by the government authority or with a project being developed by another government entity based on national or sectoral development plans – negatively affects the economic benefits, demand, and/or financial viability of a project approved by a government authority, or a project being developed by another government entity based on national or sectoral development plans – requires financial government undertakings to be sourced and funded under the GAA – involves availability payments to be sourced and funded under the GAA – the contribution of an implementing agency in a proposed joint venture exceeds 50% of its entire assets • Proposed government undertakings or availability payments using national government funds for local PPP projects • National PPP projects costing below ₱15 billion and implemented by three or more national implementing agencies • PPP projects costing below ₱15 billion and implemented by a national implementing agency and a local implementing agency[a]

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[28] PPP Center. List of Projects.

[29] Project cost refers to the total cost to be expended to plan, develop, and construct the project, including cost of feasibility studies, engineering and design, construction, equipment, land/ROW, taxes imposed on said cost, interest charges, and other financing costs incurred during construction and development. For O&M projects without initial capital expenditures, the present value of costs incurred in delivering the contractual service, including any reinvestment requirements, shall be considered the project cost. The discount rate used in determining such present value is the government borrowing rate. Initial capital expenditures refer to capital expenditures expended during construction.

Table 12 *continued*

Approving Body	Approval Thresholds
Governing board of national implementing agency	National PPP projects that are not within the approving authority of either the NEDA Board or the ICC-CC
Head of department or agency to which national implementing agency is attached (if without a governing board)	
Head of national implementing agency (if without a governing board or mother agency)	

GAA = General Appropriations Act, NEDA = National Economic and Development Authority, ICC = Investment Coordination Committee of the NEDA Board, ICC-CC = ICC Cabinet Committee.
Note:
[a] Where the PPP project is to be implemented by a national and a local implementing agency, the concerned implementing agencies may opt to subject the PPP project for approval of the ICC instead of all approving bodies concerned, without prejudice to the authority of the local *sanggunian* in the case of LGUs, or boards in the case of LUCs, to approve the PPP project.
Sources: Government of the Philippines. 2023. *Public–Private Partnership (PPP) Code of the Philippines*; 2024. *Implementing Rules and Regulations of the PPP Code*. NEDA. 2024. *NEDA Board-ICC Guidelines on the Review and Approval of Public–Private Partnership Proposals Requiring ICC and/or NEDA Board Approval*.

Entities responsible for PPP project monitoring

Parameter	
Is there an entity for monitoring of PPP projects post-commercial close?	✓
Is there an entity for monitoring and management of fiscal risks and liabilities from PPP projects for the Department of Finance?	✓

✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.

The PPP Center is responsible for providing regular monitoring and status reports on the implementation of the PPP program and all PPP projects entered into by implementing agencies, including on potential public interest concerns and violations of the PPP Code, to the Office of the President, the Congress of the Philippines, and relevant oversight committees and agencies. It is also required to publish the same on the official website of the PPP Center.

The implementing agency exercises powers of supervision, monitoring, and control over the implementation of PPP contracts it enters into. It must ensure proper implementation of the project and timely compliance with the contractual obligations by adopting a contract management plan for each contract. It is also responsible for submitting periodic monitoring reports to the appropriate oversight agencies. In addition, the PPP unit established by the head of the implementing agency (if any) is responsible for planning, overseeing, and monitoring PPP projects of the implementing agency. The PPP unit also provides reports to the PPP Center.[30]

[30] Government of the Philippines. 2023. *Public–Private Partnership Code*; 2024. *Implementing Rules and Regulations of the PPP Code*.

In 2015, the PPPGB issued Resolution No. 2015-09-01 on PPP Project Monitoring Framework and Protocols to be followed by implementing agencies and LGUs.[31] The PPP Project Monitoring Framework and Protocols aims to

- identify the roles and responsibilities of key parties involved in monitoring the implementation of PPP projects;
- define the protocols for generating, processing, and sharing information on monitoring the implementation of PPP projects;
- document lessons learned and best practices during project implementation that can be used in planning, evaluating, and implementing future PPP projects; and
- enable the national government to effectively manage the fiscal risks arising from PPPs. The PPP Center and the DBM formulated the Joint Memorandum Circular 2018-01 to standardize the reporting and monitoring of public and private sector spending on PPPs, including contingent liabilities arising from PPPs.[32]

5. The Public–Private Partnership Process

Under the PPP Code and its IRR, the overall PPP process in the Philippines includes the following stages:

- **Preparation** includes the following:
  - **identification**, involving the establishment of the PPP unit of the implementing agency, the identification of PPP projects, and the preparation, submission and publication of the list of PPP projects; and
  - **development**, involving the preparation of the feasibility study, including risk allocation and mitigation, project structuring, and stakeholder consultation.
- **Review and Approval** includes assessment and approval of the project by various approving entities.
- **Procurement** includes bid documentation and bid process management up to award of the PPP project to the winning bidder.
- **Award and Execution of PPP Contract** includes the issuance of the notice of award to the winning bidder, compliance with requirements of the notice of award, and execution of the PPP contract by the implementing agency and the winning bidder.
- **Implementation** includes all activities from commercial close up to hand-back/transfer of the project by the private partner to the implementing agency at the end of the PPP contract period.

[31] PPP Center. 2018. *Public–Private Partnership Projects Monitoring Framework and Protocols*. The resolution is expected to be updated by the PPP Center to fully reflect the PPP Code. In the meantime it can still be used for guidance.

[32] DBM. 2018. *Reporting of PPP Project Spending and Contingent Liabilities*.

Parameter	
Does the PPP legal and regulatory framework provide for a PPP implementation process covering the entire PPP life cycle?	✓
Does the Feasibility Assessment stage cover: • Technical feasibility? • Socioeconomic feasibility? • Environmental sustainability? • Financial feasibility? • Fiscal affordability assessment? • Legal assessment? • Risk assessment and PPP project structuring? • Value for money assessment? • Market sounding with stakeholders?	 ✓ ✓ ✓ ✓ ✓ ✓ ✓ ✓ ✓
Is the PPP procurement plan required?	✓
Is there a need to set up a separate PPP procurement committee?	✓
Is competitive bidding the only method for selection of the PPP private developer?	×
Is the prequalification stage necessary? Or does the PPP legal and regulatory framework allow flexibility to skip the prequalification stage?	✓ Flexibility is allowed for simultaneous submission of qualification requirements and bid proposals (single-stage bidding)
Does the PPP legal and regulatory process provide the option to the preferred bidder for contract negotiations?	✓ For unsolicited proposals and single complying and responsive bids in solicited projects
Does the PPP legal and regulatory framework allow unsuccessful bidders to challenge the award/submit complaints?	✓
What is the maximum time allowed for submitting a complaint/challenging the award by unsuccessful bidders from the announcement of the preferred bidder?	5 days from receipt of decision
Does the PPP legal and regulatory framework provide for transparency?	✓
Which of the following are required to be published?	
• Findings from the feasibility assessment?	×
• Procurement notice?	✓
• Outcome of stakeholder consultations from market sounding?	×
• Clarifications to prequalification queries?	✓
• Prequalification results?	✓
• Clarifications to pre-bid queries?	✓
• Results for the bid stage and selection of preferred bidder?	✓
• Final concession agreement to be entered between the government agency and the preferred bidder? And other PPP project agreements executed between government agency and preferred bidder?	✓ All tender documents and PPP contracts, except provisions that are proprietary or if disclosure may pose threats to national security or public safety
• Confidentiality	✓

PPP = public–private partnership.
✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.

Public–private partnership project preparation process

Project identification

Implementing agencies should consider the CLIPs, including national, local, regional, and sectoral development plans and investment programs of relevant government entities. Only projects that are included in the CLIPs may be included in the list of PPP projects to be prepared by the implementing agency.

The guiding principles for identifying PPP projects are

- effectiveness in meeting government objectives;
- appropriateness of the chosen procurement modality and source of funding;
- preliminary indicators of VFM, economic viability, and financial viability;
- accountability and transparency;
- consumer rights;
- affordability;
- market acceptability and commercial attractiveness; and
- public access, safety, and security.

Implementing agencies and the PPP Center must ensure the lists of PPP projects proposed for implementation are widely publicized to inform interested parties, including on their respective websites. In addition, a consolidated list of all submitted lists of PPP projects is posted on the website of the PPP Center. Unsolicited proposals are included in the consolidated list of PPP projects of the PPP Center once they have been endorsed by the PPP Center for processing.

Project development

In developing PPP projects, implementing agencies should consider the following factors

- legal, technical, economic, and financial feasibility of the project;
- VFM of the proposed project;
- optimal risk allocation;
- affordability of tariffs;
- climate and disaster resilience and sustainability;
- commercial feasibility and market acceptability;
- social and environmental safeguards;
- lessons learned from previous or ongoing PPP projects; and
- whole-of-government approach.

Furthermore, the prior conduct of stakeholder consultation is required for the development of a PPP project.

A major part of the development process is the preparation of a complete feasibility study for the project, which requires extensive due diligence of the various aspects of the project.

Table 13 details the required information and contents of a feasibility study for PPP projects requiring NEDA Board or ICC approval.

Table 13: Required Contents of a Complete Feasibility Study

Required Information	Required Contents/Details
a. Problem definition or statement of objectives	
b. Project description	• Scope of works including descriptions of project components • Project location/s • Areas of service/influence, including target users • Products and/or services, including specifications
c. Expected outcomes and key success indicators of project, and key assumptions	• Expected outcomes • Key success indicators of the project • Key assumptions, including bases/references, if applicable
d. Assessment of PPP contractual arrangement options considered, and/or of the proposed contractual arrangement	
e. Project context in government's/ implementing agency's overall strategy/program, sectoral program context, and regional and spatial context	• Overview of government's/implementing agency's national strategy and program • Specific link of the proposed project to achieve government's/implementing agency's national strategy and program, which should also answer how the project addresses the gaps, needs, priorities, and/or objectives of the sector • Linkages of the proposed project with other government/implementing agency project/s
f. Analysis of technical solutions or alternatives, including analysis of risks and impacts	• Criteria and/or justification for choosing the following: – proposed solution/project design/chosen technology, which should include minimum level of detail of a conceptual design, schematic design, or operational plan, as applicable, which should contain a graphical representation of the elements of the intended physical structures of the project with preliminary specifications, scale, shape, and timelines per phase/work component – proposed project location/orientation and/or alignment (e.g., alternative alignments for rail and road projects, location for airport) • Technical viability of implementing the project considering the following: – technical risks applicable for the project – measures to mitigate each technical risk identified • Discussion on alternative technical solutions, as applicable • Discussion on project site, which may include discussion on geotechnical report, and/or land acquisition and resettlement action plan
g. Stakeholder analysis	Result of stakeholder consultations conducted, including methodology used, timeline, and sample size, among others, which should also include information on the stakeholders of the project, stakeholders' concerns, and proposed measures to address said concerns

continued on next page

Table 13 *continued*

Required Information	Required Contents/Details
h. Project costs	• Breakdown of project cost items should include the following, as applicable: – cost of feasibility studies, business case, surveys, engineering and design, and other development costs – cost of construction – cost of equipment – cost of land and right-of-way – cost of a chosen technology – cost of mitigating related risks and impacts – cost related to implementing project safeguards on environmental quality; natural resource sustainability; climate change and natural hazards; equity in development benefits; gender equality, disability, and social inclusion (GEDSI); disability and accessibility; and health, among others – interest charges and other financing cost incurred during construction – taxes imposed • For purely operation and maintenance PPP projects without initial capital expenditures: – present value of costs incurred in delivering the contracted service – present value of reinvestment requirements
i. Legal due diligence, which includes policy and regulatory framework of the market/s affected by the project, and the institutional analysis	• Analysis of all legal/regulatory/policy frameworks applicable to the project (e.g., Right of Way Act, Indigenous Peoples' Rights Act, etc.) • Institutional analysis, including a list of all government agencies involved in the project (implementing agency/ies, regulatory body, etc.)
j. Demand and supply/ market analysis	• Existing demand, including historical data, if applicable • Projected demand, along with assumptions • Information/findings on alternative products/services available to users of the project, as applicable, including market shares of potential competitors providing the alternative products/services • Other information on industry structure and prevailing conditions of the market, including supply chain of markets affected and barriers to entry • For user fee-based PPP projects, assessment of tariff to be charged *vis-à-vis* its impact to the demand (e.g., willingness to pay survey, market survey, comparable market analysis, among others)
k. Financial analysis	• Analysis on the project's ability to meet operational costs and debt service obligations • Details of project's proposed investment recovery scheme: depending on the proposed investment recovery scheme, the following should be provided, as applicable: – tariff to be charged during the opening year – parametric formula for tariff adjustment – availability payment – other proposed investment recovery scheme/s not mentioned above – assessment/justification of the proposed investment recovery scheme/s • Assumptions, including bases/references, in calculating financial revenues and costs • Resulting viability indicators • Sensitivity analysis with respect to changes in costs, revenues, and demand, among others • For joint venture projects, proposed profit sharing between implementing agency and private proponent • For solicited projects, proposed maximum reasonable rate of return in case of a single complying and responsive bidder

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Table 13 *continued*

Required Information	Required Contents/Details
l. Economic analysis	• Analysis of project desirability in terms of its net contribution to the economic and social welfare of the country as a whole • Economic costs considered, including descriptions and assumptions, with bases/references. This should consider the ICC-prescribed shadow factors for unskilled labor and foreign cost component[a] • Economic benefits streams considered, including descriptions and assumptions, with bases/references • Resulting viability indicators, considering the ICC-prescribed Social Discount Rate[b] • Sensitivity analysis with respect to changes in costs, benefits, and demand, among others
m. Social and environmental analysis, including project safeguards	**Environment, climate change, and sustainability considerations:** • Environmental impact of the project, including proposed safeguard measures to avoid/minimize effects of such impacts • Climate change resiliency and sustainability considerations, including proposed safeguard measures **Equity in development benefits:** • Accomplished Gender Responsiveness Checklist as part of project appraisal • GEDSI considerations, including proposed safeguard measures addressing the identified issues **Other considerations, as applicable:** • Cultural resources and heritage considerations, including proposed preservation measures • Proposed workplace standards on health and safety • Proposed cybersecurity standards/practices
n. Risk allocation and risk mitigation plan	• Risk allocation • Risk mitigation plan for each risk identified • (See Table 14 for further details)
o. Value for money analysis	• Calculations for PPP shadow bid, including assumptions with bases/references • Calculations for the Public Sector Comparator, including assumptions with bases/references • Resulting value for money, including analysis of whether the project provides better value for money as a PPP in comparison with the traditional public procurement option • Sensitivity analysis with respect to changes in the PPP shadow bid and/or the Public Sector Comparator
p. Information on job creation/employment impact of the project	• Estimated number of jobs to be generated • Job type • Amount of wages/salaries • Disaggregated data on sex and disability

GEDSI = gender equality, disability, and social inclusion, ICC = Investment Coordination Committee of the NEDA Board, NEDA = National Economic and Development Authority, PPP = public–private partnership.

Notes:

[a] The shadow factors to consider in economic analysis are the shadow exchange rate and the shadow wage rate. The shadow exchange rate is applied to correct the distortion in the prevailing exchange rate owing to balance of payments disequilibrium and the projection structure. The shadow exchange rate currently adopted is 1.20 of the prevailing exchange rate, and is applied to all direct and indirect foreign exchange costs of a project and those benefits that may be expressed in foreign exchange. The shadow wage rate is used to reflect the true economic value of labor employed in a project. It is applicable only to the unskilled labor component of wages paid and is currently estimated at 60% of legislated wage rates.

[b] The Social Discount Rate, currently set at 10%, reflects the hurdle rate which the economic internal rate of return of a proposed project must equal or exceed for it to become an economically viable investment.

Sources: ICC. 2016. *Revisions on ICC Guidelines and Procedures (Updated Social Discount Rate for the Philippines)*; NEDA. 2022. *ICC Evaluation Criteria for the Review of Public – Private Partnership Projects*; 2024. *NEDA Board-Investment Coordination Committee (ICC) Guidelines on the Review and Approval of PPP Proposals Requiring ICC and/or NEDA Board Approval*.

The risk allocation developed in the feasibility study must comply with the Generic Preferred Risk Allocation Matrix (GPRAM). There is no GPRAM specific to each sector. The GPRAM lists 41 key risks for a PPP project, along with the preferred risk allocation for each. Details are provided in Table 14. The implementing agency must justify any deviation from the GPRAM.

Table 14: Preferred Risk Allocation Under the Generic Preferred Risk Allocation Matrix

Type of Risk	Public	Shared	Private
Existing structure and assets (refurbishment/ extensions)	✓[a]		✓[b]
Existing facilities: current service contracts	✓ For non-novated contracts		✓ For contracts novated to it
Existing facilities: current government employees	✓		
Geotechnical site conditions	✓[a]		✓[b]
Permits and approvals/site preparation	✓ Delays and lapses caused by national and local government agencies		✓ Related to appropriateness of its design
Environmental liabilities existing prior to the project	✓[a]		✓[b]
Environmental liabilities created during operation			✓
Cultural heritage	✓[a]		✓[b]
Availability of site	✓ If it provides site		✓ If it provides site
Design/technical risk	✓ Government-initiated change		✓ Contractor-design fault
Interconnectivity risk	Ensure setting of appropriate interconnectivity requirements and necessary actions by third-party owners/operators	✓	Ensure its design meets interconnection requirements
Interoperability risk	As a matter of public policy, pursue interoperability with related public infrastructure, including those privately owned or operated	✓	Ensure operational aspect of interoperability of the project
Construction	✓ For delay caused by government		✓
Commissioning			✓
Interest rates prior to construction completion			✓
Interest rates post-completion of construction			✓
Exchange rate			✓

continued on next page

Table 14 *continued*

Type of Risk	Public	Shared	Private
Inflation	✓ And/or users to shoulder inflation risk through indexation of government/user payments for operation and maintenance services to inflation		✓
Financing unavailable			✓
Sponsor risk	✓		
Change in ownership of private partner	Bears by nature of it entering into a contract with private partner	✓	Bears by virtue of limitations placed on its changing of ownership or control arrangements
Tax changes	✓ Tax increases or new taxes (from national and local governments) arising from discriminatory changes in tax law or changes in real property tax		✓ General changes in taxation
Lessee risk			✓
Inputs/operating cost overrun			✓
Maintenance and refurbishment			✓
Changes in output specification outside agreed specification range (including modifications and augmentations)	✓ If it initiated the change		✓ If it initiated the change
Operator failure/shortfall in service quality			✓
Technical obsolescence or innovation	✓ If it wishes to update output specifications		✓
Third party liability	✓ If it is the party at fault		✓ If it is the party at fault
Demand risk	[✓] [In availability public–private partnership]	[✓]	[✓] [In concession public–private partnership]
Changes in competitive network			✓
Ancillary commercial businesses			✓
Industrial relations			✓

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Table 14 *continued*

Type of Risk	Public	Shared	Private
Approvals	✓ For delays and lapses caused by national and local government agencies where private partner has met all necessary requirements		✓ For risks with respect to appropriateness of its submissions to approving authority
Changes in law/policy	✓ Beyond materiality threshold		✓ Up to materiality threshold
Economic regulation	✓		
Availability of government appropriations	✓		
Changes in statutory rates of general application			✓
Force majeure risk		✓	
Default and termination	✓ If it is the cause of the default and termination	✓ If force majeure caused the termination	✓ If it is the cause of the default and termination
Residual value on transfer to government (life cycle maintenance, refurbishment, and performance requirements)			✓

Notes:
[a] Responsible for material unidentified risks.
[b] Responsible for pre-identified matters and unidentified matters below materiality threshold.
Source: PPP Center. 2016. *Generic Preferred Risk Allocation Matrix*.

The GPRAM is based on the principle that risks should be borne by the party that is best able to manage it. It identifies the proposed risk allocation and rationale, possible risk mitigation strategies, and suggested contract provisions for each type of risk.[33]

Under the GPRAM, commercial and business risks (such as demand risk in revenue-based PPPs), supply risk, construction and commissioning risk, operation risk, financing risk, and industrial related risk are allocated to the private sector while political and regulatory risks (e.g., risks on economic regulation and availability of government appropriations) are allocated to the public sector. For availability PPPs, however, the demand risk is assumed by the government. Force majeure and change in law risks are typically shared, with the private sector assuming the risk up to a monetary threshold; beyond that, it is the public sector that bears the risk. The public sector assumes the risk arising from discriminatory changes in tax laws from national and local governments while general changes in taxation are allocated to the private sector. The private sector bears the risk on the residual value on transfer to the government (i.e., life cycle maintenance, refurbishment, and performance requirements) (Table 14).[34]

33 PPP Center. 2016. *Generic Preferred Risk Allocation Matrix*.
34 PPP Center. 2016. *Generic Preferred Risk Allocation Matrix*.

Material adverse government action (MAGA), which has been a contentious issue in the procurement of PPP contracts in the past, is now defined in the PPP Code as "any act of the government which the Private Partner had no knowledge of, or could not be reasonably expected to have had knowledge of, prior to the effectivity of the PPP contract, and that occurs after the effectivity of the PPP contract, other than an act which is authorized or permitted under the PPP contract, which (1) specifically discriminates against the sector, industry, or project, and (2) has a significant negative effect on the ability of the Private Partner to comply with any of its obligations under the approved PPP contract." The earlier definition of MAGA in the revised IRR of the Amended BOT Law states that MAGA provisions in the PPP contract "shall also provide for the rules on materiality or amount threshold, nature and manner of recourse, and a cap in case of monetary compensation." As this provision was not carried over to the MAGA definition in the PPP Code, it appears that the government will now fully bear the risks arising from MAGA (noting that the MAGA clause under the PPP Code is as yet untested).

Interconnectivity and interoperability risks are shared under the GPRAM. The private partner must ensure its design meets interconnection requirements. On the other hand, the government must ensure the setting of appropriate interconnectivity requirements and necessary actions by owners or operators of related projects and network components since it is best placed to require necessary complementary actions by those third-party owners or operators. The PPP Code further details the interconnection/interoperability approving process.

The implementing agency must present the proposed risk allocation for the project to the approving body in the feasibility study and as part of the PTC forms.

Public–private partnership project review and approval process

The approval process requires the implementing agency to submit the following minimum PTCs along with the feasibility study to the approving body

- scope of the PPP project;
- contractual arrangement;
- contract duration;
- rights and obligations of the implementing agency and the private proponent, and corresponding penalties for failure to fulfill obligations under the PPP contract;
- performance standards and targets upon which the key performance indicators, targets, and measurement for monitoring and reporting results may be derived in preparing the draft PPP contract;
- safeguards that will protect the interests of the government and the public;
- investment recovery scheme, including terms of payment;
- revenue share for the government, if any;
- government undertakings, including appropriate compensation to the government, as applicable;
- risk allocation for the PPP project, including a risk mitigation plan for risks assumed by the government;
- contingent liabilities arising from risks, including an intent to avail of the PPP Risk Management Fund, as applicable;
- bid parameter;
- ceiling for debt-to-equity ratio;

- in case of solicited projects, the proposed public bidding process—i.e., whether single stage or two stage; and
- in case of USPs, the proposed period for comparative challenge process, whether single stage or two stages—i.e., not less than 90 calendar days and not more than 1 year.

The criteria for evaluation and approval of PPP projects, whether national or local, by the approving body are, among others:

- The project context and objectives are clearly specified.
- The scope, outputs, and performance indicators of the project are clearly specified.
- The proposed project is technically feasible and optimal, considering, among others, the technical requirements of gender and people with disabilities in accordance with existing legal requirements.
- The proposed project has an environment, climate change, and social safeguards framework, including identified risks and mitigating measures.
- The project cost is sufficient to achieve the technical requirements of the project, including the general performance standards and targets set for the project, and those components needed to meet gender, social, and environmental standards.
- Operating costs are sufficient to achieve the operational requirements.
- The project is economically viable, and the information used are reasonable and robust to determine viability.
- The VFM analysis shows that PPP modality is the more viable procurement option than traditional government procurement.
- The project is financially viable for investors at the project level, and the information used is reasonable and robust to determine viability.
- The project's cash flows are healthy and sufficient to service debt obligations.
- Risk allocation complies with the GPRAM and any deviation is justified by the implementing agency (and approved by the approving body).
- Government undertakings and investment recovery schemes are justified by the implementing agency.
- The proposed bid parameter is the most advantageous to the government, fosters competition, fairness, and transparency, and ensures the best interest of the public.
- The implementing agency has the capability to deliver its assumed obligations for the project.
- The proposed tariff regime is affordable to users.
- Fiscal considerations are sufficiently provided, including contingent liabilities, foregone government revenue streams, and indirect costs associated with the project.

The approving body is required to render its decision on the national PPP project within 120 calendar days from its receipt of complete requirements.[35] If the approving body fails to render a final decision within this period, the project shall be deemed approved and the implementing agency may proceed with the procurement of the project within 7 calendar days from receipt of a notification from the PPP Center.

[35] All submissions of solicited PPP proposals requiring ICC and/or NEDA Board approval must be submitted to the ICC Project Documents Portal.

For USPs, the approval phase commences after successful negotiation and the grant of original proponent status (OPS) to the private proponent, as discussed in the section Unsolicited Public–Private Partnership Proposals.

The final PTCs set forth by the approving body will be the basis for the drafting and approval of the tender documents and the PPP Contract. In solicited projects, changes to the PTCs of the draft PPP contract may be allowed before submission of bids, with the prior approval of the head of the implementing agency and the approving body. Changes to PTCs of the draft PPP contract after bid submission and prior to contract execution are not allowed, except for changes to contract terms affected or decided by the winning bidder's bid. For USPs, changes to the PTCs of the draft PPP contract are not allowed, except for changes to contract terms affected or decided by the winning challenger's bid.

Public–private partnership approval guidelines

The ICC PPP Approval Guidelines and their attachments (Table 15), which the NEDA Board approved on 25 April 2024, prescribe the detailed guidelines on the process and procedures for the review and approval of PPP projects requiring approval by the NEDA Board or the ICC and the following matters where the approving body is the ICC or the NEDA Board:

- proposed change in the PTCs of the draft PPP contract prior to submission of bids for solicited national PPP projects;
- proposed variation, expansion, or extension of all contracts covering PPP projects executed prior to or after the effectivity of the PPP Code;
- withdrawal or substitution of a consortium member that results in a change of control of the private partner or consortium that will affect its majority ownership and/or beneficial ownership after the approval of the project;
- RROR in case of single complying bid for solicited project;
- in case of USPs, guidelines on cases where the appropriate approving body requires PTCs outside of the negotiated PTCs;
- guidelines on cases where the appropriate approving body failed to render its decision on a PPP project within 120 calendar days from receipt of complete requirements;
- changes in procurement modality after the PPP project has been approved by the appropriate approving body; and
- requirements to establish the qualification of the private proponent for unsolicited proposals.

Table 15: Attachments to NEDA Guidelines, Dated 25 April 2024

Attachment	Description
Annex 1	General NEDA Board–ICC procedures on the review and approval of PPP proposals requiring ICC and/or NEDA Board approval
Annex 2	Sample computation on determining the reasonable rate of return for the toll road industry
Annex 3	List of documentary requirements for the approval of the following PPP projects: a. national PPP projects with project cost of ₱15 billion and above b. national PPP projects with project cost of below ₱15 billion but meets any of the five criteria requiring approval by the ICC c. national PPP projects implemented by more than one national implementing agency d. PPP projects implemented by a national and a local implementing agency e. national PPP projects to be implemented by state universities and colleges via green lane
Annex 4	List of documentary requirements for the approval of the proposed government undertakings or availability payments using national government funds for local PPP projects
Annex 5	List of documentary requirements for the approval of changes to PTCs of the draft PPP contract prior to submission of bids
Annex 6	List of documentary requirements for the approval of the contract variation, expansion, or extension of an executed PPP contract
Annex 7	List of documentary requirements for the approval of the changes in, withdrawals, or substitution of private partners or member firms of a consortium
Annex 8: **PTC Form 1** **PTC Form 2** **PTC Form 3** **PTC Form 4** **PTC Form 5**	PTC forms Proposed general PTCs Government undertakings, and other financial obligations of the government Proposed risk allocation and risk mitigation plan Identified interconnection and interface risks, and mitigating measures Mandatory provisions in the draft PPP contract for unsolicited proposals
Annex 9	Private proponent information and qualification form
Annex 10	List of requirements to establish the qualification of the private proponent for unsolicited proposals

ICC = Investment Coordination Committee of the NEDA Board, NEDA = National Economic and Development Authority,
PPP = public–private partnership, PTC = parameters, terms, and conditions.
Source: NEDA. 2024. *NEDA Board-Investment Coordination Committee (ICC) Guidelines on the Review and Approval of PPP Proposals Requiring ICC and/or NEDA Board Approval.*

PPP project procurement process and award and execution of PPP contracts

The implementing agency conducts the procurement process through its PBAC, created by its head.[36] The PBAC is responsible for all aspects of pre-bidding and bidding, including, among others:

- preparation and issuance of the tender documents,
- publication of the invitation to qualify/prequalify and bid/for comparative proposals,
- assessment of qualification/prequalification of prospective bidders/challengers,
- conduct of pre-bid conferences and issuance of bid bulletins and supplemental notices,

[36] The voting members of the PBAC are from the implementing agency, although it may hire external consultants. There are non-voting members and observers from other agencies and groups, such as the statutory counsel of the implementing agency, the Philippine Competition Commission, the PPP Center, the regulatory body, facility users, and recognized consumer group.

- interpretation of bidding rules,
- conduct of bidding,
- evaluation of bids,
- resolution of protests, and
- recommendation for the acceptance of the bid and/or for the award of the PPP contract.[37]

After securing the approval of the approving body, the implementing agency proceeds with the publication of the invitation to prequalify/qualify and/or bid in the case of solicited projects, and invitation for comparative proposals in the case of USPs, on the websites of the implementing agency and the PPP Center. In case the Implementing Agency does not have a website, it may publish such invitation on its official digital platform. For solicited projects, the deadline to publish the invitation to qualify/prequalify and bid is within 90 calendar days from issuance of the notice of approval by the approving body. In the case of USPs, the invitation for comparative proposals must be published within 7 calendar days from issuance of the document showing the approving body's approval of the USP. The implementing agency has 20 calendar days after the 7-day period to prepare and issue the comparative challenge documents.

Upon issuance of the invitation, the PBAC prepares and issues the tender documents/comparative challenge documents to prospective bidders, which include

- instructions to bidders/challengers,
- a draft PPP contract reflecting the PTCs approved by the approving body,[38]
- a bid form reflecting the required information to properly evaluate the bid proposal,
- forms of bid and performance securities,
- requirements and timelines/milestones of agencies concerned in granting of administrative or local franchise, if applicable, and
- other documents as may be deemed necessary by the PBAC.

The PBAC decides on the best mechanism in assessing the qualification/prequalification of prospective bidders/challengers and in evaluating proposals. For example, it may adopt a shortlisting mechanism in the case of evaluating qualification/prequalification documents or a scoring system in the evaluation of technical proposals.

The implementing agency recommends whether to conduct the procurement in a single-stage or two-stage bidding process, subject to the approval of the approving body as part of the PTCs. In a single-stage bidding process, simultaneous submission of qualification requirements and bid proposals is required. On the other hand, in a two-stage bidding process, the prequalification requirements are submitted first, and only those that pass the prequalification stage will be allowed to submit their bid proposals. Further, the implementing agency may resort to simultaneous evaluation of the technical and financial proposals where the nature of the PPP project warrants the appreciation of both technical and financial proposals as a whole to determine the best proposal. Simultaneous evaluation of technical and financial proposals must be completed within 45 calendar days from the date the bids are opened.

37 Government of the Philippines. 2024. *Implementing Rules and Regulations of the PPP Code.*

38 At this stage, the PTCs are approved by the approving body but the contract itself is not yet approved by the applicable reviewing body/bodies (PPP Center, DOF, and statutory counsel, as applicable).

The procurement process, which begins on the date the invitation to prequalify/qualify and/or bid or invitation for comparative proposals is published and ends on the date the implementing agency confirms fulfillment by the winning bidder of the post-award requirements for both solicited and unsolicited projects, must not exceed 1 year and be not less than 90 days for the submission of comparative proposals. For USPs, the original proponent is given 30 calendar days to match or better the financial proposal of the most superior comparative proposal. The period for the right to match is excluded from the counting of the period for the comparative challenge process.

The PBAC issues bid bulletins or supplemental notices to provide any substantive interpretation or changes of the bidding rules up to 30 days before bid submission date. The implementing agency must secure clearance from the reviewing bodies, consisting of the PPP Center, its statutory counsel, and the DOF (if the project involves a national government undertaking or availability payments) before it releases the final draft of the PPP contract to bidders/challengers no later than 30 calendar days before the deadline for submission of bids/comparative proposals. See Figure 9, Figure 10, and Figure 11 for further details.

The procurement milestones for a two-stage bidding process for a solicited PPP project up to contract award and execution are summarized in Table 16.

Table 16: Procurement Milestones for a Two-Stage Bidding Process for a Solicited Public–Private Partnership Project

No.	Procurement Milestones	Time Frame	No. of Days
1	Implementing agency and PPP Center publish and post invitation to prequalify and bid on respective websites PBAC prepares and issues the tender documents to prospective bidders	90 calendar days from issuance of notice of approval of PPP project and PTCs by approving body Upon issuance of invitation to prequalify and bid	90
2	Prospective bidders prepare and submit their prequalification documents (i.e., legal, technical, and financial capability requirements) manually or electronically as prescribed by PBAC	At least 15 calendar days from last date of publication of invitation to prequalify and bid	15 or more
3	PBAC opens prequalification documents to ascertain whether they are complete	10 calendar days after deadline for submission of prequalification documents	10
4	PBAC evaluates prequalification documents and notifies prequalified and disqualified bidders	20–30 calendar days (maximum) after opening of prequalification documents	30
5	PBAC conducts pre-bid conference	At least 45 calendar days before deadline for submission of bids	
6	PBAC holds one-on-one meetings with prospective bidders[a]	As stated in the tender documents, provided it is held at least 30 calendar days before deadline for submission of bids	
7	Head of implementing agency approves PPP contract and releases final approved PPP contract to bidders	10 days from receipt of final comments/clearance from reviewing bodies and at least 30 calendar days before deadline for submission of bids	
8	Freeze period – No new bid bulletins or changes thereto shall be issued	At least 30 calendar days before deadline for submission of bids	30

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Table 16 *continued*

No.	Procurement Milestones	Time Frame	No. of Days
9	Bidders prepare and submit in two envelopes: 1. Technical proposal, including bid security valid for 180 calendar days from opening of bids 2. Financial proposal	On or before deadline stated in instructions to bidders, such that the entire procurement process will not exceed 1 year	-
10	PBAC opens technical proposals	On date stated in instructions to bidders (usually on bid submission date)	-
11	PBAC evaluates technical proposals and notifies bidders whose technical proposals passed the technical evaluation criteria and of the date, time, and place of opening of the financial proposal envelopes	30 calendar days from date of opening of technical proposals	30
12	PBAC opens and evaluates financial proposals of bidders whose technical proposals passed the technical evaluation criteria	15 calendar days from date evaluation of technical proposals is completed	15
13	PBAC submits recommendation for contract award to head of implementing agency	7 calendar days from date financial evaluation is completed	7
14	Head of implementing agency approves award	7 calendar days from date PBAC submits recommendation to award to head of implementing agency	7
15	Head of implementing agency signs and issues notice of award to winning bidder, indicating requirements for contract award to be submitted (post-award requirements), and notifies decision to all unsuccessful bidders[b c]	3 calendar days from date head of implementing agency approves award	3
16	Winning bidder submits all post-award requirements	20 calendar days from date winning bidder officially receives notice of award	20
17	Head of implementing agency notifies winning bidder of its compliance with all post-award requirements	5 calendar days from date implementing agency receives all post-award requirements	5
18	Head of implementing agency and authorized signatory of winning bidder sign PPP contract[d e]	5 calendar days from date winning bidder receives implementing agency's notice that all post-award requirements have been complied with	5

PBAC = Prequalification, Bids, and Awards Committee, PPP = public–private partnership.

Notes:

[a] This step is discretionary on the part of the implementing agency. Comments of the bidder on the concession agreement are discussed during the one-on-one meeting.

[b] Failure to submit these requirements within the prescribed 20-calendar day period will result in forfeiture of its bid security.

[c] Within 7 calendar days from issuance of the notice of award, the PPP Center and implementing agency are required to post the notice of award and/or bidding results on their websites and/or official digital platforms.

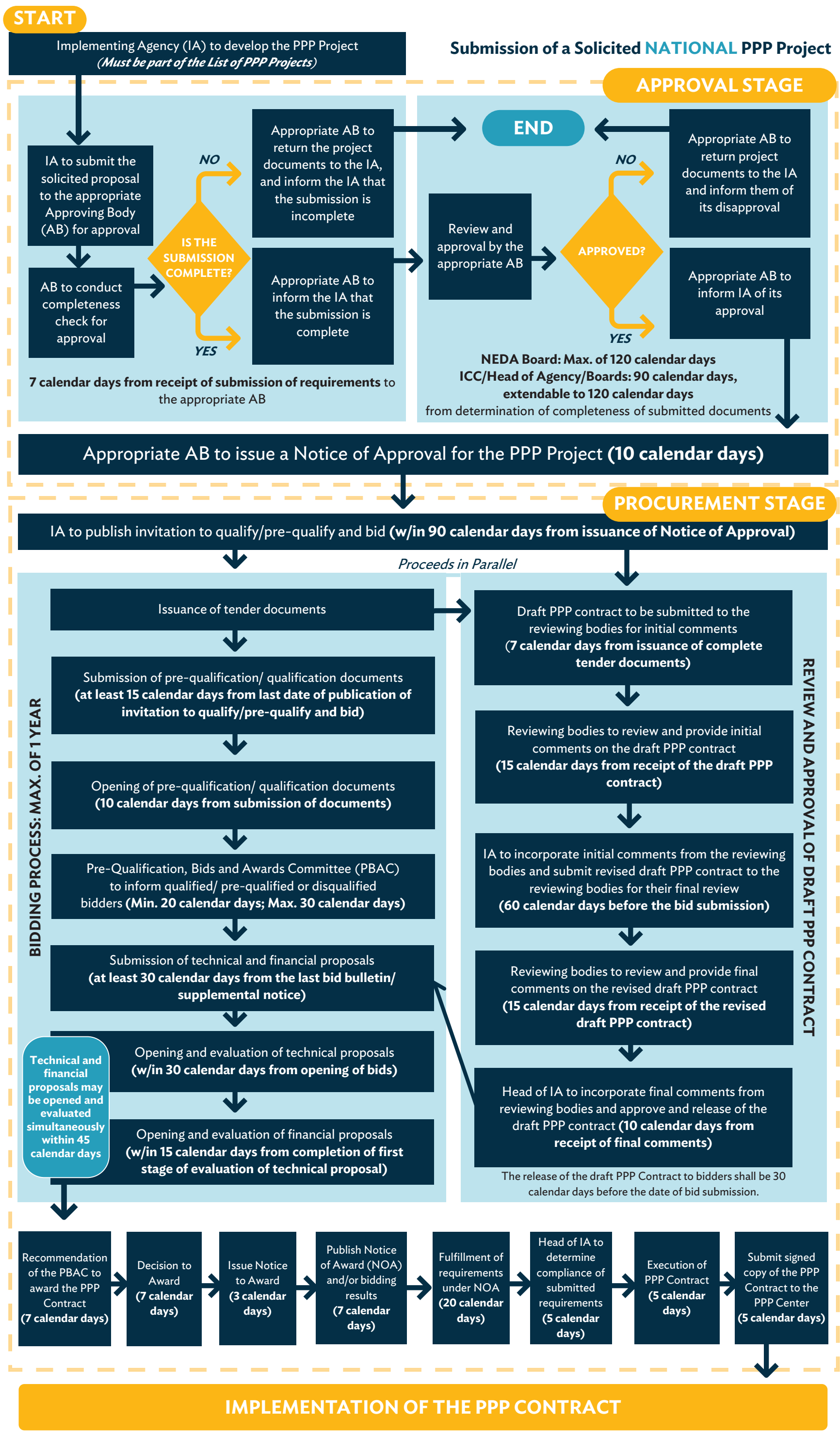
[d] Failure by the winning bidder to sign the contract will result in forfeiture of its bid security.

[e] The implementing agency is required to submit the original signed copy of the PPP contract to the approving body and the PPP Center within 5 calendar days after the signing.

Source: Government of the Philippines. 2024. *Implementing Rules and Regulations of the PPP Code.*

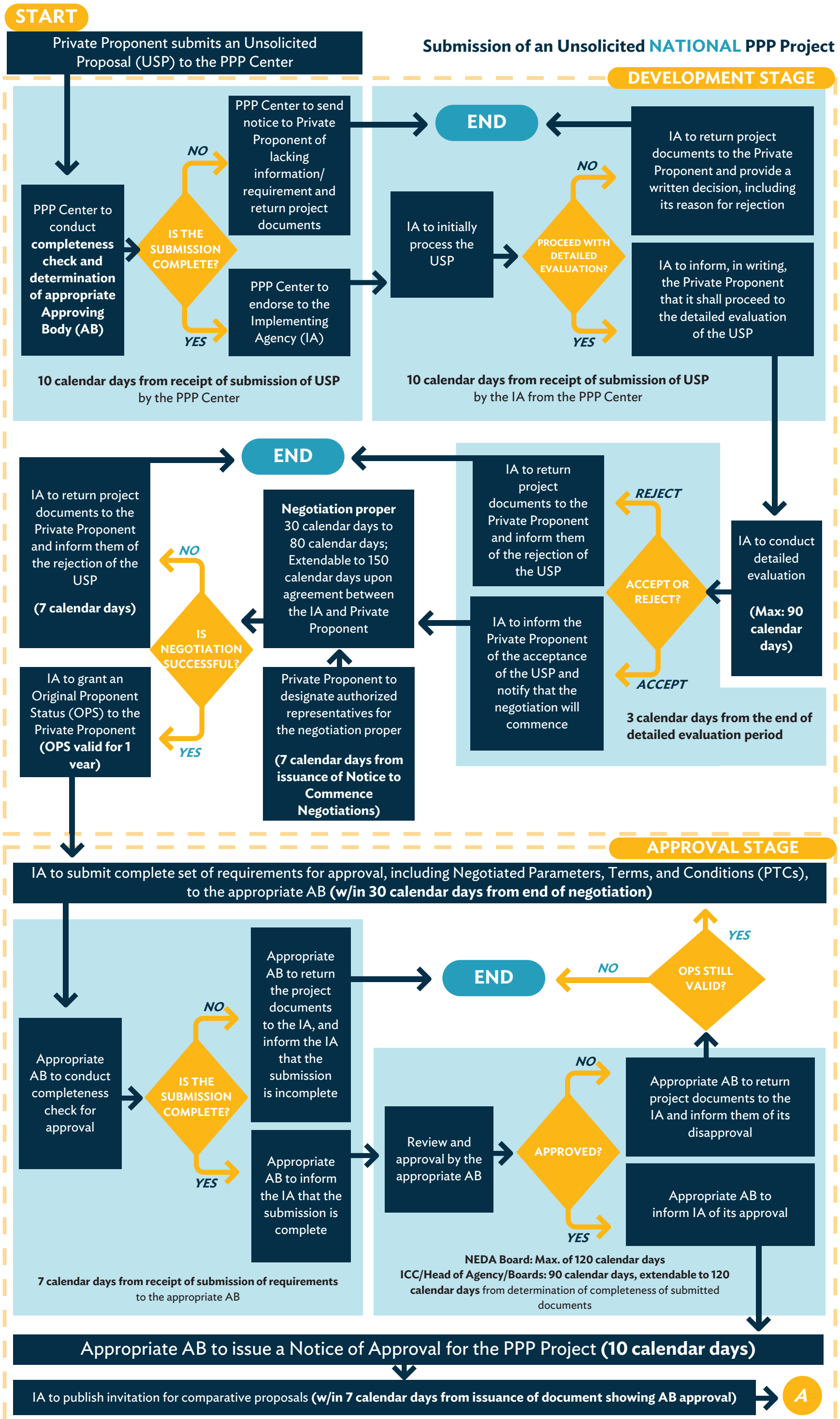
As presented on the PPP Center website, the processes for the approval and procurement and the contract award and execution stages of solicited national PPP projects, with corresponding timelines, are depicted in Figure 9, while the processes for the development, approval, and procurement (comparative challenge) and contract award and execution stages for national unsolicited PPP projects are depicted in Figure 10 and Figure 11.

Figure 9: Submission of a Solicited National Public–Private Partnership Project



AB = approving body, IA = implementing agency, ICC = Investment Coordination Committee of the NEDA Board, NEDA = National Economic and Development Authority, NOA = notice of award, PBAC = Prequalification, Bids, and Awards Committee, PPP = public–private partnership.
Source: PPP Center. Submission of a Solicited National PPP Project.

Figure 10: Submission of an Unsolicited National Public–Private Partnership Project

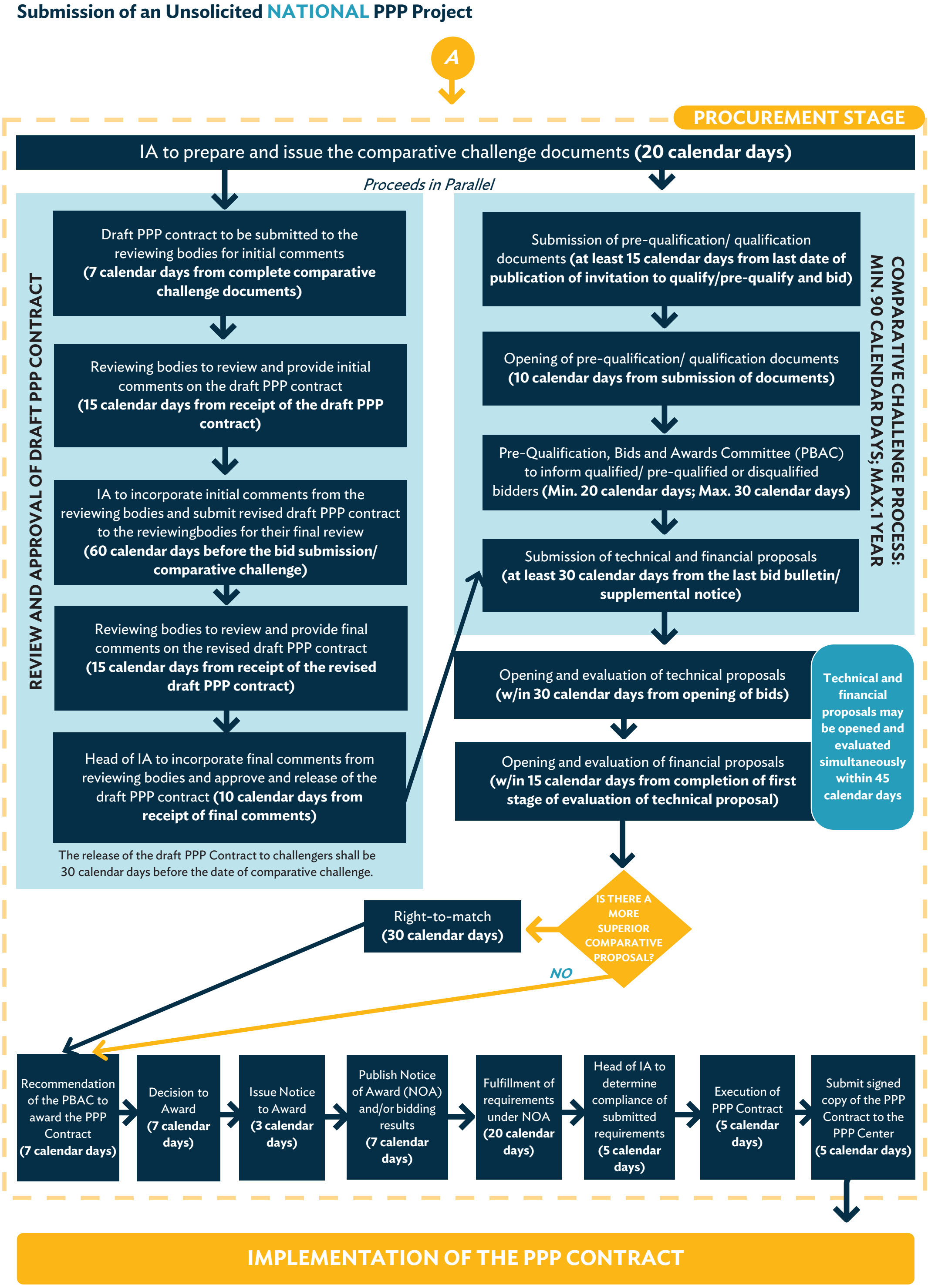


AB = approving body, IA = implementing agency, ICC = Investment Coordination Committee of the NEDA Board, NEDA = National Economic and Development Authority, OPS = original proponent status, PPP = public–private partnership, PTCs = parameters, terms, and conditions, USP = unsolicited proposal.

Note: The procurement process is the same for USPs for national and local PPP projects.

Source: PPP Center. Submission of an Unsolicited National PPP Project.

Figure 11: Submission of an Unsolicited National Public–Private Partnership Project (Comparative Challenge)



IA = implementing agency, NOA = notice of award, PBAC = Prequalification, Bids, and Awards Committee, PPP = public–private partnership.
Note: The procurement process is the same for unsolicited proposals for national and local PPP projects.
Source: PPC Center. Submission of an Unsolicited National PPP Project.

6. Public–Private Partnership Standard Operating Procedures, Toolkits, Templates, and Model Bid Documents

Parameter	
Does the country have PPP Guidelines/PPP Guidance Manual?	✓
Does the PPP Guidelines/PPP Guidance Manual adequately cover the process, entities involved, roles and responsibilities of various entities, approvals required at various stages, and timelines for the various stages of the PPP project life cycle?	✓
What are the templates and checklists available in the PPP Guidelines/PPP Guidance Manual?	
• Project Needs Assessment and Options Analysis checklist?	✓
• Project Due Diligence checklist?	✓
• Technical Assessment checklist?	✓
• Environmental Assessment checklist?	✓
• PPP Procurement Plan template?	✓
Does the country have standardized/model bidding documents for PPPs?	
• Model Request for Qualification (RFQ) document?	×
• Model Request for Proposal (RFP) document?	×
• Model PPP/Concession Agreement?	×
• State Support Agreement?	×
• Viability Gap Funding Agreement?	×
• Guarantee Agreement?	×
• Power Purchase Agreement?	×
• Capacity Take-or-Pay Contract?	×
• Fuel Supply Agreement?	×
• Transmission and Use of System Agreement?	×
• Performance-based Operation and Maintenance Contract?	×
• Engineering, Procurement and Construction Contract?	×
	Only for LGU PPP projects, model RFQ, RFP, and PPP contract are available
Does the country have standardized PPP agreement terms?	× Except for LGU PPP projects
Does the country have standardized/model toolkits to facilitate identification, preparation, procurement, and management of PPP projects?	
• PPP Family Indicator?	×
• PPP Mode Validity Indicator?	×
• PPP Suitability Filter?	×
• PPP Screening Tool?	×
• Financial Viability Indicator Model?	×
• Economic Viability Indicator Model?	×
• Value for Money Indicator Tool?	×
• Readiness Filter?	×
Is there a framework for monitoring fiscal risks from PPPs including the following?	
• Process for assessing fiscal commitments?	✓
• Process for approving fiscal commitments?	✓
• Process for monitoring fiscal commitments?	✓
• Process for reporting fiscal commitments?	✓
• Process for budgeting fiscal commitments?	✓
Are there fiscal prudence norms/thresholds to limit fiscal exposure to PPPs?	✓
Is there a process for assessing and budgeting contingent liabilities from PPPs?	✓

LGU = local government unit, PPP = public–private partnership, RFQ = request for qualification, RFP = request for proposal.
✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
Sources: Government of the Philippines. 2012. *PPP Manual for LGUs – Volume 3: Utilizing LGU PPP Project Templates and Bid Documents*; PPP Center. PPPGB Guidelines and Issuances.

Other critical contractual provisions and PPP enabling considerations

Parameter	
Does the law specifically enable lenders the following rights? • Security over the project assets • Security over the land on which they are built (land use right) • Security over the shares of a PPP project company	 ✓[a] ✓ ✓
Can there be a direct agreement between the government and lenders?	✓[b]
Do lenders get priority in the case of insolvency?	✓[c]
Can lenders be given step-in rights?	✓

PPP = public–private partnership.
✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
Notes:
[a] On a case-by-case basis.
[b] Usually in the form of an acknowledgment and consent agreement attached to the PPP contract as an annex, to be signed by the implementing agency/ies, the agent of the lenders, and the concessionaire, wherein the implementing agency/ies acknowledges the assignment of the concessionaire's rights under the concession agreement and consents to the creation of a security interest over equity interests in the concessionaire and other permitted security interests, in accordance with the concession agreement.
[c] Any residual obligations of the borrower to the lenders not satisfied out of the proceeds of the lenders' collateral will rank at least *pari passu* (equal footing) in priority of payment with all its unsecured obligations, other than obligations subject to statutory preference. Under loan documents, the borrower is restricted from notarizing documents (which may give rise to financial obligations) as they are given statutory preference.
Source: Tavidell Law.

Key clauses related to public–private partnership agreements

The PPP Code prescribes the following mandatory provisions in the PPP contract:

- specific contractual arrangement; term and scope of work;
- minimum performance standards and specifications;
- key performance indicators, targets, and procedures for measuring and reporting results, including dimensions of GEDSI;
- implementation milestones, including those for securing other approvals, period within which financial close shall be achieved by the private partner, and project completion date;[39]
- cost recovery scheme via proposed tariff, as the case may be;
- obligation of the private partner to disclose loan or financing documents;
- liquidated damages;
- performance security requirements, including their validity and top-up mechanism procedures;
- minimum insurance coverage as may be required for the project;
- acceptance tests and procedures;
- warranty period and procedures after transfer and warranty security;
- lock-in conditions, as applicable;

[39] Should the private partner fail to achieve financial close within the period prescribed in the PPP contract without the fault of the government, the private partner will be liable for penalties under the contract.

- grounds for contract termination, including events of default and effects of contract termination, formula for termination payment, and manner and timeline of payment;
- conditions and procedures for lender step-in rights;
- conditions for acceptable permitted security interest;
- manner and procedures for the resolution of corruption;
- wind-up and transfer measures;
- compliance with all other applicable laws, rules, and regulations;
- total cost of the project; project specifications and features;
- gender, social, disability, and environmental safeguards;
- provisions on the use of dispute avoidance and ADR mechanisms;
- ownership or retention of patents, technology, and consultant reports; and
- monitoring, evaluation, and reporting scheme/plan for all safeguard-related mandatory provisions of the PPP contract.

The draft PPP contract must be consistent with the PTCs approved by the approving body. The implementing agency must send the draft PPP contract to be released to prospective bidders/challengers to reviewing bodies, for initial comments. The reviewing bodies for national PPP projects are the PPP Center, the statutory counsel of the national implementing agency, and the DOF, in case the draft PPP contract involves national government undertakings or availability payments. The reviewing bodies for local PPP projects are the statutory counsel of the local implementing agency and the DOF, in case the draft PPP contract involves national government undertakings or availability payments. Reviewing bodies have 15 calendar days from receipt of the draft PPP contract to review and provide their initial comments. Thereafter, clearance from the reviewing bodies of the final draft of the PPP contract must be obtained by the implementing agency. Reviewing bodies have 15 calendar days from receipt of the draft PPP contract, as revised, to review and provide their clearance. The head of the implementing agency will then approve the draft PPP contract and release it to bidders/challengers within 10 calendar days from receipt of the final comments/clearance from the reviewing bodies. The release of the final draft of the PPP contract to bidders/challengers cannot be later than 30 calendar days from the deadline for the submission of bids/comparative proposals.[40]

More details on some mandatory clauses

- **Contracting parties.** The contracting parties to a PPP contract are the implementing agency/ies and the private partner that is the winning bidder in a competitive selection process for a solicited PPP project or the comparative challenge process for USPs.
- **Payments.** Under the PPP Code, the private partner may recover its investments and reasonable profit through a revenue- or availability-based investment recovery scheme or a combination of these schemes.[41] Other investment recovery schemes, such as commercial development rights or the granting of a portion or percentage of a reclaimed land may also be allowed to supplement these schemes.
- **Risk Allocation.** The PPP Code requires an equitable risk allocation in PPP projects. The feasibility study for the project must include a risk allocation and risk-mitigating plan, which will form part of the PTCs to be

[40] Government of the Philippines. 2024. *Implementing Rules and Regulations of the PPP Code.*

[41] Please refer to Chapter 2 (National Public–Private Partnership Landscape) for further details.

set by the approving body. A risk allocation that complies with the GPRAM adopted by the ICC-IC is one of the criteria for approval of PPP projects. The implementing agency must justify any deviation from the GPRAM.

- **Lenders' security and step-in rights.** Creating a security interest over the shares in a PPP project company and the execution of a direct agreement between the implementing agency and project lenders are not provided for in the PPP Code or its IRR. However, they are permitted on a contract case-by-case basis. Some PPP contracts, such as the concession agreements for the MCIA Project, the Clark International Airport O&M Project, and the Manila LRT1 Extension O&M Project provide for the form of the direct agreement, an acknowledgment and consent agreement annexed to the PPP contract, to be signed by the implementing agency, the agent of the lenders, and the concessionaire, wherein the implementing agency acknowledges the assignment of the concessionaire's rights under the concession agreement and consents to the creation of a security interest over equity interests in the concessionaire and other permitted security interests, in accordance with the concession agreement.[42]

  Since 2018, the Personal Property Security Act governs the creation and perfection of security interest over movable and immovable assets in PPP projects. However, its full implementation is subject to the Land Registration Authority establishing the personal property security registry.[43] In the meantime, personal property security interests created under the Act may still be registered with the chattel mortgage registry of the relevant office of the register of deeds.[44]

- **Government support/state guarantees.** There are various government support or government undertakings available to the private partner in solicited projects, which are described in Table 18. Government support or undertakings using national government funds require the approval of the ICC and compliance with government funding guidelines, as discussed in the section Government Financial Support for Public–Private Partnership Projects.[45]

- **Ownership of project assets.** Generally, the government would obtain ownership of project assets, but the time when ownership is transferred to the government depends on the contractual arrangement for the project. For example, in a build–transfer–operate (BTO) or build–transfer (BT) scheme, ownership of the assets is transferred to the government as soon as the project is commissioned satisfactorily. The private partner later recovers its investment plus a reasonable return thereon through collection of tariffs or, in the case of the BT scheme, availability payments from the government. In contrast, in a build–operate–transfer (BOT) or build–lease–transfer (BLT) scheme, ownership of project assets is transferred only after an agreed period or at the end of the contract term. During the contract term, it operates the facility and collects the tariff from its users under the BOT scheme or leases the facility to, and collects the rentals from, the government under the BLT scheme (Table 7).

- **Adjustment and revision to the PPP contract.** A contract variation, expansion, or extension of an executed PPP contract may be allowed. Prior approval of the appropriate approving body is required for the following variations: (i) changes in the agreed schedule or parametric formula to calculate tariff and adjustments, as stipulated in the PPP contract, unless already regulated and publicly disclosed; (ii) a decrease in the implementing agency's revenue or profit share derived from the project, except as may be allowed under a formula approved by the relevant regulatory or approving body; (iii) changes in the approved scope of works, a decrease in the performance standards, a deferment of committed service

[42] Tavidell Law.

[43] Government of the Philippines. 2018. *Personal Property Security Act*; The Land Registration Authority launched the Personal Property Security Registry on 3 February 2025 at https://ppsr.lra.gov.ph/.

[44] Land Registration Authority. 2021. *LRA Circular No. 19-2021*.

[45] Please see discussion below under Government Support for Public–Private Partnership Projects for further details.

levels, or a change in the contractual arrangement; (iv) an extension in the contract term; or (v) increase in the financial liabilities of the government under the PPP project.

- **Lock-in condition.** Under the PPP Code, a private partner may divest its ownership, rights, or interests in a PPP project after a lock-in period defined in the PPP contract, provided such divestment is approved by the head of the implementing agency and the new private partner has qualifications equal to or better than those of the previous private partner. The implementing agency may also divest its ownership, rights, or interests in a PPP project. However, if it will involve full or partial divestment or transfer of ownership of government assets or properties, it must, at a minimum, be approved by the approving body and is subject to applicable legal requirements.
- **Termination and compensation.** All PPP contracts must define termination events, such as implementing agency event of default, private partner event of default, and force majeure and other no-fault termination events, as well as the relevant curing periods and remedies, including the calculation of termination payments applicable to each termination event. Please see succeeding section Termination and compensation.
- **Wind-up and transfer measures.** All PPP contracts must include provisions on wind-up and transfer measures, which include, among others, (i) mechanisms and procedures for the transfer of assets to the implementing agency, as applicable, (ii) the transfer of technology required for the operation of the PPP project, subject to limitations under existing legal requirements, (iii) the training of the personnel of the implementing agency or of a successor in the O&M of the PPP project, (iv) the provision by the private partner of a warranty that the PPP project meets the project technical specifications, agreed system features, and performance standards and services for a certain period after the transfer of the PPP project to the implementing agency, and (v) in case of joint venture arrangements, the compensation to which the private partner is entitled in case of buy-out and transfer of assets to the implementing agency.

Termination and compensation

Parameter	
Does the law specifically enable compensation payment to the private partner in case of early termination owing to: • Public sector default or termination for reasons of public interest? • Private sector default? • Force majeure?	 ✓ ✓ ✓
Does the law enable the concept of economic/financial equilibrium?	✓ [a]
Does the law enable compensation payment to the private partner owing to: • Material adverse government action? • Force majeure? • Change in law?	 ✓ ✓ ✓

✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
Note:
[a] Only for material adverse government action, force majeure, and change in law.
Sources: Government of the Philippines. 2023. *Public-Private Partnership (PPP) Code of the Philippines*; 2024. *Implementing Rules and Regulations of the PPP Code*. NEDA. 2024. *NEDA Board-ICC Guidelines on the Review and Approval of Public–Private Partnership Proposals Requiring ICC and/or NEDA Board Approval.*

As per the PPP Code, all PPP contracts shall define the events that may lead to contract termination, which include, but are not limited to, implementing agency event of default, private partner event of default, force majeure and other no-fault termination events, and other termination events, as the parties may agree to in the

PPP contract. Remedies, curing periods, lender step-in rights, remittance procedures, default interest rates, and written notice requirements shall also be provided for in the contract. The amount of termination payment is determined by the parties pursuant to the contract, following the guidelines and related reportorial requirements to be issued by the PPPGB.[46] The formulae for the calculation of the applicable termination payment depending on the termination event are in a schedule annexed to the PPP contract. An independent appraiser chosen by the parties is required for the purposes of computing the termination payment based on the calculation method detailed in the PPP Contract. Its cost will be borne by the party at fault, except in cases of termination that is neither party's fault, in which case the cost will be divided equally between the parties. The amount of termination payment determined by the independent appraiser is binding on both parties, absent manifest error or fraud. For the continuity of public services, the government is authorized to take possession of the assets or facilities prior to the calculation of termination payment.

In 2015, the PPPGB issued Policy Circular 06-2015 on Termination Payment for PPP Projects, which enumerates events that may lead to termination and provides guidance on calculating termination payments. As a general rule, the method of calculation of termination payment should allow lenders to recover the outstanding senior debt on the core asset of the project as of the date of termination, except debt owed to related entities. In the case of termination owing to government default, the private partner is likewise entitled to a reasonable rate of return. For termination owing to force majeure, the government pays either the depreciated value of the assets or the value of the assets appraised at their damaged condition, at the time of termination.[47] However, as this policy circular is a guidance and not a regulation, it is not mandatory. The termination payments for each PPP contract are structured on a per project basis and subject to comments from bidders during the procurement stage. Pending the issuance of the new guidelines on termination payments and related reportorial requirements by the PPPGB pursuant to the PPP Code, this policy circular may guide implementing agencies in developing the termination payment provisions of the PPP contract.

Philippine law does not cover the concept of economic or financial equilibrium in the way that other jurisdictions do. Its nearest Philippine law equivalent may be that found in Article 1267 of the Civil Code, which provides that, "[w]hen the service has become so difficult as to be manifestly beyond the contemplation of the parties, the obligor may also be released therefrom, in whole or in part." However, this provision simply allows the private partner in a PPP contract to be excused from performance of the contract; it does not sanction or require the parties to collaborate and, if necessary, renegotiate contract terms, to arrive at mutually acceptable conditions to address the consequences of the changed circumstances that are adversely affecting the economic or financial balance of the contract. PPP contracts in the Philippines address changes relating only to material adverse government action, force majeure, and change in law.

[46] Pending the new issuance, the 2015 PPPGB Policy Circular 06-2015 on Termination Payment for PPP Projects can be used for guidance.
[47] PPPGB. 2015. *Policy Circular 06-2015 on Termination Payment for PPP Projects.*

7. Unsolicited Public–Private Partnership Proposals

Parameter	
Does the PPP legal and regulatory framework allow submission and acceptance of unsolicited proposals?	✓
What are the advantages provided to the project proponent for an unsolicited bid?	
• Competitive advantage at bid evaluation?	×
• Comparative challenge?[a]	✓
• Compensation of the project development costs?	×
• Government support for land acquisition and resettlement cost?	×
• Government support in the form of viability gap funding and guarantees?	×

PPP = public–private partnership.
✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
[a] Comparative challenge is more commonly referred to as "Swiss challenge."
Source: Government of the Philippines. 2023. *Public–Private Partnership Code of the Philippines*.

The PPP Code implemented reforms in the legal framework for unsolicited PPP proposals.

Under the PPP Code, USPs are allowed for projects included in the lists of PPP projects of implementing agencies, excluding those already approved as PPP projects by the approving body, provided they do not contain any of the government undertakings detailed in Table 18, which are prohibited. Projects with ROW provided by the government may be allowed for USPs, provided the government receives appropriate compensation at least equal to the value of the costs of ROW to be provided. Appropriate compensation may be a portion of the implementing agency or government share in the tariff collection or regular payments to the implementing agency or to the government. In joint venture arrangements, government equity and contribution of assets, properties, and/or rights may be allowed.[48]

The previous requirement of the Amended BOT Law that a USP, if involving a project included in the list of priority projects of an implementing agency, must involve a new concept or technology no longer applies.

As shown in Figure 10, Figure 11 and Figure 82, the processing of the USP for both national and local PPP projects commences with the completeness check by the PPP Center within 10 calendar days from its official acknowledgment of the electronic copy of the USP. Prior to the submission of a USP to the PPP Center, a private proponent may meet with the PPP Center to clarify the process and/or requirements in the determination of completeness of a USP. Submission of project documents to the PPP Center for a USP shall be done only through the Unsolicited Proposals Submission Portal on the PPP Center website. The PPP Center will not entertain any other form of USP submission. A complete USP submission to the PPP Center contains the following documents:

- letter of the private proponent to the PPP Center submitting the USP for completeness check,
- complete feasibility study,
- electronic copy of the economic model,
- electronic copy of the financial model,
- completeness check (CC) forms:[49]

[48] Government of the Philippines. 2024. *Implementing Rules and Regulations of the PPP Code.*
[49] The contents of the submitted proposed PTCs should be consistent with the contents of the submitted financial model.

   - CC Form 1 (proposed general parameters, terms, and conditions), which includes the general information about the proposed project,
   - CC Form 2 (government undertakings, and other financial obligations of the government), compliant with the rules provided under the PPP Code and its IRR,
   - CC Form 3 (proposed risk allocation and risk mitigation plan), which includes the risk allocation matrix, the possible resulting contingent liabilities for risks taken on by the government, and the proposed risk-mitigating measures,
   - CC Form 4 (identified interconnectivity and interface risks, and mitigating measures), which includes the assessment of the actual and potential interconnectivity and interface risks between the proposed project and other government project/s, and
   - CC Form 5 (mandatory provisions in the draft PPP contract), which shall require the private proponent to specify the sections in the draft PPP contract where mandatory provisions, as required by the PPP Code and its IRR, will be found,
- valuation reports on government assets or property, equity contribution of the government and private proponent, and reclaimed land, as applicable,
- project site plan,
- draft PPP contract, and
- private proponent information and qualification form.[50]

Upon receipt of the complete USP endorsed by the PPP Center, the implementing agency, if it is not developing a solicited project with a similar scope and/or objective as the USP, may continue to process the USP or reject it if the USP is not aligned with the development plans of the implementing agency. If the implementing agency is already developing a solicited proposal with similar scope and/or objective as the USP, the implementing agency may continue to process the USP and cease processing the solicited project, subject to reimbursement, or reject the USP and continue processing the solicited project.[51] The implementing agency must provide the private proponent written notice of its decision within 10 calendar days from its receipt of the USP from the PPP Center.

The implementing agency may entertain similar USPs within 10 calendar days of its receipt of the first USP. If there are more than one complete USP for the same or similar project, the implementing agency determines the most advantageous proposal for the government and the public, considering, among others, economic and financial viability of the project, proposed project scope and terms, investment recovery scheme, risks proposed to be assumed by the government, and qualifications of the private proponent. Other private proponents may submit a comparative proposal during the comparative challenge period. The implementing agency likewise has the option to reject the USP or all similar proposals in writing with the corresponding justification.[52]

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[50] PPP Center. 2024. PPP Center USP Completeness Check Procedures. The PPP Center Completeness Check Procedures apply to both national and local USP submissions.

[51] In case the implementing agency has already incurred development costs for a project that is subject of a USP, the winning private proponent must reimburse the implementing agency the documented development costs incurred over the previous 3 years, not exceeding 6% of the project cost, excluding the cost of ROW acquisition. The reimbursement amount must be included in the bidding documents for the comparative challenge, to be reimbursed by the winning bidder as a condition for award. In case the USP does not proceed owing to failure of negotiation, the private proponent that submitted the USP shall reimburse the development costs.

[52] PPPGB. 2024. PPP Governing Board Resolution No. 2024-07-03. No USP subsequently determined by the PPP Center to be incomplete three times on separate occasions (three-strike rule) may be entertained for determination of completeness. However, after the lapse of 180 calendar days after such determination, the private proponent may resubmit the USP to the PPP Center for a completeness check, which will be considered as a new submission subject anew to the three-strike rule.

If the implementing agency decides to continue processing the USP, it will proceed with its detailed evaluation within 90 calendar days from its written decision. The implementing agency may request assistance from the PPP Center in conducting the detailed evaluation. After its detailed evaluation of the USP that it finds complete, the implementing agency may accept the proposal and proceed to negotiation. The good faith negotiations between the implementing agency and the private proponent will be for a period of 80 calendar days (standard period) but not less than 30 calendar days based on the complexity of the project, subject to extension provided the total negotiation period does not exceed 150 calendar days, after which, if successful, the implementing agency grants OPS to the private proponent. The OPS will be valid for a period not exceeding 1 year from conferment.

The implementing agency and the private proponent must submit the complete set of requirements for approval, including the negotiated PTCs, to the approving body within 30 calendar days from the end of negotiation. The approving body has 120 calendar days from its receipt of complete requirements to act on the submission. If the approving body fails to render a final decision within this period, the PPP project will be deemed approved, and the implementing agency may proceed with the comparative challenge within 7 calendar days from receipt of notification from the PPP Center. The proposed PTCs, as submitted, will be used to guide the comparative challenge process. Please refer to Figure 10 for details of the development and approval stages of USPs, with corresponding timelines.

Upon approval of the USP by the approving body, the USP will be subjected to a Swiss challenge/ comparative challenge. The implementing agency will conduct the comparative challenge, within the period it proposed (minimum 90 days/maximum 1 year) and approved by the approving body.[53]

The PPP Code has lengthened the period for the Swiss challenge/comparative challenge from the previous 60 working days under the Amended BOT Law to a period that is not less than 90 calendar days but not exceeding 1 year. On the other hand, the period for the original proponent to exercise its right to match has been reduced from 30 working days to 30 calendar days. Please refer to Figure 11 and Figure 83 for details of the procurement stage (comparative challenge) for USPs, with corresponding timelines.

8. Foreign Investor Participation Restrictions

Parameter	
Is there any restriction for foreign investors on: • Land use/ownership rights as opposed to similar rights of local investors? • Currency conversion?	 ✓ ×
PPP projects with foreign sponsor participation (number)	UA

PPP = public–private partnership.
✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.

The imposition of the nationality requirement in areas of activity affected by PPP projects is one of the challenges of the PPP program as it restricts competition.

The Philippine Constitution and a number of Philippine laws limit the extent to which foreign investors may participate in the ownership and operation of certain businesses. This is referred to as the nationality requirement and applies to three aspects of the investment: (i) the ownership of the entity, (ii) the composition of the board of directors, and (iii) the executive and managing officers of the entity, who must all be Filipinos.

[53] The original proponent will be required on the first day of the publication of the invitation for comparative proposals to submit a bid bond equal to the amount and in the form required from the comparative proponents.

- Under the Philippine Constitution, a franchise, certificate, or any other form of authorization for the operation of a public utility may be granted only to Filipino citizens or to corporations or associations organized under the laws of the Philippines, at least 60% of whose capital is owned by Filipino citizens. A recent change in law has limited public utilities to the following sectors: distribution/transmission of electricity, petroleum and petroleum product pipeline transmission systems, water pipeline distribution systems and wastewater pipeline systems (including sewerage pipeline systems), seaports, and public utility vehicles.[54] This opens the doors of certain sectors to foreign participation (e.g., toll roads, railways, and airports) but the nationality requirement continues to be a challenge to the sectors still considered as public utilities where development is also most needed.
- The Philippine Constitution also provides that the exploration, development, and utilization of natural resources must be under the full control and supervision of the state, the state may directly undertake such activities, or it may enter into co-production, joint venture, or production-sharing agreements with Filipino citizens, or corporations or associations at least 60% of whose capital is owned by Filipino citizens. Another recent reform lifted the application of this rule to renewable energy projects utilizing solar, wind, hydro, and ocean or tidal energy.
- The 60% Filipino equity requirement likewise applies to ownership of private lands and lease of public lands, education services, and agricultural activities relating to rice and corn.
- Further, foreign nationals cannot own more than 50% of the capital of entities engaged in the operation and management of telecommunications, which is considered critical infrastructure, if the country of such foreign national does not accord reciprocity to Philippine nationals.[55]

Dispute resolution

Parameter	
Does the country have a dispute resolution tribunal?	✓
Does the country have an institutional arbitration mechanism?	✓
Can a foreign law be chosen to govern PPP contracts?	✗
What dispute resolution mechanisms are available for PPP agreements? • Court litigation? • Local arbitration? • International arbitration?	 ✓ ✓ [a] ✓ [a]
Has the country signed the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards?	✓

PPP = public–private partnership.
✓ = Yes, ✗ = No, NA = Not Applicable, UA = Unavailable.
Note:
[a] It is mandatory that arbitration of construction-related disputes be submitted to the Construction Industry Arbitration Commission arbitration process, with the legal seat to be the Philippines and a venue in Metropolitan Manila.

The new PPP Code requires all PPP contracts to include provisions on the use of dispute avoidance and ADR) mechanisms such as arbitration, as defined in the ADR Act of 2004. The parties have complete freedom to choose which ADR mechanisms to follow. However, under Philippine law, arbitration of construction-related disputes is under the exclusive jurisdiction of the Construction Industry Arbitration Commission (CIAC), as per the Construction Industry Arbitration Law. Thus, it is mandatory for PPP contracts to provide that construction

[54] Government of the Philippines. 2021, *Republic Act No. 11659.*
[55] Government of the Philippines. 2021. *Republic Act No. 11659*; 2022. *Executive Order No. 175.*

disputes be finally settled by the CIAC arbitral tribunal in accordance with the Rules of Procedure Governing Construction Arbitration pursuant to the Construction Industry Arbitration Law, with the legal seat to be the Republic of the Philippines and the venue to be in Metropolitan Manila.

The ADR Act provides that international commercial arbitration shall be governed by the Model Law on International Commercial Arbitration adopted by the United Nations Commission on International Trade Law (UNCITRAL) on 21 June 1985 and the ADR Act's provisions on international commercial arbitration (sections 19 to 31). Domestic arbitration is governed by the Arbitration Law, and by certain provisions of the ADR Act applicable to international commercial arbitration as well as by principles of the UNCITRAL Model Law. The Philippines ratified the New York Convention with the reservation that it does so on the basis of reciprocity.[56]

For national PPP contracts entered into under the Amended BOT Law (and therefore prior to the adoption of the PPP Code), PPP contracts already included provisions on the use of ADR mechanisms, such as arbitration. In case of a dispute, the parties are obliged to resolve it amicably within 30 days after notice of the dispute. Technical issues, such as termination payment, which the parties cannot resolve in 30 days must be referred to an independent expert, whose decision is final and binding on the parties. Disputes which the parties fail to amicably settle within the 30-day period or which the independent expert fails to decide on must be finally settled by arbitration in accordance with the selected arbitration rules and seat, as stated in the PPP contract.

The Philippine Dispute Resolution Center, Inc. was incorporated in 1996 out of the Arbitration Committee of the Philippine Chamber of Commerce and Industry. As an arbitral institution, it does not itself resolve disputes. It promotes and encourages the use of arbitration, mediation, and other modes of avoiding or settling commercial disputes such as dispute boards.[57] It also provides ADR services to the business community. It has a list of accredited arbitrators and mediators from which parties to a PPP contract may select to resolve their disputes.

Environmental and Social Issues

Parameter	
Is there a local regulation establishing a process for environmental impact assessment?	✓
Is there a legal mechanism for the private partner to limit environmental liability for what is outside of its control or caused by third parties?	✓
Is there a local regulation establishing a process for social impact assessment?	✓
Is there involuntary land clearance for PPP projects?	✓

PPP = public–private partnership.
✓ = Yes, ✕ = No, NA = Not Applicable, UA = Unavailable.

The PPP Code declares that the State shall ensure the integration of climate resilience, environment and social sustainability, and gender and development policies and programs in the planning, design, and implementation of all PPP projects.

A PPP project's environmental impact assessment process is governed by the Environmental Impact Statement (EIS) System under Presidential Decree No. 1586, currently being implemented by the Environmental

56 New York Convention. Contracting States.
57 Philippine Dispute Resolution Center, Inc. About Us.

Management Bureau (EMB) of the Department of Environment and Natural Resources (DENR). The EIS System focuses primarily on the assessment of the direct and indirect impacts of a project on the biophysical and human environment and on ensuring these impacts are mitigated by appropriate environmental protection and enhancement measures. For PPP projects that are considered environmentally critical projects or located in environmentally critical areas, the EIS System requires the implementing agency and/or the private partner to first secure an environmental compliance certificate (ECC) before proceeding with the development of the project. The ECC contains specific measures and conditions that the private partner will have to undertake before and during the operation of a project and, in some cases, during the project's abandonment phase, to mitigate identified environmental impacts.[58] PPP projects that are not environmentally critical projects or located in environmentally critical areas must secure a certificate of non-coverage from the EMB.[59]

All PPP projects must meet environmental standards and comply with the permitting processes imposed by the Clean Air Act, the Clean Water Act, and the Toxic Substances and Hazardous and Nuclear Waste Control Act, and their respective IRRs, as well as the Guidelines for Community Noise issued by the World Health Organization. In assessing those pollutants, the private partner must take into consideration both the direct and the collateral environmental impacts, such as effects on water and air quality, possible noise pollution resulting from any excavation and construction works and the consequent potential groundwater contamination, solid waste, soil erosion, and the potential adverse effects on aquatic environment and vegetation.

A number of laws and regulations govern the process for social compliance for PPP projects. These include the following laws and their IRRs, among others: the Right-of-Way Act; the Indigenous Peoples' Rights Act of 1997; laws on the resettlement of informal settlers and project-affected persons such as the Urban Development and Housing Act of 1992 and the Department of Human Settlements and Urban Development Act of 2019; and gender laws such as the Women in Development and Nation Building Act, the Magna Carta of Women, and the Anti-Sexual Harassment Act of 1995. In addition, the PPPGB Guidelines on Public Consultation and Engagement for PPP Projects institutionalizes the consultation and engagement of the public, with the end view of improving transparency in the development and implementation of PPP projects.

Under the Right-of-Way Act, the implementing agency may offer to acquire the ROW site or location from the property owner through negotiated sale at a compensation price, which is the sum of (i) the current market value of the land, (ii) the replacement cost of structures and improvements therein, and (iii) the current market value of crops and trees (if any). The property owner has 30 days to decide whether or not to accept the offer as payment for their property. Upon refusal or failure of the property owner to accept such offer or to submit the documents necessary for payments, the implementing agency shall immediately initiate expropriation proceedings.

In 2018, the PPPGB issued Resolution "Safeguards in PPP: Mainstreaming Environmental, Displacement, Social, and Gender Concerns," with the goal of preventing delays owing to environmental, displacement, social, and gender concerns in the PPP process during the project development phase, review and approval phase, procurement phase, and implementation phase. Environmental concerns include resilience to human-caused and natural hazards and climate change mitigation. Displacement concerns include ROW acquisition, dismantling of affected structures, management of affected employees, and livelihood restoration. Social and gender concerns include considerations for Indigenous Peoples, gender equality, vulnerable people, and culture and heritage preservation. Such resolution aims to assist the implementing agency in undertaking the activities during throughout the PPP process detailed in Table 17.

[58] Department of Environment and Natural Resources (DENR). 2003. *Implementing Rules and Regulations (IRR) for the Philippine Environmental Impact Statement (EIS) System.*

[59] DENR. 2014. *Revised Guidelines for Coverage Screening and Standardized Requirements Under the Philippine EIS System.*

Table 17: Salient Activities to Mainstream Environmental, Displacement, Social, and Gender Concerns

PPP Phase	Activity
Project development phase	Identify applicable requirements in laws, decrees, orders, issuances, rules, and regulations, and the corresponding required studies, outputs, or standards for the PPP project, and ensure safeguards are considered in the project feasibility study and design.
Review and approval phase	Ensure the approved terms of the project consider various safeguard concerns identified during the project development phase, including the proposed mitigating measures.
Procurement phase	Ensure safeguard considerations are integrated in the PPP contract, including identified mitigating measures.
Implementation	Identify specific monitoring, evaluation, and feedback mechanisms to ensure safeguard measures embedded in the PPP contract are complied with, and in providing the implementing agency with mechanisms for managing unforeseen safeguard concerns.

PPP = public–private partnership.
Source: PPPGB. 2018. *Resolution No. 2018-12-02*.

Land Rights

Parameter	
Which of the following is permitted to the private partner? • Transfer land lease/use/ownership rights to third party? • Use leased/owned land as collateral? • Mortgage leased/owned land?	 ✓ [a] ✓ [b] ✓ [b]
Is there a legal mechanism for granting wayleave rights, for example laying water pipes or fiber cables over land occupied by persons other than the government or the private partner?	✓
Is there a land registry/cadaster with public information on land plots?	✓
Which of the following information on land plots is available to the private partner? • Appraisal of land value? • Landowners? • Land boundaries? • Utility connections? • Immovable property on land? • Plots classification?	 ✓ [a] ✓ [a] ✓ [a] ✓ [a] ✓ [a] ✓ [a]

✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
Notes:
[a] Ownership of private lands and lease of public lands (e.g., via a forest land use agreement) is subject to the 60% Filipino nationality requirement.
[b] However, there are executed PPP contracts that prohibit the constitution of a real estate mortgage over project assets or the private partner's possessory rights over them.

Ownership of private lands and lease of public lands (e.g., via a forest land use agreement) is subject to the 60% Filipino nationality requirement.

The Right-of-Way Act facilitates the acquisition of ROW, site, or location for national government infrastructure projects. For PPP projects, the private sector might be requested to either finance the ROW cost, which can be recovered partly or fully by the investor from the tolls, fees, or tariffs to be charged to the users of the completed project, or advance the funds covering the ROW cost, which would be reimbursed later by the implementing agency, with the exception of in USPs, where the private partner will have to bear the ROW costs.[60]

Government Financial Support for Public–Private Partnership Projects

Parameter	
Is there a dedicated government financial support mechanism for PPP projects?	× [a]
What are the instruments of government financial support available under this government financial support mechanism? • Capital grant? • Operations grant? • Annuity/availability payments? • Guarantees to cover? – Currency inconvertibility and transfer risk? – Foreign exchange risk? – War and civil disturbance risk? – Breach of contract risk? – Regulatory risk? – Expropriation risk? – Government payment obligation risk? – Credit risk? – Minimum demand/revenue risk? – Risk of making annuity/availability payments in a timely manner?	 × [b] × [b] × [b] × × × Considered as force majeure, which is a shared risk ✓ ✓ ✓ ✓ [b] ✓ [b] ✓ (Availability-based PPP) ✓
What are the caps/ceilings for the government financial support under each of the above-mentioned government financial support instruments?	50% of project cost, for subsidies to project cost (capital expenditures) and O&M cost; 50% of outstanding capital stock of joint venture company
Is there a minimum PPP project size (investment) for a PPP project to be eligible for receiving government financial support?	×
Are there minimum equity investment requirements that the private developer should meet for availing of any of the above government support mechanisms?	× [b]
Are there minimum financial commitment requirements for the private developer equity before the government support can be drawn?	× [b]
Is the government financial support required, usually the bid parameter for PPP projects?	✓
Are unsolicited PPP proposals eligible to receive government financial support?	×
Are there standard operating procedures for providing government financial support to PPP projects? • Appraisal and approval process? • Budgeting process? • Disbursement process? • Monitoring process? • Accounting, auditing, and reporting process?	 ✓ ✓ ✓ ✓ ✓

continued on next page

60 ADB. 2019. *Public–Private Partnership Monitor. Second Edition.*

continued from previous page

Parameter	
Who are the signatories to the government financial support agreement?	Head of implementing agency. In addition, the DOF must approve any financial support requiring national government funds
Who is responsible for monitoring the performance of PPP projects availing government financial support? • Independent engineer? • Government agency? • Ministry of finance?	Independent engineer, implementing agency, and PPP Center
What are the other forms of government support available for PPP projects? • Land acquisition funding support? • Funding support for resettlement and rehabilitation of affected parties? • Tax holidays/exemptions? • Real estate development rights? • Advertising and marketing rights? • Interest rate/cost of debt subventions? • Other subsidies and subventions?	 ✓[c] ✓ ✓ ✓[d] ✓ × ✓
Can the other forms of government support be availed over and above the government financial support through various instruments listed above?	✓

DOF = Department of Finance, O&M = operation and maintenance, PPP = public–private partnership.
✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
Notes:
[a] There is no dedicated financial support mechanism. Financial support is decided and set up on a per project basis.
[b] This is on a per project basis.
[c] Where land is required, the project is usually on government land or on land acquired by the government.
[d] Though such rights are granted, the government does not provide financial support for real estate development.
Sources: Government of the Philippines. 2023. *Public-Private Partnership (PPP) Code of the Philippines*; 2024. *Implementing Rules and Regulations of the PPP Code*. NEDA. 2024. *NEDA Board-ICC Guidelines on the Review and Approval of Public–Private Partnership Proposals Requiring ICC and/or NEDA Board Approval*.

The government support or government undertakings should be based on the approved risk allocation matrix issued by the approving body (see Table 14 and section Risk Allocation for details). The various types of government support mechanisms for providing project funding support to national and/or local PPPs in the Philippines authorized under the PPP Code are described but are not limited to those mentioned in Table 18.

Table 18: Government Undertakings for Public–Private Partnership Projects

Type of Government Undertaking	Definition/Details
Subsidy	An agreement where the implementing agency will (i) defray, pay for, or shoulder a portion of the project cost or the expenses and costs in operating or maintaining the PPP project; (ii) bear a portion of capital expenditures; (iii) contribute any property or assets to the PPP project; and/or (iv) waive charges or fees relative to business permits or licenses to be obtained for the construction of the project. Items (i) and (ii) must not exceed 50% of the project cost. In case of solicited proposals, the expenses for existing ROW and ROW to be acquired are not included in this cap. VGF refers to a type of subsidy the government may extend to make an economically viable revenue-based PPP project financially viable. VGF may also be extended to revenue-based PPP projects having an element of availability-based PPP. Government payments for ROW and resettlement are not considered as VGF.

continued on next page

Table 18 *continued*

Type of Government Undertaking	Definition/Details
Performance undertaking	An undertaking of a department, bureau, office, commission, authority, agency, GOCC, or LGU, or by the Republic of the Philippines, other than the implementing agency, in assuming responsibility for the performance of the implementing agency's obligations under the contractual arrangement, including the payment of monetary obligations, in case of default. It may be subject to payment of risk premium to the government or the LGU, or any other authorized agency.
Guarantee on demand	An agreement where the implementing agency undertakes to assume the market demand risks associated with the PPP project. However, the adoption of availability-based schemes and availability payments is not considered guarantee on demand.
Guarantee on loan repayment	An agreement where the implementing agency guarantees to assume responsibility for the repayment of debt directly incurred by the private partner in implementing the project in case of a loan default. However, government repayment of debt as part of termination payments is not considered guarantee on loan repayment.
Guarantee on private sector return	An agreement where the implementing agency guarantees to provide a predetermined rate of return on the investment of the private partner, but this does not cover termination payments arising from government events of default.
Government equity	The subscription by the implementing agency of shares of stock or other securities convertible to shares of stock of the project company, whether paid by money or assets. Government equity, including contribution of assets, properties, and/or rights, and other government undertakings in a joint venture PPP, must not exceed 50% of project cost in the case of contractual joint venture, and 50% of the outstanding capital stock of the project company in the case of a corporate joint venture.
Credit enhancements	This is support to a PPP project by the implementing agency that is contingent upon the occurrence of certain events and/or risks, which may include, but is not limited to, government guarantees on the performance or the obligation of the implementing agency under the PPP contract.
Other government undertakings	Payment of ROW-related costs (also allowed on a case-by-case basis to unsolicited proposals in exchange for appropriate compensation) Exemptions from any tax, unless prohibited by existing laws and regulations Contribution of assets, properties, and/or rights Monetary payment of contingent liability through the PPP Risk Management Fund of the national government, in the case of local PPPs

GOCC = government-owned or controlled corporation, LGU = local government unit, PPP = public–private partnership, ROW = right-of-way, VGF = viability gap funding.
Source: Government of the Philippines. 2024. *Implementing Rules and Regulations of the PPP Code*.

In addition, where the implementing agency fails to implement the initial tariff and its adjustments pursuant to a PPP contract, the PPP Code provides that the private partner may recover the difference through measures consistent with the PPP contract and applicable legal requirements. However, enforceability of this provision may be a challenge. The Philippine Constitution indeed requires that no money shall be paid by the implementing agency except in pursuance of an appropriation made by law. The Constitution prevails over a law, therefore an appropriation by law is needed before the government's payment obligation may arise. However, contingent liabilities such as compensation for delay/failure to implement an adjustment in tariff and termination payments are not covered by an appropriation by law at the time they materialize.

For instance, in 2010, the Philippine Supreme Court declared void, for violating this rule, the provisions of STOAs requiring payment by the TRB to the grantee of compensation for the grantee's loss of revenue resulting from the non-implementation of the calculation/formula of authorized toll price and toll rate adjustments. This decision impacts the ability of the implementing agency to pay contingent liabilities under the PPP contract, such as termination payments and contingent liability that may arise from its delay in implementing or failure to implement tariff adjustments as per the PPP contract, in the absence of a supporting appropriation bylaw.

Obtaining an appropriation through the passage of a law—the GAA—may take up to a year as the GAA is done on an annual basis. The Philippine Constitution requires the President of the Philippines to submit a budget of expenditure and sources of financing within 30 days from the opening of every regular session of Congress on the fourth Monday of July of each year, marked by the President's state of the nation address. As all government spendings must be justified anew each year, individual agencies prepare and submit to the DBM, for review and inclusion in the President's proposed budget for submission to Congress, their estimates of expenditures or proposed budgets for the succeeding year. Budget deliberations per agency are done in separate hearings by the House of Representatives and the Senate for inclusion in the GAA bill. The President then signs the GAA bill into law, usually in December. Another process with the DBM follows for the release of the funds to the implementing agency. Before these processes are completed, implementing agencies cannot pay any unbudgeted amount that is due under the PPP contract, thus incurring default interest.[61]

Thus, to address these issues, the government incorporated the following mechanisms in PPP contracts:

- **Balancing payment.** This mechanism involves the netting of payments due and payable by one party to the other party, subject to the timing considerations and formula under the PPP contract. The frequency and schedule for balancing payments vary from one PPP contract to another.
- **Trust liability bank account (TLBA).** The TLBA is an account established for each PPP project by the implementing agency and the Bureau of Treasury with an authorized government depository bank, in accordance with the relevant section of the general provisions of the GAA, the PPP contract and applicable guidelines issued by the Permanent Committee of the DOF, DBM, and COA. It is used to record the deposits of receipts collected or received by the implementing agency arising from the PPP project, the whole or a portion of which is intended for the private partner pursuant to the PPP contract. The deposit in the TLBA is booked as a trust liability account of the implementing agency concerned and held for the specific purpose provided in the PPP contract.[62]
- **Long grace period for amounts due from the implementing agency.** The contract provides for a long grace period ranging from 6 to 24 months for the implementing agency to pay any remaining balance due to the concessionaire after the application of funds drawn from the TLBA, subject to late payment interest. Failure of the implementing agency to pay the amount due (if it exceeds the agreed threshold), plus the interest, within the grace period, will entitle the concessionaire to immediately terminate the concession agreement.

In addition, the PPP Risk Management Fund was established under the PPP Code specifically to be used for payment of contingent liabilities arising from PPPs. The PPP Risk Management Fund will address the issue because, first, there is already an authorization for implementing agencies to use the fund to pay contingent liabilities, so prior appropriation is no longer needed by the implementing agencies if they use the fund; and, second, there will be available a fund to cover contingent liabilities (that will be funded).

[61] DBM. Basic Concepts in Budgeting.

[62] Department of Finance, Department of Budget and Management, and Commission on Audit Permanent Committee, 2023. *Guidelines on Managing Receipts from Public–Private Partnership Projects, Joint Circular No. 2023-01.*

PPP Risk Management Fund

The PPP Code created the PPP Risk Management Fund, to be managed by the PPP Center, to ensure fiscal sustainability and negotiation of better financing terms for PPP projects. The fund is to be used for the payment of contingent liabilities arising from PPPs and to be funded by general appropriations, income from existing PPP projects, and other sources as may be determined by the DBCC. The DBCC is tasked to determine the target amount in the PPP Risk Management Fund, using risk-adjusted methods to estimate the exposure of the government to PPP contingent liabilities. For local PPP projects, the LGU may establish a similar PPP Risk Management Fund, subject to the guidelines to be issued by the PPPGB. Sources of the fund may include the budget of the LGU and the income of the LGU from PPP projects. LGUs may likewise access the PPP Risk Management Fund of the national government, subject to their payment of contributions in accordance with the guidelines to be issued by the DBCC.

Project development funding

What are the various sources of funds for PPP project preparation? • Budgetary allocations? • Dedicated project preparation/project development fund? • Technical assistance from multilateral/bilateral and donor agencies? • Recovery of project preparation funding from the preferred bidder?	 ✓ ✓ ✓ ✓
At what stage of the PPP project can the project preparation/ development funding be availed by the government agency? • Pre-feasibility stage? • Detailed feasibility stage? • Transaction stage?	 ✓ ✓ ✓
Is there a threshold size (investment) for a PPP project to avail project development funding?	×
Is there a list of project preparation/project development activities toward which the project development funding can be utilized?	✓
Can the project development funding be utilized to appoint transaction advisors for PPP projects?	✓
Is there a specific process to be followed by government agencies to appoint transaction advisors?	✓
What are the payment mechanisms for making payments to transaction advisors? • Timesheet based? • Milestone based?	 ✓ ✓
Are there standard agreements and documents to avail project development funding?	✓ [a]
Who are the signatories to the project development funding agreements?	PPP Center head and implementing agency head

PPP = public–private partnership.
✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
[a] The forms are available at PPPC Center. 2023. *The Project Development and Monitoring Facility Guidelines.*
Source: PPPC Center. 2023. *The Project Development and Monitoring Facility Guidelines.*

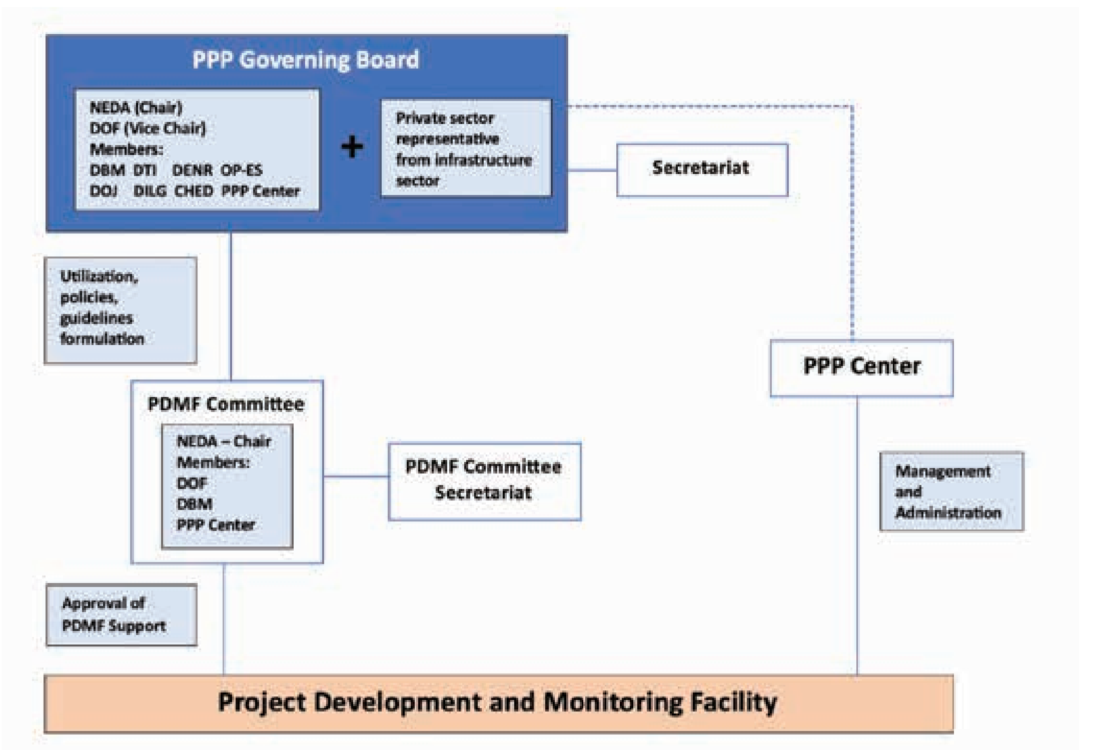
The Project Development Monitoring Facility (PDMF) is a revolving fund, formerly known as the Project Development Facility, established by law, and is managed and administered by the PPP Center. The PPP Code institutionalizes the PDMF as a funding mechanism available to all national and local implementing agencies for the procurement of advisory and support services related to the preparation, structuring, evaluation, procurement, probity management, financial close, and monitoring of implementation of PPP projects. These services may include preparation and conduct of business case, pre-feasibility and feasibility studies, preparation of tender documents, appointment of probity advisors, procurement of independent consultants, and third-party appraisers who will conduct valuation of government assets, and other activities in the preparation, procurement, and implementation of PPP projects. The PDMF may also be used for other services pursuant to the PDMF guidelines. The PDMF guidelines were updated in October 2023. It is expected that the PDMF Committee will update those guidelines with the approval of the PPPGB pursuant to the PPP Code.

The sources of funds for the PDMF currently include the GAA and ODA from ADB and Australia. To sustain the PDMF, the PPP Center may recover amounts disbursed and receive fees following the PDMF guidelines.

As per the PDMF guidelines, in case of successful bidding, as a condition precedent for signing the PPP contract, the implementing agency shall require the winning bidder/winning comparative proponent to pay the PPP Center the amount recoverable by it from the implementing agency. The amount recoverable is calculated as the actual amount disbursed from the PDMF for consulting services contracts signed by the PPP center plus 10% of the actual amount disbursed. The obligation of the winning bidder to reimburse the cost of PDMF support will be included in the bidding documents. In case the project is not found to be viable for PPP implementation or the implementing agency fails to successfully award the project, the consultancy services contract will be terminated, and the implementing agency shall pay the recoverable amount to the PPP Center.

Figure 12 provides the details on the PDMF oversight and management, and Figure 13 shows the PDMF application process.

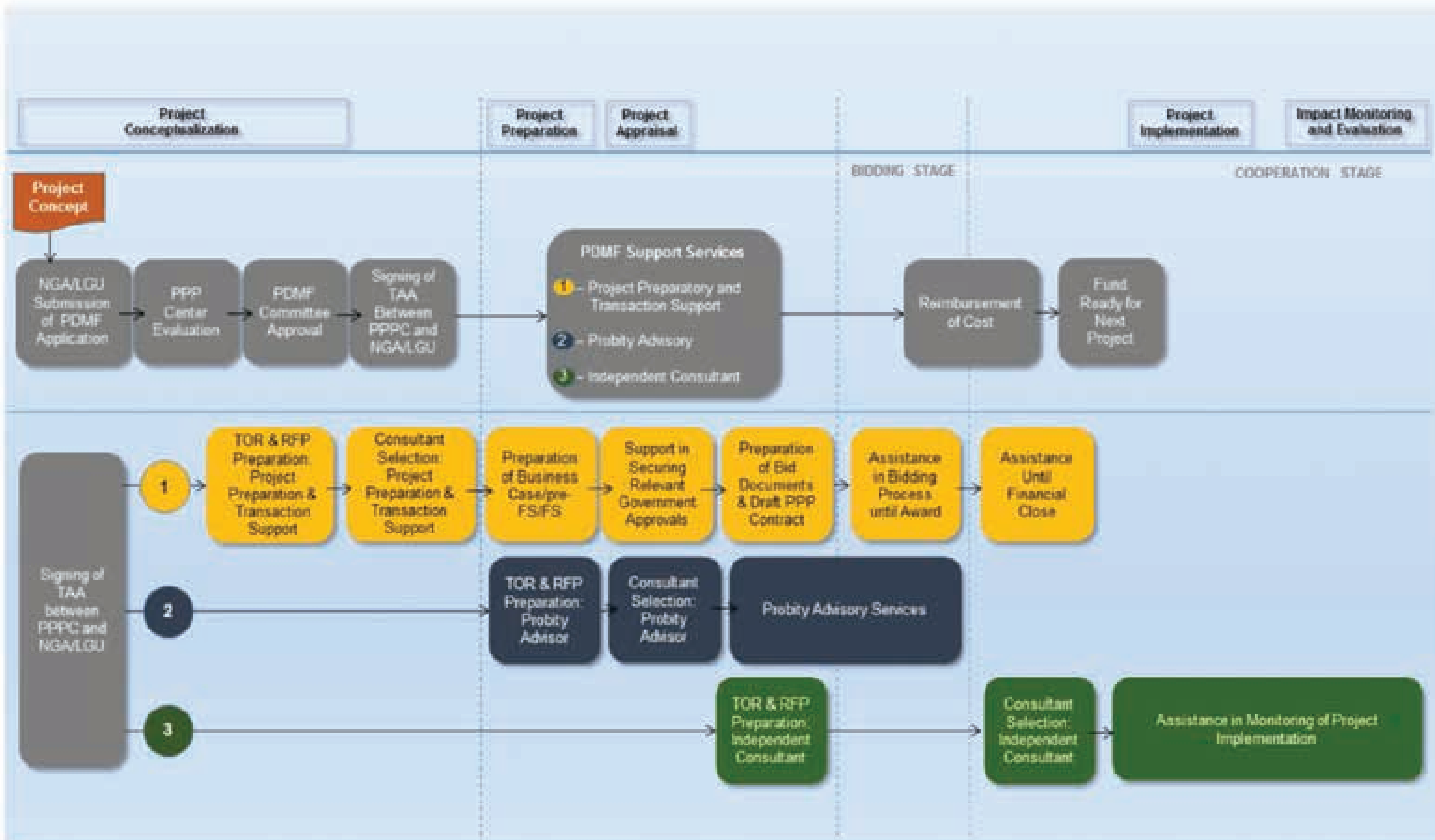
Figure 12: Oversight and Management of the Project Development and Monitoring Facility



DBM = Department of Budget and Management, DOF = Department of Finance, DOJ = Department of Justice, DTI = Department of Trade and Industry, NCC = National Competitiveness Council, NEDA = National Economic and Development Authority, OP-ES = Office of the President-Executive Secretary, PDMF = Project Development Monitoring Facility, PPP = public–private partnership.

Source: PPP Center. PDMF. Oversight and Management; *Public–Private Partnership (PPP) Code of the Philippines*.

Figure 13: Application Process for Project Development and Monitoring Facility



FS = Feasibility Study, LGU = local government unit, NGA = national government agency, PDMF = Project Development Monitoring Facility, PPP = public–private partnership, PPPC = PPP Center, RFP = request for proposal, TAA = technical assistance agreement, TOR = terms of reference.
Source: PPP Center. PDMF Process.

International financial institutions

International financial institutions and multilateral institutions such as ADB and the International Finance Corporation (IFC) have limited participation in lending to the private sector for the purpose of PPP project financing. Lending is monopolized by local banks, which have easy access to local currency via their deposit banks.

Public–Private Partnership Project Statistics

Parameter	
Is there a national PPP database for the country?	✓
Is the distribution of PPP projects across infrastructure sectors available?	✓
Is the distribution of PPP projects across various stages of the PPP life cycle available?	✓

PPP = public–private partnership.
✓ = Yes, ✕ = No, NA = Not Applicable, UA = Unavailable.
Source: PPP Center. Projects Database (accessed 27 October 2024).

The PPP Center maintains a project database listing the names, size, and status of the projects, and distribution of projects across sectors. In March 2025, the PPP Center launched its PPP Projects Dashboard, which is accessible through https://ppp.gov.ph/project-dashboard/. This interactive platform on the country's PPP projects is still in its beta phase.

Table 19: Public–Private Partnership Projects Database, October 2024

Description	
Total number of PPP projects (national and local)	444
PPP projects in the pipeline (in preparation and procurement)	173
Contracts under implementation	215
Concluded and terminated contracts	56
Total amount of attracted and planned investments	₱7,069.82 billion [a]

PPP = public–private partnership.
Note:
[a] $121.25 billion as of 28 October 2024.
Source: PPP Center. 2024. Summary of PPP Projects.

Parameter	
Does the country publish a national PPP project pipeline?	✓
At what frequency is the national PPP project pipeline published?	Regularly and as often as possible
Is the national PPP project pipeline based on the national infrastructure plan for the country?	✓

PPP = public–private partnership.
✓ = Yes, ✕ = No, NA = Not Applicable, UA = Unavailable.
Source: PPP Center. Projects Database (accessed 27 October 2024).

The Philippines maintains two lists of infrastructure projects. NEDA publishes a list of infrastructure flagship projects (IFPs), which are funded by the GAA, ODA, and PPPs, and are in the following sectors: agriculture, digital connectivity, education, health, physical connectivity, power and energy, water resources, and other infrastructure. As of August 2024, there were 47 IFPs identified as PPP projects under physical connectivity (roads and bridges, rail, air, urban transport, maritime, and data management) and health.[63] Inclusion in the list of IFPs is in accordance with NEDA's August 2023 "Revised Guidelines for the Formulation, Prioritization and Monitoring of the Government's Infrastructure Flagship Projects (IFPs)." These guidelines guide the formulation of the list of IFPs to ensure the alignment of the IFP portfolio with the priorities and strategies of the administration as espoused in the PDP and the eight-point Socioeconomic Agenda.[64]

The PPP Center maintains a database of PPP projects and publishes a list of PPP projects identified across the following sectors: agriculture/food security, airport, education, energy, health, ICT, ports, property development, rail, roads, solid waste management, tourism, terminals, transport, and water and sanitation. The projects are classified according to their stages of development: PPP projects under implementation, PPP projects in the pipeline, and concluded and terminated PPP projects. The PPP projects in the pipeline are further categorized according to their phases of development:

- **Preparation phase.** For solicited proposals, these are PPP projects under conceptualization or development. PPP projects under conceptualization are proposals under initial conceptualization phase, with ongoing preparation of a project concept note, or with ongoing processing of project development support. PPP projects under development are proposals with approved project development support, with ongoing procurement of consultants for project development, or ongoing preparation of a feasibility study/business case. For USPs, these are proposals either undergoing evaluation by the implementing agency prior to negotiation or endorsed by the PPP Center to the implementing agency after the completeness check.
- **Negotiation phase.** This applies to USPs submitted prior to the effectivity of the PPP Code, which have been approved and are currently undergoing negotiation on the PTCs of the project, and those upon the effectivity of the PPP Code that have been accepted to proceed to negotiation by the appropriate implementing agency.
- **Approval phase.** This phase includes national and local PPP project proposals that are currently undergoing evaluation by the appropriate approving body.[65]
- **Procurement phase.** For solicited proposals, these are PPP projects in the procurement stage, from the publication of the invitation to prequalify and bid up to the determination of the winning private proponent. For USPs, these are PPP projects in the comparative challenge stage, from the publication of the invitation to challengers up to the determination of the winning private proponent.

[63] NEDA. 2024. Infrastructure Flagship Projects (accessed 27 October 2024).

[64] NEDA. 2023. *Revised Guidelines for the Formulation, Prioritization and Monitoring of the Government's Infrastructure Flagship Projects (IFPs).*

[65] PPP Center. 2024. Summary of PPP Projects; Summary of PPP Projects in the Pipeline; Summary of PPP Projects Under Implementation; Summary of Concluded and Terminated Projects.

Sources of Public–Private Partnership Financing

Parameter	
Who are the typical entities financing PPP projects in the country? • Private developers? • Construction contractors? • Institutional/financial/private equity investors? • Pension funds? • Insurance companies? • Banks? • Non-banking financial corporations/financial institutions? • Donor agencies? • Government agencies and state-owned enterprises?	 ✓ ✓ ✓ × [a] × [b] ✓ × [c] ✓ ✓
What is the distribution of financing among these entities financing PPP projects?	Mainly financed through bank loans and equity
Does the country have a history/track record of issuing bonds by infrastructure projects?	×
How many infrastructure projects/private developers for infrastructure projects have raised funding through bond issuances?	UA
What is the value of funding raised through capital markets by PPPs?	UA
Does the country have a matured derivatives market to hedge certain risks associated with PPPs?	✓
Does the country have a national development bank?	✓
Does the country have credit rating agencies to rate infrastructure projects?	✓
Typically, what are the credit ratings achieved/received by infrastructure projects?	UA
Is there a threshold credit rating for infrastructure PPPs below which institutional investors, pension funds, and insurance companies would not invest in infrastructure PPPs?	UA
What is the typical funding model for infrastructure PPPs: corporate finance or project finance?	Both models are used
Are there regulatory limits/restrictions for the maximum exposure that can be taken by banks to infrastructure projects?	✓

PPP = public–private partnership.
✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
Notes:
[a] Government pension funds (Social Security System and Government Service Insurance System) participate through equity investment. Government Service Insurance System insurance coverage is a requirement in some projects.
[b] Insurance companies typically do not participate as financiers but they provide insurance coverage instead.
[c] Except for captive financial institutions of large conglomerate groups, which may participate as financiers in some cases.
Source: ADB. 2020. *Public–Private Partnership Monitor: Philippines*; Tavidell Law.

Through the years, the Philippine banking sector has grown, adding further liquidity to the market. The Bangko Sentral ng Pilipinas (Central Bank of the Philippines, BSP) reports that “[t]he Philippine banking system sustained its solid footing amid the pandemic.”[66] Total assets of the Philippine banking system grew by 7.2% year on year to ₱20.6 trillion as of end-January 2022, a growth rate higher than the 5.7% rate in January 2021. In July 2024, total assets of the Philippine banking system further expanded at 12.2% year-on-year to ₱25.9 trillion, higher than the 7.9% growth recorded in July 2023.[67]

The development of the project finance market is driven by the policy direction of the administration on the funding sources of major infrastructure projects. The past administration encouraged “hybrid” PPPs, wherein

[66] Bangko Sentral ng Pilipinas (BSP). 2022. Recent Trends in the Philippine Financial System. Issue No. 2022-01.
[67] BSP. 2024. Recent Trends in the Philippine Banking System As of July 2024.

the government develops the infrastructure project assets, and then involves the private sector in their O&M (thus limiting funding from commercial banks), and unsolicited PPP proposals, on the basis that this reduces project preparation and implementation time and cost in a highly regulated PPP environment.[68] Thus, the bulk of the projects during the past administration are (i) USPs for joint ventures under the 2013 NEDA Joint Venture Guidelines, the joint venture guidelines of the relevant agency, or local PPP codes; and (ii) big-ticket infrastructure projects funded by ODA, with counterpart funding by the Philippine government in accordance with the GAA.

The current administration recognizes the importance of PPPs, highlighted by the passage of the PPP Code and its IRR, and is now strengthening its partnership with the private sector by reinvigorating PPPs to support the country's economic recovery and meet its goals for digital and physical connectivity, food security, and LGU empowerment, among others, as set out in the PDP.

The government has been looking into the Philippine bond market as another alternative source of financing for PPP projects (Table 20). In 2016, ADB provided support for the issuance of the Philippines' first peso-denominated green project bond for the refinancing of the Tiwi and Makiling–Banahaw (Tiwi–MakBan) geothermal facilities.[69]

At the same time, the Securities and Exchange Commission (SEC) approved the supplemental listing and disclosure rules applicable to PPP companies that the Philippine Stock Exchange proposed.[70] Under the listing rules, a PPP company may apply for listing under the rules if it is a corporation that was awarded a PPP contract, a special purpose company incorporated by the awarded corporation, or an awarded joint venture or consortium that shall assume and accede to all rights and obligations of the latter. The PPP project cost must not be less than ₱5 billion ($85.75 million as of 28 October 2024), as indicated in the financial bid. The PPP company can apply for initial listing upon showing of any of the following: (i) it has completed its construction works or a phase thereof in case the project consists of several phases, and has commenced commercial operations and/or maintenance services; (ii) it has commenced commercial operations or maintenance services (in no commercial operations), provided that the contract awarded is not solely for O&M. Prior to initial listing, existing shareholders of the PPP company are prohibited from offering their shares in the PPP company during the initial public offering period. However, to date, no PPP company has ever been listed on the stock exchange pursuant to these rules.

In parallel, in 2019, the Association of Southeast Asian Nations (ASEAN) Capital Markets Forum (ACMF), a high-level grouping of capital market regulators from all 10 ASEAN jurisdictions, developed the Roadmap for ASEAN Sustainable Capital Markets, comprising actionable recommendations to provide strategic direction and guide ACMF members in developing action plans and initiatives across the region, building on its recent efforts in the sustainability sphere.[71] The Philippines adopted recommendations in this road map for its own road map for sustainable finance.

In 2020, the BSP launched the Sustainable Finance Policy Framework, which sets out the expectations of the BSP on the integration of sustainability principles, including those covering environmental and social risk areas, in the corporate governance and risk management frameworks as well as in the strategic objectives and operations of banks.[72] In 2022, the BSP released the Philippine Sustainable Finance Roadmap and Sustainable Finance Guiding Principles. This serves as the foundation for effective strategies to facilitate the mainstreaming of sustainable finance in the country while the guiding principles establish a common understanding among various stakeholders

68 ADB. 2020. *Public–Private Partnership Monitor Philippines.*

69 ADB. 2016. *ADB Backs First Climate Bond Asia Landmark $225 Million Philippines Deal.*

70 SEC. 2016. SEC Approved Public Private Partnership Listing Rules.

71 ASEAN Capital Markets Forum (ACMF). 2019. *The Road map for ASEAN Capital Markets*; BSP. 2022. *The Philippine Sustainable Finance Roadmap and Guiding Principles.*

72 BSP. 2020. *Sustainable Finance Framework*. Manila.

of the economic activities considered sustainable. The road map identified the following common issues: the need for strong coordinating efforts in the financial ecosystem, lack of awareness of the available resources to finance sustainable activities, and the need for transparency and a sustainable pipeline database. It lays out three pillars for the country's strategic plans for sustainable finance: creating a conducive environment, mainstreaming sustainable finance, and developing a sustainable pipeline.[73] In 2024, the BSP issued the Philippine Sustainable Finance Taxonomy Guidelines, which serves as a tool to classify whether an economic activity is environmentally or socially sustainable and as a guide for different stakeholders in making informed investment or financing decisions.[74]

The SEC has adopted the ASEAN Green Bond Standards, the ASEAN Social Bond Standards, and the ASEAN Sustainability Bond Standards to attract sustainable investments in the debt security market and address key areas of environmental and social concern. In 2018, it issued "Guidelines on the Issuance of Green Bonds Under the ASEAN Green Bond Standards in the Philippines."[75] In 2019, the SEC issued its "Guidelines on the Issuance of Sustainability Bonds Under the ASEAN Sustainability Bond Standards in the Philippines."[76] In 2023, the SEC issued its "Guidelines on Eligible Blue Projects and Activities for the Issuance of Blue Bonds in the Philippines," based on the Blue Finance Guidance Framework developed by the IFC and the Green and Blue Bond Framework of ADB. Blue bonds are a subset of green bonds, the proceeds of which will exclusively finance or refinance new and/or existing eligible blue projects and/or activities.[77] In 2024, Maynilad Water Services, Inc. issued the first-ever blue bonds registered with the SEC, having an aggregate issue size of ₱15 billion ($257.25 million as of 28 October 2024).

Key Sources of Public–Private Partnership Financing

Typical contours of infrastructure financing

Table 20 reflects the key parameters and contours of the infrastructure financing in the Philippines:

Table 20: Key Infrastructure Financing Sources in the Philippines

	Non-/Limited Recourse Loan ($)	Non/Limited Recourse Local Currency Loan	Project Financing, Local Public Sector Banks	Interest Rate Swaps	Currency Swaps	Project Financing Through Project Bond Issuance
Maximum tenor, in years	15	15	UA	UA	UA	UA
Upfront arrangement fee, bps	100–300	50–150	UA	UA	UA	UA

continued on next page

73 BSP. 2022. *The Philippine Sustainable Finance Roadmap and Guiding Principles.*

74 BSP. 2024. *Philippine Sustainable Finance Taxonomy Guidelines.*

75 SEC. 2018. *Memorandum Circular No. 12, Series of 2018*; 2023. *Memorandum Circular No. 15, Series of 2023*; ASEAN Green Bonds refer to bonds that comply with the ASEAN Green Bond Standards, where the proceeds will be exclusively applied to finance or refinance, in part or in full, new and/or existing eligible green projects. Eligible green projects include, but are not limited to, renewable energy, energy efficiency, pollution prevention and control, environmentally sustainable management of living natural resources and land use, terrestrial and aquatic biodiversity conservation, clean transportation, sustainable water and wastewater management, climate change adaptation, eco-efficient and/or circular economy adapted, production technologies and processes, and green buildings that meet regional, national, or internationally recognized standards or certifications.

76 SEC. 2019. *Memorandum Circular No. 8, Series of 2019.*

77 Blue projects may include ecosystem management and natural resource restoration of coastal, marine, river, lake, and other marine or water-based ecosystems, sustainable fisheries management, and sustainable aquaculture, among others, as long as they directly aim to address sustainable water management and ocean protection.

Table 20 *continued*

	Non-/Limited Recourse Loan ($)	Non/Limited Recourse Local Currency Loan	Project Financing, Local Public Sector Banks	Interest Rate Swaps	Currency Swaps	Project Financing Through Project Bond Issuance
Benchmark rate	SOFR	₱ BVAL reference rates	UA	UA	UA	UA
Margin rate, bps	100–500	100–300				
Political risk cover premium	UA	UA	UA	UA	UA	UA
Percentage of foreign debt out of total debt for project financing	UA	UA	UA	UA	UA	UA
Percentage of project bonds out of total debt for project financing	UA	UA	UA	UA	UA	UA
Typical debt to equity ratio	75:25					
Timeline to financial close (month)	6–12					
Minimum DSCR covenant levels, x	1.05x-1.3x					

bps = basis points, BVAL = Bloomberg Valuation Service, DSCR = debt service coverage ratio, SOFR = secured overnight financing rate.
UA = Unavailable.
Source: ADB. 2020. *Public–Private Partnership Monitor. Philippines*.

The project financing scenario in the Philippines is monopolized by local banks with strong relationships with local conglomerates. Domestic banks do not require any political risk guarantee, unlike international lenders, and offer terms which are light on covenants.[78]

Effective 1 July 2023, the BSP enhanced the single borrower's loan limit (SBL) rules to allow banks to support the financing requirements of the Philippine economy, by excluding loans and other credit accommodations covered by an effective credit risk transfer arrangement, in the form of a guarantee or credit derivative that complies with minimum operational requirements, from the total credit commitment of such banks to a borrower in reckoning compliance with the SBL. This will increase banks' liquidity. The SBL is unchanged, at 25% of the bank's net worth.

Table 21 provides the list of lenders actively participating in project finance in the Philippines in the past 36 months.

[78] Tavidell Law.

Table 21: Active Lenders to Public–Private Partnership Projects in 36 Months Preceding December 2023

Name	Debt Provided ($ million)	No. of Transactions
Bank of the Philippine Islands	474.5	2
Land Bank of the Philippines	364.72	1
Standard Chartered Bank	310	1[a]
SMBC	310	1
HSBC	310	1[a]
Mitsubishi UFJ Financial	310	1
ANZ	310	1
ING	310	1[a]
Development Bank of the Philippines	147.82	5
Rizal Commercial Banking Corporation	83	2
Security Bank Corporation	69.83	1[a]
Metropolitan Bank and Trust Company	63.18	1
BDO Unibank, Inc.	63.18	1[a]

Note:
[a] Provided another loan for another project but amount is not available.
Source: World Bank. Infrastructure Finance, PPPs and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 28 August 2024).

Government financial institutions

Development Bank of the Philippines

DBP is a government financial institution established in 1958 to take over and expand the functions of the Rehabilitation Finance Corporation, created in 1947 to finance the reconstruction of properties damaged by World War II.[79] Its primary objective is to provide banking services principally to cater to the medium- and long-term needs of agricultural and industrial enterprises, with an emphasis on small and medium-scale industries.[80] DBP is an active lender to PPP projects in the Philippines.

Land Bank of the Philippines

LBP is another government financial institution active in the project finance market for PPPs. LBP was established in 1963 under the Agricultural Land Reform Code (Republic Act No. 3844) to finance the acquisition and distribution of agricultural estates for division and resale to small landholders and the purchase of landholdings by agricultural land tenants. LBP is the first universal bank by charter, with expanded commercial banking powers to sustain its social mission of spurring countryside development.[81] It is empowered to grant loans to agricultural, industrial, home-building, or home financing projects and other productive enterprises and to extend credit assistance to farmers' cooperatives and associations to facilitate the production and marketing of crops and

79 ADB. 2016. *Philippines: Public–Private Partnerships by Local Government Units.*
80 Development Bank of the Philippines (DBP). About DBP.
81 A universal bank has the authority to exercise powers and services in in addition to those authorized for a commercial bank, such as the powers of an investment house and the power to invest in non-allied enterprises, among others. BSP. *Manual of Regulations for Banks 101 Classifications, Powers and Scope of Authorities of Banks.*

the acquisition of essential commodities. In 1988, LBP became the financial intermediary of the government's Comprehensive Agrarian Reform Program. In 2021, LBP acquired the special preferred shares of the Philippine Deposit Insurance Corporation in United Coconut Planters Bank.[82]

Philippine Guarantee Corporation

The Philippine Guarantee Corporation is a GOCC attached to the DOF. It serves as the principal agency for State Guarantee Finance of the Philippines. It provides credit guarantees in support of trade and investments; exports; infrastructure; energy; tourism; agricultural business/modernization; housing; micro, small, and medium-sized enterprises; and other priority sectors of the economy, to facilitate and promote socioeconomic and regional development.[83]

Table 22 provides the list of project sponsors actively participating in PPPs in the Philippines in the past 36 months. The project sponsors listed have at least two PPP projects that reached financial close or were under preparation or procurement in 2021, 2022, and 2023.

Table 22: Active Project Sponsors in the Philippines in 36 Months Preceding December 2023

Project Sponsor	Country of Origin	Total Estimated Project Cost ($ million)	Total Estimated Project Cost (₱ billion)	Number of PPP Projects
Aboitiz InfraCapital, Inc./Aboitiz Equity Ventures/Aboitiz Power	Philippines	453.34	26.43	5
Citicore Holdings Investment, Inc.	Philippines	UA	UA	2
JG Summit Holdings, Inc.	Philippines	54.71	3.19	2
Manila Water Company, Inc.	Philippines	161.19	9.40	2
Metro Pacific Investments Corporation	Philippines	809.14	47.18	2
MTD Capital Berhad	Malaysia	1,745.70	101.79	2
Prime Asset Ventures, Inc./PrimeWater Infrastructure Corporation	Philippines	UA	UA	4
SMC Infrastructure/ San Miguel Holdings Corporation	Philippines	22,025.64	1,284.29	11
Udenna Infrastructure Corporation	Philippines	2,578.67	150.36	4

PPP = public–private partnership.
UA = Unavailable.
Sources: DOE. 2024. List of Renewable Energy (RE) Plants with Certificate of Endorsement (COE) to Energy Regulatory Commission (ERC) for Feed-in Tariff (FIT) Eligibility As of March 2024; PPP Center. Corporate Planning and Development Division. Projects List (provided on 9 August 2024); World Bank. Infrastructure Finance, PPPs and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 28 August 2024); Tavidell Law.

Credit rating agencies in the Philippines

The credit rating agencies involved in rating infrastructure projects are the Philippine Rating Services Corporation (PhilRatings) and Credit Rating and Investors Services (CRISP) Inc.

[82] Land Bank of the Philippines (LBP). 2022. Executive Summary.
[83] Philippine Guarantee Corporation. About Us, Our Mandate.

III. Sector-Specific Public–Private Partnership Landscape

Roads

Parameter	Value	Unit
Length of total road network	208,329.40	kilometers
Quality of road infrastructure	3.70	1 (low)–7 (high)

✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
Sources: Department of Public Works and Highways (DPWH). 2022. Summary of Existing National Bridges; 2022. Road Data: Atlas 2022; House of
Representatives Congressional Policy and Budget Research Department. 2023. Philippine Road Network: Facts in Figures; theGlobalEconomy.com. 2019. Philippines: Roads Quality.

The Philippine road network is divided into national, local, and other roads, based on the road functional classification criteria set by the DPWH described in Table 23 and illustrated in Figure 14.

Table 23: Philippine Road Functional Classification Criteria

National Roads
National primary roads
A contiguous length of significant road sections extending linearly without any breaks or forks that connect major cities (at least around 100,000 people) comprising the main trunk line or the backbone of the national road system
National secondary roads
• Directly connect cities to national primary roads, except in metropolitan areas • Directly connect major ports and major ferry terminals to national primary roads • Directly connect major airports to national primary roads • Directly connect tourist service centers to national primary roads • Directly connect cities (not included in the category of major cities) • Directly connect provincial capitals within the same region • Directly connect major national government infrastructure to national primary roads or other national secondary roads
Applicable only for national primary and national secondary roads
• Bypass/diversion roads—roads that divert through traffic away from the city/municipality business center (with affirmative feasibility study) • Roads that would connect or fill the gap between adjoining national roads (protruding) to form a continuous national road network

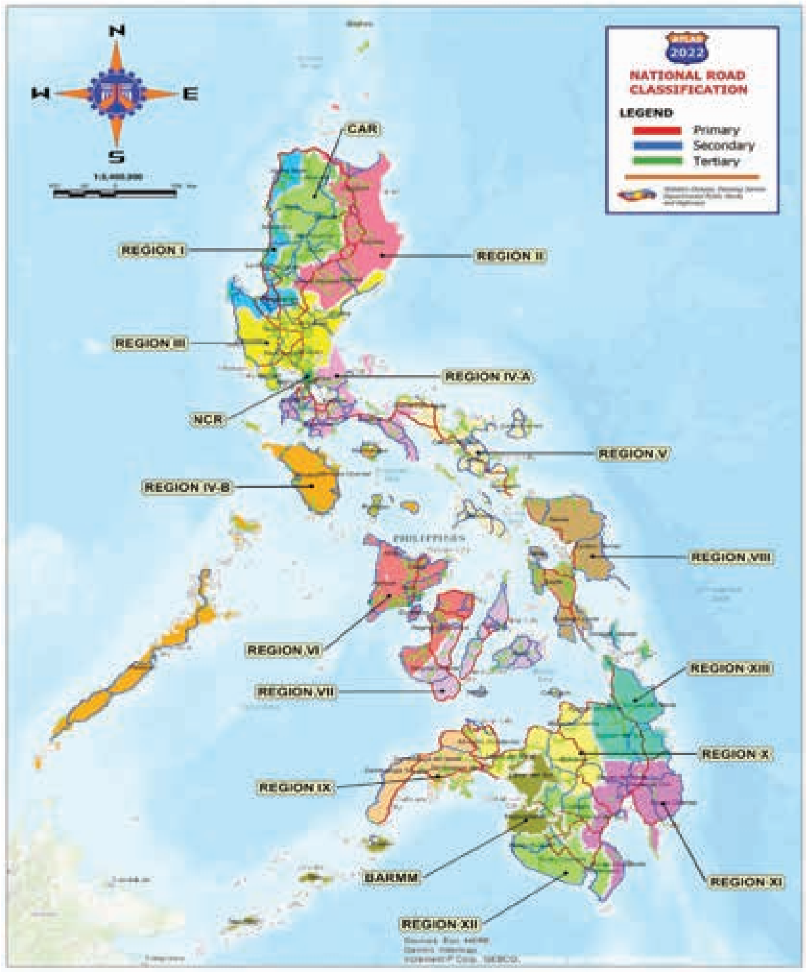
continued on next page

Table 23 *continued*

National tertiary roads
Other existing roads under Department of Public Works and Highways that perform a local function
Local Roads
Provincial roads
• Connect cities and municipalities without traversing national roads • Connect national roads to barangays through rural areas • Connect to major provincial government infrastructure
Municipal and city roads
• Roads within the *poblacion* (city/town center) • Roads that connect to provincial and national roads • Roads that provide inter-barangay connections to major municipal and city infrastructure without traversing provincial roads
Barangay roads
Other public roads (officially turned over) within the barangay and not covered in the above definitions[a]
Other Roads
Expressways
Highways with limited access, normally with interchanges; may include facilities for levying tolls for passage in an open or closed system

Note:
[a] These are public roads officially turned over to the barangay either by the national or higher LGU or by private developers.
Source: DWPH. 2018. *Department Order No. 133, Series of 2018*.

Figure 14: Philippine Road Network



Department of Public Works and Highways (DPWH). 2022. Road Data: Atlas 2022.

1. Implementing Agencies in the Roads Sector

As the engineering and construction arm of the Philippine government, the Department of Public Works and Highways (DPWH) is the implementing agency for national PPP projects in the roads sector.[84] The DPWH is tasked to continuously develop its technology to ensure the safety of all infrastructure facilities and secure the highest efficiency and best quality in construction for all public works and highways. Its responsibilities include the planning, design, construction, and maintenance of infrastructure facilities, especially national highways, water resource development systems, and other public works. It is also responsible for providing an integrated planning for highways, flood control and water resource development systems, and other public works. In addition, the DPWH develops and implements effective codes, standards, and reasonable guidelines to ensure the safety of all public and private structures in the country and assure efficiency and proper quality

[84] Implementing agencies, whether national or local, are the government contracting agencies for PPP projects in the sectors that are within their respective mandates to undertake.

in the construction of public works. It is further mandated to classify roads and highways into national, regional, provincial, city, municipal, and barangay roads and highways, and to provide or authorize the conversion of roads and highways from one category to another.

The Toll Regulatory Board (TRB), an attached agency of the Department of Transportation (DOTr), was likewise authorized to enter into contracts for the construction, operation, and maintenance of toll facilities such as national highways, roads, bridges, and public thoroughfares. However, the PPP Code has repealed that authority. The TRB continues to be the regulator of the roads sector.

LGUs have primary jurisdiction over the planning, funding, and maintenance of barangay, municipal, city, and provincial roads and bridges within their respective territorial jurisdictions. They are responsible for developing comprehensive development plans for their jurisdictions. The LGUs are required to collaborate with the DPWH and other national agencies to ensure proper integration of the local roads into the broader national transportation network and to standardize design and construction guidelines and advancements.

For road transport projects, the national implementing agency is the DOTr. The Land Transportation Franchising and Regulatory Board (LTFRB), an attached agency of the DOTr, is in charge of promulgating, administering, enforcing, and monitoring the compliance of policies, laws, and regulations of public land transportation.[85] The LTFRB prescribes and regulates routes, economically viable capacities, and zones or areas of operation of public land transportation services provided by motorized vehicles in accordance with the public land transportation development plans and programs approved by the DOTr. It has the authority to issue, amend, revise, suspend or cancel certificates of public convenience or permits authorizing the operation of public land transportation services provided by motorized vehicles, and to prescribe and periodically review their fares, rates and other related charges.[86]

2. Roads Sector Laws and Regulations

The key laws and regulations that govern or support the roads sector are summarized in Table 24.

Table 24: Roads Sector Laws and Regulations

Law or Regulation	Description
Limited Access Highway Act (Republic Act No. 2000, 1957)[a]	• Authorized the Department of Public Works and Communications to plan, designate, establish, regulate, vacate, alter, improve, maintain, and provide limited access facilities for public use whenever it was of the opinion that traffic conditions, present or future, would justify such special facilities, and to design any limited access facility and to so regulate, restrict, or prohibit access as to best serve the traffic for which such facility was intended[b]
Revised Philippine Highway Act (Presidential Decree No. 17, Series of 1972)	• Controls the selection of highways or highway projects to receive national aid; expenditures for administration, maintenance, improvement, betterment, and rehabilitation on highway projects; and the classification of highways and the widths, acquisition, and use of ROW
Toll Operation Decree (Presidential Decree No. 1112, Series of 1977)	• Creates the TRB • Authorizes the TRB to grant authority to (i) operate a toll facility and issue the necessary toll operation certificate; (ii) issue, modify, and promulgate initial toll rates; and (iii) approve or disapprove petitions for toll increases[c]

continued on next page

[85] Land Transportation Franchising and Regulatory Board (LTFRB). What is LTFRB? Land Transportation Franchising and Regulatory Board.

[86] Government of the Philippines. 1987. *Executive Order No. 292.*

Table 24 *continued*

Law or Regulation	Description
Local Government Code (Republic Act No. 7160, as amended)	• Authorizes LGUs to provide basic services within their respective territorial jurisdictions, such as barangay, municipal, city, and provincial roads and bridges • Authorizes the *sanggunian* of an LGU to prescribe the terms and conditions and fix the rates for the imposition of toll fees or charges for the use of any public road, pier or wharf, waterway, bridge, ferry, or telecommunication system funded and constructed by such LGU
Right-of-Way Act (Republic Act No. 10752) and its Implementing Rules and Regulations	• Governs the site or ROW acquisition process for government infrastructure projects • Authorizes the government to acquire real property needed as ROW site or location for any national government infrastructure project through donation, negotiated sale, or expropriation
Prohibited Uses Within the Right-of-Way of National Roads (DPWH Department Order No. 73, Series of 2014)	• Directs all regional/district engineering offices of the DPWH to immediately remove or cause the removal of all obstructions and prohibited uses within the ROW of all national roads within their respective jurisdictions and to prohibit the presence/occurrence of the prohibited structures and objects and other similar items and activities along national roads
DPWH ROW Acquisition Manual (DPWH Department Order No. 152, Series of 2017)	• Prescribes the workflow for the overall process of ROW acquisition applicable to infrastructure projects, and to all scopes of work of the project, whether involving entirely new construction or expansion/improvement of existing infrastructure

DPWH = Department of Public Works and Highways, LGU = local government unit, ROW = right-of-way.

Notes:

[a] A "limited access facility" is a highway or street especially designed for through traffic, and over, from, or to which owners or occupants of abutting land or other persons have no right or easement or only a limited right or easement of access, light, air, or view by reason of the fact that their property abuts upon such facility or for any other reason, which may be parkways, from which trucks, buses, and other commercial vehicles are excluded and freeways open to use by all customary forms of street and highway traffic. In 2007, the Department of Transportation and Communications, acting as successor of the Department of Public Works and Communications, issued Department Order No. 2007-15, designating and declaring, as limited access facilities, the existing expressway facilities—namely, the South Luzon Expressway, the Manila–Cavite Toll Expressway (Coastal Road), the North Luzon Expressway, the South Metro Manila Skyway, the Southern Tagalog Arterial Road Tollway, the Subic–Clark–Tarlac Expressway, and all other road networks, including any extension of these existing expressway facilities that may be constructed, established, and/or operated as expressway toll facilities by law from time to time.

[b] The Department of Public Works and Communications (1931) was a predecessor of the DPWH and the DOTr.

[c] The PPP Code repeals the authority of the TRB to enter into toll operation agreements.

Sources: Department of Transportation (DOTr). 2007. *DOTC Department Order No. 2007-15*; DPWH. 2014. *Department Order No. 73, Series of 2014*; 2017. *Department Order No. 157, Series of 2017*; Government of the Philippines. 1957. *Limited Access Highway Act*; 1972. *Revised Philippine Highway Act*; 1977. *Toll Operation Decree*; 1991. *Local Government Codes of 1991*; 2016. *Right-of-Way Act*; *Implementing Rules and Regulations of Republic Act No. 10752*.

Foreign Investment Restrictions in the Roads Sector

Before the Public Service Act was amended by Republic Act No. 11659 in March 2022, to redefine public utilities, the operation of a road was considered a public utility. Thus, prior to 2022, the operation of PPP road projects was subject to the 40% maximum equity investment allowed for foreign investors in public utility projects.[87] Thereafter, foreign investments in the operation of PPP road projects may be up to 100%. However, the operation of public utility vehicles continue to be subject to the 40% foreign equity restriction.

Parameter	2021	2022	2023
Maximum allowed foreign ownership of equity (road operation)	40%	100%	100%
Maximum allowed foreign ownership of equity (public utility vehicles)	40%	40%	40%

[87] Government of the Philippines. 2022. *Revised IRR of Republic Act No. 6957.*

Standard Contracts in the Roads Sector

There are no standard contracts for PPPs in the roads sector.

Type of contract	Availability
Public–private partnership/concession agreement	×[a]
Performance-based operation and maintenance contract	×
Engineering procurement and construction contract	×

✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.

[a] However, a model PPP contract for local government units is provided in a 2012 publication of the PPP Center. Executed PPP concession agreements in the roads sector may also provide guidance on required contractual provisions.

Source: PPP Center. 2012. *A PPP Manual for LGUs 3. Utilizing LGU PPP Project Templates and Bid Documents*; Tavidell Law.

3. Roads Sector Master Plan

In 2010, Japan International Cooperation Agency (JICA) assisted the DPWH in preparing the Study of Master Plan on High Standard Highway (HSH) Network Development (HSH Phase 1). The HSH Phase 1 network development focused mainly on Metro Manila and its suburbs. Recognizing the importance of the improvement of access to rural areas, the Philippine government requested the Government of Japan to implement Phase 2 as a follow-through study of HSH Phase 1. The objective of Phase 2 was to define and clarify the overall HSH network, focusing on the nationwide expressway network, and to identify HSH priority projects with an implementation program of up to 2040.[88]

In November 2021, the DPWH received the final report on the Master Plan on HSH Phase 2 from JICA.[89] [90] The new master plan proposes the construction of 4,400 km of HSH Class-1 and about 4,600 km of HSH Class-2 . HSH Class-1 are inter-urban and intra-urban expressways aimed at mitigating over-concentration of people and economic activities in Metro Manila, and mitigating chronic traffic congestion in and around major urban centers. Meanwhile, HSH Class-2 are regional HSH aimed at accelerating regional developments, particularly in rural areas. These projects are categorized into long-, medium-, and short-term projects based on implementation importance. Most of the new HSH projects will be implemented by the DPWH under the PPP scheme. Aside from the master plan, JICA's development assistance also covered the pre-feasibility study of four important roads and bridges: Agusan Del Norte–Butuan City Logistical Highway in Region 13; Cebu Circumferential Road in Region 7; Central Mindanao Highway, Cagayan de Oro–Malaybalay Section, in Region 10; and 2nd San Juanico Bridge in Region 8.[91]

Table 25 shows the priority projects identified in the roads sector for the PPP mode of implementation based on NEDA's list of IFPs as of August 2024.

[88] Japan International Cooperation Agency (JICA). 2021. *Project for Masterplan on High Standard Highway Network Development (Phase 2) Final Report Executive Summary*.

[89] DPWH. 2021. DPWH Receives New Highway Master Plan from JICA.

[90] JICA. 2021. *Project for Masterplan on High Standard Highway Network Development (Phase 2) Final Report Executive Summary*.

[91] DPWH. 2021. DPWH Receives New Highway Master Plan from JICA.

Table 25: Public–Private Partnership Priority Road Projects, as of August 2024

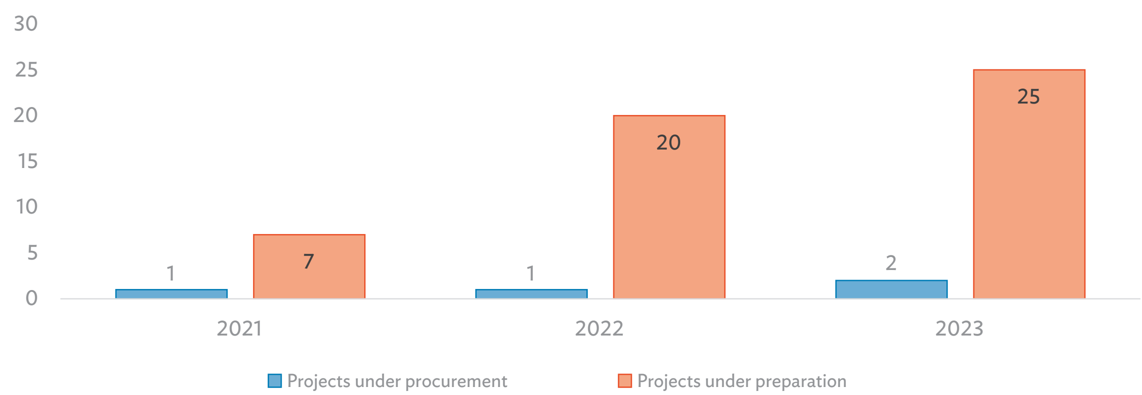
No.	Project	Implementing Agency	Estimated Project Cost ($ million)	(₱ billion)
1.	C5 South Link Expressway Project	DPWH/TRB [c]	216.95	12.65
2.	Cagayan De Oro Bus Rapid Transit	DOTr	439.21	25.61
3.	Cavite–Laguna Expressway	DPWH	612.94	35.74
4.	Cebu Bus Rapid Transit Operation and Maintenance	DOTr	68.60	4.00
5.	Central Luzon Link Expressway Phase II	DPWH	270.97	15.80
6.	Davao PTMP Operation and Maintenance	DOTr	-	TBD
7.	EDSA Busway (Improved)	DOTr	525.42	31.22
8.	Iloilo–Capiz–Aklan Expressway	DPWH	2,160.90	126.00
9.	Iloilo–Santa Barbara Bus Rapid Transit	DOTr	1,201.53	70.06
10.	Naawan–Opol–Cagayan de Oro City–Villanueva Expressway	DPWH	834.86	48.68
11.	National Transportation Database	DOTr	48.02	2.80
12.	NLEX–SLEX Connector Road	DPWH	397.88	23.20
13.	North Luzon East Expressway (La Mesa Parkways Project)	DPWH	133.77	7.80
14.	North Luzon Expressway Segment 8.2	DPWH/TRB [c]	197.23	11.50
15.	North NCR Intermodal Transit Exchange	DOTr	85.75	5.00
16.	Rehabilitation/Reconstruction/Improvement, Operation, and Maintenance of Kennon Road Project [b]	DPWH	227.07	13.24
17.	SLEX Toll Road 4	DPWH/TRB [c]	224.32	13.08
18.	South Luzon Expressway Toll Road 5 Segment 1	DPWH/TRB [c]	482.77	28.15
19.	Southeast Metro Manila Expressway Project	DPWH/TRB [c]	537.14	31.32
20.	Taguig City Integrated Terminal Exchange	DOTr	89.18	5.20
21.	Tarlac–Pangasinan–La Union Expressway Extension Project from last exit in Rosario, La Union, to San Juan, La Union [c]	DPWH	400.62	23.36

DPWH = Department of Public Works and Highways, NLEX = North Luzon Expressway, PTMP = Public Transport Modernization Project, SLEX = South Luzon Expressway, TBD = To be determined, TRB = Toll Regulatory Board.
[a] Financing source indicated is official development assistance/public–private partnership.
[b] The concession agreement for this project was signed on 3 July 2024.
[c] These are ongoing projects approved before the enactment of the PPP Code and when the TRB was still authorized to enter into toll operation agreements.
Source: NEDA. 2024. Infrastructure Flagship Projects. (accessed 27 October 2024).

Projects under Preparation and Procurement in the Roads Sector

Figure 15 shows the number of PPP projects that were under preparation and procurement in the Philippines' roads sector for 2021, 2022, and 2023.

Figure 15: Public–Private Partnership Roads Under Preparation and Procurement



Note: The roads sector includes road transport projects such as bus transport, public transport modernization, transportation database, terminal, and active transport projects.
Source: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024).

The PPP Center tracks the progress of the pipeline of PPP projects in the Philippines, with the list updated regularly and published on the website. Table 26 and Table 27 present the lists of pipeline PPP road projects and pipeline PPP road transport projects, as of October 2024, based on the PPP Center's project list.

Table 26: Pipeline Public–Private Partnership Road Projects, as of October 2024

No.	Project (Length)	Implementing Agency	Procurement Mode	Estimated Project Cost ($ million)	Estimated Project Cost (₱ billion)	Status
1.	CLLEX Phase 1 O&M and Phase 2 Project (35.7 km[a])	DPWH	Solicited	278.52	16.24	Preparation phase (under development)
2.	Iloilo–Capiz–Aklan Expressway (210 km)	DPWH	Solicited	-	TBD	Preparation phase (under development)
3.	Naawan–Opol–Cagayan de Oro City-Villanueva Expressway (77.8 km)	DPWH	Solicited	-	TBD	Preparation phase (under conceptualization)
4.	O&M of Davao City Bypass Construction Project (45.5 km)	DPWH	Solicited	-	TBD	Preparation phase (under conceptualization)
5.	North Luzon East Expressway (91.10 km)	DPWH	Solicited	-	TBD	Preparation phase (under conceptualization)

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Table 26 *continued*

No.	Project (Length)	Implementing Agency	Procurement Mode	Estimated Project Cost ($ million)	Estimated Project Cost (₱ billion)	Status
6.	Boracay Bridge Project (1.2 km)	DPWH	Unsolicited	137.37	8.01	Negotiation phase

CLLEX = Central Luzon Link Expressway, DPWH = Department of Public Works and Highways, km = kilometer, O&M = operation and maintenance, TBD = to be determined.
Note:
[a] This is the length of CLLEX Phase 2 only.
Source: DPWH. Iloilo-Capiz-Aklan Expressway (ICAEx); PPPC Center. 2024. List of PPP Projects in the Pipeline (accessed 27 October 2024); Naawan–Opol–Cagayan de Oro City–Villanueva Expressway.

Table 27: Pipeline Public–Private Partnership Road Transport Projects, as of October 2024

No.	Project	Implementing Agency	Procurement Mode	Estimated Project Cost ($ million)	Estimated Project Cost (₱ billion)	Status
1.	NCR Epifanio de los Santos Avenue Busway Project	DOTr	Solicited	-	TBD	Preparation phase (under development)
2.	O&M of Cebu Bus Rapid Transit Project	DOTr	Solicited	-	TBD	Preparation phase (under development)
3.	North Integrated Transport System	DOTr	Solicited	-	TBD	Preparation phase (under development)
4.	National Transportation Database	DOTr	Solicited	-	TBD	Preparation phase (under conceptualization)
5.	Davao Public Transport Modernization Project: O&M, ITS, and AFCS	DOTr	Solicited	-	TBD	Preparation phase (under development)
6.	Cagayan de Oro Bus Rapid Transit	DOTr	Solicited	439.21	25.61	Preparation phase (under conceptualization)
7.	Iloilo–Santa Barbara Bus Rapid Transit	DOTr	Solicited	1,201.53	70.06	Preparation phase (under conceptualization)
8.	North NCR Intermodal Transit Interchange	DOTr	Solicited	-	TBD	Preparation phase (under conceptualization)
9.	North Luzon Express Terminal Project	DOTr	Unsolicited	116.96	6.82	Preparation phase (under evaluation by IA)
10.	Unsolicited BOT proposal for Skyway Bus Transit System	DOTr	Unsolicited	385.02	22.45	Preparation phase (under evaluation by implementing agency)
11.	Baguio City Intermodal Terminal Project	City Government of Baguio	Unsolicited	20.41	1.19	For approval of relevant government bodies
12.	Smart Urban Mobility Project	City Government of Baguio	Unsolicited	43.39	2.53	Negotiation phase

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Table 27 *continued*

No.	Project	Implementing Agency	Procurement Mode	Estimated Project Cost ($ million)	Estimated Project Cost (₱ billion)	Status
13.	La Union Integrated Terminal Exchange	Provincial Government of La Union	Solicited	-	TBD	Preparation phase (under conceptualization)
14.	High-Capacity Bus System in Iloilo City	City Government of Iloilo	Solicited	42.53	2.48	Negotiation phase
15.	Cavite Bus Rapid Transit System	Provincial Government of Cavite	Unsolicited	32.07	1.87	Under comparative challenge
16.	South Luzon Integrated Terminal Exchange (SLITX) Project	City Government of Carmona	Unsolicited	13.55	0.79	Preparation phase (under evaluation by implementing agency)

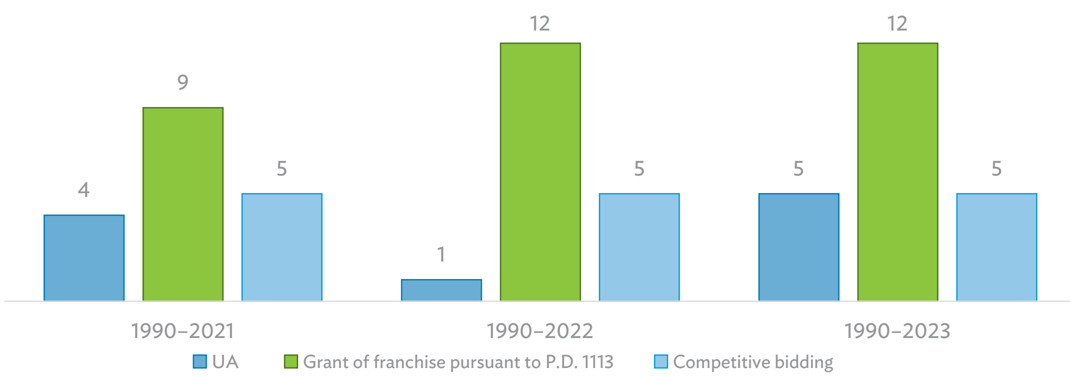
AFCS = automated fare collection system, BOT = build–operate–transfer, DOTr = Department of Transportation, ITS = intelligent transport system, O&M = operation and maintenance, NCR = National Capital Region, TBD = to be determined.

Source: PPPC Center. 2024. List of PPP Projects in the Pipeline (accessed 27 October 2024).

4. Features of Past Public–Private Partnership Projects in the Roads Sector

Figure 16 presents the number of PPP projects procured through various modes including direct appointment, unsolicited bids, and competitive bids in the Philippines' roads sector.

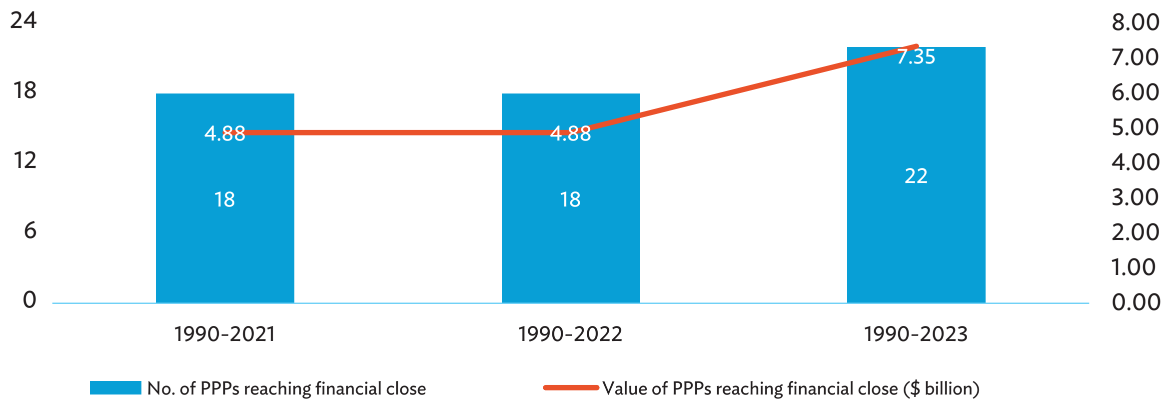
Figure 16: Modes of Procurement for Public–Private Partnership Roads



P.D. = Presidential Decree, U.A. = information available.
Note: Only active and concluded projects are considered.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Figure 17 shows the number of PPP projects that have reached financial closure and the total value of those projects in the Philippines' roads sector.

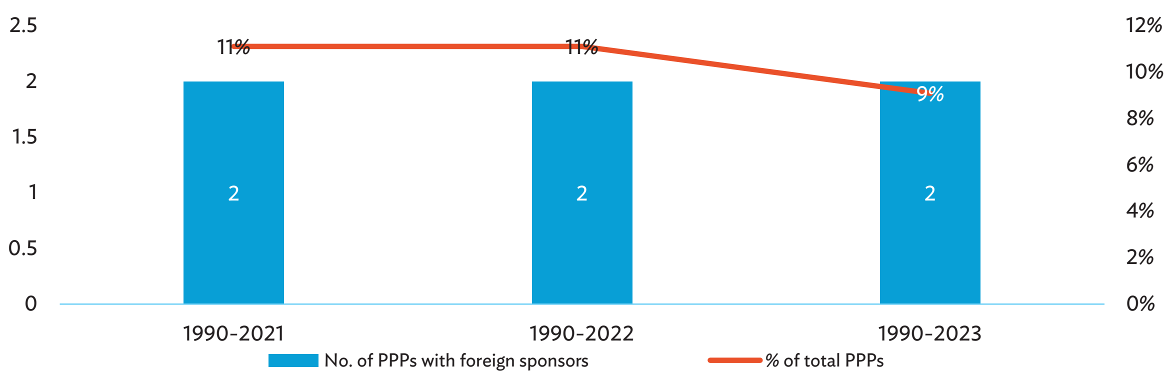
Figure 17: Public–Private Partnership Road Projects Reaching Financial Close



PPP = public–private partnership.
Note: Only active and concluded projects are considered. Value of PPP is not available for one project. PPP projects "under implementation" in the PPP Center database are assumed to have reached financial closure.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Figure 18 presents the number of PPP projects that have received foreign sponsor participation in the Philippines' roads sector.

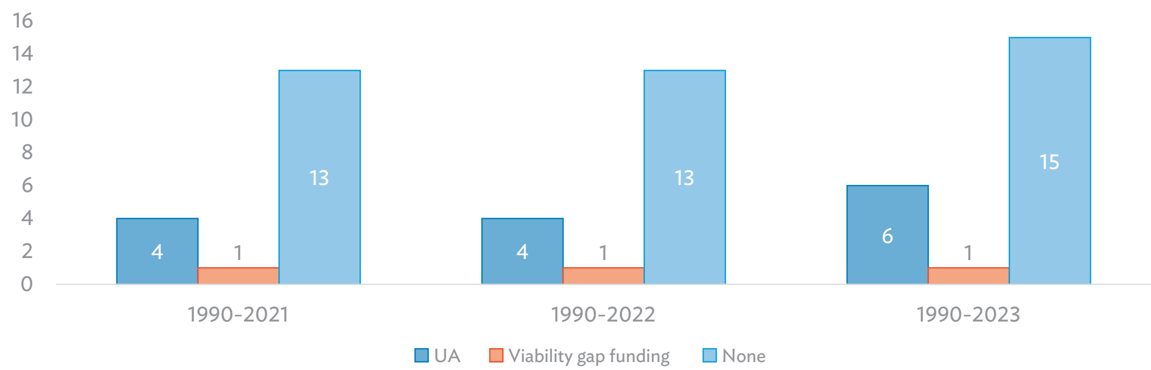
Figure 18: Public–Private Partnership Road Projects with Foreign Sponsor Participation



PPP = public–private partnership.
Note: Only active and concluded projects are considered.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Figure 19 shows the number of PPP projects that have received government support, particularly viability gap funding (VFG) mechanism, in the Philippines' roads sector.

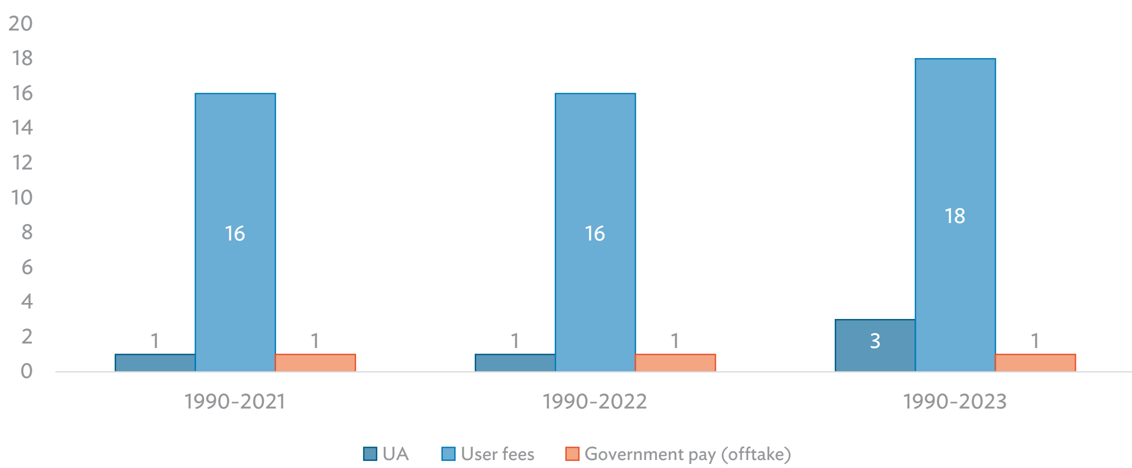
Figure 19: Government Support to Public–Private Partnership Road Projects



UA = information unavailable.
Note: Only active and concluded projects are considered.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Figure 20 presents the number of PPP projects that have received payment in the form of user charges and government pay (offtake) in the Philippines' roads sector.

Figure 20: Payment Mechanisms for Public–Private Partnership Road Projects



UA = information unavailable.
Note: Only active and concluded projects are considered.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Tariffs in the Roads Sector

The TRB sets the rates of tolls for national highways, roads, and bridges (Table 28), while LGUs can set toll fees or charges for barangay, municipal, city, and provincial roads and bridges, within their territorial jurisdictions and which they have funded and constructed.

For national PPP road projects, concessionaires may charge and collect toll fees and charges based on the terms of the concession agreement, subject to the approval of those fees and charges by the TRB. For local PPP road projects, concessionaires may implement toll fees and charges based on the terms of the concession agreement, subject to the approval of the local toll regulatory council/board established by the LGU concerned.

In 2023, to reduce transport and logistics costs and ensure the efficient movement of goods across regions, President Marcos, Jr issued Executive Order No. 41, Series of 2023, to prohibit LGUs from collecting toll fees and charges on all motor vehicles transporting goods or merchandise while passing through any national roads and other roads the LGUs did not construct and fund. As LGUs enjoy local autonomy, the President is unable to impose this prohibition on local public roads constructed by LGUs. Thus, LGUs are only strongly urged to suspend or discontinue the collection of fees imposed on all motor vehicles transporting goods and passing through any local public roads constructed and funded by said LGUs.[92]

The TRB publishes the tariffs for national toll roads on its website.

Table 28: Tariffs for National Public–Private Partnership Road Projects

Road	Toll Type	Class 1: Cars, Jeepneys, Pickups, Vans (₱)	Class 2: Light Trucks, Tourist and School Buses, Class 1 (>7 feet in height) (₱)	Class 3: Heavy and Multi-Axle Trucks, Trailers (₱)
Tarlac–Pangasinan–La Union Expressway	Closed	19-311	47-778	57-933
North Luzon Expressway/Subic–Clark–Tarlac Expressway	Closed	8-539	16-1,569	24-2,053
Manila–Cavite Toll Expressway	Open	8-73	44-146	66-219
Ninoy Aquino International Airport Expressway	Open	35-45	69-90	104-134
Skyway–South Luzon Expressway/ Muntinlupa–Cavite Expressway Integrated	Open	5-270	11-541	16-811
Apolinario Mabini Super Highway	Open	10-104	21-208	31-311
Cavite–Laguna Expressway	Closed	14-81	29-163	43-244
Metro Manila Skyway Stage 3	Open	105-264	210-528	315-792

Source: TRB. Toll Rates.

[92] Government of the Philippines. 2023. *Executive Order No. 41, Series of 2023.*

Typical risk allocation for public–private partnership road projects

Risk Type	Private	Public	Shared	Remarks
Traffic risk	✓			Except in availability-based PPPs
Revenue collection risk	✓			
Competition risk	✓			
Government payment risk		✓		
Environmental and social risk	✓ (Unsolicited)		✓ (Solicited)	
Land acquisition risk	✓ (Unsolicited)	✓ (Solicited)		
Interface			✓	
Permits			✓	
Geotechnical risk	✓			Except for material unidentified risks
Brownfield risk: inventory studies, property boundaries, project scope, asset condition			✓	
Political risk			✓	Private party bears risk up to a materiality threshold, beyond which public party bears risk
Force majeure			✓	
Foreign exchange risk	✓			
Construction risk	✓			Except for delays caused by government
Early termination risk			✓	Subject to specific conditions and compensation mechanisms

✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
Source: PPP Center. 2016. *Generic Preferred Risks Allocation Matrix*; Tavidell Law.

Financing details of Public–Private Partnerships in the Roads Sector

Parameter	1990–2021	1990–2022	1990–2023
PPP projects with foreign lending participation	2	2	2
PPP projects that received export credit agency/international financing institution support	2	2	2
Typical debt: equity ratio	75:25 to 80:20		
Time for financial closure	3 months after issuance of first Notice to Proceed		
Typical concession period	30–35 years, extendible to up to 50 years		
Typical financial internal rate of return	UA		

PPP = public–private partnership.
✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); NAIA Expressway Phase II Project; Cavite–Laguna Expressway (CALAX); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

5. Challenges in the Roads Sector

- Before the Public Service Act was amended in 2022, the operation of roads was considered a public utility. Thus, the restriction of foreign investments (capped at 40%) limited competition in the roads sector, as the controlling stake in the project company belonged to local companies. This has now been addressed by the amendment to the Public Service Act, which no longer includes road operations in the definition of public utilities. However, foreign investment in public utility vehicles operating on roads continue to be subject to the 40% foreign equity restriction.
- In PPP road projects, the implementing agency is responsible for procuring the land required. The contract is usually signed before such land is completely procured/delivered to the concessionaire, which, in many cases, is delayed, leading to delays in the start of construction and/or completion of the project.
- PPP road projects also encounter major interface issues relating to interoperability and interconnection among expressways, which may require a variation after construction has started as a result of the process of redesigning the road for the interconnection and inter-operation with another expressway (e.g., Daang-Hari SLEX Link Road project).[93]
- There have been delays in the procurement owing to
  - major changes in project structure, terms, and conditions, or even road alignment, after procurement has commenced;[94] and
  - protest/appeal of disqualified bidder, resulting in a rebidding of the project.[95]
- The assessment of unpaid real property tax and related enforcement actions taken by certain LGUs on PPP project assets has become an issue during the procurement of some PPP projects.
- Despite the parametric formula for toll rate adjustments forming part of the PPP contract, there have been delays in the past in the regulator's approval of toll rate adjustments, which have led to arbitration.
- Full implementation of the toll interoperability rollout under the memorandum of agreement on toll collection interoperability signed by the toll road operators with the regulator, the DPWH, and the DOTr in 2017 (in relation to the use of electronic toll collection systems and their interoperability) is delayed.[96]

Railways

Parameter	Value	Unit
Length of total railway network	270.16	total route-km
Total number of passengers carried	UA	million passengers-km
Total volume of freight carried	UA	million tons-km
Quality of railways infrastructure	2.40	1(low)–7(high)

km = kilometer.
✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
Sources: DOTr. 2024. PH Entering the "Railway Renaissance"-- Asec. Aquino. theGlobalEconomy.com. 2019. Philippines: Railroad Infrastructure Quality.

93 PPIAF Global Infrastructure Hub. Daang-Hari SLEX Link Road.
94 Agcaoili, L. 2014. DPWH Sets Meeting with Calax Bidders on Road Alignment Issue. *Philippine Star*.
95 *Rappler*. 2014. Malacañang Orders Rebid of Cavite–Laguna Expressway Project.
96 Amojlar, D. 2024. Toll Interoperability Rollout Postponed to October 2024. *Manila Standard*.

Figure 21: Philippine Railway Network

Note: The operations of PNR Southrail are suspended for 5 years beginning 28 March 2024 to give way to the construction of the North South Commuter Railway project.
Source: Urban Rail. 2024. Manila.

1. Implementing Agencies in the Railways Sector

The DOTr is the primary contracting agency for national PPP projects in the railways sector. It is the primary policy, planning, programming, coordinating, implementing, and administrative entity of the executive branch of the government on the promotion, development, and regulation of a dependable and coordinated network of transportation systems, as well as in fast, safe, efficient, and reliable transportation services.[97] It formulates and recommends national policies and guidelines for the preparation and implementation of integrated and comprehensive transportation systems at the national, regional, and local levels. The DOTr has the authority to issue certificates of public convenience, which serve as the authority for entities to operate public land and rail transportation utilities and services. It also has the power to determine, fix, or prescribe their charges or rates.[98]

Other agencies that are attached to the DOTr, such as the Light Rail Transit Authority (LRTA) and the Philippine National Railways (PNR), may also enter into PPP railway contracts with private entities for the performance of their mandate.[99]

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97 DOTr. About DOTr.

98 Government of the Philippines. 1987. *Executive Order No. 292*.

99 Both the DOTr (then the Department of Transportation and Communication) and the LRTA are the implementing agencies of the Manila LRT1 Extension, Operations, and Maintenance Project. Its concession agreement provides that any and all obligations of the grantors (including any obligation to make any payment to the concessionaire) under the concession agreement shall be construed as being the obligations of the DOTr.

- The LRTA is primarily responsible for the construction, operation, maintenance, and/or lease of LRT systems in the Philippines.[100]
- The PNR is a state-owned corporation created to serve as the instrumentality of the Philippine government in providing a nationwide railroad and transportation system.[101] It is the sole operator of the most extensive intra-island railway in Luzon. It operates two commuter rail services in Metro Manila, the North (Green Line) and the South (Orange Line) Main Lines, and the Bicol Region. The only operating line, and presently under rehabilitation, is the South Main Line (Orange Line), which serves as the regional rail backbone of Southern Luzon. The Bicol service is currently under rehabilitation in preparation for the resumption of the Bicol Express run to Naga City in Camarines Sur province, and eventually to the southern terminal in Legazpi City in Albay.[102]

2. Railway Laws and Regulations

The key law that governs or support the railways sector is Executive Order No. 125, Series of 1987, as amended by Executive Order No. 125-A and the Administrative Code of 1987 (Executive Order No. 292), which mandated the DOTr to regulate public land and rail transportation utilities and services. In 2022, the DOTr created the Railway Regulatory Unit (RRU) through its Department Order No. 2022-27. The RRU has the authority, among others, to promulgate rules and procedure for fixing rates and fare adjustments in public rail transportation upon approval of the DOTr secretary, including the conduct of related hearings and public consultations, and to approve with finality applications for fare adjustment, including those under concession agreements.[103]

Foreign investment restrictions in the railways sector

Before the Public Service Act was amended by Republic Act No. 11659 in March 2022, which redefined public utilities, the operation of a railway was considered a public utility. Thus, prior to 2022, the operation of PPP railway projects was subject to the 40% maximum equity investment allowed for foreign investors in public utility projects.[104] Thereafter, foreign investments in the operation of PPP railway projects may be up to 100%.

Parameter	2021	2022	2023
Maximum allowed foreign ownership of equity in projects	40%	100%	100%

100 Government of the Philippines. 1980. *Executive Order No. 603*.
101 Government of the Philippines. 1964. *Republic Act No. 4156*; 2014. *Republic Act No. 10638*. The PNR exists for a corporate term that ends 50 years from 16 June 2014.
102 PNR. Corporate Profile.
103 DOTr. 2022. *Department Order No. 2022-027*. The RRU is replacing the Land Transportation Franchising and Regulatory Board in setting routes, regulating fares, and overseeing licensing requirements for rail transportation services.
104 Government of the Philippines. 2022. *Revised IRR of Republic Act No. 6957*.

Standard contracts in the railways sector

There are no standard contracts for PPPs in the railways sector.

Type of contract	Availability
Public–private partnership/concession agreement	×[a]
Performance-based operation and maintenance contract	×
Engineering procurement and construction contract	×

✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.

Note:

[a] However, a model PPP contract for local government units is provided in a 2012 publication of the PPP Center. Executed PPP concession agreements in the railways sector may also provide guidance on required contractual provisions.

Source: PPP Center. 2012. *A PPP Manual for LGUs 3. Utilizing LGU PPP Project Templates and Bid Documents*; Tavidell Law.

3. Railways Sector Master Plan

There is currently no sector-specific master plan for the railways sector. However, for the transport sector, the NEDA Board approved the National Transport Policy Act in 2017, which mandates the formulation and periodic updating of the Philippine Transport System Master Plan, which guides the rational development of an intermodal transport network in the country through coordinated planning and operation of projects and programs as an integrated network of intermodal sub-systems. NEDA Board Committee on Infrastructure approved the IRR for the Act in 2018.[105]

The NTPA is priority legislation of the administration. It aims to help achieve a safe, secure, efficient, competitive, dependable, integrated, environmentally sustainable, and people-oriented Philippine transportation system.[106]

In 2023, JICA and the DOTr agreed to prepare a "30-year Railway Master Plan for the Greater Capital Region." While the agreement already considered the current major railway infrastructure projects being rolled out, such as the Metro Manila Subway, the North–South Commuter Railway, the Metro Rail Transit (MRT)-3 rehabilitation, and capacity enhancement of LRT Lines 1 and 2, further expansion of railway systems to form a transport network was considered by the parties as a prerequisite for the country's development.[107] JICA targets the release of the master plan by 2026.[108]

Table 29 shows the priority projects identified in the railways sector for the PPP mode of implementation based on NEDA's list of IFPs as of August 2024.

[105] NEDA. 2017. *National Transport Policy*.

[106] Government of the Philippines. 2023. *Philippine Development Plan 2023–2028*.

[107] JICA. 2023. Why a 30-Year Railway Master Plan Makes Sense for PH Now.

[108] Business World. 2024. Railway Masterplan Seen Delayed to 2026, JICA Says.

Table 29: Public–Private Partnership Priority Railway Projects, as of August 2024

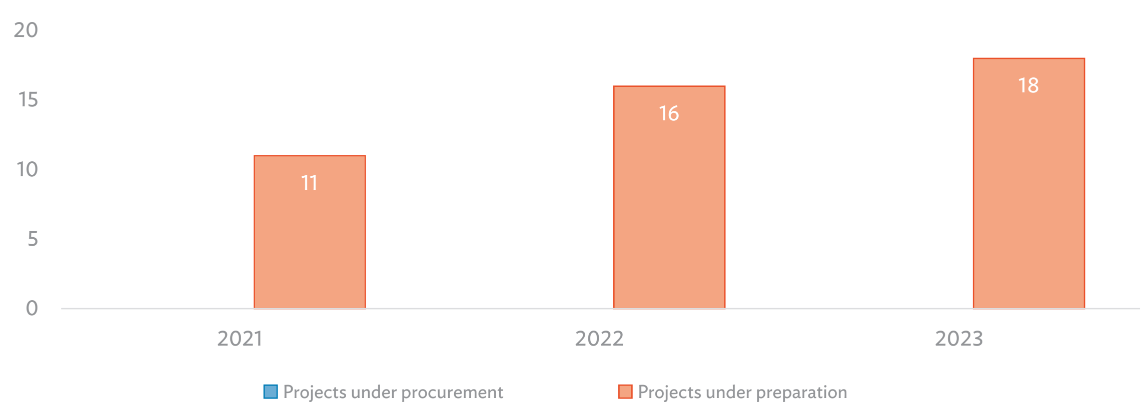
No.	Project	Implementing Agency	Estimated Project Cost ($ million)	(₱ billion)
1.	LRT Line 2 Operations & Maintenance	DOTr	51.45	3.00
2.	Manila Metro Line 1 Cavite Extension (Baclaran-Niog, Bacoor)[a]	DOTr	1,333.58	77.76
3.	Metro Manila Subway Project—O&M	DOTr	1,172.89	68.39
4.	Mindanao Railway Project Phase 3 (Northern Mindanao)	DOTr	1,905.02	111.08
1.	MRT Line 3 O&M	DOTr	51.45	3.00
2.	MRT Line 4 O&M	DOTr	51.45	3.00
3.	MRT Line 5	DOTr	4,287.50	250.00
4.	MRT-7 Project	DOTr	1,320.55	77.00
5.	North Long Haul Railway	DOTr	6,860.00	400.00
6.	North–South Commuter Railway System—O&M	DOTr and PNR	2,814.83	164.13
7,	San Mateo Railway	DOTr	1,372.00	80.00

DOTr = Department of Transportation, LRT = Light Rail Transit, O&M = operation and maintenance, MRT = Metro Rail Transit.
Note:
[a] Financing source indicated is official development assistance/public–private partnership.
Source: NEDA. 2024. Infrastructure Flagship Projects (accessed 27 October 2024).

Projects under preparation and procurement in the railways sector

Figure 22 shows the number of PPP projects that were under preparation and procurement in the Philippines' railways sector for 2021, 2022, and 2023.

Figure 22: Public–Private Partnership Railway Projects Under Preparation and Procurement



Source: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024).

Table 30 presents a list of pipeline national PPP railway projects as of October 2024, based on the PPP Center's project list.

Table 30: Pipeline Public–Private Partnership Railway Projects, as of October 2024

No.	Project	Implementing Agency	Procurement Mode	Estimated Project Cost ($ million)	Estimated Project Cost (₱ billion)	Status
1.	Metro Manila Subway Project O&M PPP Project	DOTr	Solicited	1,229.48	71.69	Preparation phase (under development)
2.	North–South Commuter Railway O&M PPP Project	DOTr and PNR	Solicited	2,946.03	171.78	Preparation phase (under development)
3.	North Long Haul (NCR Ilocos Norte and Cagayan) Inter-Regional Railway Project	DOTr	Solicited	8,528.18	497.27	Preparation phase (under development)
4.	Mindanao Railway Project, Phase 3 (Northern Mindanao)	DOTr	Solicited	-	TBD	Preparation phase (under development)
5.	San Mateo Railway Project	DOTr	Solicited	1,347.99	78.6	Preparation phase (under development)
6.	MRT Line 3 O&M	DOTr	Solicited	-	TBD	Preparation phase (under development)
7.	MRT Line 4 O&M	DOTr	Solicited	-	TBD	Preparation phase (under development)
8.	Rehabilitation, Expansion, and O&M of LRT Line 2	DOTr	Solicited	-	TBD	Preparation phase (under development)
9.	MRT-5	DOTr	Solicited	-	TBD	Preparation phase (under conceptualization)
10.	C5 MRT-10 Project	DOTr	Unsolicited	2,102.76	122.61	Preparation phase (under evaluation by IA)
11.	Cebu Monorail Transit System Project	DOTr	Unsolicited	1,365.31	79.61	Preparation phase (under evaluation by IA)
12.	Fort Bonifacio–Makati Skytrain Project	DOTr	Unsolicited	67.06	3.91	Preparation phase (under evaluation by IA)
13.	MRT-11 Project	DOTr	Unsolicited	1,402.70	81.79	Preparation phase (under evaluation by IA)
14.	Unsolicited BTOM Proposal for Modified LRT-6, Phase 1	DOTr	Unsolicited	1,256.07	73.24	Preparation phase (under evaluation by IA)
15.	Unsolicited Proposal for Modified LRT-6B & C, Phase 1	DOTr	Unsolicited	1,579.00	92.07	Preparation phase (under evaluation by IA)
16.	East–West Rail Project	PNR	Unsolicited	1,236.17	72.08	Preparation phase (under evaluation by IA)

continued on next page

Table 30 *continued*

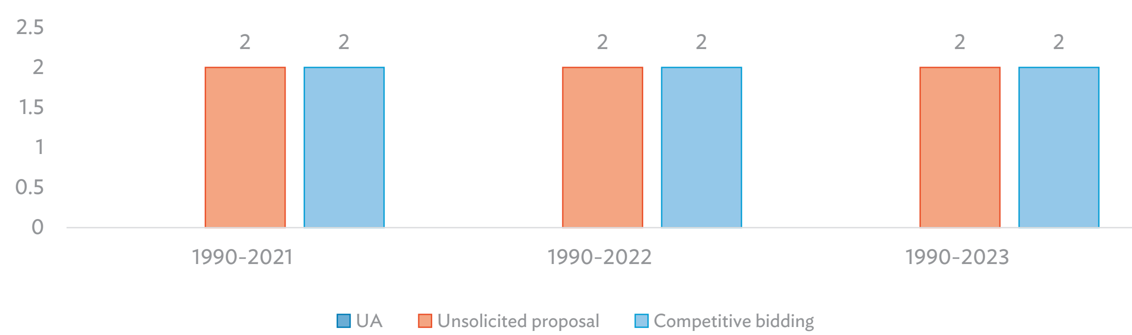
No.	Project	Implementing Agency	Procurement Mode	Estimated Project Cost ($ million)	Estimated Project Cost (₱ billion)	Status
17.	MRT-7 Airport Access—North Line Project	PNR	Unsolicited	2,244.94	130.9	Preparation phase (under evaluation by IA)
18.	MRT-7 Katipunan Spur Line Project	PNR	Unsolicited	1,835.05	107	Preparation phase (under evaluation by IA)
19.	MRT3 Rehabilitation and O&M Project	DOTr	Unsolicited	1,689.28	98.5	Preparation phase (endorsed to IA after completeness check)
20.	Baguio Transport Solutions (Elevated Monorail and Electric Bus System)	City Government of Baguio	Unsolicited	198.94	11.6	Negotiation phase

BTOM = build–transfer–operate–maintain, DOTr = Department of Transportation, IA = implementing agency, LRT = Light Rail Transit, MRT = Metro Rail Transit, NCR = National Capital Region, O&M = operation and maintenance, PPP = public–private partnership.
Source: PPPC Center. 2024. List of PPP Projects in the Pipeline (accessed 27 October 2024).

4. Features of Past Public–Private Partnership Projects in the Railways Sector

Figure 23 presents the number of PPP projects procured through various modes, including direct appointment, unsolicited bids, and competitive bids, in the Philippines' railways sector.

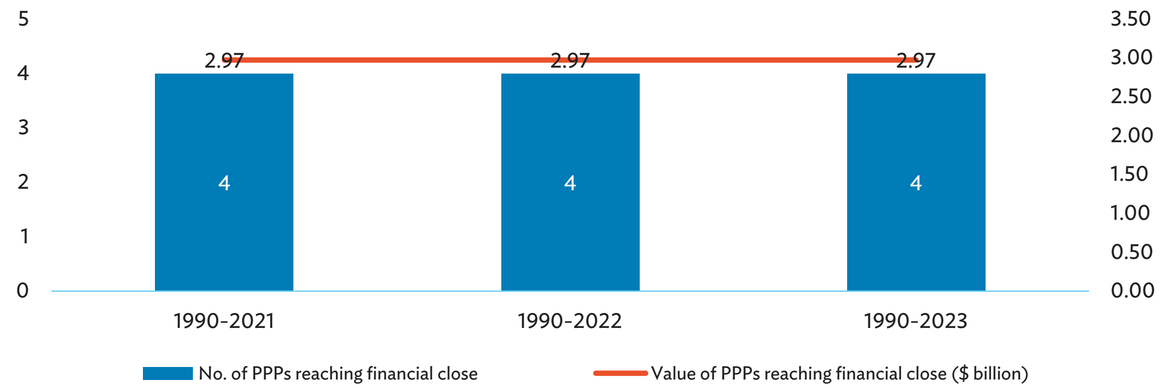
Figure 23: Modes of Procurement for Public–Private Partnership Railway Projects



UA = information unavailable.
Note: Only active and concluded projects are considered.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Figure 24 shows the number of PPP projects that have reached financial closure and the total value of those projects in the Philippines' railways sector.

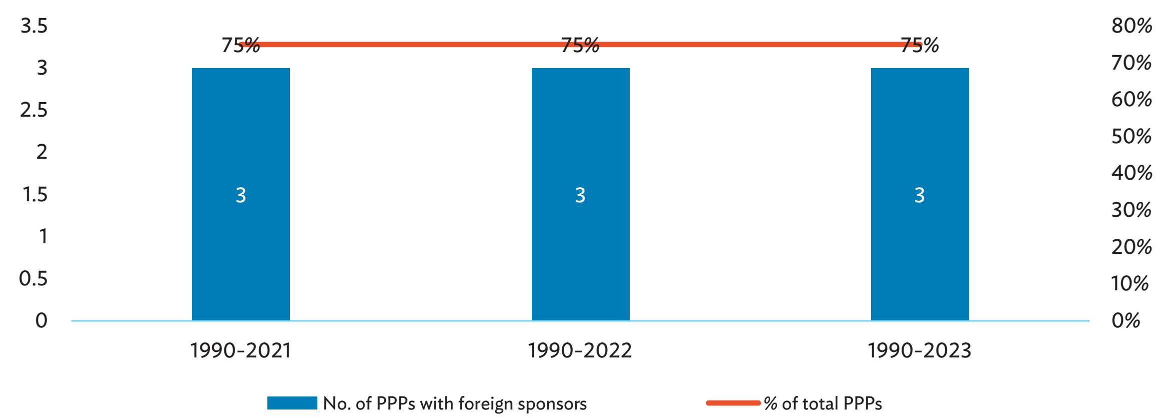
Figure 24: Public–Private Partnership Railway Projects Reaching Financial Closure



PPP = public–private partnership.
Note: Only active and concluded projects are considered. PPP projects "under implementation" in the PPP Center database are assumed to have reached financial closure. Value of PPP is unavailable for one project.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Figure 25 presents the number of PPP projects that have received foreign sponsor participation in the Philippines' railways sector.

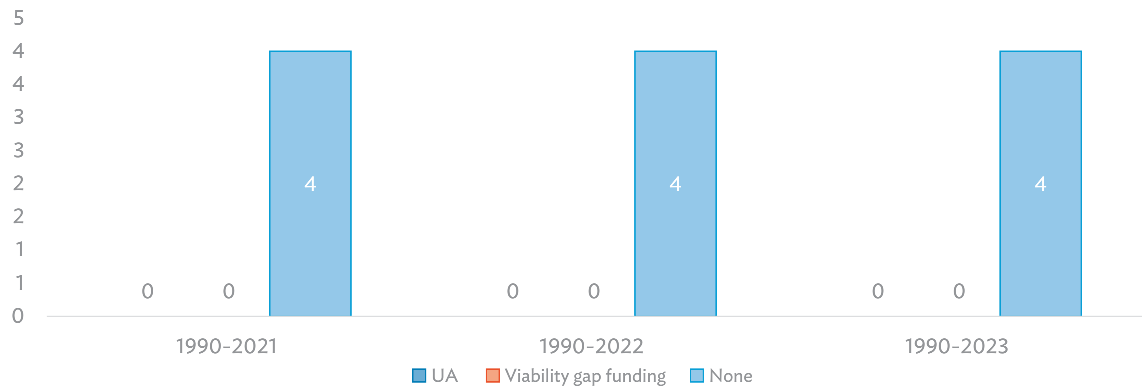
Figure 25: Public–Private Partnership Railway Projects with Foreign Sponsor Participation



PPP = public–private partnership.
Note: Only active and concluded projects are considered.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Figure 26 shows the number of PPP projects that have received government support, particularly VGF mechanism, in the Philippines' railways sector.

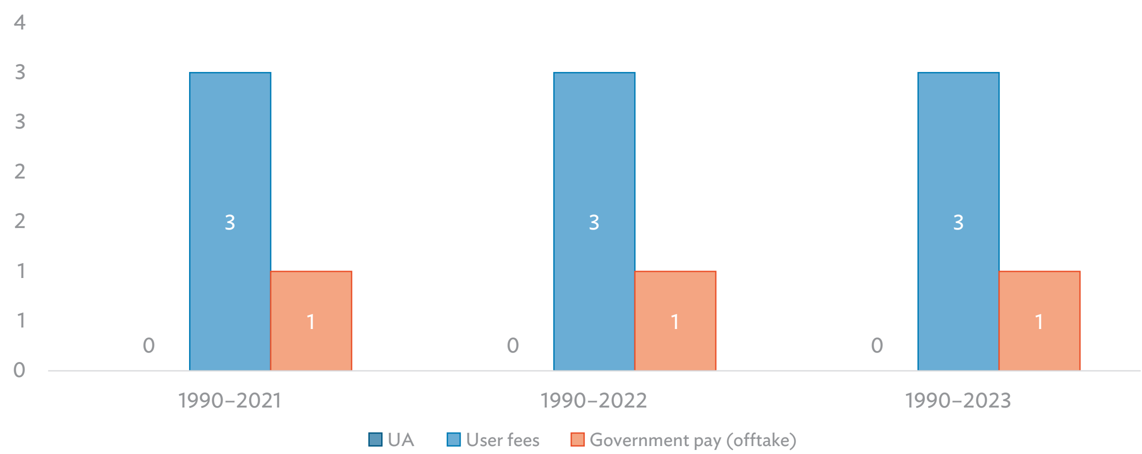
Figure 26: Government Support to Public–Private Partnership Railway Projects



UA = information unavailable.
Note: Only active and concluded projects are considered. The LRT-1 Project, which received viability gap funding, is both financed by JICA and the Philippine government through the GAA.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Figure 27 presents the number of PPP projects that have received payment in the form of user charges and government pay (offtake) in the Philippines' railways sector.

Figure 27: Payment Mechanism for Public–Private Partnership Railway Projects



UA = information unavailable.
Note: Only active and concluded projects are considered.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Tariffs in the railways sector

Table 31: Tariffs for Railway Projects

Line	No. of Stations	Fare ($)	Fare (₱)
LRT-1	20	0.22–0.60	13–35
LRT-2	13	0.22–0.60	13–35
MRT-3	13	0.22–0.48	13–28
PNR Metro South Commuter Train[a]	26	0.26–1.02	15–60[b]
		0.20–0.82	12–48[c]

LRT = Light Rail Transit, MRT = Metro Rail Transit, PNR = Philippine National Railways.
Notes:
[a] The PNR has suspended its operations in Metro Manila for five years, starting 28 March 2024, to give way to the construction of the North South Commuter Railway (NSCR) project.
[b] With air conditioning.
[c] Ordinary.
Fares are subject to a 20% discount for senior citizens and people with disabilities.
Source: Light Rail Manila Corporation. 2023. Fare Matrix; Light Rail Transit Authority (LRTA). 2023. Tickets and Fares; DOTr. Metro Rail Transit Line 3 (MRT-3) Fare Matrix. PNR. Metro South Commuter Train Fare Tariff No. 2 (Aircon); Fares & Tickets – Manila (Tutuban) Station.

Typical risk allocation for PPP railway projects

Risk Type	Private	Public	Shared	Remarks
Demand risk	✓			
Revenue collection risk	✓			For MRT Line-3, a BLT project, government assumes risk; however, preferred risk allocation is for the private entity. For the LRT-1 extension, a BTO project, the private party bears the risk
Tariff risk			✓	
Government payment risk	✓			
Environmental and social risk			✓	
Land acquisition risk	✓ (Unsolicited)	✓ (Solicited)		
Interface			✓	
Handover			✓	
Brownfield risk: inventory studies, property boundaries, project scope, asset condition			✓	
Political risk			✓	Private party bears risk up to a materiality threshold, beyond which public party bears risk
Force majeure			✓	
Foreign exchange risk	✓			
Construction risk	✓			Except for delays caused by government
Early termination risk			✓	Subject to specific conditions and compensation mechanisms

BLT = build–lease–transfer, BTO = build–transfer–operate, LRT = Light Rail Transit, MRT = Metro Rail Transit.
✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
Source: PPP Center. 2016. *Generic Preferred Risks Allocation Matrix*; Tavidell Law.

Financing details of PPPs in the railways sector

Parameter	1990–2021	1990–2022	1990–2023
PPP projects with foreign lending participation	2	2	2
PPP projects that received export credit agency/international financing institution support	2	2	2
Typical debt: equity ratio	UA		
Time for financial closure	UA		
Typical concession period	25–30 years, extendible up to 50 years [a]		
Typical financial internal rate of return	UA		

PPP = public–private partnership.
✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
Note:
[a] The concession period for MRT-7 and for LRT-1 was 25 and 32 years, respectively.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); PPP Center. MRT Line 7 Project (MRT 7); Manila LRT1 Extension, Operation and Maintenance Project; Tavidell Law.

5. Challenges in the Railways sector

- The previous restriction on foreign investments in the sector (capped at 40%) limited competition in the sector. With the amendment of the Public Service Act, this issue has now been addressed.
- Land acquisition is a key challenge in PPP railway projects that traverse several locations. The completion of the MRT-7 is delayed owing to ROW issues in its Bulacan segment, which have required a feasibility study on realignment sites.[109]
- Bankability issues raised by bidders led to bidding failure of the LRT-1 Cavite extension project and the need to seek government authorization for new project terms in the rebidding.[110]
- The assessment of real property tax and related enforcement actions taken by certain LGUs on certain PPP project assets has become an issue during the procurement of some PPP projects, such as the LRT-1 Cavite extension project.
- There are recurring challenges in the transport sector owing to the absence of a single encompassing policy document for the sector, which include, among others (i) lack of an integrated and coordinated transport network; (ii) overlapping and conflicting functions of transport agencies; (iii) transport safety and security concerns; and (iv) inadequate transport facilities particularly in conflict-affected and underdeveloped areas.[111]

[109] Business World. 2024. DoTr: SMC Conducting Feasibility on Realignment Sites for MRT-7's Bulacan Segment; Rosales, E.F. 2024. MRT-7 Construction Suffers Another Delay. PhilStar Global.
[110] *Rappler*. 2013. LRT-1 Cavite Extension Bidding "a Failure."
[111] NEDA. 2017. *National Transport Policy*.

Ports

Parameter	Value	Unit
Total number of ports	575	no.
Total freight capacity of all ports	UA	MTPA
Total container traffic at ports	9,249,451	TEUs
Quality of port infrastructure	3.70	1 (low)–7 (high)
Quality of trade and transport-related infrastructure index	3.20	1 (low)–5 (high)

MTPA = million tonnes per annum, TEUs = 20-foot equivalent unit.
✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
Sources: PPA. List of Ports; World Bank. 2021. Container Port Traffic; 2022. Logistics Performance Index: Quality of Trade and Transport-Related Infrastructure (1=Low to 5=High) – Singapore, Philippines; theGlobalEconomy.com. 2019. The Philippines: Port Infrastructure Quality.

1. Implementing Agencies in the Ports Sector

The DOTr and the Philippine Ports Authority (PPA) are the key implementing agencies in the ports sector. Special economic zone authorities may also enter into PPP contracts in the ports sector.

The PPA is a GOCC attached to the DOTr. As an attached agency, it exercises autonomy but adheres to the DOTr for policy and program coordination. The PPA's mandate is to oversee port administration in the country and ensure the rapid development of ports or the port system. The PPA is authorized to sign PPP contracts to execute port projects under its program.

2. Ports Sector Laws and Regulations

Pursuant to its mandate to oversee port administration in the country, The PPA has issued the following regulations:

- **Port Terminal Management Regulatory Framework (Administrative Order No. 03-2016) (PTMRF).** The PTMRF covers all government ports within the PPA's jurisdiction (except those with existing port management contracts). It seeks to promote private sector participation in port operations to provide a higher-quality service by separating its regulatory and operational functions through port operation privatization. In line with the PTMRF, the PPA issued in 2018 and 2023 administrative orders providing the guidelines for the selection and award of port terminal management contracts under the PTMRF.[112]
- **Revised Guidelines on the Transfer of the Management and Operation of PPA Ports to LGUs (Administrative Order No. 08-2020).** This allows the PPA to temporarily transfer the management, operation, development, and maintenance of PPA ports to the LGU where it is located or to a government corporation created or authorized by said LGU, without necessarily abandoning its statutory responsibility over the ports. These guidelines apply only to government ports, which are public ports constructed, owned, and maintained by the national government and under the administrative jurisdiction of the PPA. The LGU may then outsource to a third-party service provider (which may be from the private sector) the undertaking of cargo-handling operations and other related services.

[112] The PPP Code repealed pertinent provisions of the PPA's revised charter (Presidential Decree No. 857, as amended), thus placing contracts under the PTMRF within its purview. The PPA is currently revising its policy on the PTMRF to comply with the PPP Code's IRR.

Under the PTMRF, the investment arrangements between the PPA and the contractor are classified into Tier 1, Tier 2, and Tier 3, as detailed in Table 32.

Table 32: Investment Arrangements Under the Port Terminal Management Regulatory Framework

Infrastructure	Capital Investment Responsibility	Tier 1	Tier 2	Tier 3
Physical undersea infrastructure	Capital dredging	PPA	PPA	PPA
	Maintenance dredging	Contractor	PPA	PPA
Physical landside infrastructure	Wharf, piers, land reclamation	Contractor	Contractor	PPA
Above ground semi-fixtures	Quay crane, gantry cranes	Contractor	Contractor	PPA
Above ground fixtures	Passenger terminal building, pavement, fence	Contractor	Contractor	Contractor
Mobile handling equipment only	Forklifts, trucks	Contractor	Contractor	Contractor
Concession period		25 years	20 years	15 years

PPA = Philippine Ports Authority.
Source: PPA. 2023. *PPA Administrative Order No. 003-2023.*

Aside from the PPA, the Maritime Industry Authority (MARINA) and the Philippine Coast Guard (PCG), which are both attached to the DOTr, likewise play vital roles in the regulation of the ports sector in the Philippines. The PCG has entered into separate memoranda of agreement with the PPA and MARINA to assist them in enforcement functions (Table 33).[113]

Table 33: Relevant Mandates and Functions of Regulatory Agencies in the Ports Sector

Agency	Mandates and Functions
Maritime Industry Authority (MARINA)	• Adopt and implement a practicable and coordinated Maritime Industry Development Program, which shall include, among others, the early replacement of obsolescent and uneconomic vessels, modernization and expansion of the Philippine merchant fleet, enhancement of domestic capability for shipbuilding, repair and maintenance, and the development of a reservoir of trained workforce • Provide for the effective supervision, regulation, and rationalization of the organizational management, ownership, and operations of all water transport utilities, and other maritime enterprises • Register vessels • Issue, modify, suspend, or revoke at any time certificates of public convenience, or any extensions or amendments thereto, authorizing the operation of all kinds, classes, and types of vessels in domestic shipping • Establish and prescribe routes, zones, or areas of operations of domestic ship operators • Require any domestic ship operator to provide shipping services to any coastal area, island, or region in the country where such services are necessary for the development of the area, to meet emergency sealift requirements, or when public interest so requires

continued on next page

[113] PCG and PPA. *Memorandum of Agreement – PCG and Philippine Ports Authority*; PCG and MARINA. *Memorandum of Agreement-PCG and MARINA.*

Table 33 *continued*

Agency	Mandates and Functions
	• Ensure that all domestic ship operation shall have the financial capacity to provide and sustain safe, reliable, efficient, and economic passenger or cargo service, or both • Determine the impact any new service shall have on the locality it will serve • Set safety standards for vessels in accordance with applicable conventions and regulations, and adopt and enforce such rules and regulations (including vessel inspections) that will ensure compliance by every domestic ship operator with required safety standards and other rules and regulations on vessel safety • Adopt such rules and regulations that ensure the reasonable stability of passengers and freight rates and, if necessary, intervene in order to protect public interest • Impose fines and penalties on, including the revocation of licenses of, any domestic ship operator that shall fail to maintain its vessels in safe and serviceable condition, or that shall violate or fail to comply with safety regulations, and investigate any complaint made in writing against any domestic ship operator, or any shipper, or any group of shippers
Philippine Ports Authority (PPA)	• Formulate, in coordination with NEDA, a comprehensive and practicable Port Development Plan, program its implementation, and renew and update it annually in coordination with other national agencies • Supervise, control, regulate, construct, maintain, operate, and provide such facilities or services as are necessary in the ports vested in, or that belong to, the PPA • Prescribe rules and regulations, procedures, and guidelines governing the establishment, construction, maintenance, and operation of all other ports, including private ports in the country • Impose, fix, prescribe, increase, or decrease rates, charges, or fees for the use of port premises, works, appliances, or equipment belonging to the PPA and port facilities, and for services rendered by the PPA or by any private entity within the port district. The rates are then approved by the PPA Board, composed of the DOTr secretary (chair), the PPA general manager (vice-chair), and its members—the NEDA secretary, the DPWH secretary, the DOF secretary, the DENR secretary, the DTI secretary, the MARINA administrator, and a private sector representative. • License, control, regulate, and supervise any construction or structure within any port district • Provide services (whether on its own, by contract, or otherwise) within the port district and the approaches thereof, including but not limited to berthing, towing, mooring, moving, slipping, or docking any vessel; loading or discharging any vessel; and sorting, weighing, measuring, warehousing, or otherwise handling goods • Exercise control of or administer any foreshore rights or leases that may be vested in the PPA from time to time • Coordinate with the Bureau of Lands or any other government agency or corporation in the development of any foreshore area • Control, regulate, and supervise pilotage and the conduct of pilots in any port district • Provide or assist in the provision of training programs and training facilities for its staff of port operators and users for the efficient discharge of its functions, duties, and responsibilities
Philippine Coast Guard (PCG)	• Enforce regulations in accordance with all relevant maritime international conventions, treaties, or instruments and national laws for the promotion of safety of life and property at sea within the maritime jurisdiction of the Philippines and conduct port state control implementation • Conduct inspections on all merchant ships and vessels, including but not limited to inspections prior to departure, to ensure and enforce compliance with safety standards, rules, and regulations • Detain, stop, or prevent a ship or vessel that does not comply with safety standards, rules, and regulations from sailing or leaving port • Grant, within its capabilities and consistent with its mandate, requests for assistance of other government agencies in the performance of their functions

continued on next page

Table 33 *continued*

Agency	Mandates and Functions
Office for Transportation Security	• Prescribe security standards for the security of sea transport and maritime infrastructure • Monitor compliance of the PPA, other port authorities, the PCG, MARINA, and other relevant government agencies, and recognized security organizations, with the standards prescribed in the International Ship and Port Facility Security Code

DENR = Department of Environment and Natural Resources, DOTr = Department of Transportation, DOF = Department of Finance, DPWH = Department of Public Works and Highways, DTI = Department of Trade and Industry, MARINA = Maritime Industry Authority, NEDA = National Economic and Development Authority, PCG = Philippine Coast Guard, PPA = Philippine Ports Authority.
Sources: Government of the Philippines. 1974 *Presidential Decree No. 474*; 1975. *Presidential Decree No. 857, as Amended*; 2004. *Republic Act No. 9295*; 2009. *Republic Act No. 9993*; 2016. *Executive Order No. 197*.

There are currently pending bills that seek to separate the regulatory and commercial functions of the PPA by converting it into the Philippine Ports Corporation responsible for the development, management, and operation of public ports within its system, and transferring its regulatory functions to MARINA.[114]

Foreign investment restrictions in the ports sector

Operation of seaports for public use continues to be a public utility under the recent amendment to the Public Service Act. Thus, foreign investments in the operation of PPP port projects remain limited to 40%.

Parameter	2021	2022	2023
Maximum allowed foreign ownership of equity in projects	40%	40%	40%

Source: Government of the Philippines. 2021. *Republic Act No. 11659*.

Standard contracts in the ports sector

There are no standard contracts for PPPs in the ports sector.

Type of contract	Availability
Public–private partnership/concession agreement	× [a]
Performance-based operation and maintenance contract	×
Engineering procurement and construction contract	×

✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
Note:
[a] However, a model PPP contract for local government units is provided in a 2012 publication of the PPP Center.
Sources: PPP Center. 2012. *A PPP Manual for LGUs 3. Utilizing LGU PPP Project Templates and Bid Documents*; Tavidell Law.

[114] House of Representatives. 2022. *House Bill No. 1400*; 2023. *House Bill No. 8055*.

3. Ports Sector Master Plan

The ports sector does not have a sector-specific master plan. The PPA is considering the formulation of master plans to develop 10 seaport terminals across the country as the government seeks to improve cargo movement and tourism activities.[115]

Table 34 shows the priority projects identified in the ports sector for the PPP mode of implementation based on NEDA's list of IFPs as of August 2024.

Table 34: Public–Private Partnership Priority Port Projects, as of August 2024

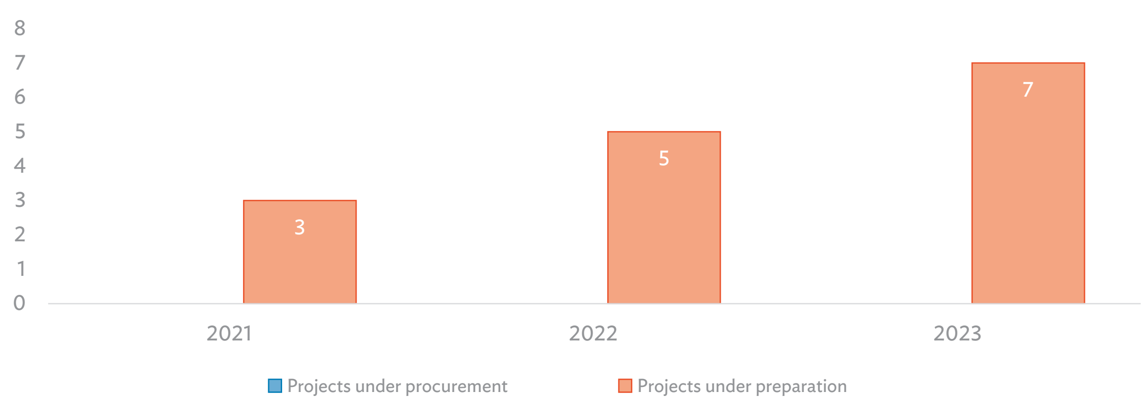
No.	Project	Implementing Agency	Estimated Project Cost ($ million)	Estimated Project Cost (₱ billion)
1.	Davao Sasa Port	PPA	169.44	9.88
2.	MaPaLLa Ferry System (Pasig River Ferry System Project)	DOTr	505.93	29.50
3.	San Ramon New Port Project	ZCSEZA	327.39	19.09
4.	Upgrading and Improvement of Iloilo International Container Port	PPA	180.59	10.53

DOTr = Department of Transportation, PPA = Philippine Ports Authority, ZCSEZA = Zamboanga City Special Economic Zone Authority.
Source: NEDA. 2024. Infrastructure Flagship Projects (accessed 27 October 2024).

Projects under preparation and procurement in the ports sector

Figure 28 shows the number of PPP projects that were under preparation and procurement in the Philippines' ports sector for 2021, 2022, and 2023.

Figure 28: Public–Private Partnership Port Projects Under Preparation and Procurement



Note: The ports sector includes port services and transport projects such as ferry system and seafarers training vessels projects.
Source: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024).

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115 *Philippine Daily Inquirer*. 2024. PPA Set to Start Crafting Ports Development Plans.

Table 35 presents a list of pipeline national PPP port projects as of October 2024, based on the PPP Center's project list.

Table 35: Pipeline Public–Private Partnership Port Projects, as of October 2024

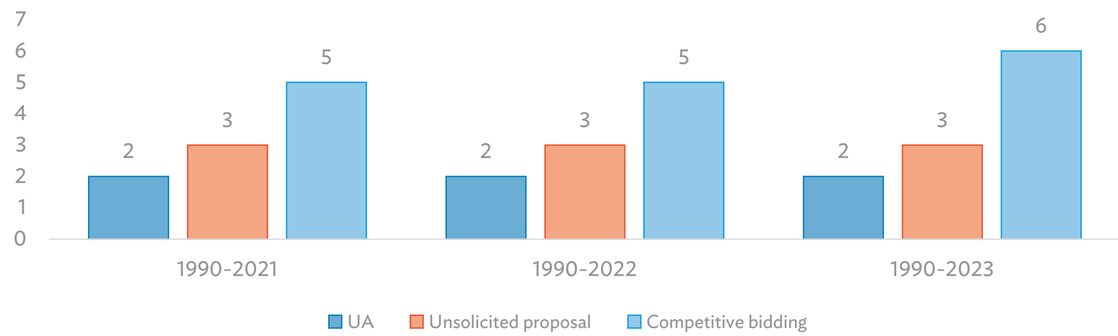
No.	Project	Implementing Agency	Procurement Mode	Estimated Project Cost ($ million)	Estimated Project Cost (₱ billion)	Status
1.	San Ramon New Port Project	ZCSEZA	Solicited	327.39	19.09	Preparation phase (under development)
2.	Upgrading and Improvement of Iloilo Commercial Port Complex	PPA	Solicited	-	TBD	Preparation phase (under development)
3.	Poro Point Seaport Modernization Project	BCDA	Solicited	-	TBD	Preparation phase (under conceptualization)
4.	Manila Bay-Pasig River-Laguna Lake Ferry Project	DOTr	Solicited	-	TBD	Preparation phase (under development)
5.	New Cebu International Container Port	DOTr	Solicited	-	TBD	Preparation phase (under development)
6.	O&M with Improvement and Expansion Arrangement of Port of General Santos Project	PPA	Unsolicited	89.18	5.20	Preparation phase (under evaluation by implementing agency)
7.	Seafarers Training Vessels	DOTr	Solicited	-	TBD	Preparation phase (under conceptualization)
8.	Tri-City Ferry System	City Governments of Alaminos and Dagupan, Pangasinan, and San Fernando, La Union	Solicited	83.52	4.87	Preparation phase (under development)

BCDA = Bases Conversion and Development Authority, DOTr = Department of Transportation, O&M = operation and maintenance, PPA = Philippine Ports Authority, TBD = to be determined, ZCSEZA = Zamboanga City Special Economic Zone Authority.
Source: PPPC Center. 2024. List of PPP Projects in the Pipeline (accessed 27 October 2024).

4. Features of Past Public–Private Partnership Projects in the Ports Sector

Figure 29 presents the number of PPP projects procured through various modes including direct appointment, unsolicited bids, and competitive bids in the Philippines' ports sector.

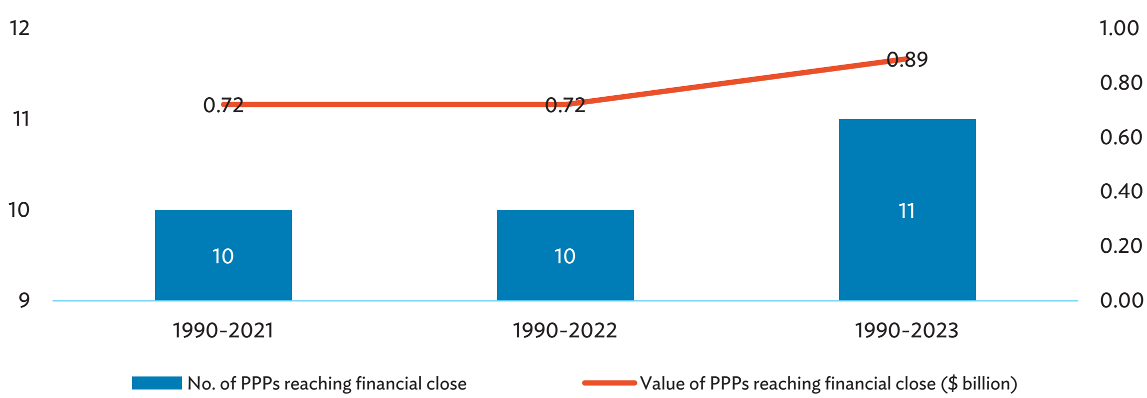
Figure 29: Modes of Procurement for Public–Private Partnership Port Projects



UA = information unavailable.
Note: Only active and concluded projects are considered.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Figure 30 shows the number of PPP projects that have reached financial closure and the total value of those projects in the Philippines' ports sector.

Figure 30: Public–Private Partnership Port Projects Reaching Financial Closure



PPP = public–private partnership.
Note: Only active and concluded projects are considered. PPP projects "under implementation" in the PPP Center database are assumed to have reached financial closure. Value of PPP is unavailable for four projects.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

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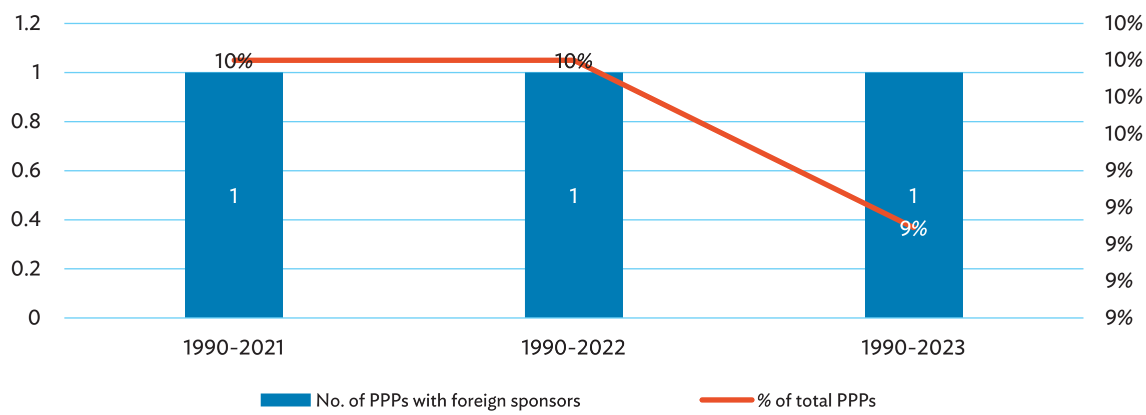
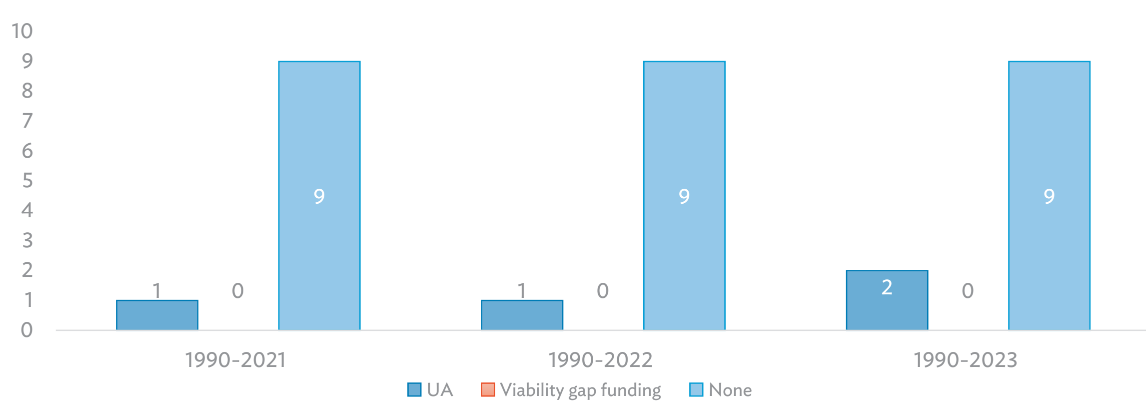


PPP = public–private partnership.
Note: Only active and concluded projects are considered.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Figure 32 shows the number of PPP projects that have received government support, including VGF, government guarantees, and availability/performance payment, in the Philippines' ports sector.

Figure 32: Government Support to Public–Private Partnership Port Projects



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Note: Only active and concluded projects are considered.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

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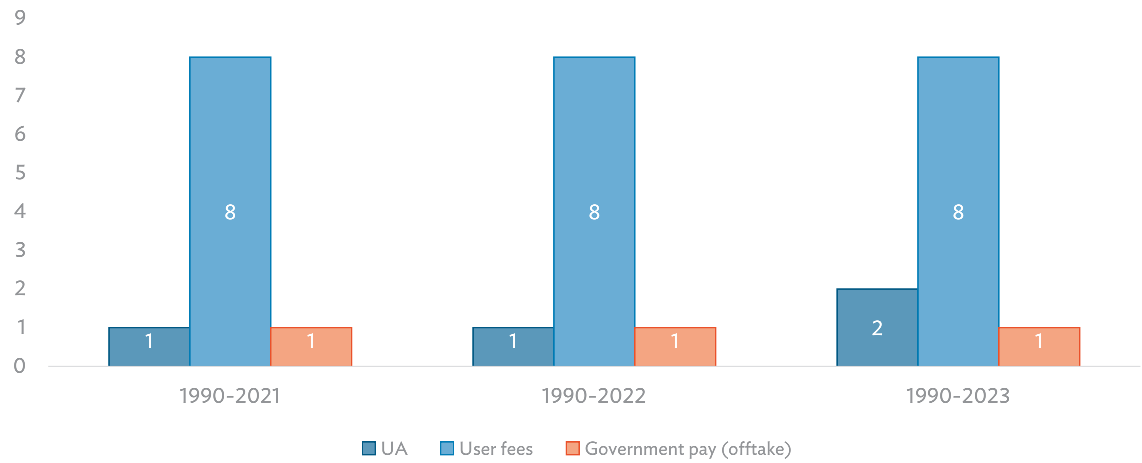
Figure 33: Payment Mechanism for Public–Private Partnership Port Projects



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Note: Only active and concluded projects are considered.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Tariffs in the ports sector

Tariffs for cargo handling vary for ports privatized under the PTRMF and for non-PTRMF ports. Further, tariffs for cargo handling in PTRMF ports vary depending on the classification of the investment of the private sector. In all cases, however, while terminal operators may apply for a cargo handling tariff adjustment, the PPA still exercises its regulatory function in approving such applications. For container terminals, terminal handling charges cover the movement of a container between the ship's hold and the exit–entry gate via the container terminal yard. Table 36 sets out the cargo handling tariffs for PTMRF ports and the most recently approved cargo handling tariffs for non-PTMRF ports—i.e., Manila South Harbor and Manila International Container Terminal, and Batangas International Port.

Table 36: Vessel and Cargo Charges for the Ports Sector in the Philippines

		20-foot equivalent unit ($)	40-foot equivalent unit ($)
Cargo handling tariffs for Tier 1 ports under PTMRF (full concession—greenfield)			
Vessel charges (stevedoring)	*Container yard/commercial freight and logistics*	116.00	162.27
	Container freight station/less than container load—inbound/outbound	287.37	418.79
	Foreign transshipment	153.40	191.82
Cargo charges (arrastre)	*Full container load—import*	81.26	186.40
	Full container load—export	66.34	152.34
Cargo handling tariffs for Tier 2 Ports under PTMRF			
Vessel charges (stevedoring)	*Container yard/commercial freight and logistics*	61.58	86.38
	Container freight station/less than container load—inbound/outbound	61.58	86.38
Cargo charges (arrastre)	*Container yard commercial freight and logistics*	43.28	72.29
Cargo handling tariffs for Tier 3 ports under PTMRF			
Vessel charges (stevedoring)	*Lift-on-lift-off*	34.44	
Handling fee	*Container-chassis roll-on-roll-off/ stowable roll-on-roll-off*	9.42	
Ports of Manila (Manila South Harbor and Manila International Container Terminal)—*effective 6 August 2024*			
Vessel charges (stevedoring)	*Container yard/commercial freight and logistics*	70.409	121.140
	Container freight station/less than container load—inbound/outbound	257.468	401.006
	Foreign transshipment	68.331	106.851
Cargo charges (arrastre)	*Full container load—import*	89.39	205.05
	Full container load—export	72.97	167.59
Batangas International Port—*effective 14 May 2022*			
Vessel charges (stevedoring)	*Container yard/commercial freight and logistics*	73.29	102.51
	Container freight station/less than container load—inbound/outbound	181.55	264.56
	Foreign transshipment	106.60	133.31
Cargo charges (arrastre)	*Full container load—import*	66.64	152.90
	Full container load—export	54.41	124.96

₱1 = $ 0.01715
PTMRF = Port Terminal Management Regulatory Framework.
Source: PPA. 2023. *PPA Administrative Order No. 10-2023; PPA Administrative Order No. 002-2023; PPA Administrative Order No. 10-2019; PPA Memorandum Circular No. 008-2024; PPA Memorandum Circular No. 07-2022.*

Typical risk allocation for PPP port projects

Risk Type	Private	Public	Shared
Demand risk	✓		
Competition risk (exclusivity)	✓		
Tariff risk			✓
Environmental and social risk			✓
Permits			✓
Geotechnical risk	✓		

✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
Source: PPP Center. 2016. *Generic Preferred Risks Allocation Matrix*; Tavidell Law.

Financing details of PPPs in the ports sector

Parameter	1990–2021	1990–2022	1990–2023
PPP projects with foreign lending participation	1	1	1
PPP projects that received export credit agency/international financing institution support	1	1	1
Typical debt: equity ratio	75:25		
Time for financial closure	UA		
Typical concession period	25 years, extendible to 50 years		
Typical financial internal rate of return	UA		

PPP = public–private partnership.
✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); PPP Center. Redevelopment of the Port of Irene; Tavidell Law.

5. Challenges in the Ports Sector

- The restriction on foreign investments (capped at 40%) limits competition in the sector, as the controlling stake in the project company belongs to local companies.
- The combined regulatory and commercial function of the PPA creates conflict of interest.[116]
- For ports operated by LGUs, securing sufficient funding in a timely manner presents a challenge in relation to procuring the needed equipment to pursue efficient operations.
- As a result of budget constraints in national and local governments and lack of a clear institutional investment strategy, there are insufficient incentives for the private sector to participate in port infrastructure development.
- While there are plenty of other port options, the majority of shippers and shipping lines still prefer Manila port because of its more reliable and efficient schedule, thus resulting in port congestion and unequal distribution of the load.

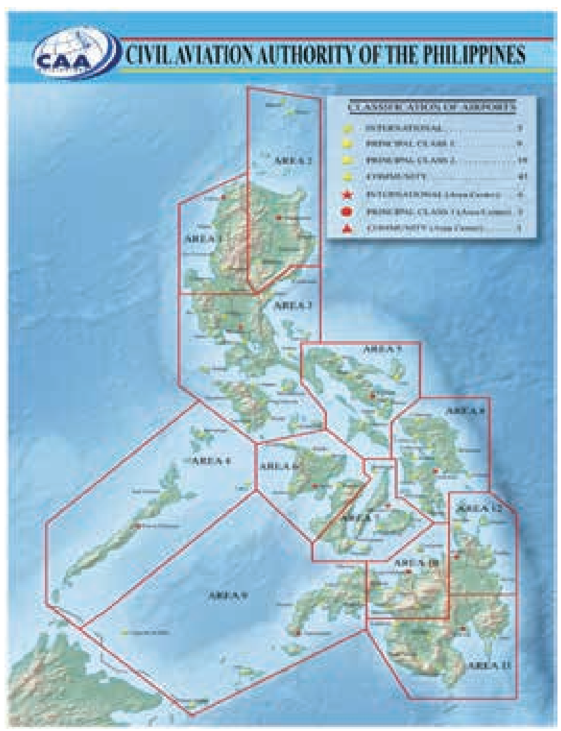
[116] Association of International Shipping Lines, Inc. 2024. Biz Groups Seek Senate Bill Splitting PPA Regulatory, Commercial Functions.

Airports

Parameter	Value	Unit
No. of airports	90	no.
Total passenger capacity	53.78	million passengers
Quality of air transport infrastructure	4.10	1 (low)–7 (high)
Total number of projects with cumulative lending, grant, and technical assistance commitments from ADB in transport sector	162	no.
Total amount of cumulative lending, grant, and technical assistance commitments from ADB in transport sector	7,105	$ million

₱1 = $ 0.01715
ADB = Asian Development Bank.
✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
Sources: Civil Aviation Authority of the Philippines (CAAP). Area Centers; Statista. 2023. Total Number of Passengers Travelling by Air in the Philippines from 2014 to 2023; theGlobalEconomy.com. 2019. Philippines: Air Transport Infrastructure Quality; ADB. 2023. Cumulative Lending, Grant, and Technical Assistance Commitments.

Figure 34: Philippine Airports



Source: CAAP. 2024. Area Centers

1. Implementing Agencies in the Airports Sector

The DOTr and the Civil Aviation Authority of the Philippines (CAAP) are the primary implementing agencies in the airports sector.

The DOTr is in charge of formulating and recommending national policies and guidelines for the preparation and implementation of integrated and comprehensive transportation systems (including in the airports sector) at the national, regional, and local levels.[117]

The CAAP is the country's civil aviation authority, with jurisdiction over the restructuring of the civil aviation system and the promotion, development and regulation of technical, operational, safety, and aviation security functions. It is an independent regulatory body, with corporate, quasi-judicial, and quasi-legislative powers, attached to the DOTr. It may also enter into contracts that are necessary or incidental to its purpose, which is to provide safe and efficient air transport and regulatory services in the Philippines.[118]

Government corporate entities attached to the DOTr are authorized to undertake specialized airport projects and facilities as directed by the President of the Philippines or as provided by law.[119] Examples of airport authorities created by law are the Manila International Airport Authority (MIAA) and the Mactan–Cebu International Airport Authority (MCIAA). The MIAA and the MCIAA are implementing agencies together with the DOTr for the PPP projects for the Ninoy Aquino International Airport (NAIA) and the Mactan–Cebu International Airport (MCIA), respectively. The MIAA administers and operates NAIA, including Manila domestic airport, and all its installations, facilities, and equipment, and such other airports as may, in the future, be constructed and, administered by the MIAA. The MCIAA controls, manages, and supervises MCIA, including the domestic airport.

The Bases Conversion and Development Authority (BCDA), also an attached agency of DOTr, is designated implementing agency of the Clark International Airport engineering, procurement, and construction and O&M projects.

2. Airports Sector Laws and Regulations

There are several regulations that have an impact on PPP projects:

- The ASEAN Single Aviation Market was established in January 2015. The aim of this is to liberalize the air transport market in ASEAN countries to improve the region's connectivity and competitiveness and reduce airfares. The single market enables ASEAN-based carriers to carry passengers and cargo from and to any third country to an ASEAN member state. This requires each state to fully open up its international airports to other ASEAN members and eliminate restrictions on the frequency and maximum capacity of flights. The Philippines has withheld NAIA, the country's largest, from the ASEAN provisions because of the slot-constrained nature of the airport.[120]

[117] Government of the Philippines. 1987. *Administrative Code of 1987*.
[118] Government of the Philippines. 2008. *Republic Act No. 9497*.
[119] Government of the Philippines. 1987. *Administrative Code of 1987*.
[120] ADB. 2019. *Public–Private Partnership Monitor. Second Edition.*

- Manila and Cebu airports are subject to slot coordination to manage any spare capacity efficiently. Slots are either allocated by an independent slot coordination body based on a number of allocation rules or, in the case of Cebu, by the MCIAA. Slots are usually allocated for each summer and winter season.[121]
- To ensure safe and secure air transport operations, the International Civil Aviation Organization has published a number of regulations that Philippine airport operators have to adopt. These regulations set out the physical requirements for any type of civil airport to receive an operating license from the CAAP, as well as various security measures to safeguard the aviation industry against acts of unlawful interference.[122]
- The local and national police provide policing services to airports. Regulations on security, customs, quarantine, and immigration specify the functions to be undertaken by the state or public authorities.[123]

Two government bodies regulate the technical and aviation industry in the Philippines, which are both attached agencies of the DOTr:

- The CAAP regulates the technical, operational, safety, and aviation security functions under the civil aviation authority.
- The Civil Aeronautics Board regulates the economic aspect of air transportation, and has the general supervision and regulation of, and the jurisdiction and control over, air carriers, general sales agents, cargo sales agents, and airfreight forwarders as well as their property, property rights, equipment, facilities, and franchise.[124]

The Philippines is a signatory to the Convention on International Civil Aviation (the Chicago Convention). The Chicago Convention embodies the principles and arrangements agreed to by the contracting states in order that international civil aviation may be developed in a safe and orderly manner and that international air transport services may be established on the basis of equality of opportunity, and operated soundly and economically. Consistent with its commitment under the Chicago Convention, the Philippines, through the CAAP, has aligned its regulations, the Philippine Civil Aviation Regulations, with the Standards and Recommended Practices issued by the International Civil Aviation Organization to govern the different aspects of civil aviation.

121 ADB. 2019. *Public–Private Partnership Monitor. Second Edition.*
122 ADB. 2019. *Public–Private Partnership Monitor. Second Edition.*
123 ADB. 2019. *Public–Private Partnership Monitor. Second Edition.*
124 Government of the Philippines. 1987. *Republic Act No. 776, as Amended;* 2008. *Republic Act No. 9497.*

Table 37 shows the functions of regulatory agencies in the Philippines' airports sector.

Table 37: Relevant Functions of Airports Sector Regulatory Agencies in the Philippines

Agency	Function
Department of Transportation (DOTr)	• Establish and prescribe rules and regulations for the inspection and registration of air transportation facilities, such as aircraft • Determine, fix, or prescribe charges or rates pertinent to the operation of public air transportation utility facilities and services, except such rates or charges as may be prescribed by the CAB, and in cases where charges or rates are established by international bodies or associations of which the Philippines is a participating member or by bodies or associations recognized by the Philippine government as the proper arbiter of such charges or rates
Civil Aviation Authority of the Philippines (CAAP)	• Regulate the technical, operational, safety, and aviation security functions under the civil aviation authority • Impose and fix reasonable charges and fees for the use of government aerodromes (airports) or air navigation facilities • Determine and fix landing fees; parking space fees; royalties on sales or deliveries, direct or indirect, to any aircraft for its use of aviation gasoline, oil and lubricants, spare parts, accessories and supplies, and tools; and other royalties, fees, or rentals for the use of any of the property under its management and control • Determine, fix, impose, collect, or receive reasonable charges, fees, dues, or assessments in respect of aviation certificates, licenses, and all other authorizations or permissions authorized to be issued under the Civil Aviation Act and all services performed by the CAAP • Regulate airports pursuant to the Civil Aviation Authority Act of 2008, the Civil Aviation Regulations governing Aerodromes, and the Manual of Standards for Aerodromes, and their administrative orders and advisory circulars
Civil Aeronautics Board	• Regulate the economic aspect of air transportation, and conduct general supervision and regulation of, and hold jurisdiction and control over, air carriers, general sales agents, cargo sales agents, and airfreight forwarders as well as their property, property rights, equipment, facilities, and franchise • Issue economic regulations • Issue permits to engage in air commerce and/or transportation (including foreign air carriers), or to act as a general sales agent, cargo sales agent, or airfreight forwarder in the Philippines
Office for Transportation Security	• Implement the requirements of the Chicago Convention on aviation security • Exercise operational control and supervision over all units of law enforcement agencies and agency personnel providing security services in the transportation system, except for motor vehicles in land transportation • Exercise responsibility for transport security operations including, but not limited to, security screening of passengers, baggage, and cargo, and hiring, retention, training, and testing of security screening personnel • Prescribe security and safety standards for transportation systems

CAAP = Civil Aviation Authority of the Philippines, CAB = Civil Aeronautics Board, DOTr = Department of Transportation.
Sources: Government of the Philippines. 1987. *Executive Order No. 292*; *Republic Act No. 776, as Amended*; 2004. *Executive Order No. 311, Series of 2004*; 2008. *Republic Act No. 9497*.

Foreign investment restrictions in the airports sector

Before the Public Service Act was amended in 2022, which redefined public utilities, the operation of an airport was considered a public utility. Thus, prior to 2022, the operation of PPP airport projects was subject to the 40% maximum equity investment allowed for foreign investors in public utility projects.[125] Thereafter, foreign investments in the operation of PPP airport projects could be up to 100%.

[125] Government of the Philippines. 2022. *Revised IRR of Republic Act No. 6957.*

Parameter	2021	2022	2023
Maximum allowed foreign ownership of equity in greenfield projects	40%	100%	100%

Standard contracts in the airports sector

There are no standard contracts for PPPs in the airports sector.

Type of contract	Availability
Public–private partnership/concession agreement	×[a]
Performance-based operation and maintenance contract	×[a]
Engineering procurement and construction contract	×[a]

✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
Note:
[a] However, a model PPP contract for local government units is provided in a 2012 publication of the PPP Center. Executed PPP concession agreements in the airports sector may also provide guidance on required contractual provisions.
Source: PPP Center. 2012. *A PPP Manual for LGUs 3. Utilizing LGU PPP Project Templates and Bid Documents*; Tavidell Law.

3. Airports Sector Master Plan

The DOTC, the DOTr's predecessor, caused the completion of the Master Plan Studies on the Strategy for the Improvement of National Airports in the Republic of the Philippines and the Strategy for the Development of National Airports in 2006, which was updated in 2015. The identified key priorities to address the growing demands of the aviation industry are:

- Modernizing and continuously upgrading air traffic and air navigation facilities to meet the demands of a rapidly growing aviation sector;
- Separating airport operational functions from air traffic and air navigation responsibilities; and
- Clearly delineating regulatory and operational responsibilities among government entities.[126]

Building on these efforts, the PDP 2023–2028 outlines specific priorities for the sector:[127]

- increasing the capacity of airports to revitalize tourism;
- 24/7 operations of agencies at airports to reduce transport and logistics cost;
- modernization of existing airports to reduce transportation costs and shipment delays;
- expansion of fiber-optic, broadband, and 5G networks in airports; and
- upgrading and improving airport infrastructure to ease air traffic congestion and address future demand.

[126] DOTC. 2015. Master Plan Studies on the Strategy for the Improvement of National Airports in the Republic of the Philippines and the Strategy for the Development of National Airports.
[127] Government of the Philippines. 2023. *Philippine Development Plan 2023–2028.*

Table 38 shows the priority projects identified in the airports sector for the PPP mode of implementation based on NEDA's list of IFPs as of August 2024.

Table 38: Public–Private Partnership Priority Airport Projects, as of August 2024

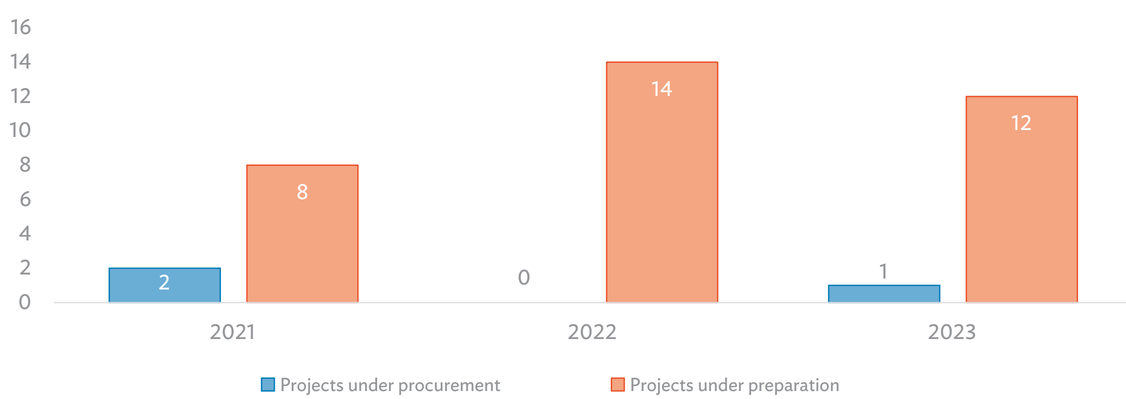
No.	Project	Implementing Agency	Estimated Project Cost	
			($ million)	(₱ billion)
1.	Laoag International Airport Development Project	DOTr	257.25	15.00
2.	New Baguio Airport[a]	DOTr	215.23	12.55
3.	New Cagayancillo Airport[a]	DOTr	205.80	12.00
4.	New Manila International Airport (Bulacan International Airport)	DOTr	12,616.05	735.63
5.	Ninoy Aquino International Airport PPP Project	DOTr	2,925.62	170.59
6.	Upgrade, Expansion, Operations, and Maintenance of Laguindingan International Airport Project	DOTr	218.66	12.75
7.	Upgrade, Expansion, Operations, and Maintenance of Bohol–Panglao International Airport Project	DOTr	77.69	4.53

DOTr = Department of Transportation, PPP = public–private partnership.
Note:
[a] financing source indicated is official development assistance/PPP.
Source: NEDA. 2024. Infrastructure Flagship Projects (accessed 27 October 2024).

Projects under preparation and procurement in the airports sector

Figure 35 shows the number of PPP projects that were under preparation and procurement in the Philippines' airports sector for 2021, 2022, and 2023.

Figure 35: Public–Private Partnership Airport Projects Under Preparation and Procurement



Source: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024).

Table 39 presents a list of pipeline national PPP airport projects as of October 2024, based on the PPP Center's project list.

Table 39: Pipeline Public–Private Partnership Airport Projects, as of October 2024

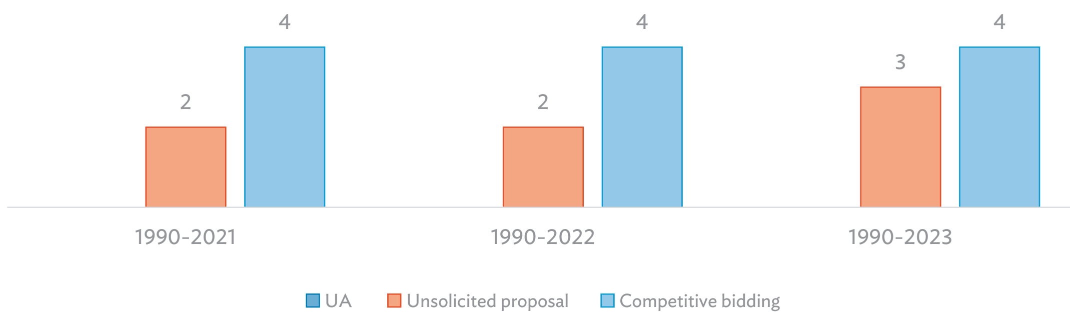
No.	Project	Implementing Agency	Procurement Mode	Estimated Project Cost ($ million)	Estimated Project Cost (₱ billion)	Status
1.	Upgrade, Expansion, Operations, and Maintenance of Bohol–Panglao International Airport	DOTr and CAAP	Unsolicited	77.69	4.53	Procurement phase (under comparative challenge)
2.	Rehabilitation, O&M, and Expansion of Puerto Princesa International Airport	DOTr and CAAP	Unsolicited	175.62	10.24	Negotiation phase
3.	Rehabilitation–Expansion–O&M of Iloilo International Airport	DOTr and CAAP	Unsolicited	357.58	20.85	Negotiation phase
4.	O&M and Facility Upgrade of Kalibo International Airport	DOTr	Unsolicited	62.08	3.62	Negotiation phase
5.	Laoag International Airport Development Project	DOTr	Solicited	-	TBD	Preparation phase (under development)
6.	Development, Expansion, and O&M of Sayak Siargao Airport	DOTr	Unsolicited	14.75	0.86	Preparation phase (under evaluation by IA)
7.	O&M of Francisco B. Reyes Airport and New Busuanga Airport	CAAP	Unsolicited	23.15	1.35	Preparation phase (under evaluation by IA)
8.	Design–Build–Finance–Operate Air Navigation Services (Air Traffic Service and Air Navigation Service) of the Philippines	CAAP	Unsolicited	511.41	29.82	Preparation phase (under evaluation by IA)
9.	New Surigao Airport Project	City Government of Surigao	Solicited	-	TBD	Preparation phase (under conceptualization)
10.	Upgrade, Expansion, and O&M of Laguindingan Airport Project[a]	DOTr and CAAP	Unsolicited	218.66	12.75	Procurement phase (under comparative challenge)[a]

CAAP = Civil Aviation Authority of the Philippines, DOTr = Department of Transportation, IA = implementing agency, O&M = operation and maintenance, TBD = to be determined.
Note:
[a] The concession agreement for this project was signed with the original proponent on 28 October 2024.
Source: PPP Center. 2024. List of PPP Projects in the Pipeline (accessed 27 October 2024).

4. Features of Past Public–Private Partnership Projects in the Airports Sector

Figure 36 presents the number of PPP projects procured through various modes including direct appointment, unsolicited bids, and competitive bids in the Philippines' airports sector.

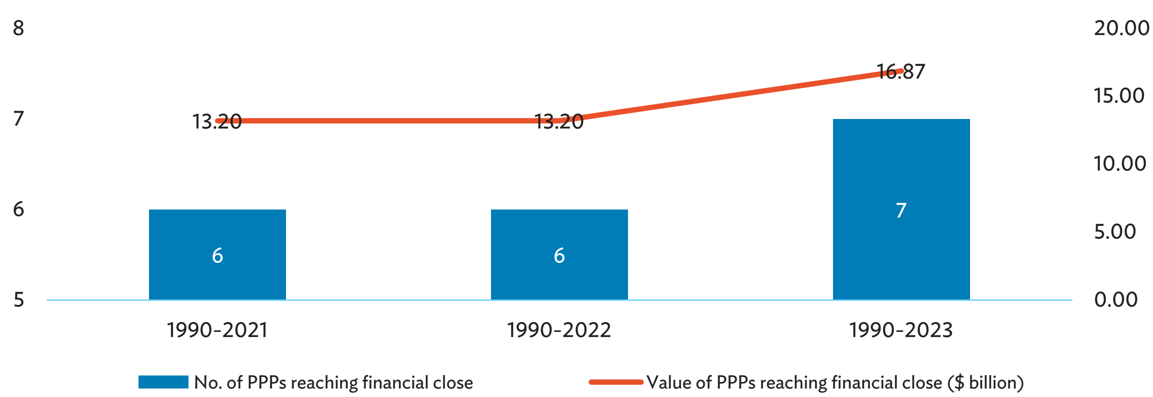
Figure 36: Modes of Procurement for Public–Private Partnership Airports Projects



UA = information unavailable.
Note: Only active and concluded projects are considered.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Figure 37 shows the number of PPP projects that have reached financial closure and the total value of those projects in the Philippines' airports sector.

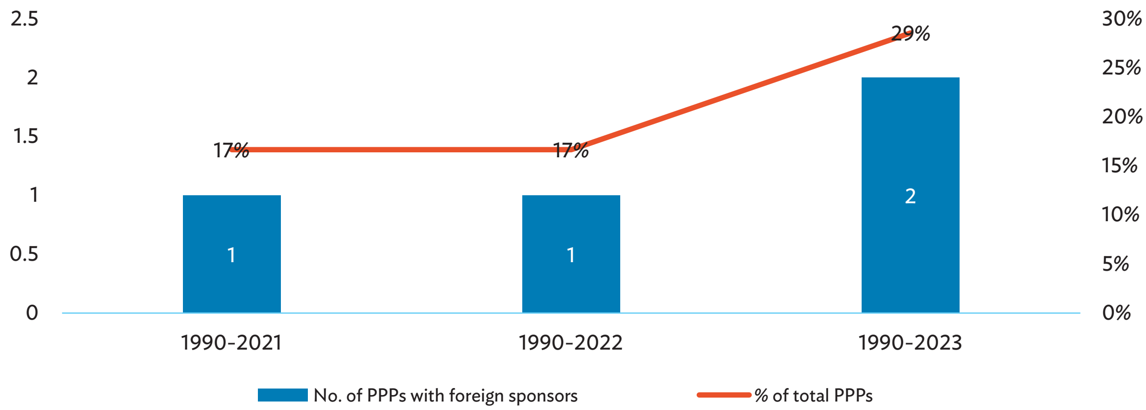
Figure 37: Public–Private Partnership Airport Projects Reaching Financial Closure



PPP = public–private partnership.
Note: Only active and concluded projects are considered. PPP projects "under implementation" in the PPP Center database are assumed to have reached financial closure.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Figure 38 presents the number of PPP projects that have received foreign sponsor participation in the Philippines' airports sector.

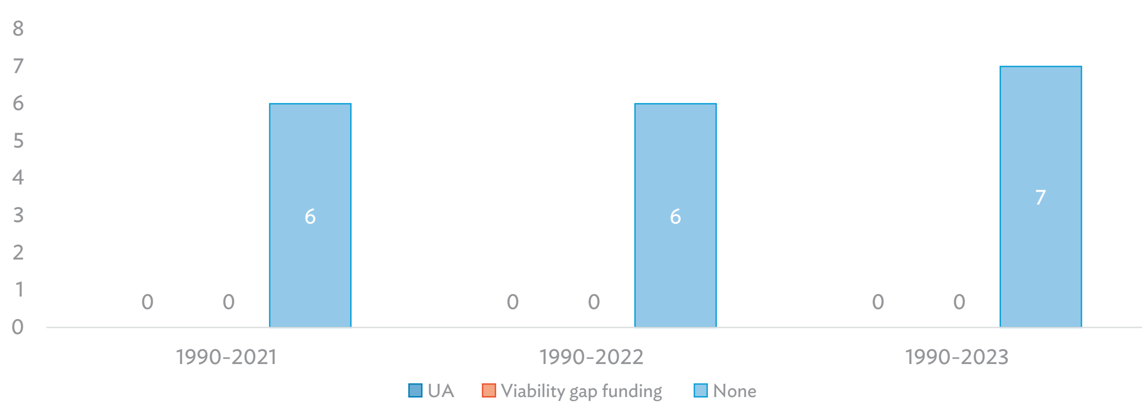
Figure 38: Public–Private Partnership Airport Projects with Foreign Sponsor Participation



PPP = public–private partnership.
Note: Only active and concluded projects are considered.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Figure 39 shows the number of PPP projects that have received government support, including VGF, government guarantees, and availability/performance payment, in the Philippines' airports sector.

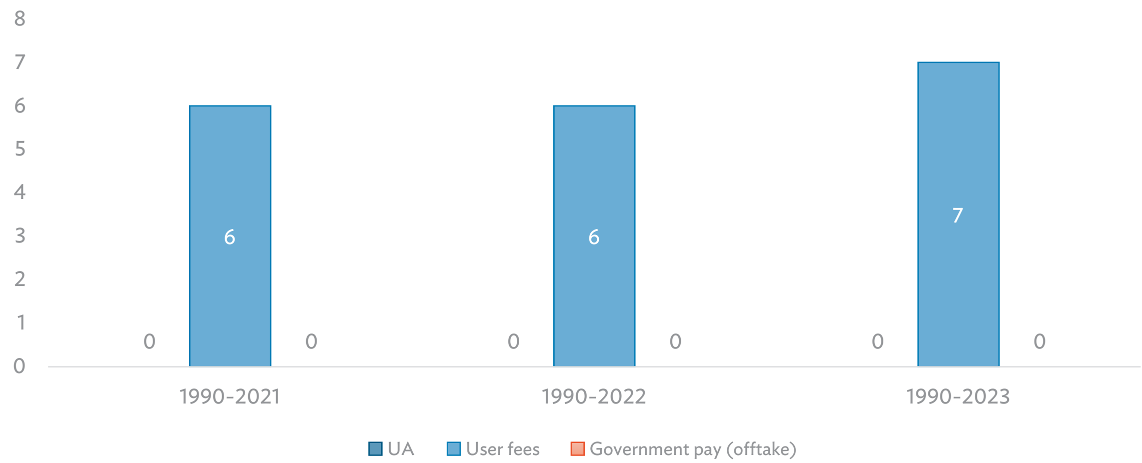
Figure 39: Government Support to Public–Private Partnership Airport Projects



UA = information unavailable.
Note: Only active and concluded projects are considered.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Figure 40 presents the number of PPP projects that have received payment in the form of user charges and government pay (offtake) in the Philippines' airports sector.

Figure 40: Payment Mechanisms for Public–Private Partnership Airport Projects



UA = information unavailable.
Note: Only active and concluded projects are considered.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

4.1 Tariffs in the Airports Sector

The CAAP implements the Integrated Passenger Service Charge, whereby the domestic passenger service charge is integrated into every domestic air ticket purchased with enplanement from CAAP terminals.[128] The Tourism Industry and Enterprise Zone Authority (TIEZA) collects travel tax from individuals who are leaving the Philippines irrespective of the place where the air ticket is issued and the form or place of payment, pursuant to the Tourism Act of 2009.

The MIAA implements airport fees and charges, including the Passenger Service Charge (PSC), for all terminals at NAIA, covering Terminals 1, 2, 3, and 4.[129] Similarly, the same policy applies to the MCIA, where corresponding airport fees and charges, including the PSC, are implemented under the supervision of the MCIAA.[130]

128 CAAP. 2017. *Memorandum Circular No. 022-17*.
129 MIAA. 2024. Revised Administrative Order No. 1 (Series of 2024).
130 MIAA. 2024. Revised Administrative Order No. 1 (Series of 2024).

4.2 Typical risk allocation for PPP airport projects

Risk Type	Private	Public	Shared
Demand risk	✓		
Revenue collection risk			✓
Tariff risk			✓
Government payment risk	✓		
Environmental and social risk			✓
Land acquisition risk	✓ (Unsolicited)	✓ (Solicited)	
Interface			✓
Handover			✓
Political risk	✓		
Foreign exchange risk	✓		

✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
Source: PPP Center. 2016. *Generic Preferred Risks Allocation Matrix*; Tavidell Law.

Financing details of PPPs in the airports sector

Parameter	1990–2021	1990–2022	1990-2023
PPP projects with foreign lending participation	2	3	3
PPP projects that received export credit agency/ international financing institution support	2	3	3
Typical debt: equity ratio	80:20		
Time for financial closure	270 days from commercial close/90 days from O&M start date (whichever is later)		
Typical concession period	15/25 years, subject to extension, 50 years		
Typical financial internal rate of return	UA		

O&M = operation and maintenance, PPP = public–private partnership.
✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); Mactan–Cebu International Airport Project; Clark International Airport Expansion Project Operation and Maintenance; Ninoy Aquino International Airport (NAIA) Public–Private Partnership Project; New Manila International Airport (Bulacan International Airport); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Case Study: Ninoy Aquino International Airport Public–Private Partnership Project

Brief History and Problems

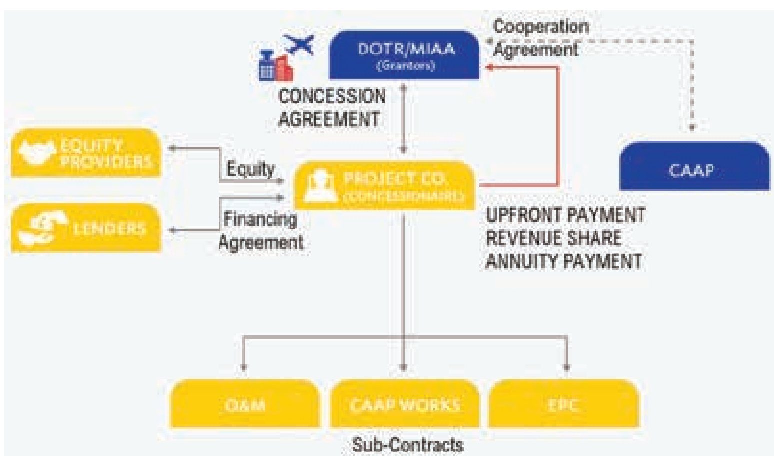
NAIA has been the Philippines' primary international gateway since it was built in 1956. It is overwhelmingly the Philippines' largest airport for both international and domestic travel. The airport has been expanded several times since its construction, with new terminals added in 1999 and 2008. However, it has long exceeded its design capacity of 33.2 million passengers per year. In 2019, the last full year before the COVID-19 pandemic, 47.9 million passengers used NAIA, resulting in significant congestion. Despite strong traffic and passenger growth, NAIA has long been plagued by underinvestment, leading to overcrowded terminals, long waits, substandard facilities, and a reputation—both local and international—as one of the world's worst airports. Recognizing NAIA's role as the Philippines' face to the world, the first place where many foreigners form their views of the Philippines, and the main entry and exit point for the country's millions of overseas workers, the government made bidding and awarding a PPP concession for NAIA a very high priority, as shown by the speed at which the entire process was completed.

The Solution

The DOTr launched the bid for the NAIA PPP in August 2023. The NAIA PPP was designed to ensure that the capex investments needed to bring NAIA to international standards were undertaken over the first 6 years of the concession period, and that O&M improvements would be undertaken by the private sector partner 6 months after the signing of the concession agreement. Required capex investments include modernizing air traffic control systems, rehabilitation of runways and taxiways, upgrading baggage handling systems, expansion of terminals, and flood control measures, among others. These are expected to increase aircraft movements from 42 to 48 per hour and increase passenger capacity to 62 million per year, while simultaneously reducing delays, improving efficiency, and enhancing the overall passenger experience.

The operator is also expected to meet a set of defined key performance indicators to ensure critical equipment always works, sufficient space for passengers is available, and waiting times are reasonable. To ensure compliance with prescribed standards, failure to meet these indicators will result in financial penalties.

Bankable Transaction Structure and Competitive Tender: A Whole Nation Wins



CAAP = Civil Aviation Authority of the Philippines, EPC = engineering, procurement, and construction, DOTr = Department of Transportation, MIAA = Manila International Airport Authority, O&M = operation and maintenance.

NAIA's location and track record make it a uniquely attractive commercial opportunity compared with the existing and future airports servicing the Metro Manila area. NAIA is situated within Metro Manila itself. Compared with Clark and the future New Manila Airport in Bulacan, NAIA is much closer to residential and commercial centers in Metro Manila, and easily accessible through already existing infrastructure. This, and a thriving Philippine economy fueling strong growth in domestic and international travel, made the NAIA PPP an attractive target for investment. The NAIA PPP features a 15-year concession, renewable for another 10 years following an assessment on the eighth year (for a total of concession period of 25 years), that has optimized government receipts, through a predetermined upfront payment of ₱30 billion ($513 million) paid upon O&M start date and ₱2 billion ($34 million) in annuity payments throughout the concession period. Additionally, the winning bidder was determined based on the highest revenue share to government, provided annually throughout the concession period. Revenue from airport operations, including aeronautical and non-aeronautical, including commercial operations, will be shared with the government, aligning both parties' interests. This revenue-sharing structure guarantees that, as NAIA's passenger numbers continue to grow, the government will benefit from a progressive income stream, ensuring rising traffic translates into tangible fiscal gains.

The DOTr and the MIAA embarked on a single-stage solicited tender process for the NAIA PPP, which was launched in August 2023. The competitive tender process culminated in December with four bid submissions from reputable international airport operators and established local players. The notice of award was issued to the winning bidder on 16 February 2024.

The bid process was transparent, fair, and decisive. After a thorough evaluation of both the technical and financial proposals, the SMC-SAP & Company Consortium, led by San Miguel Corporation, was selected as the winning bidder, offering the highest revenue share to the government at 82.16%.

Ultimately, the project proves that the solicited process yields superior results as compared with the unsolicited route, with much better financial outcomes for the government and a more secure revenue structure, as illustrated in the table below.

	Winning Bidder	2nd Place	3rd Place	Shadow Bld	Unsol
Revenue share (%)	**82.16%**	**33.30%**	**25.91%**	**25.00%**	**5%**
Revenue share to Government	831.12	352.74	323.32	204.77	32.35
Upfront payment and Annuity	80.00	80.00	80.00	80.00	56.64
Total Govt. Payment	**911.12**	**432.74**	**403.32**	**284.77**	**88.99**
NPV	**341.59**	**170.77**	**157.74**	**127.07**	**63.44**

PHP Billion, Nominal

PHP = Philippine peso, NPV = net present value.

The Winning Bidder

The SMC-SAP & Company Consortium is composed of San Miguel Holdings Corp., one of the Philippines' largest conglomerates; two local firms—RMM Asian Logistics Inc. and RLW Aviation Development Inc.; and Incheon Airport Development Corporation, the operator of the Republic of Korea's main international gateway, Incheon Airport, outside Seoul. After winning the bid, the consortium organized itself into a new company, the New NAIA Infrastructure Corporation, which then entered into the concession agreement with the Government of the Philippines.

Financing Structure

At the heart of the NAIA PPP is a carefully structured financing package. The project's financing was fully committed and provided on a non-recourse basis in local currency. The loan tenor is 15 years, inclusive of the 3-year grace period, and is competitively priced with a step-down provision post-construction, and a debt service coverage ratio covenant at 1.15x, applicable only after the grace period. The ₱80 billion (approximately $1.4 billion) senior debt facility consists of the upfront payment facility and capex facilities. Although there was considerable interest from foreign lenders, debt was oversubscribed domestically by a club of local banks led by Banco de Oro, Inc. as Mandated Lead Arranger. Other lenders are Bank of Commerce, Asia United Bank Corp., China Banking Corp., Security Bank, and Development Bank of the Philippines. Equity is provided by San Miguel Corporation, RMM Asian Logistics Inc., RLW Aviation Development Inc., and Incheon Airport Corporation.

ADB's Role as Transaction Advisor and Value Addition

ADB provided transaction advisory services and served as an impartial facilitator, committed to ensuring transparency and fostering competition through a structured, solicited tender process. This approach successfully attracted participation from a broad range of suitably qualified international and domestic investors. ADB's role extends beyond financial structuring to include the integration of environmental, social, and governance safeguards into project specifications. This includes climate adaptation measures, such as flood protection, as well as renewable energy solutions.

Setting a Precedent: A Model for Future PPPs

The NAIA PPP is a flagship infrastructure project for the Philippines that demonstrates how the government can mobilize private capital and maximize its receipts by structuring a bankable project. Through a competitive tender process that ensures transparency and adheres to best practices, the NAIA PPP sets a new standard for PPPs in the region.

With its robust risk mitigation strategies and incorporation of social safeguards and sustainability measures, the NAIA PPP has created a blueprint for future airport deals in Southeast Asia and beyond. It underscores the benefits of a competitively tendered PPP in addressing infrastructure deficits.

The successful execution of this deal positions NAIA to become a world-class airport, serving as a catalyst for growth in the Philippine aviation sector and setting a precedent for future large-scale infrastructure projects across the region.

Source: Asian Development Bank.

5. Challenges in the Airports Sector

- The previous restriction on foreign investments (capped at 40%) limited competition in the sector, as the controlling stake in the project company belonged to local companies.[131] This has now been addressed by the amendment of the Public Service Act, which no longer considers airport operation a public utility.
- Changes in the source of financing and the procurement modality for airport projects with changes of government have in the past led to cancellation of the procurement of airport PPP projects, even though there were already prequalified bidders. This was the case of the regional airports PPP project, which went through several changes in structure before it was finally canceled by the previous administration, which

[131] ADB. 2020. *Public–Private Partnership Monitor: Philippines.*

preferred a hybrid mode of implementation for PPP projects—one where the government would build or develop infrastructure projects and bid out their O&M to the private sector.[132]

- Many of the pipeline PPP projects in the airports sector are USPs, which may not result in the most competitive and advantageous bids for the government, as compared with solicited PPPs.
- It is crucial to address interface issues with other parties, including other government entities, at the outset. In the MCIA project, the concessionaire could proceed with the construction of Terminal 2 only after the Philippine Air Force had vacated 17 structures located at the air base within the proposed site. This delayed the start of construction by around 5–6 months.[133]
- There is currently airport and runway congestion. Current capacity is unable to adjust to the increasing demand of air travelers and aircrafts. Relatedly, connectivity between airports is unfavorable and inefficient because of underdeveloped roads and highways leading to airports, which results in some airports being more favored, hence more congested, than others.[134]
- The current regulatory framework needs to be improved to ensure coherent implementation of policies for airport development and regulation, with bills seeking to streamline the conflicting roles and powers of government agencies yet to be approved and signed into law.[135]
- Natural hazards, especially the strong typhoons that visit the country every year, are among the greatest challenges to PPP infrastructure (especially airports) in the Philippines. The need to future-proof airports by making them climate-resilient is likewise a challenge in itself, given the impact of climate change. In December 2021, Typhoon Odette damaged the MCIA, leading to flight cancellations and the indefinite suspension of airport operations.[136] Significant damage to Terminal 1 meant the concessionaire had to transfer all departures for both domestic and international flights to Terminal 2 beginning 16 January 2022 to ensure the safety of passengers and staff during emergency rectification and repairs to damaged structures.[137] The rehabilitation works to the MCIA were completed 6 months after.[138]

[132] PPP Center and InterAksyon. 2017. DOTr Cancels PPP Plan for 5 Regional Airports.
[133] MyCebu.ph. 2015. GMR-Megawide Faces Challenges in Mactan Airport Expansion.
[134] Bariuan, D.G.C. The Four Key Airports. TFA Commercial Realty CORFAC International; Business World. 2023. Infrastructure Upgrades Urgently Needed to Address Rising Air Travel Demand, Study Finds.
[135] Senate of the Philippines. 2022. *Senate Bill No. 1073.*
[136] *Inquirer.net*. 2021. Mactan–Cebu Int'l Airport shut 'until further notice' amid damage from 'Odette'.
[137] Mactan–Cebu International Airport. 2022. Public Advisory: Transfer of Operations in T2.
[138] *SunStar Philippines*. 2022. MCIA Terminal 1 Rehab Expected to Be Completed by July 2022.

Energy

Parameter	Value	Unit
Electric power consumption	876.40	kWh per capita
Share of clean energy (2023)	22.3	% of total energy use
Access to electricity	94.8	% of population
Getting electricity (score out of 100)	87.4	no.
Energy imports	46	% of total energy use
Investment in energy with private participation	245.18	current $ million
Total number of projects with cumulative lending, grant, and technical assistance commitments from ADB in energy sector	152	no.
Total number of projects with cumulative lending, grant, and technical assistance commitments from ADB in energy sector	6,828	$ million

₱1 = $ 0.01715
ADB = Asian Development Bank, kWh = kilowatt-hour.
✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable
Sources: ADB. 2023. Cumulative Lending, Grant, and Technical Assistance Commitments; DOE. 2023. *Philippine Energy Plan 2023-2050. Volume I*. World Bank. 2014. Energy Imports, Net (% of Energy Use) – Philippines; 2020. Getting Electricity; 2022. Access to Electricity (% of Population); 2022. Investment in Energy with Private Participation (in $); World Data. 2021. Energy Consumption in the Philippines.

Given that there are no reported additional oil or gas reserves in the Philippines, this section focuses on the power sector.

As of 2023, the Philippines had a total installed capacity of 28,291 megawatts across all plant types (Table 40). Fossil fuel power plants constitute the bulk of the electricity production in the country. Combined renewable energy plants, on the other hand, account for 29.75% in installed capacity.

Table 40: Installed Power Capacity by Plant Type in the Philippines, 2023

Plant Type	Installed Capacity (MW)
Coal	12,406
Oil-based	3,737
Natural gas	3,732
Renewable energy	8,417
Geothermal	1,952
Hydro	3,799
Biomass	585
Solar	1,653
Wind	427
Total installed capacity	**28,291**

Source: DOE. 2023. *Annual Power Statistics*.

The Philippine electric power industry is divided into four sectors: generation, transmission, distribution, and supply sector (Table 42). Considering how the industry is structured and regulated under the Electric Power Industry Reform Act (EPIRA), with electric power supply no longer a public service provided by the government, PPP opportunities in the energy sector, except for renewable energy, are limited.

1. Implementing Agencies in the Energy Sector

The main implementing agencies in the energy sector are the Department of Energy (DOE), the National Power Corporation (NPC), and the National Transmission Corporation (TransCo).

The National Irrigation Administration (NIA) is also developing floating solar and hydroelectric power projects on its irrigation waters or existing irrigation systems nationwide.[139]

LGUs, particularly provinces and cities, may enter into PPPs for mini-hydroelectric projects for local purposes.

2. Energy Sector Laws and Regulations

Table 41: Key Laws and Regulations in the Energy Sector

Law or Regulation	
Electricity Power Industry Reform Act of 2001 (Republic Act No. 9136) (EPIRA) and Implementing Rules and Regulations	Restructured and deregulated the entire electric power industry and privatized most state-owned power generation and transmission assets: • Divided the Philippines' electric power industry into four sectors: generation, transmission, distribution, and supply (Table 42) • Created the Energy Regulatory Commission (ERC) as an independent, quasi-judicial regulatory body mandated, among others, to perform such regulatory functions as are appropriate and necessary to ensure the successful restructuring, privatization, and modernization of the electric power sector (Table 43) • Created the Power Sector Assets and Liabilities Management Corporation (PSALM) as a GOCC tasked to manage the orderly sale, disposition, and privatization of NPC assets, real estate, and other disposable assets, and independent power producer IPP contracts with the objective of liquidating all NPC financial obligations and stranded contract costs • Created the National Transmission Corporation (TransCo) as a GOCC that assumed the electrical transmission function of the NPC (Table 42) • Provided for the establishment by the DOE of the Wholesale Electricity Spot Market (WESM), composed of WESM participants, tasked to provide the mechanism for identifying and setting the price of actual variations from the quantities transacted under contracts between sellers and purchasers of electricity, and implemented by a market operator (Table 43)[a]

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[139] NIA. 2023. NIA and SNAP switch on pilot floating solar project in Magat reservoir.

Table 41 *continued*

Law or Regulation	
Renewable Energy Act of 2008 (Republic Act No. 9513) and Implementing Rules and Regulations	Require all stakeholders in the electric power industry to contribute to the growth of the renewable energy industry and provides for the granting of fiscal incentives to entities that will utilize renewable energy resources. It created the National Renewable Energy Board (NREB) to act as the advisory body tasked to monitor the implementation of the Renewable Energy Act. The NREB was tasked to set the minimum percentage of generation from renewable energy resources based on their sustainability, available capacity of the relevant grids, available renewable energy resources within the specific grid, and other relevant parameters, and to determine to which sector Renewable Portfolio Standards (RPS) should be imposed on a per grid basis.[b] The law further mandated a FIT system (which offers guaranteed payments on a fixed rate per kWh for electricity produced from wind, solar, ocean, run-of-river hydropower, and biomass) and establishment by the DOE of the Renewable Energy Market and the Green Energy Option program, which provides end-users the option to choose renewable energy resources as their sources of energy. The ERC has approved the templates for the power supply agreements in the renewable energy sector, particularly the renewable energy payment agreement (REPA) and the renewable energy supply agreement (RESA). Renewable energy plants are required to enter into a REPA with TransCo, which is the administrator of the FIT-Allowance Fund. Renewable energy plants operating where the WESM is not operational, whether connected directly to the grid or to a distribution system, must enter into a RESA with the host distribution utility.
Energy Virtual One-Stop Shop (EVOSS) Act of 2019 (Republic Act No. 11234) and Implementing Rules and Regulations	Implemented to establish the EVOSS under supervision of the DOE, an online system that allows the coordinated submission and synchronous processing of all required data and information, and provides a single decision-making portal for actions on applications for permits and/or certifications related to applications for new power generation, transmission, or distribution projects. Prospective developers can use the EVOSS online paperless platform to apply, monitor, and receive all the needed permits and applications, submit all the required documents, and pay charges and fees. The EVOSS has the following characteristics, among others: • Provides a secure and accessible paperless processing system for collection of application forms, monitoring of application status, and payment of fees, among others; and • Provides a secure, accessible, and unified system for all national and local government agencies involved in the permitting process of energy projects, using standard templates and governed by mandatory processing time frames.
Microgrid Systems Act (Republic Act No. 11646) and Implementing Rules and Regulations	Enacted to accelerate total electrification of the country and ensure the provision of quality, reliable, and secure electricity service via microgrid systems at reasonable rates in unserved and underserved areas, taking into account geographical limitations in connectivity. These unserved and underserved areas, initially under the jurisdiction of the NPC through the Small Power Utilities Group in the performance of their missionary electrification function, are now opened to other qualified entities for the generation and delivery of electric power.
Philippine Grid Code (2016 Edition)	Establishes and documents the basic rules, requirements, procedures, and standards that govern the operation, maintenance, and development of the high-voltage backbone transmission system in the Philippines. The Grid Code identifies and recognizes the responsibilities and obligations of three key independent functional groups: grid owner, system operator, and market operator. These functional groups and all users of the grid must comply with all the provisions of the Grid Code. The Grid Code is intended to be used along with the WESM Market Rules to ensure the safe, reliable, and efficient operation of the grid.

continued on next page

Table 41 *continued*

Law or Regulation	
Philippine Distribution Code (2017 Edition)	Establishes the basic rules and procedures that govern the operation, maintenance, development, connection, and use of the electric distribution systems in the Philippines. Compliance with the provisions of the Distribution Code is mandatory for all participants in distribution system operations, which include distributors and users of the distribution system, including embedded generators, other distributors connected to the distribution system, and large customers.
Providing the Revised Guidelines for the Green Energy Auction Program in the Philippines (DOE Department Circular No. DC 2021-11-0036)	Provides the guidelines for the DOE's Green Energy Auction Program (GEAP), which the DOE established pursuant to the Renewable Energy Act to make the procurement of renewable energy supply in the Philippines a competitive process. Through the GEAP, the mandated participants of the RPS Program are given substantial assistance to procure their energy requirements through a competitive process and ensure compliance with their minimum RPS requirements designed to continuously trigger the increase of renewable energy capacity in the country.[c]
Wholesale Electricity Spot Market (WESM) Rules (as of 27 January 2023)	Establish the basic rules, requirements, and procedures that govern the operation of the WESM, which are complementary with the Grid Code and the Distribution Code. The WESM rules provide for the mechanism for determining the price of electricity not covered by bilateral contracts between sellers and purchasers of electricity.
Revised Omnibus Guidelines Governing the Award and Administration of Renewable Energy Contracts and the Registration of Renewable Energy Developers (DOE Department Circular No. DC2024-06-0018)	Prescribes the guidelines and procedures on the pre-application, application, and award of renewable energy contracts; the conversion of existing service contracts to renewable energy contracts for the exploration, development, or utilization of renewable energy resources with the DOE; the issuance by the DOE of certificates of registration for renewable energy developers of projects with or without renewable energy contracts; and the administration of renewable energy contracts.

DOE = Department of Energy, EPIRA = Electricity Power Industry Reform Act, EVOSS = Energy Virtual One-Stop Shop, FIT = feed-in tariff, GEAP = Green Energy Auction Program, GOCC = government-owned or controlled corporation, IPP = independent power producer, LGU = local government unit, NGCP = National Grid Corporation of the Philippines, NPC = National Power Corporation, NREB = National Renewable Energy Board, PSALM = Power Sector Assets and Liabilities Management Corporation, RPS = Renewable Portfolio Standards, TransCo = National Transmission Corporation, REPA = renewable energy payment agreement, RESA = renewable energy supply agreement, WESM = Wholesale Electricity Spot Market.

Notes:

[a] Participants in the energy sector are required to register with the WESM's market operator, subject to compliance with certain criteria. TransCo and the National Grid Corporation of the Philippines (NGCP) are registered with the WESM's market operator as the network service provider and system operator, respectively.

[b] The RPS is a market-based policy that requires electricity suppliers to source an agreed portion of their energy supply from eligible renewable energy resources. The Philippine transmission system is composed of three grids, the Luzon Grid, Visayas Grid, and Mindanao Grid. For purposes of RPS, each grid is treated as a separate entity. Thus, the percentage of electricity generation required to come from renewable energy sources is determined independently for each grid.

[c] The mandated participants are the electric power industry participants that were obligated to comply with the RPS Rules, based on the minimum annual requirements set by the DOE.

Sources: DOE. 2009. *Department Circular No. DC2009-05-0008*; 2021. *Department Circular No. DC 2021-11-0036*; 2024. *Department Circular No. DC2024-06-0018*; Philippine Grid Code; Philippine Distribution Code; Energy Regulatory Commission (ERC). 2014. *Resolution No. 18, Series of 2014*; 2016. *Resolution No. 22, Series of 2016*; 2018. *Resolution No. 02, Series of 2018*; Government of the Philippines. 1998. *Republic Act No. 8479*; 2000. *Republic Act No. 9136*; 2008. *Republic Act No. 9513*; 2019. *Republic Act No. 11234*.

Table 42: Current Sectors of the Electric Power Industry

Sector	Description
Generation sector (generation companies/ PSALM/NPC)	Generation of electricity refers to the production of electricity by a generation company or a co-generation facility, which must be competitive and open. Any new generation company is required, before it operates, to secure from the ERC a certificate of compliance and health, safety, and environmental clearances from the appropriate government agencies. No company or related group is allowed to own, operate, or control more than 30% of the installed generating capacity of a grid and/or 25% of the national installed generating capacity. Power generation is not considered a public utility operation, although it is a business affected with public interest. Upon implementation of the retail competition and open access, the prices charged by a generation company for supply of electricity will not be subject to ERC regulation.[a] The power generation assets of the government were privatized through PSALM to liquidate the obligations of the NPC. Pending completion of the privatization efforts of PSALM, the undisposed generating assets and IPP contracts of the NPC remain under the NPC. The NPC may continue to generate and sell electricity from these generating assets and IPP contracts.
Transmission sector (TransCo as grid owner and NGCP as system operator)	Transmission of electricity refers to the conveyance of electricity through the high-voltage backbone system. It is a regulated common electricity carrier business. Its operation, maintenance, and development is governed by the Grid Code. Transmission of electricity must comply with the Transmission Development Plan, the plan for managing the transmission system, including expansion, upgrading, rehabilitation, repair, and maintenance. EPIRA created TransCo, a GOCC, to assume the NPC's electrical transmission functions. As grid owner, TransCo remains the owner of the transmission assets even since EPIRA took effect. The NGCP, a private corporation, took over the management and operation of TransCo's nationwide transmission system, as system operator. It was granted a 50-year franchise to operate, manage, and maintain the country's nationwide transmission system and to engage in the business of transmitting electricity through the country's state-owned power grid. The NGCP is responsible for ensuring and maintaining the reliability, adequacy, security, stability, and integrity of the grid, and improving and expanding its transmission facilities to adequately serve generation companies. During the operation of the franchise, at least 60% of the NGCP's capital is required to be owned by citizens of the Philippines.
Supply sector (retail electricity suppliers)	The supply of electricity refers to the sale of electricity to electricity end-users, who have a choice of supplier (contestable market), and include, among others, Competitive Retail Electricity Market (CREM) end-users, GEOP end-users, directly connected customers (industrial or bulk end-users directly supplied with electricity by a generation company/PSALM/the NPC), and aggregated groups (end-users whose demand has been consolidated and supplied by a retail supplier to qualify for contestability). Retail competition and open access allows electricity end-users (who have a choice) to choose their supplier provided their average peak demand is at least 500kW for CREM and aggregated end-users and at least 100kW for GEOP end-users. This sector is a business affected with public interest. As such, it requires a license from the ERC, except for distribution utilities and electric cooperatives with respect to their existing franchise areas. It is not considered a public utility operation and a local or national franchise is not required.[b] The ERC does not regulate prices charged by suppliers to the contestable market.

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Table 42 *continued*

Sector	Description
Distribution sector (distribution utilities)	Distribution of electricity refers to the conveyance/sale of electric power by a distribution utility through its distribution system. It is a regulated common carrier business requiring a franchise. The operation, maintenance, development, connection, and use of electric distribution systems in the Philippines is governed by the Philippine Distribution Code. Distribution of electricity to electricity end-users who do not have the choice of a supplier of electricity (captive market) is a regulated common carrier business, requiring a national franchise.[c] Distribution may be undertaken by private distribution utilities, electric cooperatives, LGUs presently undertaking this function, and other duly authorized entities, subject to regulation by the ERC. In remote and unviable areas where the distribution utility is unable to serve for any reason, the areas will be opened to other qualified third parties that may provide the service. Participation as a qualified third party is open to any party that has demonstrated capability and willingness to comply with the relevant technical, financial, and other requirements through competitive bidding.

CREM = Competitive Retail Electricity Market, EPIRA = Electricity Power Industry Reform Act, ERC = Energy Regulatory Commission, GEOP = Green Energy Option Program, GOCC = government-owned or controlled corporation, LGU = local government unit, PSALM = Power Sector Assets Liabilities Management, IPP = independent power producer, NGCP = National Grid Corporation of the Philippines, NPC = National Power Corporation, TransCo = National Transmission Corporation.

Notes:

[a] Open access refers to the system of allowing any qualified person the use of transmission and/or distribution system and associated facilities subject to the payment of transmission and/or distribution retail wheeling rates approved by the ERC.

[b] In the energy sector, a franchise is the authorization given by the Philippine Congress to an entity to operate a public utility, which applies to the distribution sector (captive market). On the other hand, a license is given by the DOE to a supplier of electricity to the retail/contestable market.

[c] Captive market refers to electricity end-users who do not have the choice of a supplier of electricity, such as households/the consuming public.

Sources: DOE. 2019. *Department Circular No. DC2019-11-0015*; Philippine Grid Code; Philippine Distribution Code; Philippine Energy Market Corporation. Retail Overview.

Table 43 provides an overview of the regulatory authorities in the Philippines' energy sector.

Table 43: Energy Sector Regulatory Authorities in the Philippines

Agency	Function
Department of Energy (DOE)	Mandated to prepare, integrate, coordinate, supervise, and control all plans, programs, projects, and activities of the government relative to energy exploration, development, utilization, distribution, and conservation, and to monitor private sector activities relative to energy projects to attain the goals of the restructuring, privatization, and modernization of the electric power sector. It is authorized to issue rules and regulations necessary to implement the objectives of EPIRA. The DOE is also the lead agency designated to implement the provisions of the Renewable Energy Act.
Energy Regulatory Commission (ERC)	An independent, quasi-judicial regulatory body responsible for the enforcement of the implementing rules and regulations of pertinent energy laws, tasked to promote competition, encourage market development, ensure customer choice, and penalize abuse of market power in the restructured electricity industry. The ERC is mandated to promulgate rules and regulations and perform regulatory functions to ensure the successful restructuring of the Philippine electric power industry. It establishes and enforces a methodology for setting transmission and distribution wheeling rates and retail rates for the captive market of a distribution utility, which must allow the recovery of just and reasonable costs and a reasonable return on rate base to enable the entity to operate viably. It has original and exclusive jurisdiction over all cases contesting rates, fees, fines, and penalties imposed by it and over all cases involving disputes between and among participants or players in the energy sector.
Philippine Competition Commission	Mandated to promote free and fair competition across all sectors, including energy. It penalizes monopolistic and anticompetitive behavior, and has the authority to approve asset transactions in the power sector.

continued on next page

Table 43 *continued*

Agency	Function
Philippine Energy Market Corporation (PEMC)	The governing body of the WESM. It was incorporated in 2003 as a non-stock, non-profit corporation upon the initiative of the DOE with representatives from various sectors of the electric power industry. It served as the autonomous group market operator and governing body of the WESM for over 10 years. In 2018, pursuant to EPIRA, it transferred WESM operations to an independent market operator whose board of directors was not affiliated with power industry stakeholders, the Independent Electricity Market Operator of the Philippines, but it continues to be the governing body of the WESM.

DOE = Department of Energy, EPIRA = Electric Power Industry Reform Act, ERC = Energy Regulatory Commission, PEMC = Philippine Energy Market Corporation, WESM = Wholesale Electricity Spot Market.
Sources: ADB. 2019. *Public–Private Partnership Monitor. Second Edition*; Government of the Philippines. 1992. *Republic Act No. 7638*; 2000. *Republic Act No. 9136*; 2014. *Republic Act No. 10667*; 2017. *Executive Order No. 30, Series of 2017*; NPC. NPC Now; PEMC. About PEMC.

Foreign investment restrictions in the energy sector

Under the Philippine Constitution, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, and other natural resources are owned by the state. The exploration, development, and utilization of these natural resources are subject to the 40% foreign equity limitation. Full participation by foreign-owned corporations is nevertheless allowed for large-scale exploration, development, and utilization of minerals, petroleum, and other mineral oils through financial or technical assistance agreements entered into with the President.

Following the issuance in 2022 of an opinion by the Department of Justice (DOJ) that the exploration, development, and utilization of solar, wind, hydro, and ocean or tidal energy should not be subject to the constitutional 40% foreign equity limitation, the DOE amended the IRR of the Renewable Energy Act of 2008. The amendment allows foreign citizens and foreign corporations or associations to enter into renewable energy service or operating contracts. The operation for public use of distribution or transmission of electricity and petroleum and petroleum products pipeline transmission systems is considered a public utility and, thus, subject to the 40% limit for foreign investment.

Parameter	2021	2022	2023
Power generation (traditional sources)	100%	100%	100%
Power generation (renewable energy)	40%[a]	40%/100%[b]	40%/100%[b]
Power transmission	40%	40%	40%
Power distribution	40%	40%	40%
Oil and gas	40%[c]	40%[c]	40%[c]

Notes:
[a] 100% for large-scale geothermal projects or those with an initial investment cost of $50 million, under financial or technical assistance agreements entered into with the President.
[b] 40% is still applicable to geothermal projects, except for large-scale geothermal projects or those with an initial investment cost of $50 million, under financial or technical assistance agreements entered into with the President where foreign equity investment may be up to 100%.
[c] 100% for large-scale exploration, development, and utilization of minerals, petroleum, and other mineral oils, under financial or technical assistance agreements entered into with the President.
Sources: DOE. 2022. *Department Circular No. DC2022-11-0034*; 2024. *Department Circular No. DC2024-06-0018*; Government of the Philippines. 2000. *Republic Act No. 9136*; 2021, *Republic Act No. 11659*; 2022. *Executive Order No. 175*; Republic of the Philippines. 1987. *The Constitution of the Republic of the Philippines*.

Standard contracts in the energy sector

Type of contract	Availability
Public–private partnership/concession agreement	×
Power purchase agreement	✓[a]
Capacity take-or-pay contract	×
Fuel supply agreement	×
Transmission and use of system agreement	✓[b]
Engineering procurement and construction contract	×

✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
Notes:
[a] The ERC has approved the template for the REPA and RESA. The DOE has likewise prescribed the templates for renewable energy operating agreements and renewable energy service contracts.
[b] Templates for the connection agreement, transmission service agreement, and metering service agreement to be entered into with the NGCP are available.
Source: DOE. 2024. *Department Circular No. DC2024-06-0018*; ERC. *Resolution No. 18, Series of 2014*.

3. Energy Sector Master Plan

The DOE has developed the Philippine Energy Plan 2023–2050, which aims to facilitate access to affordable energy, secure a reliable and resilient energy supply, and transition to clean, sustainable, and climate-centered energy resources. The plan sets the strategic framework for the energy sector under three objectives: access to affordable energy, reliability and resiliency, and clean and sustainable energy.[140] It targets 100% household electrification by 2028 through the Total Electrification Program.

NGCP has presented its 2024-2050 Transmission Development Plan (TDP) to various energy stakeholders for nationwide public consultations. The 2024–2050 TDP is a critical road map to build a more sustainable and efficient power grid system in the coming years. It is designed to address the needs of the power grid, ensuring its reliability and stability to prevent transmission-related outages.[141]

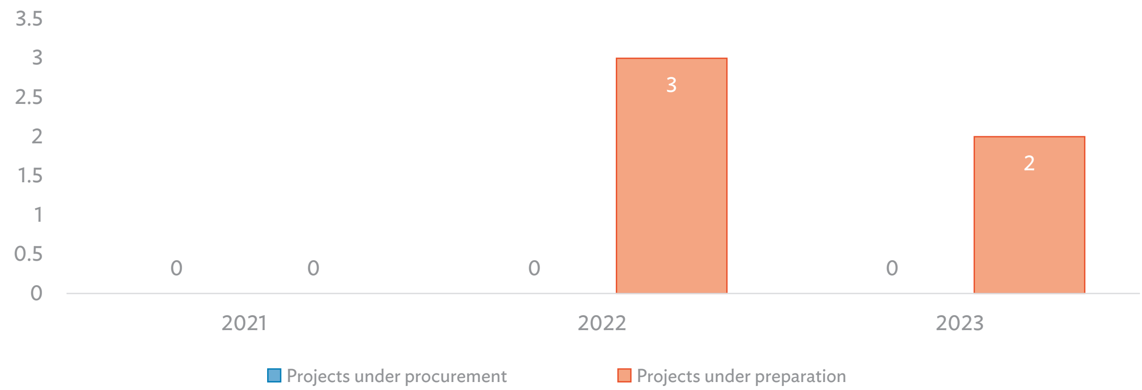
There is currently no PPP energy project listed as an IFP. The Agus-Pulangi Hydropower Plant Complex Rehabilitation Project of the NPC, with an indicative cost of ₱10.19 billion, is an IFP, but its procurement method is not yet indicated.

[140] DOE. 2023. *Philippine Energy Plan 2023-2050*.
[141] National Grid Corporation of the Philippines. 2024. NGCP unveils long-term grid development plan in nationwide consultations.

Projects under preparation and procurement in the energy sector

Figure 41 shows the number of PPP projects that were under preparation and procurement in the Philippines' energy sector for 2021, 2022, and 2023.

Figure 41: Public–Private Partnership Energy Projects Under Preparation and Procurement



Note: Information is not available for renewable energy projects developed under the FIT scheme.
Source: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024).

Table 44 presents a list of pipeline national and local PPP energy projects as of October 2024, based on the PPP Center's project list.

Table 44: Pipeline Public–Private Partnership Energy Projects, as of October 2024

No.	Project	Implementing Agency	Procurement Mode	Estimated Project Cost ($ million)	Estimated Project Cost (₱ billion)	Status
1.	Power Generation and Distribution in San Vicente Flagship Tourism Enterprise Zone	Tourism Infrastructure and Enterprise Zone Authority	Solicited	22.30	1.30	Preparation phase (under development)
2.	Development and Improvement of Asin Hydropower Plants	City Government of Baguio	Unsolicited	21.78	1.27	Negotiation phase
3.	Repurposing of Existing PNOC Port at Mabini Batangas as Offshore Wind Integration Port for Offshore Wind Development in Batangas or Mindoro Area	PNOC	Solicited	85.75	5	Preparation phase (under development)
4.	Combined 17MW Upper Sampaloc and 8MW Lower Sampaloc Hydroelectric Power Project	National Irrigation Administration	Unsolicited	123.65	7.21	Preparation phase (under evaluation by IA)

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Table 44 *continued*

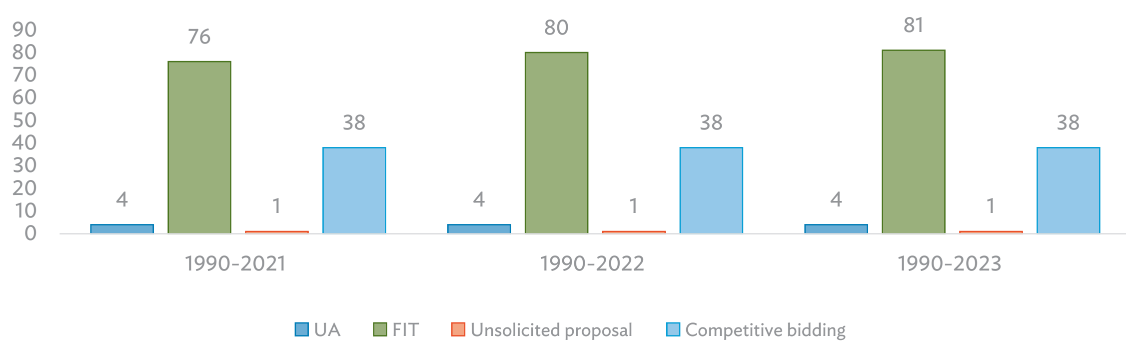
No.	Project	Implementing Agency	Procurement Mode	Estimated Project Cost ($ million)	Estimated Project Cost (₱ billion)	Status
5.	Mariano Marcos State University 2MWp Solar Photovoltaic System	Mariano Marcos State University	Unsolicited	1.20	0.07	Preparation phase (under evaluation by IA)
6.	Marinduque Decarbonization Project	National Power Corporation	Unsolicited	72.72	4.24	Preparation phase (under evaluation by IA)
7.	Solar Rooftop Project	Provincial Government of Bataan	Unsolicited	0.69	0.04	Negotiation phase
8.	Bataan Rooftop Microgrid Project	Provincial Government of Bataan	Unsolicited	4.63	0.27	Negotiation phase

IA = implementing agency, PNOC = Philippine National Oil Company.
Source: PPP Center. 2024. List of PPP Projects in the Pipeline (accessed 27 October 2024).

4. Features of Past Public–Private Partnership Projects in the Energy Sector

Figure 42 presents the number of PPP projects procured through various modes including direct appointment, unsolicited bids, and competitive bids in the Philippines' energy sector.

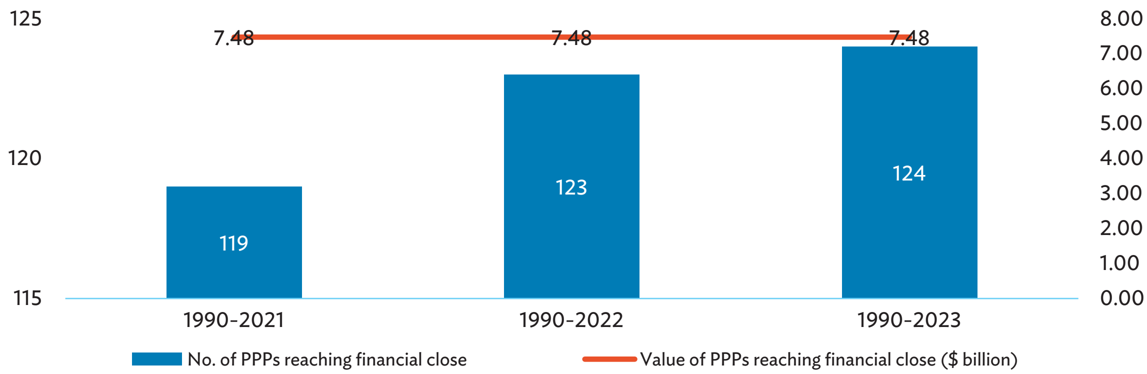
Figure 42: Modes of Procurement for Public–Private Partnership Energy Projects



FIT = feed-in-tariff, UA = information unavailable.
Note: Only active and concluded projects are considered.
Sources: DOE. 2024. *List of Renewable Energy (RE) Plants with Certificate of Endorsement (COE) to Energy Regulatory Commission (ERC) for Feed-in Tariff (FIT) Eligibility As of March 2024*; PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Figure 43 shows the number of PPP projects that have reached financial closure and the total value of those projects in the Philippines' energy sector.

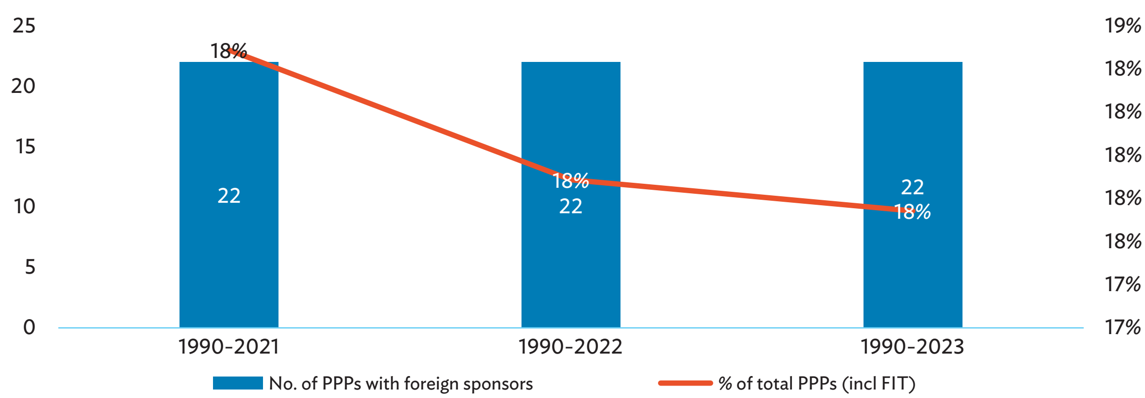
Figure 43: Independent Power Producer/Public–Private Partnership Energy Projects Reaching Financial Closure



FIT = feed-in tariff, PPP = public–private partnership.
Note: Only active and concluded projects are considered. PPP projects "under implementation" in the PPP Center database are assumed to have reached financial closure. Value of PPP projects considered only refers to the value of PPP projects not awarded under the FIT scheme. Values of PPP projects awarded under the FIT are not available.
Sources: DOE. 2024. *List of Renewable Energy (RE) Plants with Certificate of Endorsement (COE) to Energy Regulatory Commission (ERC) for Feed-in Tariff (FIT) Eligibility As of March 2024*; PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Figure 44 presents the number of PPP projects that have received foreign sponsor participation in the Philippines' energy sector.

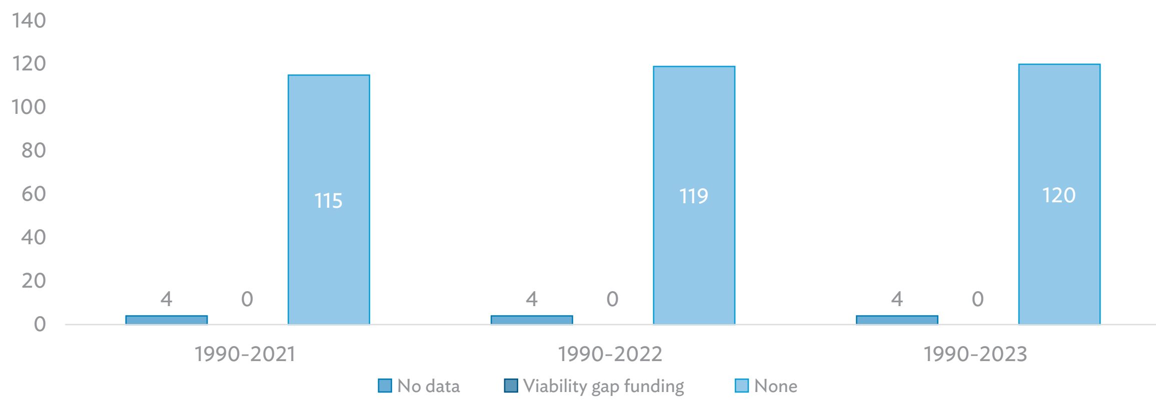
Figure 44: Independent Power Producer/Public–Private Partnership Energy Projects with Foreign Sponsor Participation



FIT = feed-in tariff, PPP = public–private partnership.
Note: Only active and concluded projects are considered in the above graph. The number of FIT projects with foreign sponsors are not included in the graph.
Sources: DOE. 2024. *List of Renewable Energy (RE) Plants with Certificate of Endorsement (COE) to Energy Regulatory Commission (ERC) for Feed-in Tariff (FIT) Eligibility As of March 2024*; PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Figure 45 shows the number of PPP projects that have received government support, including VGF, government guarantees, and availability/performance payment, in the Philippines' energy sector.

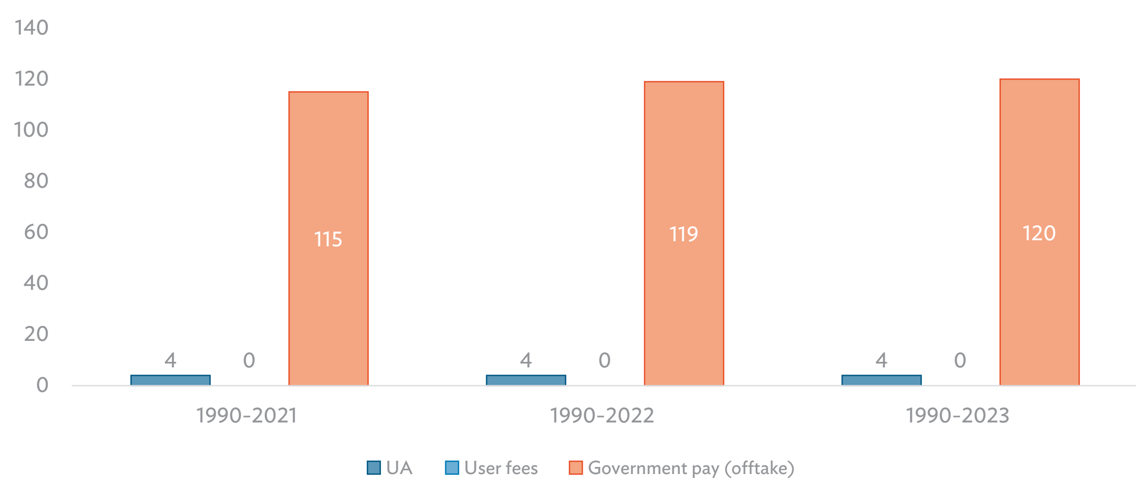
Figure 45: Government Support to Public–Private Partnership Energy Projects



UA = information unavailable.
Note: Only active and concluded projects are considered.
Sources: DOE. 2024. *List of Renewable Energy (RE) Plants with Certificate of Endorsement (COE) to Energy Regulatory Commission (ERC) for Feed-in Tariff (FIT) Eligibility As of March 2024*; PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Figure 46 presents the number of PPP projects that have received payment in the form of user charges and government pay (offtake) in the Philippines' energy sector.

Figure 46: Payment Mechanism for Public–Private Partnership Energy Projects



UA = information unavailable.
Note: Only active and concluded projects are considered.
Sources: DOE. 2024. *List of Renewable Energy (RE) Plants with Certificate of Endorsement (COE) to Energy Regulatory Commission (ERC) for Feed-in Tariff (FIT) Eligibility As of March 2024*; PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Tariffs in the energy sector

The FIT system applies to renewable energy projects—wind, solar, ocean, run of river hydropower, and biomass (Table 45). It is a policy mechanism to accelerate investments in and the growth of renewable energy as a key strategy toward achieving energy security and self-reliance. Under the FIT rules, a renewable energy developer who elects to participate in the FIT system and whose renewable energy plant meets the qualifications under the FIT rules is eligible for a FIT, which is a guaranteed payment (in ₱/kWh) for renewable energy generated and actually delivered to the transmission and/or distribution network. Generation companies with eligible renewable energy capacity are paid a FIT rate that is guaranteed for 20 years from the date of effectivity. The ERC promulgated the FIT rules in 2010 (FIT Rules), designating the NGCP as FIT Allowance (FIT-All) administrator or settlement agent. In 2012, the ERC amended the FIT Rules, substituting TransCo as FIT-All administrator or settlement agent.[142]

A renewable energy developer with a valid and subsisting renewable energy service contract and operating contract with the DOE may apply for the eligibility and inclusion of its contract under the FIT system by submitting to the DOE a declaration of commerciality based on the approved FIT rate and work plan, stating that the project is commercially feasible (development stage). If its declaration of commerciality is compliant, the DOE will then issue a Certificate of Confirmation of Commerciality to the project, which will serve as a notice to proceed to the construction phase. The DOE monitors the status of the project and conducts site validation, and issues the Certificate of Endorsement for FIT eligibility to the ERC for the project upon confirmation of its successful commissioning. To be eligible for a FIT, a renewable energy plant must have a Certificate of Compliance from the ERC, authorizing it to operate as a FIT-eligible renewable energy plant. The Certificate of Endorsement from the DOE is a requirement for the ERC's issuance of the Certificate of Compliance to the project.[143]

In 2012, the ERC approved the initial FIT rates for wind, biomass, solar, and hydropower, but the payment of the approved FIT rates to eligible renewable energy developers commenced only upon the effectivity of the FIT-All, which the ERC approved in 2015 pursuant to the 2013 FIT-All guidelines. The FIT-All guidelines cover the determination and computation of the FIT-All and the procedure for collecting and disbursing the FIT-All fund to eligible renewable energy developers. As per the FIT Rules, consumers supplied electricity through the distribution or transmission network must share in the cost of the FITs in part through a uniform charge (in ₱/kWh), referred to as the FIT-All and applied to all billed kWh.

The FIT-All is established and set by the ERC on an annual basis on petition by TransCo, which is tasked with settling the FITs of the eligible renewable energy plants. The FIT-All takes into account forecasted annual required revenue of the eligible renewable energy plants, the previous year's over- or under-recoveries, TransCo's administration costs, the forecasted annual electricity sales, and other relevant factors, to ensure no stakeholder is allocated additional risks in the implementation of the FITs.[144]

TransCo filed the initial (2014–2015) FIT-All application in 2014, which the ERC approved in 2015, fixing the FIT-All rate at ₱0.0406/kWh for all on-grid electricity customers. Under the FIT Rules, FIT rates are subject to adjustment to allow pass-through of local inflation and foreign exchange rate variations. However, no adjustments have been made to them since their implementation. In 2020, the ERC approved adjustments to the

[142] DOE. 2010. *Resolution No. 16, Series of 2010*; ERC. 2012. *Resolution No. 15, Series of 2012*; 2020. *Resolution No. 06, Series of 2020*.
[143] DOE. 2013. *Department Circular No. 2013-05-0009*; ERC. 2014. *Resolution No. 16, Series of 2014*.
[144] DOE. 2010. *Resolution No. 16, Series of 2010*; ERC. 2012. *Resolution No. 15, Series of 2012*; 2013. *Resolution No. 24, Series of 2013*; 2020. *Resolution No. 06, Series of 2020*.

FIT rates using the FIT adjustment formula. TransCo executes a renewable energy payment agreement (REPA) with each eligible renewable energy developer, following the template provided by the ERC.[145]

In November 2022, the ERC temporarily suspended collection of the FIT-All to mitigate high electricity rates in the past months. The ERC lifted the suspension of the FIT-All collection starting in the billing month of February 2024.

Intermittent and FIT-eligible renewable energy generating units are given preference in the Wholesale Electricity Spot Market (WESM) dispatch schedule to ensure its maximum output injection in the grid.[146]

Table 45: Feed-In Tariffs

		Signed Renewable Energy Payment Agreement		Effective Renewable Energy Payment Agreement	
Technology	**Feed-in-Tariff (₱/kWh)**	**Number**	**Capacity (MW)**	**Number**	**Capacity (MW)**
Solar		**25**	**584.93**	**24**	**543.63**
	FIT 1 (2012): 9.68	7	108.90	6	67.60
	FIT 2 (2015): 8.69	18	476.03	18	476.03
Wind		**7**	**426.90**	**7**	**426.90**
	FIT 1 (2012): 8.53	3	249.90	3	249.90
	FIT 2 (2015): 7.40	3	144.00	3	144.00
	Bangui 1 and 2: 5.96 (Pre-RE Law)	1	33.00	1	33.00
Hydro		**34**	**332.62**	**17**	**226.47**
	FIT 1 (2012): 5.90	5	34.60	5	34.60
	Digression Rate (2017): 5.8705	2	54.44	2	54.44
	Bakun: 5.6715 (pre-RE Law)	1	74.80	1	74.80
	FIT 2 (2017): 5.8705	23	163.77	8	62.18
	FIT 3 (2023): 6.1110	3	5.013	1	0.4530
Biomass		**34**	**299.05**	**25**	**194.61**
	FIT 1 (2012): 6.63	13	119.56	13	119.56
	Digression Rate (2017): 6.5969	4	14.56	4	14.56
	FIT 2 (2021): 6.19	17	164.92	8	60.48
Total		**100**	**1,643.50**	**73**	**1,391.61**

FIT = feed-in-tariff, kWh = kilowatt-hour, MW = megawatt, RE = renewable energy.
Source: DOE. 2010. *Resolution No. 16, Series of 2010*; ERC. 2012. *Resolution No. 15, Series of 2012*; 2013. *Resolution No. 24, Series of 2013*; 2020. *Resolution No. 06, Series of 2020*; 2023. *Resolution No. 14, Series of 2023*; TransCo FIT-All Fund Administration Division (data provided by email on 11 September 2024).

145 ERC. 2014. *Resolution No. 18, Series of 2014*; 2020. *Resolution No. 06, Series of 2020.*
146 DOE. 2015. *Department Circular No. DC2015-03-0001.*

Typical risk allocation for public–private partnership energy projects

Risk Type	Private	Public	Shared
Demand risk		✓	
Revenue collection risk		✓[a]	
Tariff risk			✓
Environmental and social risk			✓
Land acquisition risk	✓		
Permits			✓
Handover risk			✓
Political risk	✓		
Regulatory risk	✓		
Interconnection risk			✓
Brownfield risk: asset condition	✓		
Grid performance risk		✓	
Hydrology risk			✓

✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
Note:
[a] For renewable energy projects, payment is sourced by TransCo from the FIT-All Fund.
Source: PPP Center. 2016. *Generic Preferred Risk Allocation Matrix*.

Financing details of public–private partnerships in the energy sector

Parameter	1990–2021	1990–2022	1990–2023
PPP projects with foreign lending participation	21	23	25
PPP projects that received export credit agency/international financing institution support	16	16	17
Typical debt: equity ratio	60:40–70:30		
Time for financial closure	UA		
Typical concession period	20–25		
Typical financial internal rate of return	UA		

PPP = public–private partnership.
✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); Ilijan Natural Gas Combined Cycle Power Plant (1200 MW Natural Gas Combined Cycle Power Project); Caliraya–Botocan–Kalayaan (CBK) Power Plant; World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

5. Challenges in the Energy Sector

- Owing to the structure of the power sector, PPP projects are limited mainly to renewable energy power generation projects under FIT.
- Planning of the power system requires improvement as the country's needs are not always addressed because of constraints in the transmission system and overcapacity in some areas.[147]
- The variable nature of renewable energy technologies such as solar power and wind power presents additional challenges of managing the stability of the Philippine grid and of securing a reliable supply of energy, particularly when amplified through geographic concentration such as in Negros. There is an overgeneration of electricity from renewable energy in Negros, resulting in stranded power, which in turn affects the stability of the Philippine grid.[148]
- Investors face challenges to renewable energy project caused by complex and lengthy permitting procedures, requiring multiple approvals from various government agencies.[149] Developers have to follow a sequential project development process, with uncertainty at each stage. This results in a very protracted process, which, in turn, results in higher cost to consumers. The tedious process of securing local and national permits from various institutions also leads to significant delays in the construction, commissioning, and commercial operation of both non-renewable energy and renewable energy projects.[150] On the part of the government, the effectiveness of the EVOSS system is critical to harmonize the procedures in obtaining permits and licenses.[151]
- Land or ROW acquisition continues to be a challenge in the sector, delaying the construction of energy facilities.[152] Among other things, investors may need to navigate the process for land use conversion clearance, which takes some time to obtain from the Department of Agrarian Reform.
- Expansion and development plans in the transmission sector require capital expenditures that are still subject to approval by the ERC. Waiting for approval may delay the project.[153]
- The transmission and grid integration for intermittent renewable energy resources necessitates investments in physical infrastructure. The National Renewable Energy Program 2020–2040 cites the limited remaining capacity of existing grid infrastructure and delays in the needed grid expansion projects as the cause of the grid's inability to immediately absorb new renewable energy projects and delays in their commercial operation.[154]

147 Mercurio, R. 2023. Transmission Planning to Be Included in New Philippine Energy Plan. *The Philippine Star*.
148 Center for Energy, Ecology, and Development. 2020. *REPOWER NEGROS: A Scoping Study on Negros Island's Power Sector Transformation. 2020*.
149 ASEAN Energy Database System. 2024. Red Tape, Tight Rules Discourage Investments in Renewable Energy.
150 DOE. 2020. National Renewable Energy Program 2020-2040.
151 Power Philippines News. 2023. DOE to Include LGUs in EVOSS for Energy Projects.
152 Business World. 2022. Land Acquisition, Right of Way Seen as Key Hurdles for PPP Projects.
153 Velasco, M. 2023. ECs Urged to Follow ERC Rules on Capex Approval. Matuwid na Singil sa Kuryente.
154 DOE. 2020. National Renewable Energy Program 2020-2040.

Water and Wastewater

Parameter	Value	Unit
Improved water source access	97.6	% of population with access
Improved sanitation facilities access	84.0	% of population with access
Investment in water and sanitation with private participation	UA	current $ million
Total number of projects with cumulative lending, grant, and technical assistance commitments from ADB in water and other urban infrastructure services	148	no.
Total amount of cumulative lending, grant, and technical assistance commitments from ADB in water and other urban infrastructure services	2,516	$ million

₱1 = $ 0.01715
ADB = Asian Development Bank.
✓ = Yes, ✗ = No, NA = Not Applicable, UA = Unavailable.
Sources: ADB. 2023. Cumulative Lending, Grant, and Technical Assistance Commitments; PSA. 2022. Majority of Families Have Access to Improved Source of Drinking Water (Results from the 2022 Annual Poverty Indicators Survey).

1. Implementing Agencies in the Water and Wastewater Sector

The institutional arrangement for the water and sanitation (wastewater) sector in the Philippines has been complicated, with overlaps between the executive, regulatory, and service provision functions. There is no central organization tasked to oversee the operations of the entire water supply and sanitation system.[155]

The entities providing water supply and sanitation services that may act as contracting agencies for PPP water and wastewater projects include GOCCs, such as the Metropolitan Waterworks and Sewerage System (MWSS) and water districts, and LGUs (see Table 47 for further details).

2. Water and Wastewater Laws and Regulations

The following are the relevant laws and regulations for the water and wastewater sector:

Table 46: Key Laws and Regulations in the Water and Wastewater Sector

Law or Regulation	Description
MWSS Charter (Republic Act No. 6234, 1971)	Decentralized the water sector by dissolving the National Waterworks and Sewerage Authority and creating MWSS, which is responsible for service provision in Metro Manila. Other municipal and provincial water and sewerage systems in about 1,500 cities and towns became the responsibilities of the local governments (Table 47).
Provincial Water Utilities Act (Presidential Decree 198, 1973)	Strengthened the decentralized system by introducing a new management model for urban water supply and encouraging LGUs to form water utilities called "water districts," which operate with a degree of autonomy from the LGUs. It also established the Local Water Utilities Administration (LWUA), a GOCC with a specialized lending function to promote and oversee the development of water supply systems in provinces, cities, and municipalities outside of Metro Manila (Table 47).

continued on next page

[155] Senate of the Philippines. Quenching Policy Thirst: Reforming Water Governance in the Philippines. Policy Brief; World Bank. 2016. Private Sector Provision of Water and Sanitation Services in Rural Areas and Small Towns: The Role of the Public Sector-Country Report: Philippines.

Table 46 *continued*

Law or Regulation	Description
Water Code of the Philippines (Presidential Decree 1067, 1976)	Governs water resource allocation, priority, and use as well as water supply, distribution, and pricing. Only citizens of the Philippines, cooperatives, associations, or corporations organized under Philippine laws whose capital is at least 60%-owned by Filipinos, and GOCCs and other government entities and/or instrumentalities, may apply for a right to abstract water from its natural source, known as a water permit, from the National Water Resources Board (NWRB) (Table 47).
The Local Government Code of 1991, Republic Act No. 7160, as amended	Authorizes LGUs to deliver basic services to their constituents, including water supply and sanitation services, and to charge fees for such services. LGUs may enter into contracts with other legal entities, including joint ventures and other forms of cooperative arrangement with the private sector, to provide basic services and other developments that will benefit their communities (Table 47).
Philippine Clean Water Act of 2004 (Republic Act No. 9275)	Created a comprehensive program to reduce water pollution in all water bodies. It established governing boards to develop policies and strategies for carrying out the law's objectives. It likewise imposed an accountability system by requiring project proponents to establish an environmental guarantee fund (EGF) to be used to for the maintenance of the project areas or for any emergency cleanup or rehabilitation that may be needed as a result of project implementation. (Table 47)

GOCC = government-owned or controlled corporation, LGU = local government unit, LWUA = Local Water Utilities Administration, MWSS = Metropolitan Waterworks and Sewerage System, NWRB = National Water Resources Board.
Sources: Department of Health (DOH). 2017. *Administrative Order No. 10, s. 2017*; Government of the Philippines. 1963. *Republic Act No. 3601*; 1971. *Republic Act No. 6234, as Amended*; 1973. *Presidential Decree No. 198, as Amended*; 1976. *Presidential Decree No. 1067*; 1991. *Republic Act No. 7160, as Amended*.

The regulatory agencies in the water and wastewater sector and their functions are provided in Table 47. Some of these agencies are also contracting agencies in the sector.

Table 47: Water and Wastewater Sector Regulatory Agencies

Agency	Function
Department of Health (DOH)	Agency that enforces the Philippine National Standards for Drinking Water (PNSDW) 2017. These standards are aligned with the guidelines and criteria recommended by international institutions such as the World Health Organization and the United States Environmental Protection Agency. The PNSDW aim to protect public health, safety, and welfare by ensuring quality standards of drinking water. A water service provider is required to obtain a certificate of potability duly signed and issued by the responsible health officer certifying that water samples collected passed the requirements set by the PNSDW.
Department of Environment and Natural Resources (DENR)	Agency that enforces the water quality guidelines and general effluent standards for wastewater pursuant to the Philippine Clean Water Act of 2004. This law provided for the designation of certain areas as water quality management areas by the DENR, in coordination with NWRB, the implementation of a wastewater charge system in all management areas through the collection of wastewater charges/fees, and the requirement for a permit to discharge from the DENR as legal authorization to discharge wastewater. The DENR is also implementing the Integrated Water Resources Master Plan (IWMP) through the Waste Resources Management Office (WRMO) which aims to manage the water supply of the country to maximize its use and to ensure its continuous supply in the face of extreme events or changes in accessibility, availability, and affordability.

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Table 47 *continued*

Agency	Function
Metropolitan Waterworks and Sewerage System (MWSS)	A GOCC that owns and/or has jurisdiction, supervision, and control over all waterworks and sewerage systems over Metro Manila, the entire Rizal Province, and a portion of Cavite Province. The bulk water supply of Bulacan Province is also under the jurisdiction of MWSS. In 1997, it entered into concession agreements for the operation of its east and west service areas. Its Regulatory Office recommends adjustments to water and sewerage rates implemented by its concessionaires for the approval of the MWSS board of trustees. In 2015, MWSS entered into a concession agreement for the Bulacan Bulk Water Supply Project, a PPP project under the Amended BOT Law.
Local Water Utilities Administration (LWUA)	A GOCC created by the Provincial Water Utilities Act. LWUA is mandated to regulate water districts. It establishes standards for local water utilities, which include minimum drinking water standards; minimum criteria for the design and construction of new or additional facilities; standards for the optimum selection and effective utilization of equipment, materials, and supplies; standardized procedures for operating and maintaining equipment and facilities; the training of personnel who operate or manage local water utilities; and organizational and institutional criteria to assure independent operation and funding of water districts and a uniform accounting system, and rules and regulations for their enforcement. It reviews and approves rates and charges established by water districts. LWUA further regulates rural waterworks and sanitation associations, which are cooperative, non-profit, non-stock associations registered with LWUA, for the purpose of supplying water services in rural areas outside the jurisdiction of MWSS or any water district (unless with waiver).
Water districts	Established by LGUs pursuant to the Provincial Water Utilities Act, to operate and maintain water supply systems in one or more provinces, cities or municipalities. The water districts have the right to acquire, install, improve, maintain, and operate water supply and distribution systems for domestic, industrial, municipal, and agricultural uses for residents and lands within the boundaries of such districts. They also have the right to provide, maintain, and operate wastewater collection and treatment and disposal facilities, and to conduct other functions and operations incidental to water resource development, utilization, and disposal within such districts. To perform their functions, the water districts have the authority to enter into contracts and/or partnerships with any person or legal entities, including private sector entities. Water districts are considered GOCCs and thus PPP projects they implement are considered national projects.
National Water Resources Board (NWRB)	A government agency that regulates private water utilities pursuant to the Public Service Act, as well as the utilization and appropriation of water pursuant to the Water Code of the Philippines. As a water utility regulator, NWRB has the authority to issue certificates of public convenience/certificates of public convenience and necessity to private entities, including water service cooperatives organized pursuant to the Cooperative Code.[a] As a water resource regulator, it has the authority to issue water permits for the appropriation of water for any purpose.
National Irrigation Administration (NIA)	A GOCC created by Republic Act No. 3601, as amended. NIA has the power, among others, to investigate and study all available and possible water resources in the Philippines, primarily for irrigation purposes, to plan, design, construct, and/or improve all types of irrigation projects and appurtenant structures, and to operate, maintain, and administer all national irrigation systems. It also has the authority to supervise the operation, maintenance, and repair, or otherwise to administer temporarily, all communal and pump irrigation systems constructed, improved, and/or repaired wholly or partially with government funds, and to delegate the partial or full management of national irrigation systems to duly organized cooperatives or associations.

continued on next page

Table 47 *continued*

Agency	Function
Department of Public Works and Highways	Agency that is responsible for the flood control of all public works in the country, with the exception of those that are under the purview of other agencies. It plans, implements, and maintains the development of water resources and flood control in all public works through an integrated planning process.
Local government units (LGUs)	The LGUs are empowered under the LGC of 1991 to operate their own water and sanitation systems pursuant to their authority to deliver basic services to their constituents. This is further strengthened by Executive Order No. 138, Series of 2021, which enables the full devolution of certain functions of the executive branch to LGUs, which includes provision of water and sanitation. LGUs establish their own regulatory units to monitor and regulate the implementation of their PPP contracts for the sector.

BOT = build–operate–transfer, DENR = Department of Environment and Natural Resources, DOH = Department of Health, GOCC = government-owned or controlled corporation, LGC = Local Government Code, LGU = local government unit, LWUA = Local Water Utilities Administration, MWSS = Metropolitan Waterworks and Sewerage System, NIA = National Irrigation Administration, NWRB = National Water Resources Board, PNSDW = Philippine National Standards for Drinking Water, PPP = public–private partnership.

Note:

[a] Water service cooperatives are organized under the Cooperative Code to own, operate, and manage water systems for the provision and distribution of potable water for their members and their households.

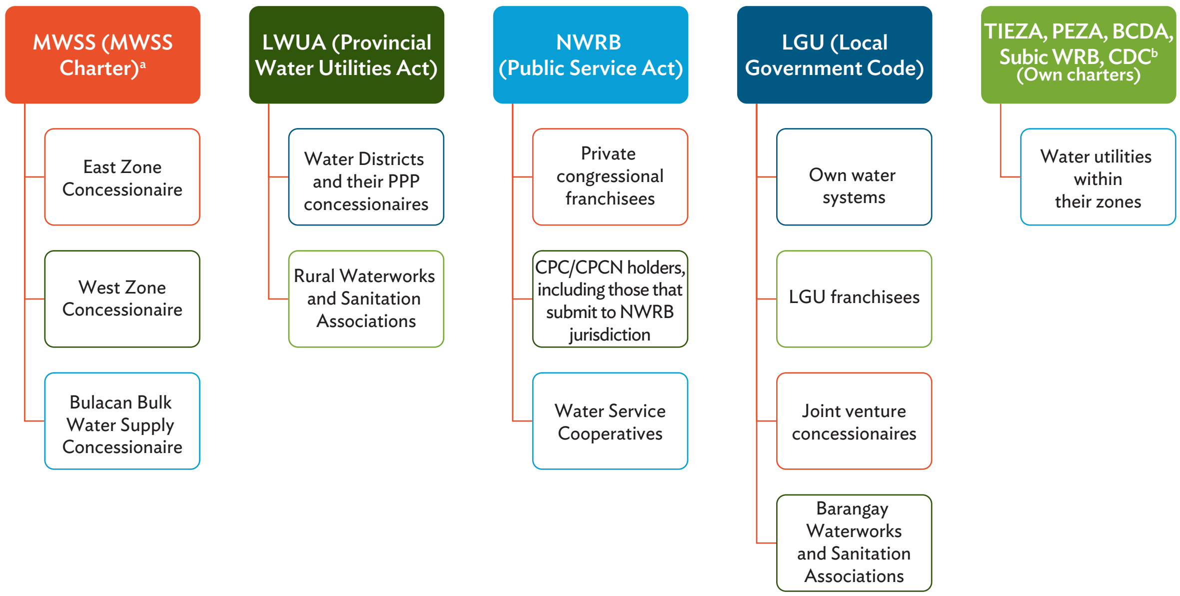
Sources: DENR. 2021. *Administrative Order No. 2021-19*; DOH. 2017. *Administrative Order No. 10, s. 2017*; Government of the Philippines. 1963. *Republic Act No. 3601*; 1971. *Republic Act No. 6234, as Amended*; 1973. *Presidential Decree No. 198, as Amended*; 1976. *Presidential Decree No. 1067*; 1991. *Republic Act No. 7160, as Amended*; 2004. *Republic Act No. 9275*.

The other government agencies regulating the water and sanitation sector are the Tourism Infrastructure and Enterprise Zone Authority (TIEZA), the Philippine Economic Zone Authority (PEZA), the Bases Conversion Development Authority (BCDA), the Subic Bay Metropolitan Authority (SBMA) through its Subic Water Regulatory Board (Subic WRB), the Clark Development Corporation (CDC), and special economic zone authorities (“zone authorities”). These agencies are authorized to construct and operate infrastructure facilities for utility services, such as water supply, and to regulate the private entities providing those services within their respective zones.[156]

[156] Government of the Philippines. 1992. *Bases Conversion and Development Act of 1992*; 1995. *The Special Economic Zone Act of 1995*; 2009. *The Tourism Act of 2009*.

Figure 47 depicts the legal and regulatory framework governing water supply and sanitation services in the Philippines.

Figure 47: Legal and Regulatory Framework for Water Supply and Sanitation Services



BCDA = Bases Conversion and Development Authority, CDC = Clark Development Corporation, CPC = Certificate of Public Convenience, CPCN = Certificate of Public Convenience and Necessity, LGU = local government unit, LWUA = Local Water Utilities Administration, MWSS = Metropolitan Waterworks and Sewerage System, NWRB = National Water Resources Board, PEZA = Philippine Economic Zone Authority, PPP = public–private partnership, Subic WRB = Subic Water Regulatory Board, TIEZA = Tourism Infrastructure and Enterprise Zone Authority.

Note:

[a] Includes special economic zone authorities.

Sources: Government of the Philippines. 1963. *Republic Act No. 3601*; 1971. *Republic Act No. 6234, as Amended*; 1973. *Presidential Decree No. 198, as Amended*; 1976. *Presidential Decree No. 1067*; 1991. *Republic Act No. 7160, as Amended.*

Various bills have been filed for the enactment of a law that would implement reforms in the water supply and sanitation sector but these have yet to be approved by both houses of the Philippine Congress.[157] The creation of the Department of Water Resources (DWR) and the Water Regulatory Commission (WRC) is a priority legislation of the current administration. The DWR is intended to address the weak and fragmented institutional setup in the sector by streamlining all water-related functions in the government, and to separate resource regulation from economic regulation. The WRC is intended to create a business and regulatory environment that is fair, transparent, and conducive to public and private domestic and foreign investment in the sector by implementing fair, just, and reasonable tariffs, rates, and charges for water supply and sanitation services.[158] These bills seek to implement the following reforms:

[157] Senate of the Philippines. National Water Resources Management Act (Senate Bill No. 2771), National Water Act (Senate Bill No. 2013), Department of Water Resources Management (Senate Bill No. 2412), Department of Water Resources Management Act of 2022 (Senate Bill No. 1395), Department of Water Resources (Senate Bill No. 1244), National Water Act (Senate Bill No. 1021), Water Resources Management Act (Senate Bill No. 268, Water Resources and Management Authority Act (Senate Bill No. 185), National Water Resources Act (House Bill No. 09663), among others.

[158] Government of the Philippines. 2023. *Philippine Development Plan 2023–2028.*

- The DWR will be the primary agency responsible for comprehensive and integrated identification and mapping of all water resources, planning, policy formulation, and management of the ownership, appropriation, utilization, development, and protection of water resources.
- NWRB and other agencies involved in water resources management will be subsumed under the DWR; attached agencies will be MWSS, LWUA, NIA, and Laguna Lake Development Authority.
- The WRC will be an independent, quasi-judicial regulatory body under the administrative supervision of the DWR, which will consist of a central regulatory unit and regional regulatory units.
- The WRC's authority will cover and apply to all service providers, whether private or public, providing or intending to provide water supply, sewerage, and/or septage treatment and disposal services. The economic regulatory units (including the tariff setting function) of MWSS, NWRB, LWUA, SBMA, PEZA and TIEZA will be transferred to the WRC.
- The WRC will have the exclusive jurisdiction to provide an actual methodology for setting rates and tariffs.
- There will be a framework for the registration and licensing of all water supply and sanitation service providers.

Parameter	2021	2022	2023
Can the private sector be given water abstraction rights?	✓	✓	✓
Are there regulations in place on raw water extraction?	✓	✓	✓
Are there regulations in place on the release of treated effluents?	✓	✓	✓

✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
Source: Tavidell Law.

Foreign investment restrictions in the water and wastewater sector

The maximum equity investment allowed for foreign investors in the extraction of raw water from its natural source, water pipeline distribution systems, and wastewater pipeline systems, including sewerage pipeline systems, is 40%.

Parameter	2021	2022	2023
Maximum allowed foreign ownership of equity			
Bulk water supply and treatment	40%[a]	40%[a]	40%[a]
Water distribution	40%	40%	40%
Wastewater treatment	100%	100%	100%
Wastewater collection	40%	40%	40%

Note:
[a] The nationality requirement applies only if it involves extraction of raw water from its natural source.
Source: Government of the Philippines. 2021. *Republic Act No. 11659*; Republic of the Philippines. 1987. *Constitution of the Republic of the Philippines*.

Standard contracts in the water and wastewater sector

There are no standard contracts for PPPs in the water and wastewater sector.

Type of contract	Availability
Public–private partnership/concession agreement	× [a]
Bulk water supply agreement	× [a]
Performance-based operation and maintenance contract	×
Engineering procurement and construction contract	×

✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
Note:
[a] However, model agreements for local government unit water supply system and PPP contracts are provided in a 2012 publication of the PPP Center. Executed PPP concession agreements in the water and wastewater sector may also provide guidance on required contractual provisions.
Source: PPP Center. 2012. *A PPP Manual for LGUs 3. Utilizing LGU PPP Project Templates and Bid Documents*; Tavidell Law.

3. Water and Wastewater Sector Master Plan

The Philippine Water Supply and Sanitation Master Plan (PWSSMP), launched by NEDA in 2021, serves as the national action plan to achieve universal access to safe, sufficient, affordable, and sustainable water supply, hygiene, and sanitation by 2030.[159] It defines the activities, responsible agencies, and budget necessary to support the sector in addressing the needs of the country. It highlights the fragmented nature of the sector, with the efforts of many government agencies uncoordinated. It notes that the lack of oversight makes water supply and sanitation programs prone to exploitation by political factions at the expense of long-term goals and communities' welfare. It emphasizes the need for a unifying apex body for the sector and that the enforcement of water sector reforms are urgent and imperative.

The other critical policy and planning document for the sector is the 2010 National Sewerage and Septage Management Program (NSSMP). The DPWH established the NSSMP in coordination with the DENR, LGUs, and other concerned agencies pursuant to the Philippine Clean Water Act of 2004 (Republic Act No. 9275), which provided for the mandatory connection of establishments and households to existing sewerage systems within 5 years from the law's effectivity. In areas not considered highly urbanized cities, a septage or combined sewerage-septage management system shall be employed. The Clean Water Act further mandates that the LGUs shall share the responsibility in the management and improvement of water quality within their territorial jurisdictions.

In 2023, President Ferdinand Marcos, Jr issued Executive Order No. 22, creating the Water Resources Management Office (WRMO) within the DENR. The WRMO, in coordination with all stakeholders, is primarily responsible for the integration and harmonization of all government efforts and regulatory activities to ensure availability and sustainable management of water resources in the whole country. It is mandated to ensure immediate implementation of the Integrated Water Resources Management—the United Nation's program for coordinated development and management of water and related resources among nations—in line with the United Nations Sustainable Development Goals, and to formulate a corresponding Integrated Water Resources Master Plan (IWMP). Executive Order No. 22 mandates the WRMO to integrate and harmonize all government plans, policies, investment programming, and regulatory activities to ensure the availability, efficient use, and

[159] NEDA. 2021. *Philippine Water Supply and Sanitation Master Plan.*

sustainable management of water resources. Through the WRMO, the IWMP was created. The IWMP aims to harmonize major water sector plans and strategies in achieving a common and concerted water security agenda. It not only serves as an action plan, composed of priority plans and programs, but also contains a strict timeline and identifies key responsible implementing agencies, such as the DENR, the DPWH, the Department of Interior and Local Government (DILG), NIA, and NEDA, in order to ensure coherence in their policies and plans. Further, the IWMP will guide the prioritization and complementation of the programs, projects, and activities of these implementing agencies, toward addressing water security challenges. The IWMP highlights the following priority strategies for water supply and sanitation:

- Implement a program for poor and waterless communities by conducting and analyzing a capacity needs assessment/profiling water service providers and developing a capacity development program, and implementing water convergence program of national government grants.
- Improve utility sustainability and performance by:
  - strengthening economic regulation of water service providers,
  - implementing a program to provide financing and support to start-up and struggling water districts and LGU-run water service providers to implement efficiency, performance, and service improvement projects (including service expansion and non-revenue water reduction),
  - implementing a program to provide financing and support to well-performing water districts and LGU-run water service providers to develop or optimize multi-purpose surface water source reservoirs and bulk water supply projects under a clustered arrangement (with priority given to water-stressed areas),
  - ramping up investments on sanitation, and
  - reviewing the implementation of the Clean Water Act and NSSMP, and accelerating the pace of monitoring of water bodies.[160]

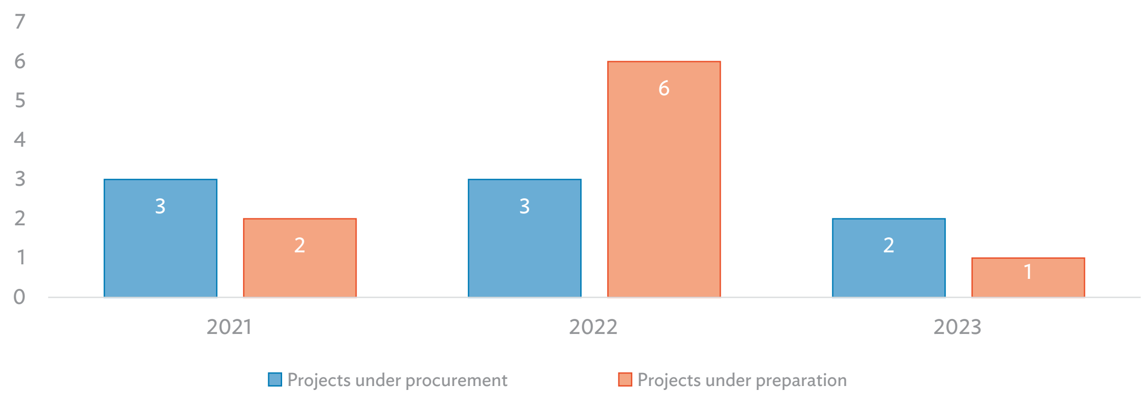
There is currently no PPP water and wastewater project listed as an IFP. All IFPs in the sector are being financed or to be financed through ODA.

[160] DENR. 2024. *Integrated Water Resources Master Plan.*

Projects under preparation and procurement in the water and wastewater sector

Figure 48 shows the number of PPP projects that were under preparation and procurement in the Philippines' water and wastewater sector for 2021, 2022, and 2023.

Figure 48: Public–Private Partnership Water and Wastewater Projects Under Preparation and Procurement



Source: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024).

Table 48 presents a list of pipeline national and local PPP water and wastewater projects as of October 2024, based on the PPP Center's project list.

Table 48: Pipeline Public–Private Partnership Water and Wastewater Projects, as of October 2024

No.	Project	Implementing Agency	Procurement Mode	Estimated Project Cost		Status
				($ million)	(₱ billion)	
1.	Unsolicited BOT Proposal for Long-Term Water Source Development for Metro Manila Project	Metropolitan Waterworks and Sewerage System	Unsolicited	264.45	15.42	Negotiation phase
2.	La Union Bulk Water Facility Project	Provincial Government of La Union	Solicited	-	TBD	Preparation phase (under conceptualization)
3.	Pampanga Bulk Water Supply Project	Provincial Government of Pampanga	Unsolicited	137.37	8.01	Negotiation phase
4.	Bislig City Bulk Water Supply	Bislig City Water District	Solicited	12.18	0.71	Procurement phase
5.	Bislig City Septage Project	Bislig City Water District	Solicited	1.37	0.08	Procurement phase

continued on next page

Table 48 *continued*

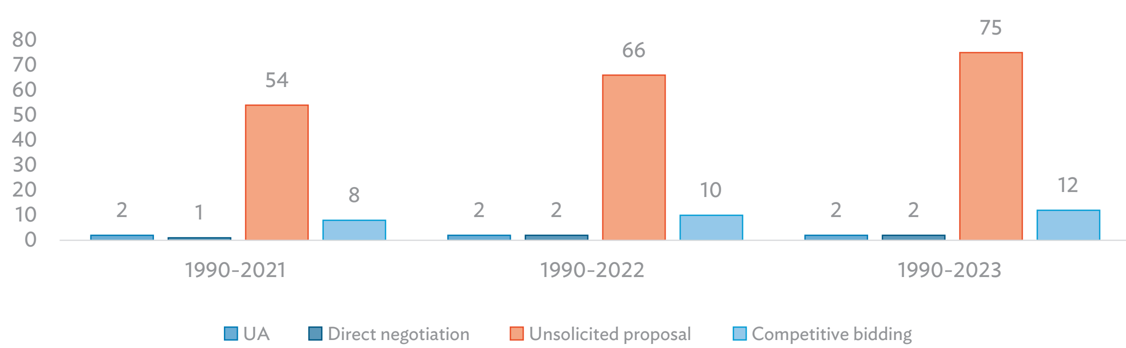
No.	Project	Implementing Agency	Procurement Mode	Estimated Project Cost ($ million)	Estimated Project Cost (₱ billion)	Status
6.	Negros Occidental Bulk Water Supply Project	Provincial Government of Negros Occidental	Solicited	20.58	1.20	Procurement phase
7.	Bulk Water Supply System	Provincial Government of Bataan	Unsolicited	27.44	1.6	Negotiation phase
8.	Cavite Bulk Water Supply Project	Provincial Government of Cavite	Solicited	-	TBD	Preparation phase (under development)
9.	Iloilo Bulk Water Supply Project	Provincial Government of Iloilo	Unsolicited	144.92	8.45	Preparation phase (under evaluation by implementing agency)

BOT = build–operate–transfer, TBD = to be determined.
Source: PPP Center. 2024. List of PPP Projects in the Pipeline (accessed 27 October 2024).

4. Features of Past Public–Private Partnership Projects in the Water and Wastewater Sector

Figure 49 presents the number of PPP projects procured through various modes including direct appointment, unsolicited bids, and competitive bids in the Philippines' water and wastewater sector.

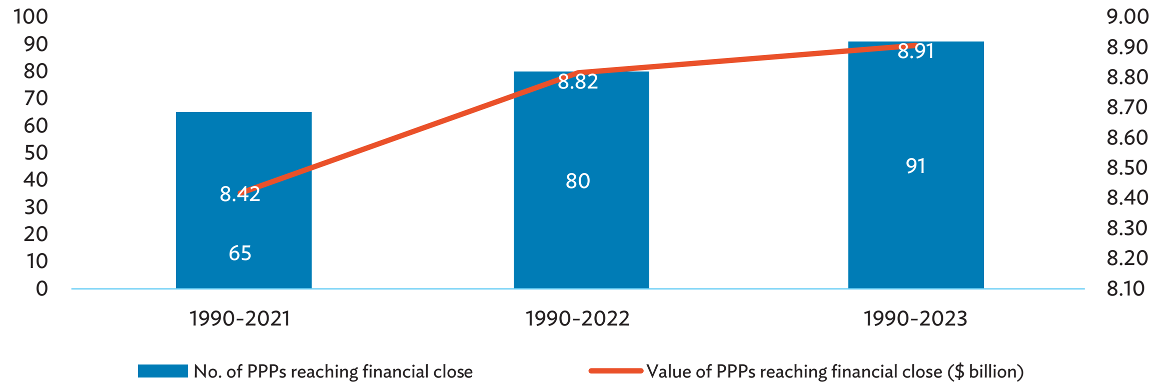
Figure 49: Modes of Procurement for Public–Private Partnership Water and Wastewater Projects



UA = information unavailable.
Note: Only active and concluded projects are considered.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Figure 50 shows the number of PPP projects that have reached financial closure and the total value of those projects in the Philippines' water and wastewater sector.

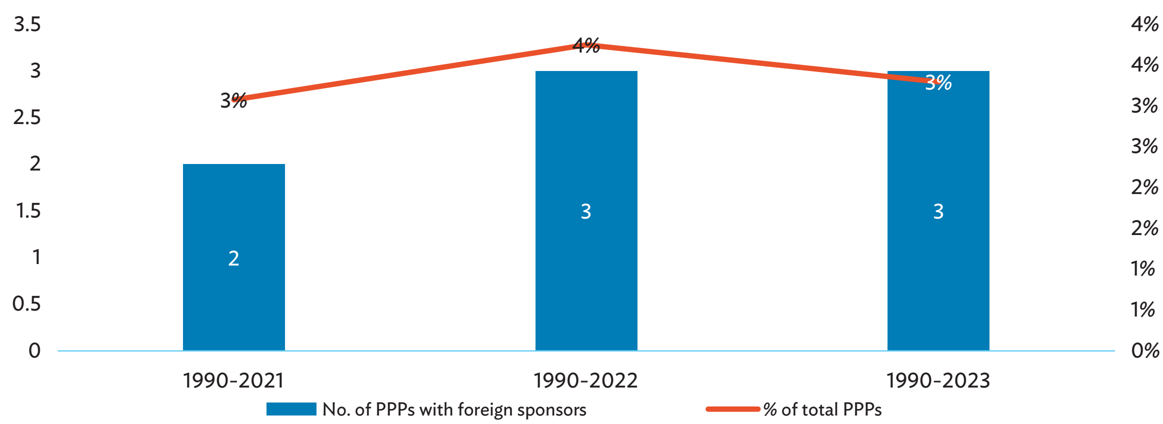
Figure 50: Public–Private Partnership Water and Wastewater Projects Reaching Financial Closure



PPP = public–private partnership.
Note: Only active and concluded projects are considered. PPP projects "under implementation" in the PPP Center database are assumed to have reached financial closure. Value of PPP unavailable for 18 projects.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Figure 51 presents the number of PPP projects that have received foreign sponsor participation in the Philippines' water and wastewater sector.

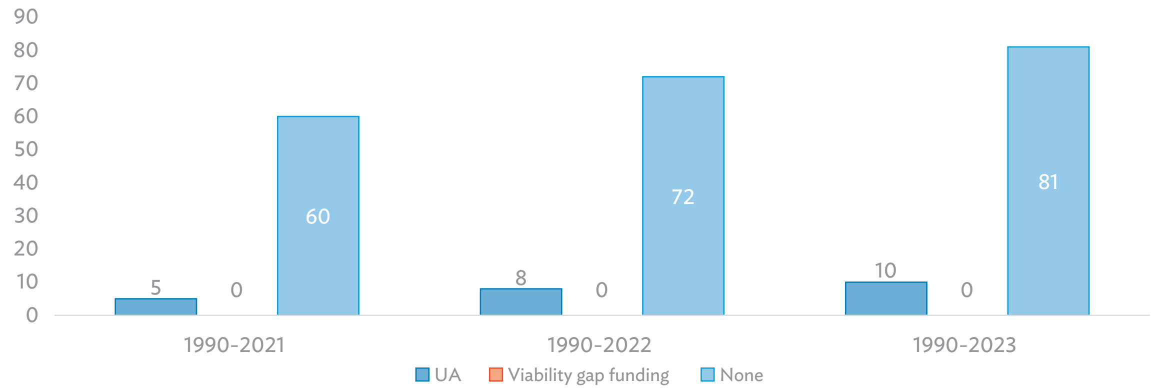
Figure 51: Public–Private Partnership Water and Wastewater Projects with Foreign Sponsor Participation



PPP = public–private partnership.
Note: Only active and concluded projects are considered.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Figure 52 shows the number of PPP projects that have received government support, including VGF, government guarantees, and availability/performance payment, in the Philippines' water and wastewater sector.

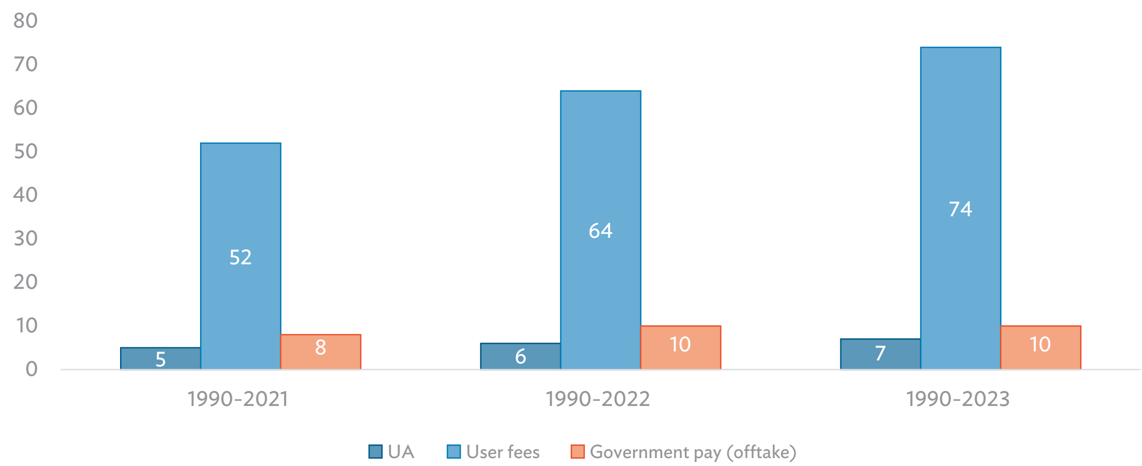
Figure 52: Government Support to Public–Private Partnership Water and Wastewater Projects



UA = information unavailable.
Note: Only active and concluded projects are considered.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Figure 53 presents the number of PPP projects that have received payment in the form of user charges and government pay (offtake) in the Philippines' water and wastewater sector.

Figure 53: Payment Mechanism for Public–Private Partnership Water and Wastewater Projects



UA = information unavailable.
Note: Only active and concluded projects are considered.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Tariffs in the water and wastewater sector

The water system tariff structure varies widely across the country. It is similar in water districts and Metro Manila, with an average tariff for the first 10 cubic meters and increasing tariffs for additional consumption (Table 49 and Table 50). Tariffs of MWSS Implemented by its east and west zone concessionaires are adjusted annually for inflation-related changes and are subject to rate rebasing every 5 years. For LGU-operated systems, tariff levels and structures vary widely because most connections are not metered, and LGUs offer different levels of service. In 2018, NWRB adopted the NWRB Economic Regulatory Framework setting out a revised tariff methodology for water utilities to improve cost recovery and regulation.[161]

The tariff levels must be approved by the relevant regulatory authorities based on a range of factors. MWSS is responsible for regulating tariffs of its concessionaires for the east and west zones of its franchise area, LWUA in water districts, and NWRB for private operators and other service providers. The zone authorities regulate tariffs of water service providers operating within their respective zones.

Table 49: Average Water Tariff in Water Districts in the Philippines, 2023

Water Consumption (volume in m³)	$/m³	₱/m³
0–10	3.541475	206.50
11–20	0.394793	23.02
21–30	0.4357815	25.41
31–40	0.488089	28.46
41–50	0.542626	31.64
51 and above	0.555317	32.38

Note: The above rates are as of 31 December 2023.
Source: LWUA. Philippine Water Districts Average Yearly Water Rates.

Table 50: Current Domestic Water Tariff in Metro Manila, 2024

Water Consumption (volume in m³)	Manila Water		Maynilad	
	$/m³	₱/m³	$/m³	₱/m³
Consuming less than 10 m³				
Low-income lifeline customer	$1.15 per connection	₱67.83 per connection	$1.92 per connection	₱112.79 per connection
Regular lifeline customer			$2.22 per connection	₱130.54 per connection
Consuming more than 10 m³				
First 10	$2.99 per connection	₱175.41 per connection	$3.79 per connection	₱222.48 per connection
Next 10	0.36	21.37	0.46	27.14
Next 20	0.69	40.53	0.88	51.62
Next 20	0.91	53.42	1.15	67.80
Next 20	1.06	62.39	1.35	79.22
Next 20	1.11	65.40	1.41	82.85

continued on next page

[161] National Water Resources Board (NWRB). 2018. *Resolution No. 25-0818.*

Table 50 *continued*

Water Consumption (volume in m³)	Manila Water		Maynilad	
	$/m³	₱/m³	$/m³	₱/m³
Next 50	1.16	68.32	1.47	86.64
Next 50	1.21	71.26	1.54	90.51
Over 200	1.26	74.18	1.61	94.33

₱1 = $0.01702.
Note: The above rates are the basic water charge for residential customers and took effect on 1 January 2024. Other charges include an environmental charge of 20% of the basic water charge and applicable tax.
Sources: Manila Water Company, Inc. Notice to Manila Water Customers and the Public: New Water Rates for the East Zone Effective January 1, 2024; MWSS Regulatory Office. Notice to Maynilad Customers and the Public New Water Rates for the West Zone.

Typical risk allocation for PPP water and wastewater projects

Typical risk allocation arrangements in PPP water concession contracts

Risk Type	Private	Public	Shared	Remarks
Demand risk	✓			
Revenue collection risk	✓			
Tariff risk			✓	
Environmental and social risk			✓	
Land acquisition risk	✓	✓		Public, if solicited Private, if unsolicited
Interface			✓	
Handover			✓	
Political risk			✓	

Source: PPP Center. 2016. *Generic Preferred Risks Allocation Matrix*; Tavidell Law.

Typical risk allocation arrangements in PPP bulk water supply contracts

Risk Type	Private	Public	Shared	Remarks
Demand risk		✓		
Revenue collection risk		✓		
Tariff risk			✓	BOT project agreements have generally been drafted with provision for index-linked tariff
Environmental and social risk			✓	
Land acquisition risk	✓	✓		Public, if solicited Private, if unsolicited
Interface			✓	
Handover			✓	
Political risk			✓	

BOT = build–operate–transfer.
Source: ADB. 2020. *Public–Private Partnership Monitor: Philippines*; PPP Center. 2016. *Generic Preferred Risks Allocation Matrix*; Tavidell Law.

Financing details of PPPs in the water and wastewater sector

Parameter	1990–2021	1990–2022	1990–2023
PPP projects with foreign lending participation	1	1	1
PPP projects that received export credit agency/international financing institution support	1	1	1
Typical debt: equity ratio	70:30		
Time for financial closure	180 days from commercial close		
Typical concession period	25–40 years, subject to renewal/extension of up to 50 years		
Typical financial internal rate of return	UA		

PPP = public–private partnership.
✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); Bulacan Bulk Water Supply Project; MWSS Privatization Project (West); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

5. Challenges in the Water and Wastewater Sector

- The cap of 40% on foreign investment and ownership in water sourcing and distribution hinders competition and has been a challenge to the development of PPPs in this sector. The nationality requirement not only limits foreign ownership and representation in the governing board of the water utility but also restricts foreigners from occupying executive and managing positions in the company. Meeting qualification and prequalification requirements to comply with nationality requirements, especially for listed companies, is also a challenge during procurement, thereby limiting competition.
- Site acquisition is a key challenge to water projects, especially to water source projects, which are usually located in protected areas or ancestral domain sites.
- The LGUs are constrained with limited technical resources and budgets for project preparation. Further, in local water projects, tariff levels are too low for cost recovery.
- There is no strong apex body with sole responsibility for the country's water needs and resources.
- The sector remains extremely institutionally fragmented and there is no sole independent regulator that is free from political pressure or interference. In water districts that have entered into joint ventures with private parties for the development, rehabilitation, and operation of their distribution systems, there has been an issue as to whether it should be LWUA or NWRB that must regulate the private concessionaires.
- There is no uniform set of regulatory requirements, including for tariff setting and adjustment, making water rates vulnerable to challenges and disputes. Further, there have been disputes between the regulator and concessionaires on interpretation of tariff adjustment provisions in the concession agreements, which have led to arbitration.
- With water and sanitation services being capital-intensive, the uncertainty in the regulatory framework undermines access to financing, which, in turn, undermines investor interest/confidence.

Information and Communication Technology

Parameter	Value	Unit
Telephone subscribers	UA	per 100 inhabitants
Cellular phone subscribers	144	per 100 inhabitants
Cellular network coverage	84	% of population covered
Internet subscribers (fixed broadband)	7.57	per 100 inhabitants
Internet bandwidth per internet user	27.69	kbps
Total number of projects with cumulative lending, grant, and technical assistance commitments in ICT sector	UA	no.
Total amount of cumulative lending, grant, and technical assistance commitments in ICT sector	UA	$ million

₱1 = $ 0.01715
ICT = information and communication technology, kbps = kilobits per second, UA = unavailable.
✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
Sources: theGlobalEconomy.com. 2016. Mobile Network Coverage – Country Rankings; 2016. Philippines: Internet Bandwidth; World Bank. 2022. Mobile Cellular Subscriptions (per 100 people); Fixed Broadband Subscriptions (per 100 people).

1. Implementing Agencies in the Information and Communication Technology Sector

The information and communication technology (ICT) sector refers to those engaged in providing goods and services primarily intended to fulfill or enable the function of information processing and communication by electronic means, and includes telecommunications and broadcast information operators, ICT equipment manufacturers, multimedia content developers and providers, ICT solution providers, internet service providers, ICT training institutions, software developers, and those involved in ICT-enabled services. The ICT-enabled services sector refers to those engaged in providing services that require the intrinsic use of ICTs, including engineering or architectural design, informatics services, offshoring and outsourcing services such as through call centers, back-office processing, software development, medical or legal transcription, animation, game development, and other services that require the intrinsic use of a networked information infrastructure.[162]

The contracting agencies in the ICT sector may thus be any government agency, including GOCCs and LGUs, that requires ICT services to support its functions and operations.

[162] Government of the Philippines. 2015. *Republic Act No. 10844.*

2. Information and Communication Technology Sector Laws and Regulations

There are several regulations that have an impact on PPP projects in the ICT sector (Table 51).

Table 51: Key Laws and Regulations in the Information and Communication Technology Sector

Agency	Function
Public Telecommunications Policy Act of the Philippines, 1995 (Republic Act No. 7925)	Mandates that public telecommunications services shall be provided by private enterprises, with the private sector to serve as the engine of rapid and efficient growth in the telecommunications industry.
Electronic Commerce Act of 2000 (Republic Act No. 8792)	Enacted to give legal recognition to electronic data messages, electronic documents, and electronic signatures. The Act required all departments, bureaus, offices, and agencies of the government, including GOCCs, within 2 years of its effectivity, to (i) accept the creation, filing, or retention of documents in the form of electronic data messages or electronic documents; (ii) issue permits, licenses, or approval in the form of electronic data messages or electronic documents; (iii) require and/or accept payments, and issue receipts acknowledging such payments, through systems using electronic data messages or electronic documents; or (iv) transact the government business and/or perform governmental functions using electronic data messages or electronic documents.
Data Privacy Act of 2012 (Republic Act No. 10173)	Regulates the processing of personal information. Processing refers to any operation—collecting, using, storing, or disposing—performed on personal data. It strictly requires any personal information processor and personal information controller (controls the processing, collection, holding, or use of personal data or instructs another to process personal data on its behalf) to adhere to the general principles of data privacy, such as transparency, legitimate purpose, and proportionality, implementing reasonable and appropriate organizational, physical, and technical security measures for the protection of personal data, and upholding the rights of data subjects to ensure the availability, integrity, and confidentiality of personal data being processed. The appointment of a data protection officer is a legal requirement for personal information processors and personal information controllers.
Philippine Identification System Act, 2017 (Republic Act No. 11055)	Established the Philippine Identification System (PhilSys) as the government's central identification platform for all Filipino citizens and resident aliens of the Philippines. It authorized the Philippine Statistics Authority to be the primary implementing agency for the PhilSys, and the repository and custodian of all the data in the registry. The PhilSys will provide a valid proof of identity to simplify public and private transactions, as it aims to eliminate the need to present other forms of identification when transacting with the government and the private sector, subject to appropriate authentication measures based on a biometric identification system. It will likewise be a social and economic platform through which all transactions including public and private services can be availed of. A non-transferrable card, the Philippine Identification (PhilID), will be the physical medium to convey essential information about the person's identity, which include the PhilSys Number (PSN). The PhilID serves as the official government-issued identification document of cardholders in dealing with all NGAs, LGUs, GOCCs, and government financial institutions, and all private sector entities.
National Payment System Act, 2018 (Republic Act No. 11127)	Enacted to promote the safe, efficient, and reliable operation of payment systems in order to control systematic risk and provide an environment conducive to the sustainable economic growth.
Radio Control Law of the Philippines , 1931 (Act No. 3846)	Enacted to regulate the construction, operation, establishment and operation of radio stations. Specifically, it required a franchise from Congress in order for entities to construct, install, establish, or operate a radio station in the Philippines except broadcasting stations, amateur stations, experimental stations, and private stations in remote areas without other means of communication available.

continued on next page

Table 51 *continued*

Agency	Function
Philippine Competition Act, 2015	Created to ensure that there is free and fair competition in the market for the equal distribution of wealth and opportunities. It established the Philippine Competition Commission which is tasked with monitoring the market, prohibiting mergers and acquisitions which are deemed anti-competitive and to remedy any anti-competitive behavior which can be in the form of anti-competitive agreements, anti-competitive mergers and acquisitions or abuse of dominant position in the market.
Executive Order No. 127, s. 2021	Liberalized the satellite policy of the Philippines by allowing access to satellites to both telecommunications entities with franchises authorized by the NTC and those without provided that they will follow the NTC rules and regulations.
Department Circular No. 008 (Common Tower Policy), s. 2020	Provided guidelines for the use of Shared Passive Telecommunications Tower Infrastructure (PTTIs) to increase internet access to underserved and unserved areas in the Philippines.
Cybercrime Prevention Act of 2012 (Republic Act No. 10175)	Enacted to penalize violations that contemplate the exploitation of information and communication technology, as well as to grant powers and authorities necessary in the domestic and international detection, investigation, and prosecution of such offenses.
Internet Transactions Act of 2023 (Republic Act No. 11967)	Aimed at regulating electronic commerce in the Philippines. It also puts a premium on the protection of consumer rights, data privacy, and competition in online marketplaces and transactions, all while ensuring environmental sustainability. This law has extraterritorial application, such that any person or entity who engages in e-commerce in the Philippine market can be held legally liable regardless of their absence in the Philippines.

GOCC = government-owned or controlled corporation, LGU = local government unit, NGA = national government agency, PhilID = Philippine Identification, PhilSys = Philippine Identification System, PSA = Philippine Statistics Authority.
Sources: Government of the Philippines. 1995. *Public Telecommunications Policy Act of the Philippines (Republic Act No. 7925)*; 2000. *Republic Act No. 8792*; 2012. *Republic Act No. 10173 (Data Privacy Act of 2012)*; 2018. *National Payment Systems Act (Republic Act No. 11127)*.

The regulatory agencies in the Philippines' ICT sector and their functions are provided in Table 52.

Table 52: Information and Communication Technology Sector Regulatory Agencies

Agency	Function
Department of Information and Communications Technology (DICT)	• The primary policy, planning, coordinating, implementing, and administrative entity of the government, which plans, develops, and promotes the national ICT development agenda • Formulates policies and initiatives to develop and promote ICT in education consistent with national goals and objectives and responsive to the human resources needs of the ICT and ICT-enabled services sectors • Provides an integrated framework to optimize all government ICT resources and networks for the identification and prioritization of all e-government systems and applications • Establishes guidelines for PPPs in the implementation of ICT projects for government agencies
National Telecommunications Commission (NTC)	• Regulates the installation, operation, and maintenance of radio stations for both private and public use • Regulates and supervises the provision of public telecommunications services • Establishes rates and tariffs that are fair and reasonable and that provide for the economic viability of telecommunications entities and a fair return on their investments considering the prevailing cost of capital in the domestic and international markets • Grants permits for the use of radio frequencies for wireless telephone and telegraph systems and radio communication systems, including amateur radio stations and radio and television broadcasting systems • Regulates and supervises radio and television broadcast stations, cable television, and pay television

continued on next page

Table 52 *continued*

Agency	Function
Philippine Statistics Authority (PSA)	• The implementing agency of the Philippine Statistical Act of 2013, which reorganized and strengthened the Philippine statistical system • Plans, develops, prescribes, disseminates, and enforces policies, rules, and regulations and coordinates government-wide programs governing the production of official statistics, general-purpose statistics, and civil registration services • Primarily responsible for all national censuses and surveys, sectoral statistics, consolidation of selected administrative recording systems, and compilation of the national account • Serves as the central statistical authority of the Philippine government on primary data collection (data produced by the PSA are regarded as the official and controlling statistics of the government) • The primary implementing agency of the Philippine Identification System Act (Republic Act No. 11055), which established the Philippine Identification System (PhilSys), and responsible for the overall planning, management, and administration of the PhilSys
National Privacy Commission	• Administers and implements the provisions of the Data Privacy Act of 2012 (Republic Act No. 10173) to monitor and ensure the country's compliance with international standards for data protection.
Bangko Sentral ng Pilipinas (Central Bank of the Philippines) (BSP)	• The independent central monetary authority of the Philippines • Oversees payment systems in the Philippines and exercises supervisory and regulatory powers to ensure the stability and effectiveness of the monetary and financial system[163] • Registers, and issues prior authority to, operators of designated payment systems in the Philippines
National Bureau of Investigation and Philippine National Police	• Empowered to jointly enforce the Cybercrime Prevention Act of 2012 • Authorized to gather real-time traffic data with respect to communications that pass through computer systems
Department of Trade and Industry	• Authorized by the Internet Transactions Act of 2023 to be a regulatory body ancillary to other agencies vested by law with regulatory functions • Regulates internet use in relation to e-commerce • Empowered, through its Secretary, to place and remove from the blacklist online businesses that violate the Internet Transactions Act of 2023
Philippine Competition Commission	• Conducts inquiry, investigates and decides cases that involve any violation of the Philippine Competition Act • Monitors market behavior • Reviews mergers and acquisitions to determine if they are anti-competitive • Provides remedies for anti- competitive acts

BSP = Bangko Sentral ng Pilipinas (Central Bank of the Philippines), DICT = Department of Information and Communications Technology, ICT = information and communication technology, NTC = National Telecommunications Commission, PhilSys = Philippine Identification System, PPP = public–private partnership, PSA = Philippines Statistics Authority.
Sources: Government of the Philippines. 1963. *Radio Control Law, as Amended (Act No. 3846)*; 1979. *Executive Order No. 546*; 1993. *New Central Bank Act (Republic Act No. 7653)*; 1995. *Public Telecommunications Policy Act of the Philippines (Republic Act No. 7925)*; 2012. *Philippine Statistical Act of 2013 (Republic Act No. 10625)*; 2012. *Republic Act No. 10173 (Data Privacy Act of 2012)*; 2016. *Department of Information and Communications Technology Act of 2015 (Republic Act No. 10844)*; 2018. *National Payment Systems Act (Republic Act No. 11127)*; NTC. Mandate.

163 A payment system is a set of payment instruments, processes, procedures, and participants that ensures the circulation of money or movement of funds.

Foreign investment restrictions in the information and communication technology sector

Parameter	2021	2022	2023
Maximum allowed foreign ownership of equity			
Fixed line infrastructure	40%	50%/100%[a]	
Fixed line services	40%	50%/100%[a]	
Wireless/mobile infrastructure	40%	50%/100%[a]	
Wireless/mobile services	40%	50%/100%[a]	

Note:
[a] The operation and management of telecommunications is considered critical infrastructure. A foreign national can own up to 100% of the capital of entities engaged in such business only if the country of such foreign national accords reciprocity to Philippine nationals. Otherwise, its foreign equity is restricted to 50%. However, despite the amendment of the Public Service Act removing telecommunications from the definition of public utility, a congressional franchise is still required for a telecommunications entity to operate in the Philippines.
Source: Government of the Philippines. 2021. *Republic Act No. 11659*; 2022. *Executive Order No. 175*.

Standard contracts in the information and communication technology sector

There are no sector-specific templates for PPPs available for the ICT sector.

Type of contract	Availability
What standardized contracts are available and used in the market?	
• Public–private partnership/concession agreement	×[a]
• Performance-based operation and maintenance contract	×
• Engineering, procurement, and construction contract	×
• License agreement	×

✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
Note:
[a] However, a model PPP contract for local government units is provided in a 2012 publication of the PPP Center. Executed PPP concession agreements in the ICT sector may also provide guidance on required contractual provisions.
Source: PPP Center. 2012. *A PPP Manual for LGUs 3. Utilizing LGU PPP Project Templates and Bid Documents*; Tavidell Law.

3. Information and Communication Technology Sector Master Plan

In 2019, the Department of Information and Communications Technology (DICT) launched the E-Government Masterplan 2022. The plan lays out the building blocks and strategies directed toward the vision of developing the country's e-government systems through the digital transformation of basic services that cut across the whole of government.[164]

The plan includes the National Broadband Program, which aims to address the long-established problem of poor and costly internet connection in the country. The National Broadband Program includes the following components: (i) the development of new international new cable landing stations that will provide bandwidth for use in the government's connectivity-related initiatives; (ii) the laying down of a national backbone or main fiber line that runs across the entire country, which shall connect to the landing stations; (iii) the erection of an optimal number of tower facilities; (iv) the building of access networks or fiber optic cables as last-mile connectivity

[164] Department of Information and Communications Technology (DICT). 2019. *E-Government Masterplan 2022*.

to reach end-users; and (v) the implementation of satellite overlays to reach islands, mountainous areas, and isolated coastal areas.

In 2023, the DICT launched the National ICT Development Agenda (NICTDA) 2023–2028 which serves as a blueprint in creating a vibrant ICT ecosystem through leveraging the power of ICT in advancing nation-building, good governance, and global competitiveness. Pursuant to the NICTDA 2023–2028, the DICT developed the Digital Government Masterplan (DGMP) 2023–2028 which succeeds the EGMP 2022. The DGMP 2023–2028 seeks to harmonize and coordinate all ICT initiatives to optimize available government ICT resources, encourage information and resource-sharing and database-building, and ensure the development and protection of an integrated government ICT infrastructure.[165]

Table 53 shows the priority projects identified in the ICT sector for the PPP mode of implementation based on NEDA's list of IFPs as of August 2024.

Table 53: Public–Private Partnership Priority Information and Communication Technology Projects, as of August 2024

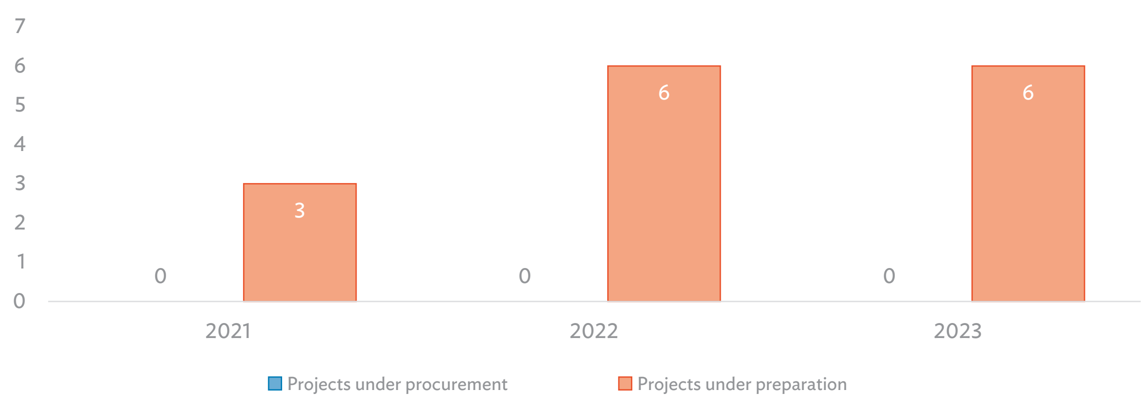
No.	Project	Implementing Agency	Estimated Project Cost	
			($ million)	(₱ billion)
8.	Air Traffic Services – Air Navigation Services (ATS-ANS) Project	DOTr	463.05	27.00
9.	Philippine Automatic Fare Collection System	DOTr	85.75	5.00

DOTr = Department of Transportation
Source: NEDA. 2024. Infrastructure Flagship Projects (accessed 27 October 2024).

Projects under preparation and procurement in the information and communication technology sector

Figure 54 shows the number of PPP projects that were under preparation and procurement in the Philippines' ICT sector for 2021, 2022, and 2023.

Figure 54: Public–Private Partnership Information and Communication Technology Projects Under Preparation and Procurement



Note: The ICT sector includes the air traffic services-air navigation services project.
Source: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024).

165 DICT. 2023. Digital Governance Initiatives.

Table 54 presents a list of pipeline national PPP ICT projects as of October 2024, based on the PPP Center's project list.

Table 54: Pipeline Public–Private Partnership Information and Communication Technology Projects, as of October 2024

No.	Project	Implementing Agency	Procurement Mode	Estimated Project Cost		Status
				($ million)	(₱ billion)	
1.	Air Traffic Services (ATS)-Air Navigation Services (ANS) Project	DOTr	Solicited	463.05	27.00	Preparation phase (under development)
2.	Philippine Automatic Fare Collection System	DOTr	Solicited	85.75	5.00	Preparation phase (under development)
3.	LRA Unified Cloud-Based Information System Project	LRA	Solicited	-	TBD	Preparation phase (under conceptualization)
4.	PRA Digital Transformation Project	PRA	Unsolicited	5.49	0.32	Preparation phase (under evaluation by IA)
5.	2023 National Single Window Through an Integrated Trade Facilitation Platform	DICT	Unsolicited	7.55	0.44	Negotiation phase
6.	Comprehensive Digital Housing Platform Project	DHSUD	Unsolicited	0.34	0.02	Negotiation phase
7.	Civil Aviation and Immigration Security Services	Bureau of Immigration	Unsolicited	289.66	16.89	Negotiation phase
8.	Special Products Automated Revenue Collection System Project	Bureau of Internal Revenue	Unsolicited	91.92	5.36	Negotiation phase
9.	Bacolod Super City Project	City Government of Bacolod	Unsolicited	36.02	2.10	Procurement phase (under comparative challenge)
10.	Digitalized Traffic Enforcement for Bacoor City	City Government of Bacoor	Solicited	0.51	0.03	Negotiation phase
11.	Sta. Rosa City Digitalized Traffic Enforcement	City Government of Sta. Rosa	Solicited	0.34	0.02	Preparation phase (under evaluation by IA)
12.	Municipality of Cainta Digitalized Traffic Enforcement	Municipal Government of Cainta	Solicited	0.34	0.02	Preparation phase (under evaluation by IA)
13.	Caloocan City Digitalized Traffic Enforcement	City Government of CaloocanCaloocan	Solicited	0.51	0.03	Preparation phase (under evaluation by IA)
14.	Cauayan City Digitalized Traffic Enforcement	City Government of Cauayan	Solicited	0.34	0.02	Preparation phase (under evaluation by IA)

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Table 54 *continued*

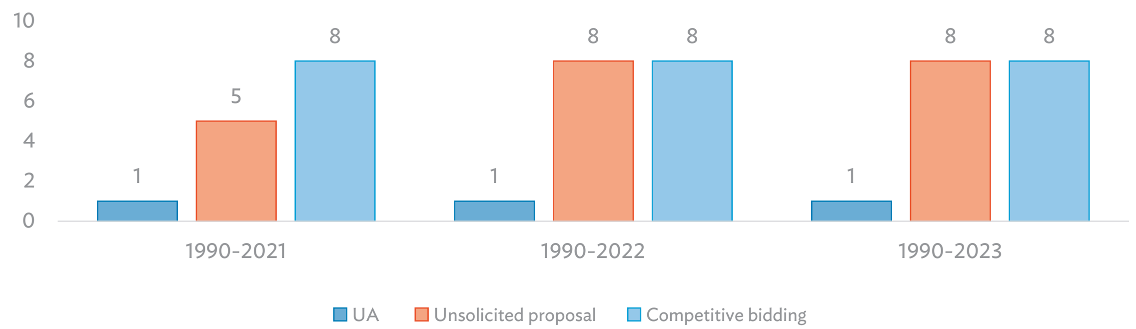
No.	Project	Implementing Agency	Procurement Mode	Estimated Project Cost ($ million)	Estimated Project Cost (₱ billion)	Status
15.	Binan City Digitalized Traffic Enforcement	City Government of Binan	Solicited	0.34	0.02	Negotiation phase
16.	Lipa City Digitalized Traffic Enforcement	City Government of Lipa	Solicited	0.34	0.02	Preparation phase (under evaluation by IA)
17.	Catbalogan City Digitalized Traffic Enforcement	City Government of Catbalogan	Solicited	0.34	0.02	Preparation phase (under evaluation by IA)
18.	Municipality of Pagsanjan Digitalized Traffic Enforcement	Municipal Government of Pagsanjan	Solicited	0.17	0.01	Preparation phase (under evaluation by IA)
19.	Food and Drug License and Clearance System	Food and Drug Administration	Unsolicited	2.74	0.16	Preparation phase (under evaluation by IA)
20.	Electronic Invoicing and Tax Engine Systems Project	Department of Finance	Unsolicited	164.64	9.6	Preparation phase (endorsed to IA after completeness check)
21.	Digitized Traffic System	Provincial Government of Bataan	Unsolicited	0.17	0.01	Negotiation phase
22.	Dasmariñas City Digitalized Traffic Enforcement System	City Government of Dasmariñas	Unsolicited	0.34	0.02	Preparation phase (endorsed to IA after completeness check)
23.	Gen. Mariano Alvarez Cavite Digitalized Traffic Enforcement	Municipal Government of Gen. Mariano Alvarez, Cavite	Unsolicited	0.17	0.01	Preparation phase (endorsed to IA after completeness check)

BCDA = Bases Conversion and Development Authority, DHSUD = Department of Human Settlements and Urban Development, DICT = Department of Information and Communications Technology, DOTr = Department of Transportation, IA = implementing agency, ICT = information and communication technology, LGU = local government unit, LRA = Land Registration Authority, LTFRB = Land Transportation Franchising and Regulatory Board, O&M = operation and maintenance, PRA = Philippine Retirement Authority, TBD = to be determined.
Source: PPP Center. 2024. List of PPP Projects in the Pipeline (accessed 27 October 2024).

4. Features of Past Public–Private Partnership Projects in the Information and Communication Technology Sector

Figure 55 presents the number of PPP projects procured through various modes including direct appointment, unsolicited bids, and competitive bids in the Philippines' ICT sector.

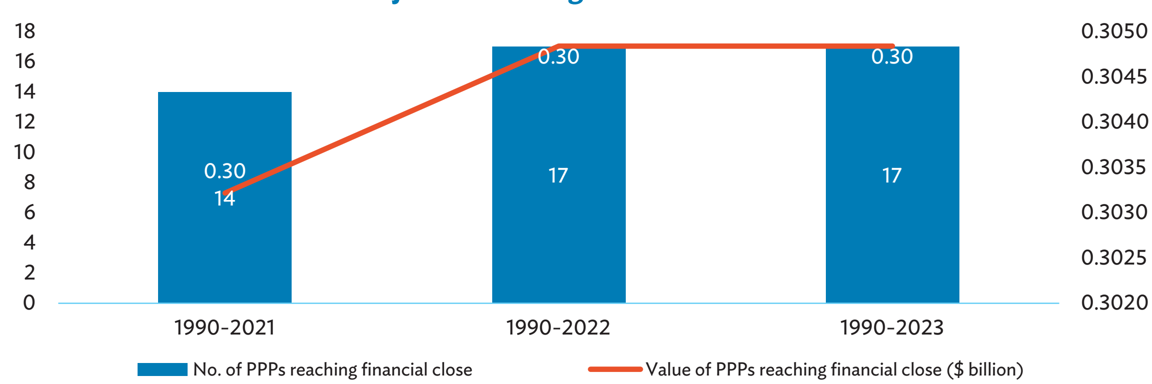
Figure 55: Modes of Procurement for Public–Private Partnership Information and Communication Technology Projects



UA = information unavailable.
Note: Only active and concluded projects are considered.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Figure 56 shows the number of PPP projects that have reached financial closure and the total value of those projects in the Philippines' ICT sector.

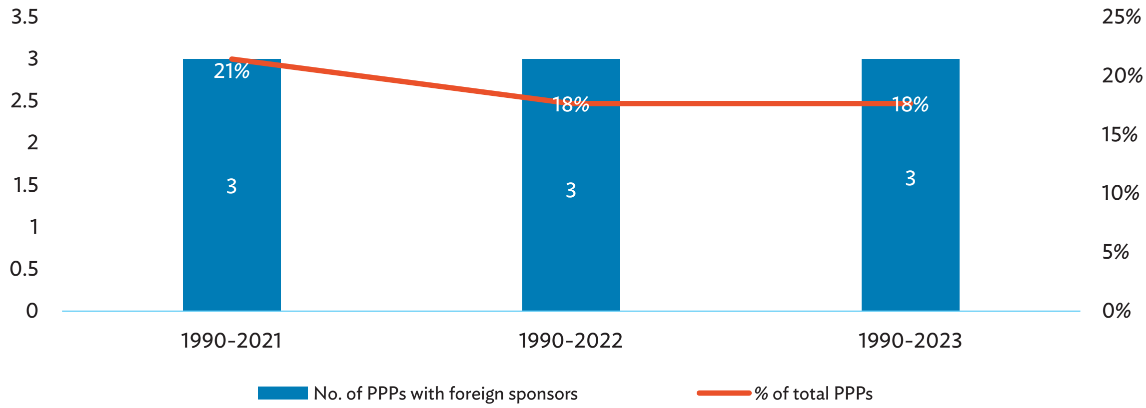
Figure 56: Public–Private Partnership Information and Communication Technology Projects Reaching Financial Closure



PPP = public–private partnership.
Note: Only active and concluded projects are considered. PPP projects "under implementation" in the PPP Center database are assumed to have reached financial closure. Value of PPP is unavailable for four projects.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Figure 57 presents the number of PPP projects that have received foreign sponsor participation in the Philippines' ICT sector.

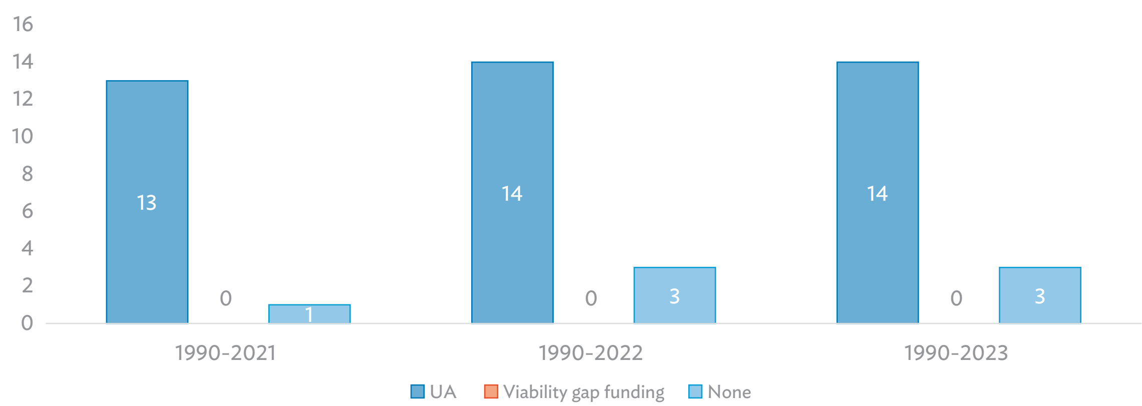
Figure 57: Public–Private Partnership Information and Communication Technology Projects with Foreign Sponsor Participation



PPP = public–private partnership.
Note: Only active and concluded projects are considered.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Figure 58 shows the number of PPP projects that have received government support, including VGF, government guarantees, and availability/performance payment, in the Philippines' ICT sector.

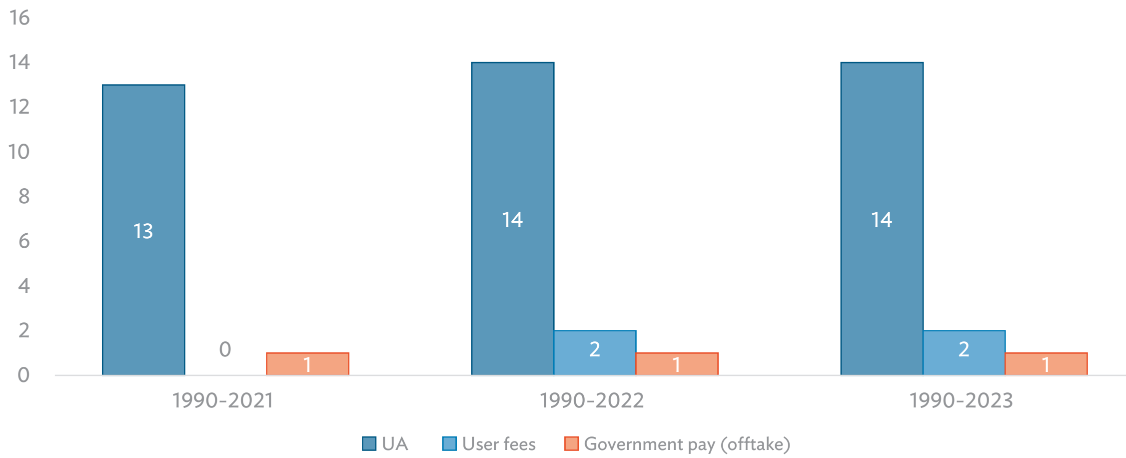
Figure 58: Government Support to Public–Private Partnership Information and Communication Technology Projects



UA = information unavailable.
Note: Only active and concluded projects are considered.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Figure 59 presents the number of PPP projects that have received payment in the form of user charges and government pay (offtake) in the Philippines' ICT sector.

Figure 59: Payment Mechanism for Public–Private Partnership Information and Communication Technology Projects



UA = information unavailable.
Note: Only active and concluded projects are considered.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Tariffs in the information and communication technology sector

According to Worldwide Mobile Data Pricing 2023, the average price of 1 gigabyte of mobile data in the Philippines, with sample data as of 6 August 2023, was estimated at $0.59, which puts the country 55th out of 237 countries in the ranking.[166]

Typical risk allocation for PPP information and communication technology projects

Risk Type	Private	Public	Shared	Remarks
Demand risk	✓			Except in availability-based PPPs
Revenue collection risk	✓			
Competition risk	✓			
Interface			✓	
Permits			✓	
Political risk			✓	Private party bears risk up to a materiality threshold, beyond which public party bears risk
Force majeure			✓	

continued on next page

[166] cable.co.uk. 2023. Worldwide Mobile Data Pricing.

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Risk Type	Private	Public	Shared	Remarks
Foreign exchange risk	✓			
Construction risk	✓			Except for delays caused by government
Early termination risk			✓	Subject to specific conditions and compensation mechanisms

✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
Source: Public–Private Partnership Center. 2016. *Generic Preferred Risks Allocation Matrix*; Tavidell Law.

Financing details of PPPs in the information and communication technology sector

Parameter	1990–2021	1990–2022	1990–2023
PPP projects with foreign lending participation	UA	UA	UA
PPP projects that received export credit agency/international financing institution support	UA	UA	UA
Typical debt: equity ratio	UA		
Time for financial closure	UA		
Typical concession period	10–12 years		
Typical financial internal rate of return	UA		

PPP = public–private partnership.
✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); Land Titling Computerization Project (LTCP); Civil Registry System Information Technology Project Phase II (CRS-ITP2); Automatic Fare Collection System; World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

5. Challenges in the Information and Communication Technology Sector

- The ICT infrastructure of the Philippines lags behind that of its neighbors in the region, as shown in its low number of telecommunications towers across the country, coupled with a high number of users per tower.
- The government is yet to develop an updated and efficient system of inter-agency data management, integration, and sharing.
- Access to/distribution of fast, reliable, and affordable internet throughout the country is not equal, which is aggravated by the interconnectivity challenge between the islands of the Philippine archipelago. This gaping digital divide has adversely affected other sectors, such as education, which relied heavily on internet connectivity during the early years of the COVID-19 pandemic.
- Since the Philippine Identification System (PhilSys) requires the collection of demographic data (i.e., names, sex, date and place of birth, blood type), biometrics information, photographs, fingerprints, and iris scans, the database for this system is extremely prone to, and is a lucrative target of, attacks by hackers and cybercriminals. As such, technical assistance from the DICT on the appropriate security measures is crucial to ensure the information gathered is protected from unauthorized use, disclosure, and access, and against accidental or intentional loss, destruction, or damage. While the share of the population that has registered in the system is already near 100%, public accessibility, especially in geographically isolated and disadvantaged areas, remains a challenge.

Agriculture and Fisheries

Parameter	Value	Unit
Agricultural land	126,830	square kilometers
Fertilizer consumption	232	kilograms per hectare of arable land
Crop production	104.0	index points
Arable land	18.7	% of land area
Food production	100.5	index points
GDP share of agriculture, forestry, and fishing	9.4	% of GDP
Total number of projects with cumulative lending, grant, and technical assistance commitments from ADB in agriculture and fisheries sector	342	number
Total amount of cumulative lending, grant, and technical assistance commitments from ADB in agriculture and fisheries sector	4,151	$ million

₱1 = $ 0.01715
ADB = Asian Development Bank, GDP = gross domestic product.
✓ = Yes, ✗ = No, NA = Not Applicable, UA = Unavailable
Sources: theGlobalEconomy.com. 2022. Philippines: Crop Production Index; World Bank. 2021. Agricultural Land (sq. km) – Philippines; Fertilizer Consumption (Kilograms per Hectare of Arable Land) – Philippines); 2021. Arable Land (% of Land Area) – Philippines; 2022. Food Production Index; 2023. Agriculture, Forestry, and Fishing, Value Added (% of GDP) – Philippines.

1. Implementing Agencies in the Agriculture and Fisheries Sector

The Department of Agriculture is the government agency responsible for the promotion and development of agriculture. It carries out its mandate by providing policy frameworks, public investments, and support services for the Philippines' domestic and export-oriented enterprises as it envisages the country to be food-secured and resilient.[167]

The National Irrigation Administration (NIA), an attached agency of the Department of Agriculture, is currently the contracting agency for all pipeline national PPP projects in the sector, consisting of irrigation projects. Other contracting agencies in the sector may include the Department of Agriculture and its line bureau for the fisheries sector, the Bureau of Fisheries and Aquatic Resources (BFAR). The BFAR is responsible for the development, improvement, management, and conservation of the country's fisheries and aquatic resources. Its mission is to ensure sustainable fisheries and aquatic resources by empowering fisherfolk toward productivity and resiliency.[168]

The DOTr is the implementing agency for the Farm-to-Market Ports Network and Port Cold Chain Network projects, which are listed as IFPs. However, their funding source is identified as ODA and not PPP.

The Philippine Fisheries Development Authority (PFDA) may also undertake PPPs in the fisheries sector. The PFDA is a GOCC attached to the Department of Agriculture, created to promote the development of the fishing industry through the provision of postharvest infrastructure facilities and essential services that improve efficiency in the handling and distribution of fish and fishery products and enhance their quality. The PFDA aims to promote the

[167] Department of Agriculture. Mandate.
[168] Government of the Philippines. 1998. *Republic Act No. 8550*.

development of the fisheries industry and improve efficiency in the handling and distribution of fish and fishery/aquatic products through the establishment and operation of fish ports, fish markets, and other postharvest facilities.[169]

LGUs are mandated to provide basic services to infrastructure facilities, including fish ports, and thus may enter into PPP contracts for the development and O&M of their fish ports. Several LGUs have entered into PPP contracts, mostly for their public markets and slaughterhouses.

2. Agriculture and Fisheries Sector Laws and Regulations

In 2013, the Department of Agriculture issued its Guidelines in the Development of Public–Private Partnership Projects of the Department of Agriculture (Department Administrative Order No. 004-13). The guidelines set out the policy direction to use PPP to attain food security and self-sufficiency, sustainable agriculture and fisheries, natural resource management, and climate change resilience. They also provide a list of eligible projects, including irrigation, farm- and cost-to-market access, postharvest, production centers, farm mechanization services, food and product transport and terminal services, fish ports, and markets. Under the guidelines, the Department of Agriculture mandates that its PPP projects must be consistent with the government's policies and thrusts for the agriculture and fisheries sector, as laid down in the following:

- The Agriculture and Fisheries Modernization Act of 1997 (Republic Act No. 8435), enacted to enable those in the agriculture and fisheries sector to participate and share in the fruits of development and growth through the establishment of a more equitable access to assets, income, basic and support services, and infrastructure. It seeks, among others, to modernize the sector by transforming it from a resource-based to a technology-based industry; to encourage horizontal and vertical integration, consolidation, and expansion of agriculture and fisheries activities; to pursue a market-driven approach to enhance the comparative advantage of the sector in the world market; and to adopt policies that will promote industry dispersal and rural industrialization;[170]
- The Philippine Fisheries Code of 1998 (Republic Act No. 8550), which established the BFAR and Fisheries and Aquatic Resources Management Councils and has, as its main thrust, the utilization, management, development, conservation, and allocation system of fisheries and aquatic resources in the country;
- The Agriculture and Fisheries Modernization Plan, which has been updated to the National Agriculture and Fisheries Modernization and Industrialization Plan 2021–2030, recently launched by the Department of Agriculture;
- Programs launched by the Department of Agriculture, such as its Commodity Programs, Climate Change Adaptation Program, and National Organic Agriculture Program, as well as presidential and other government pronouncements and directives for the agriculture and fisheries sectors (e.g., the Investments Priorities Plan).

[169] Philippine Fisheries Development Authority (PFDA). About Us.
[170] Government of the Philippines. 1997. *Republic Act No. 8435*.

Foreign investment restrictions in the agriculture and fisheries sector

Parameter	2021	2022	2023
Maximum allowed foreign ownership of equity			
Ownership of private agricultural land	40%	40%	40%
Construction, operation, and maintenance of irrigation facilities	40% [a]	40% [a]	40%[a]
Culture, production, milling, processing, and trading except retailing of rice and corn and acquiring, by barter, purchase, or otherwise, rice and corn, and their by-products	40%	40%	40%
Operation of fish port facilities (seaports) [b]	40%	40%	40%

Note:
[a] The nationality requirement applies if it involves extraction of raw water from its natural source, which is considered exploration, development, and utilization of a natural resource.
[b] The nationality requirement applies to the operation of fish ports that are considered seaports which are public utilities.
Source: Government of the Philippines. 2022. *Executive Order No. 175*.

Standard contracts in the agriculture and fisheries sector

There are no sector-specific templates for PPPs available for the agriculture and fisheries sector.

Type of contract	Availability
What standardized contracts are available and used in the market?	
Public–private partnership /concession agreement	×[a]
Performance-based operation and maintenance contract	×
Engineering, procurement, and construction contract	×

✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
Note:
[a] However, a model agreement for a public market is provided in a 2012 publication of the PPP Center.
Source: PPP Center. 2012. *A PPP Manual for LGUs 3. Utilizing LGU PPP Project Templates and Bid Documents*; Tavidell Law.

3. Agriculture and Fisheries Sector Master Plan

The Department of Agriculture endeavors to pursue sound agricultural development through holistic agrifood system measures espoused in the National Agriculture and Fisheries Modernization and Industrialization Plan 2021–2030. This is built on the Department of Agriculture's vision for the agri-fisheries sector embodied in the Philippine Food Security Development Framework, which contains its key strategies and enablers to achieve its vision of food security and resiliency and to empower farmers and fisherfolk. It is further inspired by the Integrative Food and Nutrition Security Paradigm, which follows the United Nations Food Systems Model and incorporates global best practice.[171]

In 2023, the Department of Agriculture launched the Philippine Food Chain Logistics Masterplan 2023-2033, which recognizes the need to connect the entire system of logistical support through roads and seaports to reduce transportation expenses of agricultural products to give the general population secure and affordable

[171] Department of Agriculture. 2022. *National Agriculture and Fisheries Modernization and Industrialization Plan 2021-2030: Transforming the Philippine Food System Together.*

food. This integrated approach does more than just bridge the physical distance between farms and consumers. It creates a sustainable value proposition for agricultural ports that can handle a diverse range of commodities, including livestock, and crops. The agricultural-food supply chain is dominated by intermediaries in the Philippines. Its unstructured and unrestrained nature is exploiting and marginalizing smallholder farmers. The plan involves connecting the entire Philippines from north to south, east to west through an efficient logistics transport network, alleviating strategic ports with appropriate facilities for smooth distribution, setting up short sea shipping services, and establishing an integrated model for inter-island movements of cargo. The plan discusses the recommendations for an efficient logistics system, that will ensure the appropriate transportation of goods.[172]

At present, the PDP 2023–2028 recognizes that the agriculture, forestry, and fisheries sector is part of a bigger agrifood system, which, currently, is dysfunctional in terms of serving its basic roles in generating a decent income for the sector's stakeholders, particularly primary producers; ensuring sustainable use of natural resources; and providing for the health and nutrition of consumers and nurturing the local food culture. Thus, the PDP aims to pursue the following outcomes: (i) efficiency of agriculture, forestry, and fisheries production enhanced; (ii) access to markets and agriculture-, forestry-, and fisheries-based enterprises expanded; (iii) resilience of agriculture, forestry, and fisheries value chains improved; and (iv) agricultural institutions strengthened.[173]

As a response to the current challenges that contribute to the inefficiencies along segments of the value chain, several other policy reforms have been enacted: the Rice Tariffication Law of 2019 (Republic Act No. 11203); the Coconut Farmers and Industry Trust Fund Act of 2021 (Republic Act No. 11524); the *Sagip Saka* Act of 2019 (Republic Act No. 11321); the Free Irrigation Service Act of 2018 (Republic Act No. 10969); the Sugarcane Industry Development Act of 2015 (Republic Act No.10659); the Agriculture, Fisheries, and Rural Development Financing Enhancement Act of 2022 (Republic Act No. 11901); the Agricultural and Fishery Mechanization Law of 2012 (Republic Act No. 10601); and the Agricultural Free Patent Reform Act of 2018 (Republic Act No. 11231).

There is currently no agriculture and fisheries PPP project listed as an IFP. All IFPs in the sector, such as port cold chains, fish ports, livestock infrastructure modernization and enhancement projects, and irrigation projects, are being financed through ODA or general appropriations of the Philippine government under its GAA.

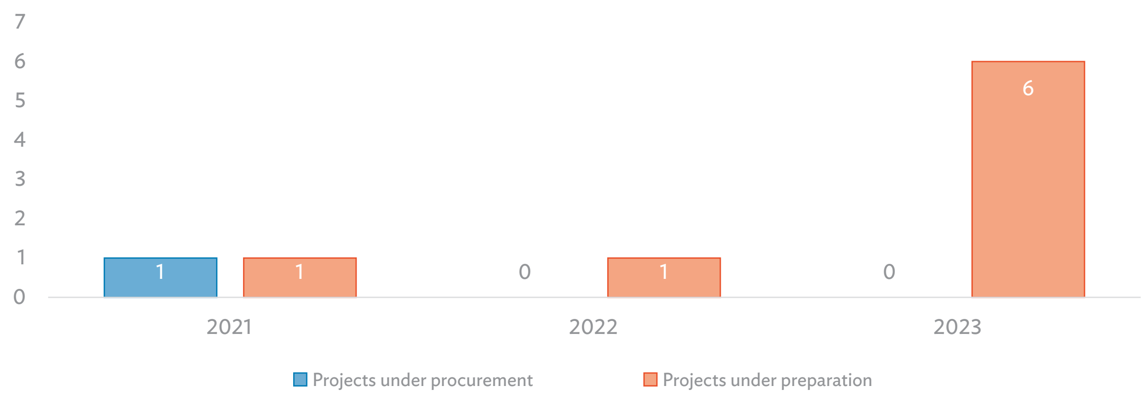
172 Department of Agriculture. 2023. *Philippine Food Chain Logistics Masterplan 2023-2033.*

173 Government of the Philippines. 2023. *Philippine Development Plan 2023–2028.*

Projects under preparation and procurement in the agriculture and fisheries sector

Figure 60 shows the number of PPP projects that were under preparation and procurement in the Philippines' agriculture and fisheries sector for 2021, 2022, and 2023.

Figure 60: Public–Private Partnership Agriculture and Fisheries Projects Under Preparation and Procurement



Source: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024).

Table 55 presents a list of pipeline national PPP agriculture and fisheries projects as of October 2024, based on the PPP Center's project list.

Table 55: Pipeline Public–Private Partnership Agriculture and Fisheries Projects, as of October 2024

No.	Project	Implementing Agency	Procurement Mode	Estimated Project Cost ($ million)	Estimated Project Cost (₱ billion)	Status
1.	Redevelopment of the Baguio City Public Market	City Government of Baguio	Unsolicited	77.18	4.50	Negotiation phase
2.	Redevelopment of General Santos City Public Market Project	City Government of General Santos	Unsolicited	39.96	2.33	Approval phase
3.	University of the Philippines Los Baños Agro-Industrial Information Technology Parks "AgriFutura" Project	University of the Philippines	Solicited	-	TBD	Preparation phase (under development)
4.	Tumauini River Multipurpose Project [a]	NIA	Solicited	147.15	8.58	Preparation phase (under development)
5.	Upper Banaoang Irrigation Project [a]	NIA	Solicited	-	TBD	Preparation phase (under development)
6.	Ilocos Norte-Ilocos Sur-Abra Irrigation Project II	NIA	Solicited	388.96	22.68	Preparation phase (under development)

continued on next page

Table 55 *continued*

No.	Project	Implementing Agency	Procurement Mode	Estimated Project Cost ($ million)	(₱ billion)	Status
7.	National Food Hub Project	BCDA and CIAC	Solicited	145.78	8.5	Preparation phase (under development)
8.	Industrial Park and/or Agri-Industry Development	Central Mindanao University	Solicited	15.95	0.93	Preparation phase (under conceptualization)
9.	Animal Production Research and Development Center in Mindanao	Central Mindanao University	Solicited	0.69	0.04	Preparation phase (under conceptualization)
10.	Agricultural Experimentation Center and Agronomy Farm Laboratory	Central Mindanao University	Solicited	0.34	0.02	Preparation phase (under conceptualization)

BCDA = Bases Conversion and Development Authority, CIAC = Clark International Airport Corporation, NIA = National Irrigation Administration, TBD = to be determined.

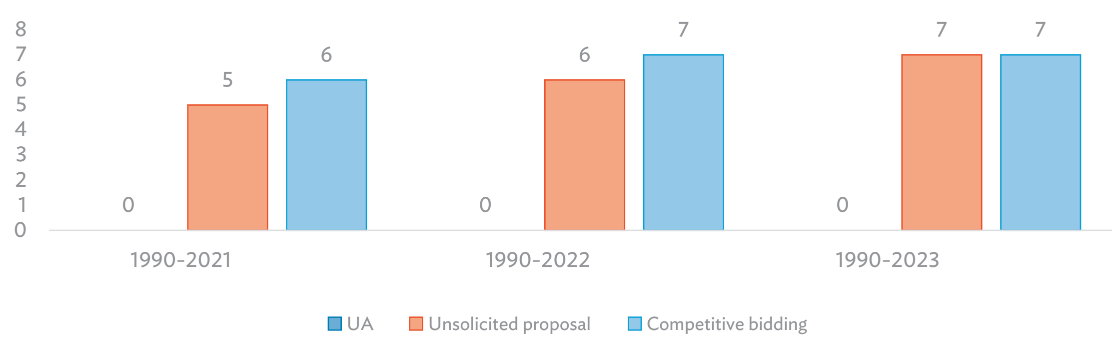
[a] This is listed as an infrastructure flagship project in the National Economic and Development Authority's List of Infrastructure Flagship Projects as of April 2024, under the water resources sector, but with the General Appropriations Act as funding source.

Source: PPP Center. 2024. List of PPP Projects in the Pipeline (accessed 27 October 2024).

4. Features of Past Public–Private Partnership Projects in the Agriculture and Fisheries Sector

Figure 61 presents the number of PPP projects procured through various modes including direct appointment, unsolicited bids, and competitive bids in the Philippines' agriculture and fisheries sector.

Figure 61: Modes of Procurement for Public–Private Partnership Agriculture and Fisheries Projects



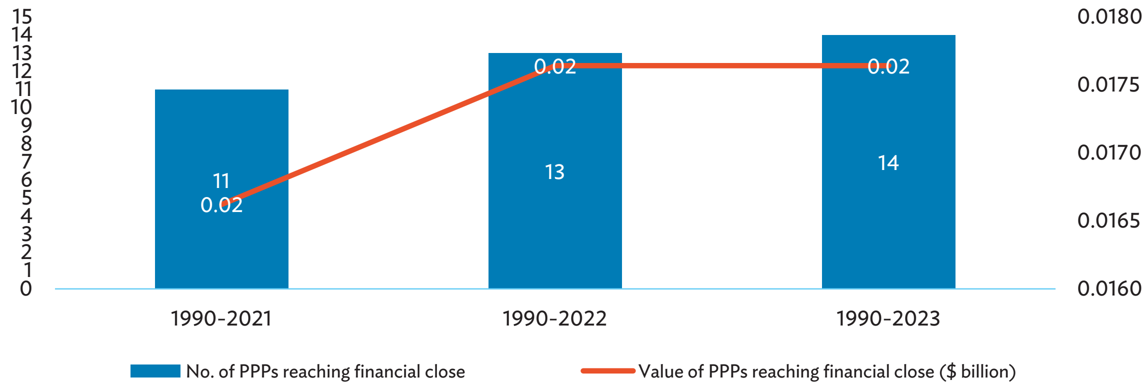
UA = information unavailable.

Note: Only active and concluded projects are considered.

Source: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024).

Figure 62 shows the number of PPP projects that have reached financial closure and the total value of those projects in the Philippines' agriculture and fisheries sector.

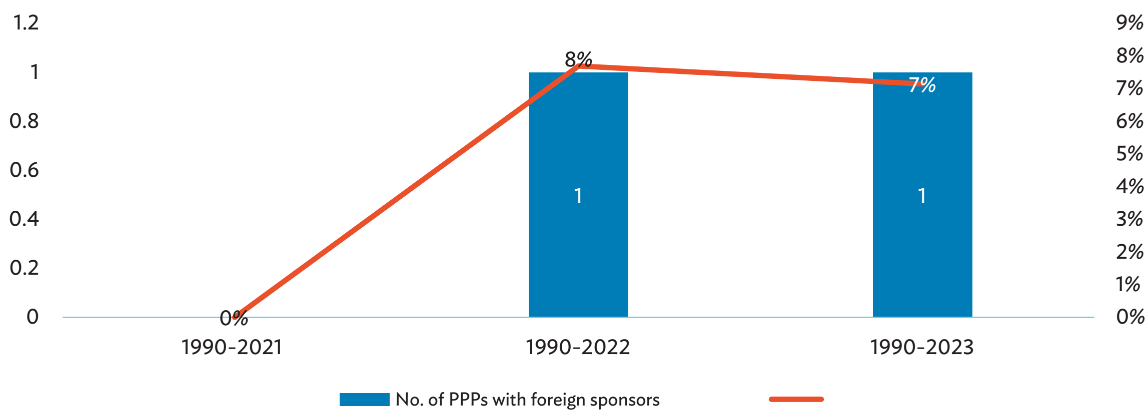
Figure 62: Public–Private Partnership Agriculture and Fisheries Projects Reaching Financial Closure



PPP = public–private partnership.
Note: Only active and concluded projects are considered. PPP projects "under implementation" in the PPP Center database are assumed to have reached financial closure. Value of PPP unavailable for three projects.
Source: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024).

Figure 63 presents the number of PPP projects that have received foreign sponsor participation in the Philippines' agriculture and fisheries sector.

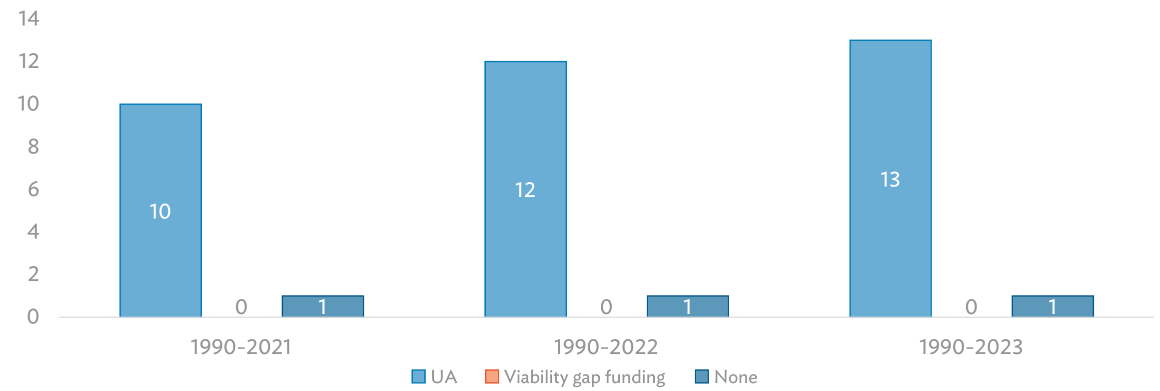
Figure 63: Public–Private Partnership Agriculture and Fisheries Projects with Foreign Sponsor Participation



PPP = public–private partnership.
Note: Only active and concluded projects are considered.
Source: PPP Center. Corporate Planning and Development Division. Projects List (provided on 9 August 2024)

Figure 64 shows the number of PPP projects that have received government support, including VGF, government guarantees, and availability/performance payment, in the Philippines' agriculture and fisheries sector.

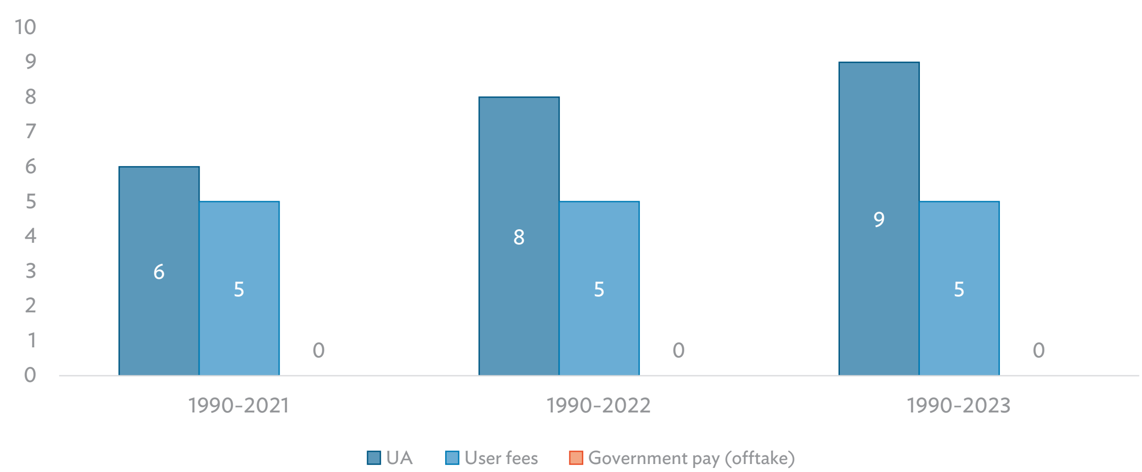
Figure 64: Government Support to Public–Private Partnership Agriculture and Fisheries Projects



UA = information unavailable.
Note: Only active and concluded projects are considered.
Source: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024)

Figure 65 presents the number of PPP projects that have received payment in the form of user charges and government pay (offtake) in the Philippines' agriculture and fisheries sector.

Figure 65: Payment Mechanism for Public–Private Partnership Agriculture and Fisheries Projects



UA = information unavailable.
Note: Only active and concluded projects are considered.
Source: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024)

Tariffs in the agriculture and fisheries sector

No information on the tariffs for the agriculture and fisheries sector is available.

Typical risk allocation for PPP agriculture and fisheries projects

No information on the risk allocation for the agriculture and fisheries sector is available.

Financing details of PPPs in the agriculture and fisheries sector

No information on the financing details of PPPs in the agriculture and fisheries sector is available.

5. Challenges in the Agriculture and Fisheries Sector

- There are high logistical costs, lack of scale of local raw materials suppliers, and low conformance of primary producers with local and international standards, resulting in weak investments in the sector.
- PPP procurement in the sector is still untested, with PPP projects, such as for irrigation, still in the preparation phase.
- In most cases, there is a need to settle property rights, especially on lots still covered by collective landownership certificates.
- The number of workers in agriculture has been declining.
- Pests and diseases among plants and animals as well as climate change are among the challenges agriculture faced in recent years and in the future.[174]

Social Infrastructure

Parameter	Value	Unit
Government expenditure on education	3.6	% of GDP
Education spending as % of government spending	15.7	%
Primary school gross enrollment	92	%
Adult literacy rate (% of people ages 15 and above)	98	%
Total number of projects with cumulative lending, grant, and technical assistance commitments from ADB in education sector	1,548	no.
Total amount of cumulative lending, grant, and technical assistance commitments from ADB in education sector	29,856	$ million
Total health expenditure	5.9	% of GDP
Health spending per capita (as of 2022)	178.00	$

continued on next page

[174] Government of the Philippines. 2023. *Philippine Development Plan 2023–2028*; Business World. 2023. Developing Agriculture to Achieve Food Security.

continued from previous page

Parameter	Value	Unit
Out-of-pocket expenditure (% of current health expenditure)	44.4	%
Maternal mortality ratio	78.2	deaths per 100,000 live births
Infant mortality rate (as of 2022)	22	deaths per 1,000 live births
Life expectancy at birth (as of 2022)	72.2	years
Child malnutrition (below 5 years old)	29	%
Total number of projects with cumulative lending, grant, and technical assistance commitments from ADB in health sector	52	no.
Total amount of cumulative lending, grant, and technical assistance commitments from ADB in health sector	747	$ million
Existing no. of affordable housing units	UA	no.
Affordable housing gap	UA	

₱1 = $ 0.01715
ADB = Asian Development Bank, GDP = gross domestic product.
✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
Sources: ADB. 2023. Cumulative Lending, Grant, and Technical Assistance Commitments; UNICEF. 2022. Key Demographic Indicators, Under-Five Mortality Rate; World Bank. 2019. Undernutrition in the Philippines: Scale, Scope, and Opportunities for Nutrition Policy and Programming; 2020. Literacy Rate, Adult Total (% of People Ages 15 and Above) – Philippines; 2022. World Development Indicators, Government Expenditure on Education, Total (% of GDP); 2022. Government Expenditure on Education, Total (% of Government Expenditure) – Philippines; 2022. School Enrollment, Primary (% Gross) – Philippines; 2022. Current Health Expenditure (% of GDP) – Philippines; 2022. Current Health Expenditure per Capita (Current $) – Philippines; World Health Organization. 2020. Maternal Mortality Ratio (per 100 000 Live Births); 2020. Life Expectancy, Philippines.

1. Implementing Agencies in the Social Infrastructure Sector

Social infrastructure refers to physical assets and facilities for social services that contribute to people's sense of belonging and creating sustainable neighborhoods and communities. These assets and facilities include, among others, schools, universities, hospitals and clinics, prisons, community housing, recreational facilities, solid waste management, flood control, evacuation centers, government buildings, and environmental protection and conservation.

Education sector implementing agencies

The Philippine government implements a trifocal education system administered and regulated by three agencies: the Department of Education (DepEd), the Commission on Higher Education (CHEd), and the Technical Education and Skills Development Authority (TESDA) (Figure 66). In addition, the country is implementing a National Early Childhood Care and Development (ECCD) System through its ECCD Council. These agencies may enter into PPP contracts to support their mandates and functions. SUCs and LUCs are also implementing agencies for PPPs purpose in the sector. SUCs are public higher education institutions (HEIs) established by the national government and governed by their respective independent boards of trustees. LUCs are CHEd-accredited public HEIs established by LGUs through an enabling ordinance, financially supported by the LGU concerned, and compliant with the policies, standards, and guidelines of the CHEd. As of 15 January 2024, there were 137 LUCs and 546 SUCs (including satellite schools) across the country.[175]

[175] Commission on Higher Education (CHEd). 2024. List of Higher Education Institutions. AY 2023-2024 as of 15 January 2024.

DepEd is currently implementing five PPP projects, which it procured under the Amended BOT Law: packages A, B, and C of the PPP for School Infrastructure Project (PSIP), and packages A and E of the PSIP Phase II. PSIP seeks to address the backlog in classrooms, which, as of 2010, was estimated to grow to about 150,000 by 2016 with increases in enrollment and the implementation of DepEd's K–12 program and Education for All initiatives. DepEd adopted the PPP framework as a strategy to supplement the provision of educational facilities in the Philippine public school system.[176]

Health care sector implementing agencies

The Department of Health (DOH) holds overall technical authority on health, as national health policymaker and regulatory institution. Its mandate is to develop national plans, technical standards, and guidelines on health. The DOH also provides special tertiary health care services and technical assistance to health providers and stakeholders.[177] It now has a Public–Private Partnership for Health Program Management Office and is the implementing agency for five pipeline PPP projects (Table 57). In 2014, the DOH, as implementing agency, signed a BOT agreement with the winning bidder for the Modernization of the Philippine Orthopedic Center pursuant to the Amended BOT Law. However, in 2015, the private partner sent a notice of termination to the DOH, citing the DOH's delay in delivering the project site to the project proponent and the appointment of the independent consultant of more than 180 days.[178]

Aside from the DOH, SUCs, particularly those that have colleges of medicine and/or health care facilities, can also implement their health infrastructure and services through PPP.[179] The University of the Philippines is implementing PPP contracts for the development of the Philippine General Hospital's Cancer Center and the establishment of a second hospital in Diliman, Quezon City. Both projects are IFPs (Table 56). The Department of National Defense operates and supervises military hospitals and health care facilities and thus may also enter into PPP contracts in the health care sector.

The health care system of the Philippines has been in a devolved setup since 1991 pursuant to the LGC, which devolved the delivery of basic services and facilities, including primary health services, to LGUs.[180] Nevertheless, the DOH still operates or supervises certain retained hospitals, such as the hospitals in Metro Manila that are maintained by its Personnel Administration Division, specialty hospitals in Metro Manila, and regional hospitals across the Philippines.[181] For Bangsamoro Autonomous Region in Muslim Mindanao, its Ministry of Health directly administers local hospitals and health offices within the region. LGUs can undertake PPPs to develop, rehabilitate, and improve the O&M of primary health care facilities and services (such as barangay and city health centers) and local secondary and tertiary hospitals. They can also consider developing an integrated health care system through a PPP with linkages between primary and specialized care.[182] The Provincial Governments of Iloilo and La Union are implementing health care projects in the social infrastructure PPP pipeline (Table 57). The City Governments of Pasig and Makati are likewise implementing health care PPP projects (i.e., Pasig City Mega Dialysis Center and Ospital ng Makati 1), both of which have been awarded.

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176 PPP Center. 2024. PPP for School Infrastructure Project (PSIP) Phase 1. DepEd's First PPP Project.
177 DOH. About DOH. Profile.
178 Supreme Court of the Philippines. 2021. *Cervantes v. Aquino, G.R. No. 210805*.
179 PPP Center. PPP Sectors. Investing in PPPs for Health.
180 DOH. 2022. *Devolution Transition Plan 2022-2024*.
181 PPP Center. Investing in PPPs for Health.
182 PPP Center. Investing in PPPs for Health.

Following the Mandanas-Garcia ruling and Executive Order No. 138 (2021), the DOH is implementing a re-devolution pursuant to its approved devolution transition plan. The DOH functions that will be re-devolved to LGUs mainly fall under the financing and service delivery pillars, where the LGUs are to assume full responsibility and accountability in providing and financing basic health services to constituents. Except for the National Nutrition Council, attached agencies and corporations of the DOH such as the Philippine Health Insurance Corporation (PhilHealth), DOH hospitals, and other national health facilities will not be affected by the re-devolution.[183]

The DOH provides assistance to LGUs, in effectively implementing programs, projects, and services that will promote the health and wellbeing of every Filipino; prevent and control diseases among populations at risk; protect individuals, families, and communities exposed to hazards and risks that could affect their health; and treat, manage, and rehabilitate individuals affected by disease and disability.[184]

Public housing sector implementing agencies

The Department of Human Settlements and Urban Development (DHSUD) is the primary implementing agency in the public housing sector.

DHSUD is responsible for the management of housing, human settlement, and urban development in the Philippines. It is the planning and policymaking, regulatory, program coordination, and performance monitoring entity for the country's housing, human settlement, and urban development concerns. One of its key functions is to formulate a framework for resilient housing and human settlements as a basis for the mechanisms for post-disaster housing and resiliency planning; research and development; extension; and M&E of programs, projects, and activities to protect vulnerable communities from the adverse effects of climate change and natural hazards.

To perform its mandate, DHSUD owns and administers government-owned lands that have not been used for the purpose for which they were originally reserved, or set aside for at least 10 years, and are identified by DHSUD as suitable for urban development, particularly for housing purposes.[185] DHSUD is the lead implementing agency of the *Pambansang Pabahay Para sa Pilipino* (National Housing for Filipinos Program) (4PH), which is a flagship program of the Philippine government.[186]

Aside from DHSUD, the other key government agencies that may enter into PPP arrangements are:

- The National Housing Authority (NHA) was created in 1975 to develop and implement a comprehensive and integrated housing program that embraces, among others, housing development and resettlement, sources and schemes of financing, and delineation of government and private sector participation. With the creation of DHSUD, NHA continues to function as a production and financing arm in housing.[187] Its mission is to be able to address, by 2025, 23% of the country's housing need by building affordable, livable, adequate, and inclusive communities with basic services and socioeconomic opportunities.[188] With its charter set to expire in 2025, however, House Bill No. 8156, now pending before the House of Representatives, intends to expand, strengthen, and reorganize NHA to allow it to implement innovative

183 DOH. 2022. *Devolution Transition Plan 2022-2024.*
184 Government of the Philippines. 1999. *Executive Order No. 102, Series of 1999.*
185 Government of the Philippines. 2019. *Republic Act No. 11201.*
186 Government of the Philippines. 2023. *Executive Order No. 34.*
187 Government of the Philippines. 2019. *Implementing Rules and Regulations of Republic Act No. 11201.*
188 Government of the Philippines. 1975. *Presidential Decree No. 757;* NHA. About.

and alternative solutions in addressing the housing needs of informal settler families, the lower-income class, and the vulnerable sector.[189]

- The National Home Mortgage Finance Corporation (NHMFC) was created in 1977 to develop and provide for a secondary market for home mortgage granted by public and/or private home financing institutions.[190] It is mandated to increase the availability of affordable housing finance to support Filipino on their acquisition of housing units through the development and operation of a secondary market for home mortgages and other housing-related receivables.[191]
- The Social Housing Finance Corporation, a wholly owned subsidiary of NHMFC, is the lead government agency tasked to develop and implement social housing programs for low-income groups in the formal and informal sectors, especially the underprivileged and homeless, to uphold their right to adequate housing though flexible, affordable, innovative, and responsive shelter financing, and development/production solutions that are community-driven.[192]
- The Home Development Mutual Fund provides a mutual provident savings system for private and government employees and other earning groups, supported by matching mandatory contributions of their respective employers, with housing as the primary investment.[193]

The above agencies are attached to DHSUD for purposes of policy and program coordination, monitoring, and evaluation.

Another key agency in the public housing sector is the Philippine Guarantee Corporation (PhilGuarantee). PhilGuarantee is the principal agency for state guarantees in the Philippines. Its primary objective is to perform its development financing role by providing credit guarantees in support of trade and investments, exports, infrastructure, energy, tourism, agricultural business/modernization, housing, micro, small, and medium-sized enterprises, and other priority sectors of the economy, to facilitate and promote socioeconomic and regional development.[194] PhilGuarantee may play an important role in the financing of PPP public housing projects.

189 NHA. 2023. Support for Charter Renewal.
190 Government of the Philippines. 1977. *Presidential Decree No. 1267*.
191 Government of the Philippines. 2019. *Implementing Rules and Regulations of Republic Act No. 11201*.
192 Government of the Philippines. 2019. *Implementing Rules and Regulations of Republic Act No. 11201*.
193 Government of the Philippines. 2019. *Implementing Rules and Regulations of Republic Act No. 11201*.
194 Philippine Guarantee Corporation. Our Mandate.

2. Social Infrastructure Sector Laws and Regulations

Education sector laws and regulations

Figure 66 presents an overview of the Philippine education sector, made up of the National ECCD System for children 0–4 years of age and the trifocal education system beginning at Year 5.

Figure 66: Overview of the Philippine Education Sector

ECCD Council	DepEd	CHEd	TESDA
• **National ECCD System** (0–4 years old)	• **Kindergarten** (at least 5 years old)—1 year • **Elementary**—6 years • **Secondary** (4 years of Junior High School and 2 years of Senior High School)	• Institutions of **higher education** • Degree-granting programs in all **post-secondary** educational institutions	• **TVET**:non-degree programs for post-secondary and lower tertiary levels, providing a broad range of general education, theoretical, scientific, technological, and related job skills training

CHEd = Commission on Higher Education, DepEd = Department of Education, ECCD = early childhood care and development, TESDA = Technical Education and Skills Development Authority, TVET = technical and vocational education and training.

Sources: Government of the Philippines. 1994. *Republic Act No. 7722*; 1994. *Republic Act No. 7796*; 2001. *Republic Act No. 9155*; 2013. *Republic Act No. 10410*; 2013. *Republic Act No. 10533*.

The key roles and responsibilities of the education sector agencies are as follows:

- The ECCD Council establishes national standards, develops policies and programs, ensures compliance with them, and provides technical assistance and support to ECCD service providers in consultation with coordinating committees at the provincial, city, municipal, and barangay levels. It also monitors ECCD service benefits and outcomes.[195]
- DepEd is responsible for ensuring access to, promoting equity in, and improving the quality of basic education. It formulates the design and details of the enhanced basic education (K–12) curriculum, and works with CHEd to craft harmonized basic and tertiary curricula for the global competitiveness of Filipino graduates. To ensure college readiness and to avoid remedial and duplication of basic education

[195] Government of the Philippines. 2013. *Republic Act No. 10410*; ECCD Council. About Us.

subjects, DepEd is required to coordinate with CHEd and TESDA. To carry out its mandate, DepEd is organized into two major structural components. Its central office maintains overall administration of basic education at the national level while its field offices are responsible for regional and local coordination and administration of its mandate.[196]

- CHEd formulates and recommends development plans, priorities, and programs on higher education and research and sets minimum standards for programs and institutions of higher learning recommended by panels of experts in the field and enforces them. It also identifies, supports, and develops potential centers of excellence in program areas needed for the development of world-class scholarship, nation building, and national development.[197]
- TESDA formulates continuing, coordinated, and fully integrated technical education and skills development policies. It sets direction, promulgates relevant standards, and implements programs geared toward a quality-assured and inclusive technical education and skills development and certification system.[198]

Health care sector laws and regulations

The COVID-19 pandemic caused a health and economic crisis in the country, highlighting the urgent need for a proper, complete, and modern health care system. The enactment of a crucial reform in the sector through the Universal Health Care (UHC) Act just a year prior was very timely. The UHC Act ensures all Filipinos are guaranteed equitable access to quality and affordable health care goods and services, while being protected against financial risk. It also mandates for every Filipino citizen, including overseas Filipino workers, to be granted immediate eligibility and access to preventive, promotive, curative, rehabilitative, and palliative care for medical, dental, mental, and emergency health services.[199] In response to this significant development, the PPP Center has identified health as one of its priority sectors, highlighting PPP as one of the possible delivery mechanisms for the government to achieve universal health care and ensure resilient health care systems, given that investments in health care can entail significant costs to the public sector.[200]

With the enactment of the UHC Act, the DOH is responsible for instituting a licensing and regulatory system for stand-alone health facilities, including those providing ambulatory and primary care services, and other modes of health service provision. It is also mandated to set standards for clinical care through the development, appraisal, and use of clinical practice guidelines in cooperation with professional societies and academia. Further, as the overall steward for health care, the DOH must strengthen national efforts in providing a comprehensive and coordinated approach to health development with an emphasis on scaling up health promotion and preventive care.[201]

The Philippine Health Insurance Corporation (PhilHealth), a GOCC attached to the DOH, manages the National Health Insurance Program, which was established to provide health insurance coverage and accessible health care services for all citizens of the Philippines. This program is the main payer for health services for the utilization of health services by covered beneficiaries but does not provide health care directly.[202] PhilHealth is funded through premiums contributed by its members and government appropriation.

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196 Department of Education (DepEd). Management Structure; Government of the Philippines. 2001. *Republic Act No. 9155*; 2013. *Republic Act No. 10533*.
197 Government of the Philippines. 1994. *Republic Act No. 7722*.
198 Government of the Philippines. 1994. *Republic Act No. 7796*; TESDA. Mission.
199 Government of the Philippines 2019. *Republic Act No. 11223*.
200 PPP Center. Investing in PPPs for Health.
201 Government of the Philippines 2019. *Republic Act No. 11223*.
202 PhilHealth. Agency's Mandate and Functions.

Public housing sector laws and regulations

The core programs and implementing mechanisms for public housing were enacted into law in 2019 through the DHSUD Act. This mandates DHSUD to develop and adopt a national strategy to immediately address the provision of adequate and affordable housing to all Filipinos, and to ensure the alignment of the policies, programs, and projects of all its attached agencies to facilitate achievement of this objective.[203]

Foreign investment restrictions in the social infrastructure sector

Parameter	2021	2022	2023
Maximum allowed foreign ownership of equity			
Construction of health care facilities	100%	100%	100%
Services, including hospital management, specialist hospital/clinic, mental hospital, dental clinic, and laboratory and medical check-up services	100%	100%	100%
Private maternity hospitals, clinic general medical services/public hospitals/public medical clinics, residential health services, and basic health care services facilities	100%	100%	100%
Construction of education facilities	100%	100%	100%
Non-formal education services (vocational training, computer education, language education) [a]	40%	40%	40%
Formal education services[a]	40%	40%	40%
Government buildings (including prisons and correction centers)	100%	100%	100%
Public housing	100%	100%	100%

Note:
[a] The nationality requirement does not apply to educational institutions established by religious groups and mission boards for foreign diplomatic personnel and their dependents and other temporary residents, or for short-term high-level skills development that does not form part of the formal education system.
Source: Government of the Philippines. 2022. *Executive Order No. 175*.

Standard contracts in the social infrastructure sector

Parameter	Availability
What standardized contracts are available and used in the market?	
Public–private partnership/concession agreement	×[a]
Performance-based operation and maintenance contract	×
Engineering, procurement, and construction contract	×

✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
[a] However, model agreements for a government administrative center is provided in a 2012 publication of the PPP Center.
Source: PPP Center. 2012. *A PPP Manual for LGUs 3. Utilizing LGU PPP Project Templates and Bid Documents*; Tavidell Law.

[203] Government of the Philippines. 2019. *Republic Act No. 11201.*

3. Social Infrastructure Sector Master Plan

Education sector master plan

In 2022, DepEd adopted the Basic Education Development Plan (BEDP) 2030, as its blueprint in formulating, implementing, coordinating, monitoring, and evaluating its policies, plans, and programs in formal and non-formal basic education, providing the strategic road map to deliver quality basic education. It also seeks to address the immediate negative impacts of the COVID-19 pandemic on the learning of youth. The basic education sector analysis identified challenges and issues in access and efficiency, quality, and governance. To address these, the BEDP 2030 puts forward four priority development areas: (i) pivoting to quality education, ensuring all learners attain learning standards in every key stage in the K–12 program; (ii) expanding access to education for groups in situations of disadvantage to ensure inclusive and equitable quality service delivery; (iii) empowering learners to be resilient and to acquire life skills; and (iv) strengthening the promotion of the overall wellbeing of learners in a positive learning environment.[204]

In 2023, DepEd launched the Matatag Agenda to set the new direction of the agency and stakeholders in resolving basic education challenges.[205] The Matatag Curriculum embodies the aspirations of Filipino learners inscribed in the Ambisyon Natin 2040, to successfully deal with future challenges by embedding 21st-century skills, preparing them to excel in the local and global job market. It fosters inclusivity by teaching global citizenship and diversity while promoting a future-oriented mindset that empowers learners to embrace and shape change.[206] In 2024, the NEDA Board approved the BEDP 2030 and the Matatag Agenda as the national policy and plan for basic education in the Philippines.[207]

As part of the government's enhanced support to social development, the PDP recognizes the enduring education crisis in the country, which highlights the need to modernize learning spaces and ensure adequate, safe, and resilient facilities for students. As such, the government will address classroom shortages and pursue universal access to basic utilities such as electricity, internet, and water supply in all schools. Provision of basic facilities, including water, sanitation, and hygiene facilities, libraries, and science laboratories, will be ensured. Learning spaces will be designed, configured, and equipped to emulate the classroom of the future. Government allocation for education spending will be prioritized while aid and resources from the private sector, nongovernment organizations, and civil society organizations will be sought.[208] PPPs will play a pivotal role in helping the government bring about this enhanced support to the education sector.

There is currently no education PPP project listed as an IFP. The only IFP in the sector, the Infrastructure for Safer and Resilient Schools Project, will be financed through ODA.

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[204] DepEd. 2022. *Order No. 024, Series of 2022, Adoption of the Basic Education.*
[205] DepEd. 2023. MATATAG: DepEd's New Agenda to Resolve Basic Education Woes.
[206] DepEd. 2024. *Order No. 010, Series of 2024, Policy Guidelines on the Implementation of the Matatag Curriculum.*
[207] DepEd. 2024. DepEd's MATATAG Agenda, BEDP 2030 approved by NEDA Board as National Policy and Plan for Basic Education.
[208] Government of the Philippines. 2023. *Philippine Development Plan 2023–2028.*

Health care sector master plan

In 2023, the Philippine government adopted the Philippine Health Facility Development Plan 2020–2040 (PHFDP) and directed the DOH, among others, to

- facilitate the dissemination of the PHFDP and ensure its effective and efficient implementation at the LGU level;
- assist, guide, and support LGUs in translating the PHFDP into long-term local health facility development plans to be reflected in their respective local investment plans for health and local development investment programs;
- coordinate with LGUs to formulate policies relative to the establishment of primary care provider networks and health care provider networks; and
- encourage LGUs to enter into PPPs to address the gaps identified in the PHFDP.

The PHFDP serves as the country's overall strategy for infrastructure and medical investments, with the aim of ensuring a strong primary care and integrated health system for every Filipino, consistent with the UHC Act. The PHFDP operationalizes one of the key strategies under the PDP: promoting human and social development by boosting health through an accessible, efficient, and strengthened health care system.[209]

Public housing sector master plan

The strategy framework to establish livable communities in the PDP under the pillar of "built environment upgraded," includes

- mobilizing private sector and government resources to meet housing needs;
- improving housing affordability;
- increasing the access of informal settler families, the homeless, and the underprivileged to housing;
- integrating accessibility, health, culture, and resilience outcomes into the design of housing and communities;
- ensuring availability of utilities; and
- providing public and active transportation links.

DHSUD targets the financing of 1 million housing units annually to narrow the housing deficit. Availing of fiscal incentives under the Urban Development and Housing Act will be facilitated to encourage more private sector participation in socialized housing. Allocation of funds to key shelter agencies (e.g., NHA, Social Housing Finance Corporation, NHMFC) will be rationalized to ensure increased allocation is matched with increased absorptive capacities. The secondary mortgage program of NHMFC will be strengthened and the housing credit guarantee program of PhilGuarantee will be enhanced. To raise funds for housing, LGUs are to tap financing schemes available to them, such as bond flotation and credit financing.[210]

[209] Office of the President. 2023. *Memorandum Circular No. 26, Series of 2023.*
[210] Government of the Philippines. 2023. *Philippine Development Plan 2023–2028.*

In 2022, DHSUD launched the 4PH , a flagship housing program initiative of the Philippine government, to address the need for decent housing and to build on the potential impact of a robust housing sector on the growing economy. It aims to address the country's 6.5 million housing needs by building 1 million units annually until 2028 and is expecting to involve the private sector, including through PPPs.[211]

There is currently no public housing PPP project listed as an IFP.

Table 56 shows the priority projects identified in the social infrastructure sector for the PPP mode of implementation based on NEDA's list of IFPs as of August 2024. All identified projects are in the health care subsector.

Table 56: Public–Private Partnership Priority Social Infrastructure Projects, as of August 2024

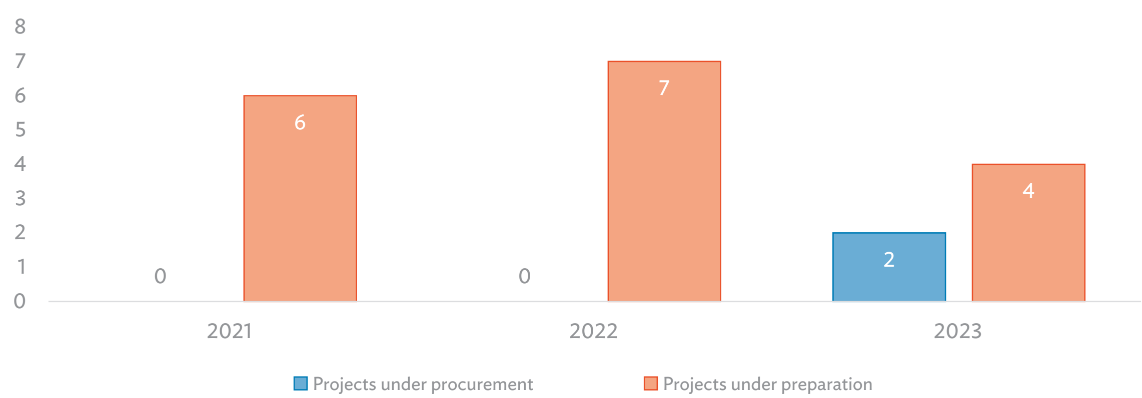
No.	Project	Implementing Agency	Estimated Project Cost	
			($ million)	(₱ billion)
1.	UP-PGH Cancer Center Project	UP	162.75	9.49
2.	UP PGH Diliman Project	UP	218.49	12.74

UP = University of the Philippines, UP-PGH = University of the Philippines-Philippine General Hospital.
Source: NEDA. 2024. Infrastructure Flagship Projects (accessed 27 October 2024).

Projects under preparation and procurement in the social infrastructure sector

Figure 67 shows the number of PPP projects that were under preparation and procurement in the Philippines' social infrastructure sector.

Figure 67: Public–Private Partnership Social Infrastructure Projects Under Preparation and Procurement



Source: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024).

[211] Government of the Philippines. 2023. *Executive Order No. 34, s. 2023*; Department of Interior and Local Government (DILG). 2024. Abalos: No Displacement in the Implementation of PBBM's 4PH Housing Program.

Table 57 presents a list of pipeline national PPP social infrastructure projects as of October 2024, based on the PPP Center's project list. The identified projects are in the health care and public housing subsectors.

Table 57: Pipeline Public–Private Partnership Social Infrastructure Projects, as of October 2024

No.	Project	Implementing Agency	Procurement Mode	Estimated Project Cost ($ million)	Estimated Project Cost (₱ billion)	Status
1.	UP-PGH Diliman Project	UP	Solicited	-	TBD	Preparation phase (under development)
2.	Cagayan Valley Medical Center Hemodialysis Center	DOH	Solicited	2.40	0.14	Approval phase
3.	Vaccine Self-Reliance Project	DOH	Solicited	-	TBD	Preparation phase (under conceptualization)
4.	Establishment of Hemodialysis Centers in Iloilo Provincial and District Hospitals	Provincial Government of Iloilo	Unsolicited	3.94	0.23	Negotiation phase
5.	UP-PGH Manila Cancer Center Project	UP-PGH	Solicited	162.75	9.49	Procurement phase
6.	Dialysis Center PPP Project for Renal Center Facility of Baguio General Hospital and Medical Center	DOH	Solicited	6.69	0.39	Procurement phase
7.	San Juan-4PH	City Government of San Juan	Unsolicited	25.21	1.47	Preparation phase (under evaluation by IA)
8.	Mariveles Dialysis Center	Provincial Government of Bataan	Unsolicited	0.69	0.04	Negotiation phase
9.	Nuclear Medicine Research and Innovation Center	Philippine Nuclear Research Institute	Solicited	37.73	2.2	Preparation phase (under development)
10.	Lung Center of the Philippines' Medical Arts Building Project	Lung Center of the Philippines	Solicited	21.61	1.26	Preparation phase (under conceptualization)
11.	Construction of Learning Resource and Student Service Center	Siquijor State College	Solicited	4.80	0.28	Preparation phase (under conceptualization)
12.	Construction of Livelihood Skills Training Center	Siquijor State College	Solicited	4.97	0.29	Preparation phase (under conceptualization)
13.	PPP for School Infrastructure Project Phase III (PSIP III)	Department of Education	Solicited	-	TBD	Preparation phase (under conceptualization)

continued on next page

Table 57 *continued*

No.	Project	Implementing Agency	Procurement Mode	Estimated Project Cost ($ million)	Estimated Project Cost (₱ billion)	Status
14.	Santiago City Hemodialysis Center Project	City Government of Santiago, Isabela	Solicited	6.17	0.36	Procurement phase
15.	O&M of Pampanga Dialysis Centers Project	Provincial Government of Pampanga	Unsolicited	12.52	0.73	Procurement phase (under comparative challenge)
16.	O&M of Palayan City Hospital	City Government of Palayan, Nueva Ecija	Unsolicited	1.03	0.06	Negotiation phase
17.	Subdivision and Housing Program in Barangay Ordovilla and Bethel, Victoria Oriental Mindoro	Provincial Government of Victoria, Oriental Mindoro	Solicited	-	TBD	Preparation phase (under conceptualization)
18.	La Union Dialysis Center Central Circuit	Provincial Government of La Union	Unsolicited	-	TBD	Preparation phase (under evaluation by IA)
19.	O&M Including Supply and Installation of Laboratory Equipment and Laboratory Information System	City Government of Antipolo	Unsolicited	0.34	0.02	Preparation phase (endorsed to IA after completeness check)

4PH = *Pambansang Pabahay Para sa Pilipino*, DOH = Department of Health, IA = implementing agency, O&M = operation and maintenance, PPP = public–private partnership, PSIP = PPP for School Infrastructure Project, TBD = to be determined, UP = University of the Philippines, UP-PGH = University of the Philippines-Philippine General Hospital.
Source: PPP Center. 2024. List of PPP Projects in the Pipeline (accessed 27 October 2024); San Juan-*Pambansang Pabahay Para sa Pilipino* (4PH) Program.

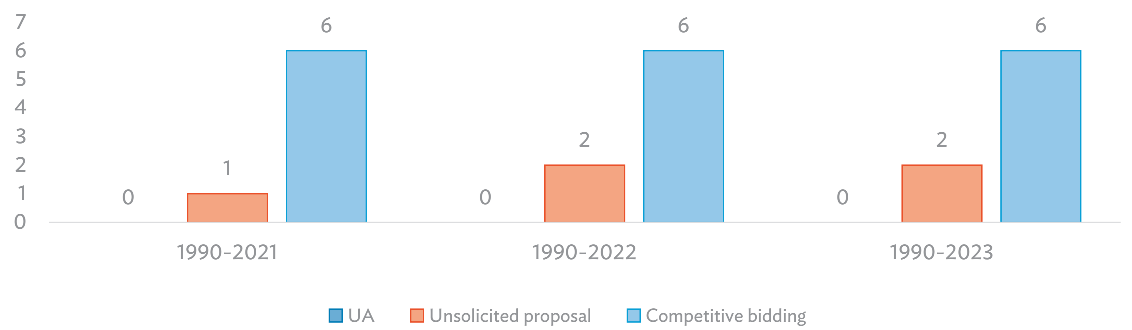
The PPP Center's list of pipeline PPP projects includes other projects in social infrastructure, such as solid waste management (discussed in section Other Infrastructure: Municipal Solid Waste) as well as development/rehabilitation of government buildings, recreational/agro-industrial information technology parks, entertainment and events/food and transport hubs, public markets, urban renewal and heritage conservation, and lake rehabilitation and development, which are identified under the property development sector and are not considered in the PPP Monitor.[212]

[212] Public–Private Partnership Center. 2024. List of PPP Projects in the Pipeline.

4. Features of Past Public–Private Partnership Projects in the Social Infrastructure Sector

Figure 68 presents the number of PPP projects procured through various modes including direct appointment, unsolicited bids, and competitive bids in the Philippines' social infrastructure sector for 2021, 2022, and 2023.

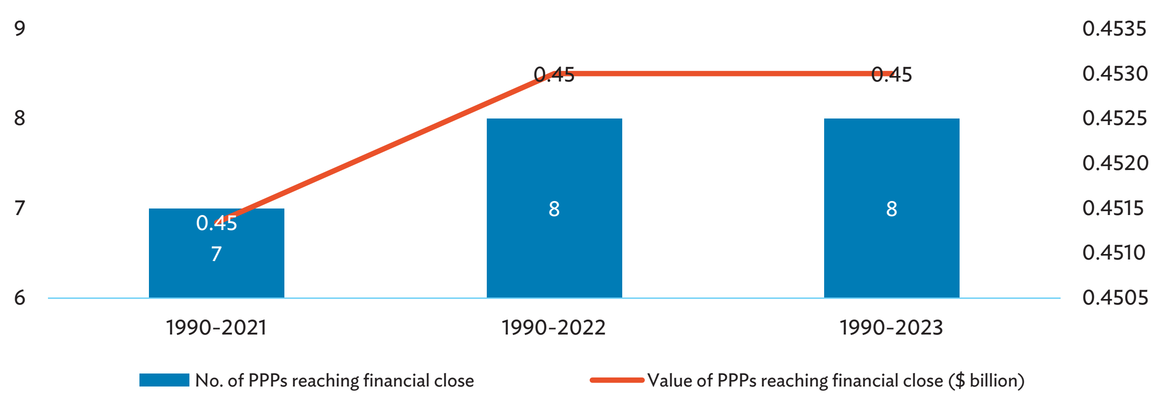
Figure 68: Modes of Procurement for Public–Private Partnership Social Infrastructure Projects



UA = information unavailable.
Note: Only active and concluded projects are considered.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Figure 69 shows the number of PPP projects that have reached financial closure and the total value of those projects in the Philippines' social infrastructure sector.

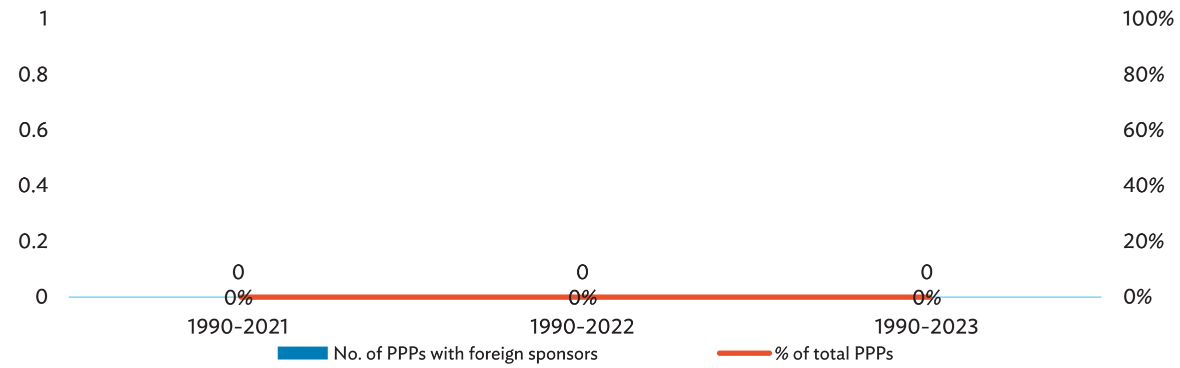
Figure 69: Public–Private Partnership Social Infrastructure Projects Reaching Financial Closure



PPP = public–private partnership.
Note: Only active and concluded projects are considered. PPP projects "under implementation" in the PPP Center database are assumed to have reached financial closure. Value of PPP unavailable for one project.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Figure 70 presents the number of PPP projects that have received foreign sponsor participation in the Philippines' social infrastructure sector.

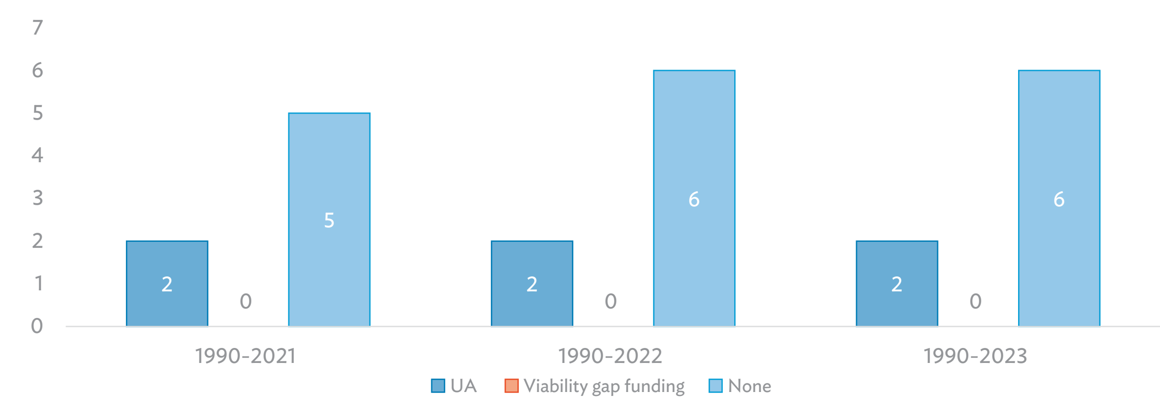
Figure 70: Public–Private Partnership Social Infrastructure Projects with Foreign Sponsor Participation



PPP = public–private partnership.
Note: Only active and concluded projects are considered.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Figure 71 shows the number of PPP projects that have received government support, including VGF, government guarantees, and availability/performance payment, in the Philippines' social infrastructure sector.

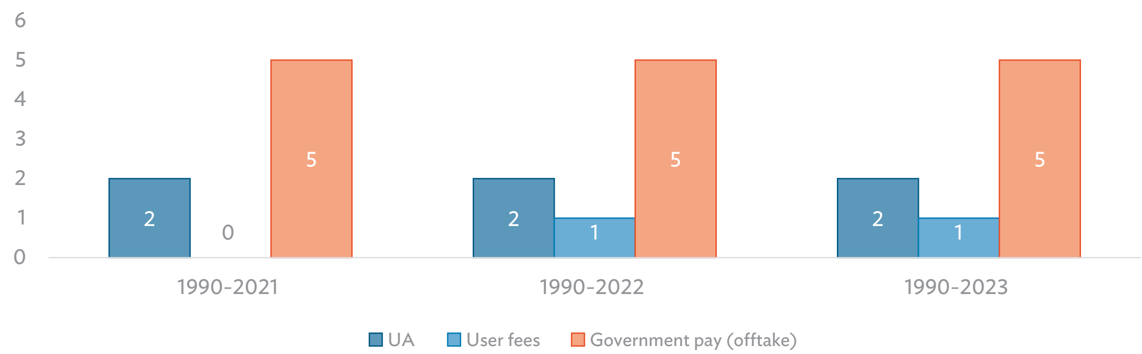
Figure 71: Government Support to Public–Private Partnership Social Infrastructure Projects



UA = information unavailable.
Note: Only active and concluded projects are considered.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Figure 72 presents the number of PPP projects that have received payment in the form of user charges and government pay (offtake) in the Philippines' social infrastructure sector.

Figure 72: Payment Mechanism for Public–Private Partnership Social Infrastructure Projects



UA = information unavailable.
Note: Only active projects are considered.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Tariffs in the social infrastructure sector

For the education sector, the first phase of the PSIP (PSIP I) involved the design, financing, construction, and maintenance of 9,296 one-story and two-story classrooms, including furniture and fixtures in the regions, being implemented under a BLT arrangement for a lease period of 10 years. PSIP I has a total project cost of ₱16.27 billion ($279.03 million as of 28 October 2024), broken down into three packages: Package A, costing ₱3.44 billion; Package B, costing ₱5.28 billion; and Package C, costing ₱7.68 billion.[213] PSIP II Package A involved the design, financing, and construction of 2,438 one-, two-, three-, and four-story classrooms, including furniture, fixtures, and toilets, in is regions, implemented under a BT arrangement for a total project cost of ₱3.86 billion, broken down into two packages: Package A, costing ₱2.26 billion, and Package E, costing ₱1.60 billion.[214]

No information on the tariffs for health care sector and public housing projects is available.

[213] PPP Center. PPP for School Infrastructure Project Phase 1 (PSIP 1) – Package A; PPP for School Infrastructure Project Phase 1 (PSIP 1) – Package B; PPP for School Infrastructure Project Phase 1 (PSIP 1) – Package C.

[214] PPP Center. PPP for School Infrastructure Project Phase II (PSIP II) – Package A; PPP for School Infrastructure Project Phase II (PSIP II) – Package E.

Typical risk allocation for PPP social infrastructure sector projects

Risk Type	Private	Public	Shared	Remarks
Demand risk	✓			Except in availability-based PPPs
Revenue collection risk	✓			
Competition risk	✓			
Environmental and social risk	✓ (Unsolicited)		✓ (Solicited)	
Land acquisition risk	✓ (Unsolicited)	✓ (Solicited)		
Interface			✓	
Permits			✓	
Geotechnical risk	✓			Except for material unidentified risks
Brownfield risk: inventory studies, property boundaries, project scope, asset condition			✓	
Political risk			✓	Private party bears risk up to a materiality threshold, beyond which public party bears risk
Force majeure			✓	
Foreign exchange risk	✓			
Construction risk	✓			Except for delays caused by government
Early termination risk			✓	Subject to specific conditions and compensation mechanisms

✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
Sources: Tavidell Law.

Financing details of PPPs in the social infrastructure sector

Parameter	1990–2021	1990–2022	1990–2023
PPP projects with foreign lending participation	UA	UA	UA
PPP projects that received export credit agency/international financing institution support	UA	UA	UA
Typical debt: equity ratio	UA		
Time for financial closure	UA		
Typical concession period	10 years (education); 30 years (health care)		
Typical financial internal rate of return	UA		

PPP = public–private partnership.
✓ = Yes, × = No, NA = Not Applicable, UA = Unavailable.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); PPP for School Infrastructure Project (PSIP) Phase I-Package A; UP Philippine General Hospital Manila Cancer Care Center; World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

5. Challenges in the Social Infrastructure Sector

- Restriction on foreign investments (capped at 40% for education services) limits competition in the education sector, especially since the restriction does not only limit the ownership of the entity and the composition of the board of directors but also requires that all executive and managing officers of the entity must be Filipinos.
- As in all other PPP projects, site acquisition is a key challenge in the social infrastructure sector. In the Modernization of the Philippine Orthopedic Center project of the DOH, one of the reasons cited by the private partner for terminating the contract was the DOH's delay in delivering the project site.[215] The completion of PSIP I was delayed because of site issues such as inaccessibility, poor security, geotechnical concerns, presence of obstructions, and delay in providing substitute sites. During implementation of the project, DepEd had to provide replacement sites to the private partners because of issues on the original sites.[216]
- The market for social infrastructure PPPs is relatively untested because only a few projects have entered the award/construction stage.[217]

Other Infrastructure: Municipal Solid Waste

1. Implementing Agencies in the Municipal Solid Waste Sector

Under the Ecological Solid Waste Management Act of 2000, LGUs are mandated to develop their respective solid waste management plans and execute the closure and rehabilitation of dumpsites, and the establishment of material recovery facilities, and create environmentally sound disposal systems.

LGUs are the implementing agencies for PPPs in the solid waste management sector. In addition, special economic zones may also enter into PPP arrangements for the solid waste management within their respective jurisdictions, pursuant to the powers granted to them to enter into contracts in their respective charters. The BCDA, for example, has a PPP sanitary landfill and waste-to-energy (WTE) project in New Clark City, which is currently in preparation.

2. Municipal Solid Waste Laws and Regulations

The Ecological Solid Waste Management Act of 2000 provides for a comprehensive ecological solid waste management program by creating the necessary institutional mechanism and incentives for private sector investment. The LGUs are likewise mandated to submit a plan that shows that they will divert at least 25% of all solid wastes from waste disposal facilities through reuse, recycling, and composting activities and other resource recovery activities, which percentage increases every 3 years.

In 2019, the DENR issued guidelines governing WTE facilities for the integrated management of municipal solid waste (Department Administrative Order No. 2019-21) pursuant to the Ecological Solid Waste Management Act

215 *Rappler*. 2015. Megawide Terminates PH Orthopedic Modernization Project; Supreme Court of the Philippines. 2021. *Cervantes v. Aquino, G.R. No. 210805.*
216 PPP Center. 2021. PPP for School Infrastructure Project (PSIP) Phase 1: DepEd's First PPP Project.
217 ADB. 2020. *Public–Private Partnership Monitor: Philippines.*

of 2000. The guidelines also adhere to the government's policy to promote compliance with the environmental impact statement system under Presidential Decree No. 1586, Toxic Substances and Hazardous and Nuclear Wastes Act of 1990 (Republic Act No. 6969), the Philippine Clean Air Act of 1999 (Republic Act No. 8749), and the Philippine Clean Water Act of 2004 (Republic Act No. 9275).

In 2022, the National Solid Waste Management Commission (NSWMC), created under the Ecological Solid Waste Management Act of 2000, adopted the 10-year Total Solid Waste Management Solution to optimize waste recovery and utilization in sanitary landfills prior to disposal.[218] Related to this are the NSWMC's previous resolutions adopting the Guidelines on Categorized Disposal Facilities, prescribing the design features and operational requirements for various sanitary landfill categories of LGUs according to the waste measured by tons per day.

WTE plant projects are awarded by the DOE pursuant to the Electric Power Industry Reform Act of 2001 and the Renewable Energy Act of 2008. In 2022, the DOE prescribed the policies and programs to promote and enhance the development of biomass WTE facilities. This is pursuant to the mandate of the DOE to encourage the private sector to invest in renewable energy resources. Biomass WTE resources are classified as a renewable energy resource for the purposes of all the entitlements under the Renewable Energy Act of 2008 and all related energy issuances.[219]

Foreign investment restrictions in the municipal solid waste sector

Parameter	2021	2022	2023
Maximum allowed foreign ownership of equity	100%	100%	100%

Source: Tavidell Law.

Standard contracts in the municipal solid waste sector

There are no sector-specific templates for PPPs available for the municipal solid waste sector.

Type of contract	Availability
What standardized contracts are available and used in the market?	
Public–private partnership/concession agreement	✗[a]
Power purchase agreement	✗
Long-term waste supply contract	✗
Capacity take-or-pay contract	✗
Transmission and use of system agreement	✗
Performance-based operation and maintenance contract	✗
Engineering, procurement, and construction contract	✗

✓ = Yes, ✗ = No, NA = Not Applicable, UA = Unavailable.
Note:
[a] However, a model PPP contract for local government units is provided in a 2012 publication of the PPP Center.
Source: PPP Center. 2012. *A PPP Manual for LGUs 3. Utilizing LGU PPP Project Templates and Bid Documents*; Tavidell Law.

[218] NSWMC. 2021. *Resolution No. 1452, Series of 2021.*
[219] DOE. 2022. *Department Circular No. DC2022-02-0002.*

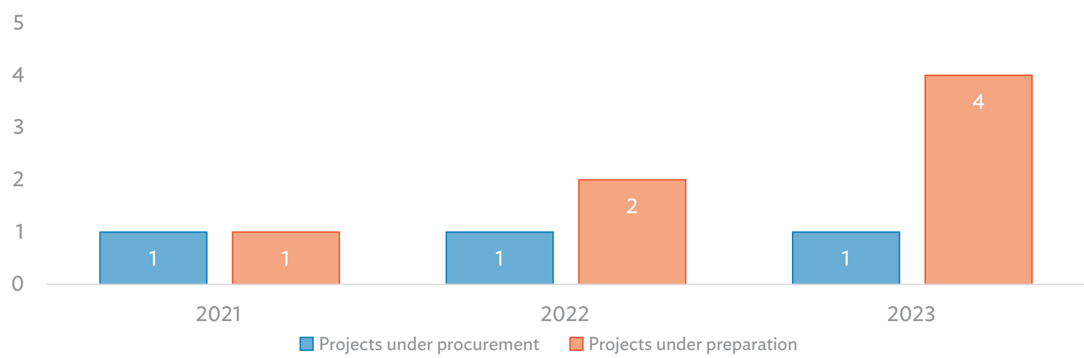
3. Municipal Solid Waste Sector Master Plan

The NSWMC has passed a resolution adopting the Total Solid Waste Management Solution, which will maximize waste diversion and optimize the use of water disposal sites. While there are a number of LGUs in the process of preparing or procuring PPP projects for solid waste management such as sanitary landfills, integrated solid waste management systems, and WTE plants, only a few are exerting efforts to reduce their solid waste. Only a low 9% of all LGUs have adopted ordinances to regulate single-use plastics. Under the Ecological Solid Waste Management Act of 2000, LGUs are mandated to submit their respective solid waste management plans. However, as of December 2021, there were delays in the submission, review, and approval of the plans.[220]

Projects under preparation and procurement in the municipal solid waste sector

Figure 73 shows the number of PPP projects that were under preparation and procurement in the Philippines' municipal solid waste sector for 2021, 2022, and 2023.

Figure 73: Public–Private Partnership Municipal Solid Waste Projects Under Preparation and Procurement



Note: Only active projects are considered.
Source: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024).

Table 58 presents a list of pipeline national PPP municipal solid waste projects as of October 2024, based on the PPP Center's project list.

Table 58: Pipeline Public–Private Partnership Municipal Solid Waste Projects, as of October 2024

No.	Project	Implementing Agency	Procurement Mode	Estimated Project Cost ($ million)	Estimated Project Cost (₱ billion)	Status
1	Sanitary Landfill and Waste-to-Energy Project in New Clark City	BCDA	Solicited	-	TBD	Preparation phase (under development)
2	Catanduanes Solid Waste Management Project	Provincial Government of Catanduanes	Solicited	-	TBD	Preparation phase (under conceptualization)

continued on next page

220 Commission on Audit (COA). 2023 *Performance Audit Report. PAO-2023-01. Solid Waste Management Program.*

Table 58 *continued*

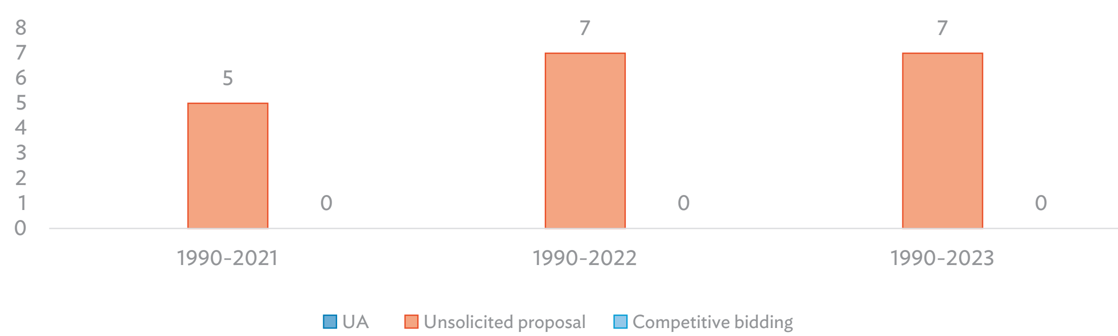
No.	Project	Implementing Agency	Procurement Mode	Estimated Project Cost ($ million)	Estimated Project Cost (₱ billion)	Status
3	General Santos City Sanitary Landfill Project	City Government of General Santos	Solicited	-	TBD	Preparation phase (under conceptualization)
4	Zamboanga City Integrated Solid Waste Management System	City Government of Zamboanga	Unsolicited	-	TBD	Preparation phase (under evaluation by IA)
5	University Chemical Wastes Storage Facility with Furniture, Fixture, and Equipment with Land Development	Central Mindanao University	Solicited	0.17	0.01	Preparation phase (under conceptualization)
6	Comprehensive Provincial Waste Management and Carbon Capture System Utilizing Bio-Methanation No-Burn Project	Provincial Government of Quirino	Unsolicited	13.72	0.8	Preparation phase (under evaluation by IA)

BCDA = Bases Conversion and Development Authority, IA = implementing agency, TBD = to be determined.
Source: PPP Center. 2024. List of PPP Projects in the Pipeline (accessed 27 October 2024).

4. Features of Past Public–Private Partnership Projects in the Municipal Solid Waste Sector

Figure 74 presents the number of PPP projects procured through various modes including direct appointment, unsolicited bids, and competitive bids in the Philippines' municipal solid waste sector.

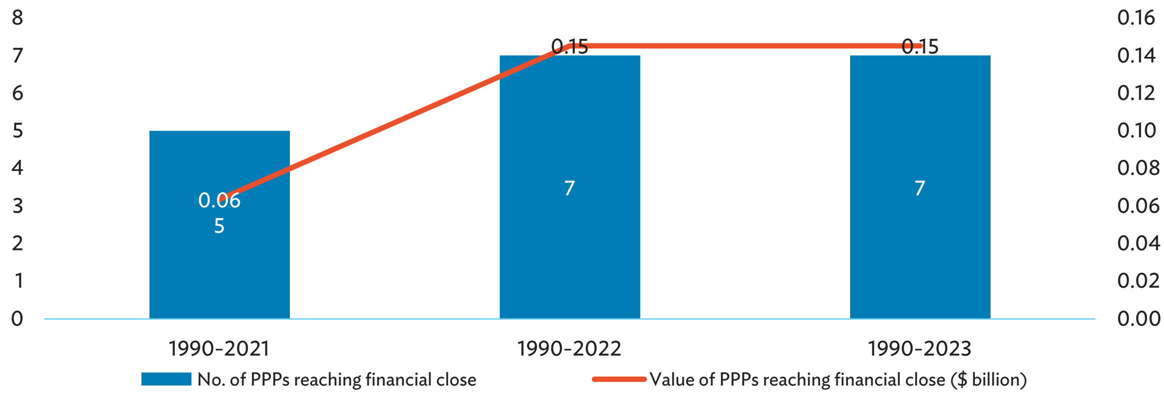
Figure 74: Modes of Procurement for Public–Private Partnership Municipal Solid Waste Projects



UA = information unavailable.
Note: Only active and concluded projects are considered.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Figure 75 shows the number of PPP projects that have reached financial closure and the total value of those projects in the Philippines' municipal solid waste sector.

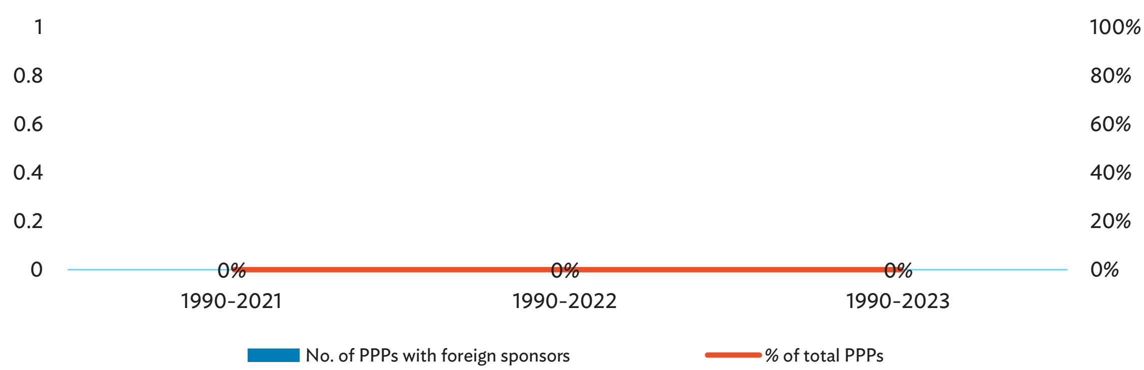
Figure 75: Public–Private Partnership Municipal Solid Waste Projects Reaching Financial Closure



PPP = public–private partnership.
Note: Only active and concluded projects are considered. PPP projects "under implementation" in the PPP Center database are assumed to have reached financial closure. Value of PPP is unavailable for two projects.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Figure 76 presents the number of PPP projects that have received foreign sponsor participation in the Philippines' municipal solid waste sector.

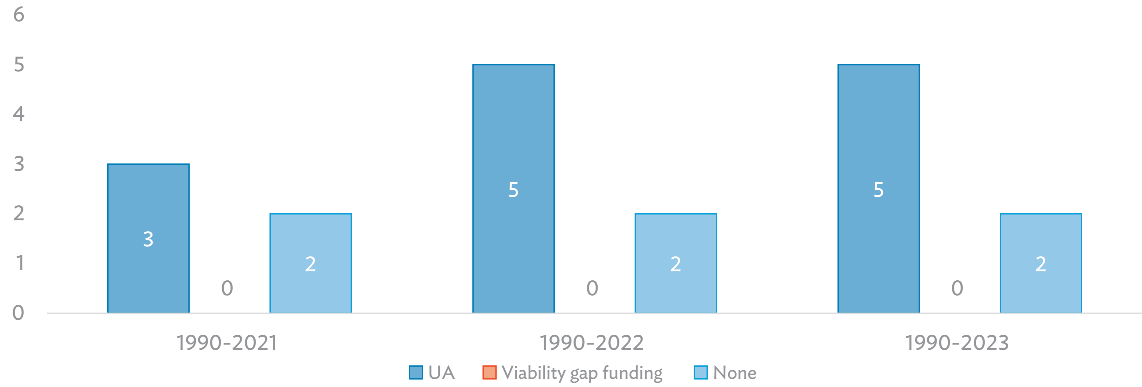
Figure 76: Public–Private Partnership Municipal Solid Waste Projects with Foreign Sponsor Participation



PPP = public–private partnership.
Note: Only active and concluded projects are considered.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Figure 77 shows the number of PPP projects that have received government support, including VGF, government guarantees, and availability/performance payment, in the Philippines' municipal solid waste sector.

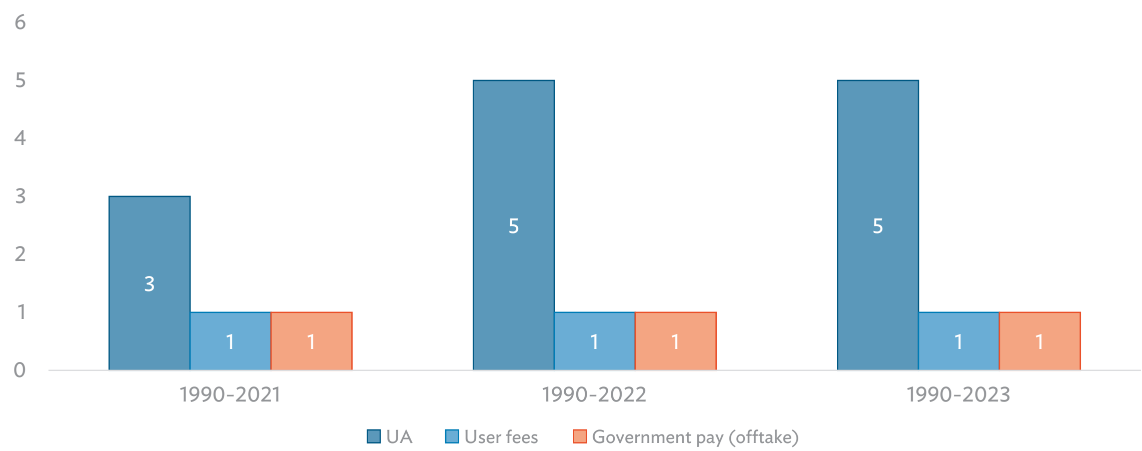
Figure 77: Government Support to Public–Private Partnership Municipal Solid Waste Projects



UA = information unavailable.
Note: Only active and concluded projects are considered.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Figure 78 presents the number of PPP projects that have received payment in the form of user charges and government pay (offtake) in the Philippines' municipal solid waste sector.

Figure 78: Payment Mechanism for Public–Private Partnership Municipal Solid Waste Projects



UA = information unavailable.
Note: Only active and concluded projects are considered.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

Tariffs in the municipal solid waste sector

No information on the tariffs for the municipal solid waste sector is available.

Typical risk allocation for PPP municipal solid waste projects

No information on the risk allocation for the municipal solid waste sector is available.

Financing details of PPPs in the municipal solid waste sector

No information on the financing details of PPPs in the municipal solid waste sector is available.

Parameter	1990–2021	1990–2022	1990–2023
PPP projects with foreign lending participation	UA	UA	UA
PPP projects that received export credit agency/international financing institution support	UA	UA	UA
Typical debt: equity ratio	UA		
Time for financial closure	UA		
Typical concession period	15 years (municipal solid waste management); 25–40 years (WTE)		
Typical financial internal rate of return	UA		

PPP = public–private partnership, WTE = waste-to-energy.
✓ = Yes, ✗ = No, NA = Not Applicable, UA = Unavailable.
Sources: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024); Municipality of Malay Ecological Solid Waste Management Project; Joint Venture Agreement for the Cebu City Waste to Energy Project; Tagum City Waste-to-Energy Plant Project; World Bank. 2023. Infrastructure Finance, PPPs, and Guarantees. Country Snapshots. Philippines. Custom Query (accessed 29 August 2024); Tavidell Law.

5. Challenges in the Municipal Solid Waste Sector

- A very low percentage of LGUs have adopted ordinances with respect to their solid waste management.[221]
- There is a huge volume of waste generated in the country, almost one-third coming from Metro Manila. However, only 39% of all barangays are served with material recovery facilities and only 29% by sanitary facilities.[222]
- The segregation of solid waste is not strictly implemented. Mixed waste still enters waste disposal facilities in the country despite the issuances of the DENR-NSWMC.[223] Thus, solid waste diversion (i.e., recycling, composting, etc.) remains low at 54%.[224]
- LGU credit risk is also an issue for PPPs in the sector.

[221] NEDA. 2023. *Philippine Development Report 2023.*
[222] NEDA. 2023. *Philippine Development Report 2023.*
[223] NSWMC. 2021. *Resolution No. 1452, Series of 2021.*
[224] NSWMC. 2021. *Resolution No. 1452, Series of 2021.*

IV. Local Government Public–Private Partnership Landscape

Table 59: Local Government Public–Private Partnership Landscape Key Indicators

Parameter	Value	Unit
Number of subnational governments (SNGs)		
– *Barangays*	42,004	no.
– *Municipalities*	1,493	no.
– *Cities*	149	no.
– *Provinces*	82	no.
Total number of SNGs	43,728	no.
SNG expenditure profile		
Total SNG expenditure as % of GDP	4.8	%
– *SNG current expenditure as % of GDP*	4.3	%
– *SNG staff expenditure as % of GDP*	1.2	%
– *SNG investment as % of GDP*	0.5	%
Total SNG expenditure as % of total general government (% of total public expenditure)	15.7	%
– *SNG current expenditure as % of total current expenditure of general government*	16.5	%
– *SNG staff expenditure as % of total staff expenditure of general government*	15.7	%
– *SNG investment as % of total investment of general government*	11.1	%
Current expenditure of SNG as % of total SNG expenditure	89.7	%
Staff expenditure of SNG as % of total SNG expenditure	26.0	%
Investments of SNG as % of total SNG expenditure	10.3	%
SNG expenditure by function (as % of total SNG expenditure)		
– *General public services*	60.69	%
– *Defense*	0	%
– *Security and public order*	0	%
– *Economic affairs/transports*	16.03	%
– *Environmental protection*	0.0	%
– *Housing and community amenities*	0.0	%
– *Health*	0.0	%
– *Recreation, culture, and religion*	0.0	%
– *Education*	0.0	%
– *Social services/protection*	23.28	%

continued on next page

Table 59 *continued*

Parameter	Value	Unit
SNG revenue profile		
Total SNG revenue as % of GDP	4.8	%
– *SNG tax revenue as % of GDP*	1.1	%
– *SNG grants and subsidies as % of GDP*	3.2	%
– *SNG other revenues as % of GDP*	0.2	%
Total SNG revenue as % of total general government revenue	19.4	%
– *SNG tax revenue as % of total general government revenue*	7.1	%
– *SNG grants and subsidies as % of total general government grants and subsidies*	UA	%
– *SNG other revenues as % of total other revenues*	UA	%
SNG tax revenue as % of total SNG revenue	22.0	%
SNG grants and subsidies as % of total SNG revenue	67.0	%
SNG other revenues as % to total SNG revenue	3.1	%
SNG debt profile		
Outstanding SNG debt as % of GDP	0.63	%
Outstanding SNG debt as % of total outstanding debt of general government	1.2	%
Parameters for transfers to SNGs from national government		
Score on transfers to SNGs	UA	
– *Score on system for allocating transfers*	UA	
– *Score on timeliness of information on transfers*	UA	
– *Score on extent of collection and reporting of consolidated fiscal data for general government*	NA	
Value of central government transfers to SNGs	UA	% of GDP
Value of actual budgetary allocation to SNGs from national government	UA	% of total expenditure
Value of deviation of actual against budgeted transfers to SNGs	UA	% of budgeted transfers

GDP = gross domestic product, SNG = subnational government.
✓ = Yes, ✗ = No, NA = Not Applicable, UA = Unavailable.
Sources: DILG. 2024. Regional and Provincial Summary – Number of Provinces, Cities, Municipalities and Barangays as of June 30, 2024; OECD. 2022. *2022 Synthesis Report World Observatory on Subnational Government Finance and Investment*; OECD/ADB. 2023. *Multi-Level Governance and Subnational Finance in Asia and the Pacific*; PSA. 2024. Philippine Standard Geographic Code; World Observatory on Subnational Government Finance and Investment. Philippines.

Local Governance System in the Philippines

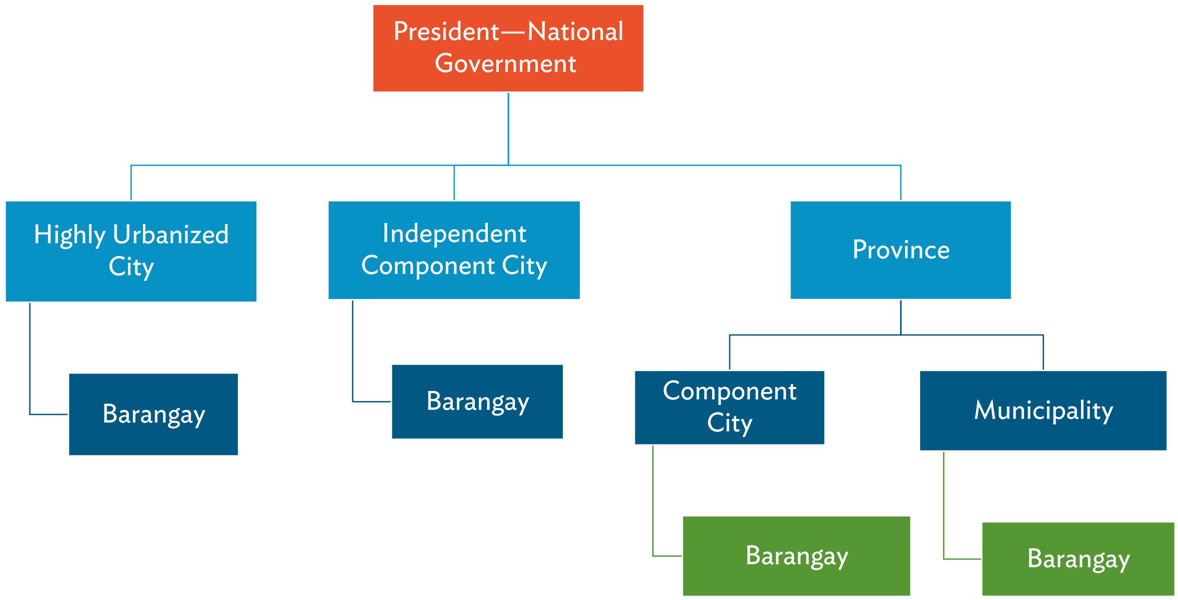
Local government units (LGUs) are the territorial and political subdivisions of the Philippines, consisting of the provinces, cities, municipalities, and barangays.[225] Each LGU is a body politic and corporate endowed with powers it exercises in conformity with law as a political subdivision of the national government and as a corporate entity representing the inhabitants of its territory.[226] LGUs enjoy local autonomy pursuant to the Philippine Constitution.[227] In 1991, the Philippine Congress enacted the Local Government Code, Republic Act No. 7160 (LGC), as the enabling law for local autonomy.

The LGC implements two facets of local autonomy—administrative and fiscal. Administrative autonomy refers to the decentralization of administration when the national government delegates administrative powers to the LGUs to broaden the base of governmental powers, making the LGUs more responsive and accountable in the process. This ensures their fullest development as self-reliant communities and more effective partners in the pursuit of national development goals and social progress, and enables the national government to concentrate on national concerns. Meanwhile, fiscal autonomy of LGUs refers to (i) their power to create their own sources of revenues and to levy taxes, fees, and charges, (ii) their just share in the national taxes, and (iii) their equitable share in the proceeds of the utilization and development of the national wealth within their respective areas. Fiscal autonomy also refers to their power to allocate their resources in accordance with their own priorities.[228]

The President of the Philippines exercises general supervision over LGUs to ensure their acts are within the scope of their prescribed powers and functions. This means the President cannot control the affairs and activities of an LGU and can interfere only if its actions are contrary to law and the Philippine Constitution.[229] The President exercises supervisory authority directly over provinces, highly urbanized cities, and independent component cities. However, with respect to component cities and municipalities, the President exercises supervisory authority indirectly through the province; with respect to barangays, it is through the city and municipality as shown in Figure 79.[230]

225 A region is not considered an LGU as it is not a political subdivision, thus has no local government.
226 Government of the Philippines. 1991. *Local Government Code of the Philippines.*
227 Republic of the Philippines. 1987. *The Constitution of the Republic of the Philippines.*
228 Republic of the Philippines. 1987. *The Constitution of the Republic of the Philippines*; Government of the Philippines. 1991. *Local Government Code of the Philippines*; Supreme Court of the Philippines. 2018. *Mandanas v. Ochoa, G.R. No. 199802.*
229 Supreme Court of the Philippines. 2002. *Dadole v. Commission on Audit, G.R. No. 125350.*
230 Government of the Philippines. 1991. *Local Government Code of the Philippines.*

Figure 79: Local Government Structure in the Philippines



Notes: The province is composed of a cluster of municipalities, or municipalities and component cities. Cities are classified into highly urbanized cities, component cities, and independent component cities. Highly urbanized cities are those with a population of at least 200,000 and with latest annual income of at least ₱50 million based on 1991 constant prices. Cities that do not meet these requirements are considered component cities of the province in which they are geographically located. Component cities whose charters prohibit their voters from voting for provincial elective officials are regarded as independent component cities. Highly urbanized cities and independent component cities are independent of the province. The barangay is the smallest local government unit (LGU) and these are within cities and municipalities. LGUs are grouped into regions based on their location. For purposes of investment programming and formulation and implementation of development programs, each LGU has a local development council and each region has a regional development council (see section Infrastructure Development Plan of Local Governments and Table 61 for details).
Source: Based on Government of the Philippines. 1991. *Local Government Code of the Philippines*.

The national government supports and coordinates with LGUs on project implementation. National agencies and offices that have project implementation functions are required to coordinate with one another and with the LGUs concerned and to ensure the participation of those LGUs in both the planning and the implementation of national projects.[231]

As of 30 April 2024, the Philippines has 43,728 LGUs, consisting of 42,004 barangays, 1,493 municipalities, 149 cities, and 82 provinces across 18 regions.

The Philippines has 18 geographic regions: National Capital Region; Cordillera Autonomous Region; I (Ilocos Region); II (Cagayan Valley); III (Central Luzon); IV-A (Calabarzon); Mimaropa; V (Bicol Region); VI (Western Visayas); VII (Central Visayas); VIII (Eastern Visayas); IX (Zamboanga Peninsula); X (Northern Mindanao); XI (Davao Region); XII (Soccsksargen); XIII (Caraga); Bangsamoro Autonomous Region in Muslim Mindanao; and the newly created Negros Island Region.[232] The regions are not LGUs as they are not political subdivisions of the Philippine government. Bangsamoro Autonomous Region in Muslim Mindanao and Cordillera Autonomous

[231] Government of the Philippines. 1991. *Local Government Code of the Philippines*.
[232] PSA. 2024. Philippine Standard Geographic Code. Second Quarter 2024 PSGC Updates: Creation of the Negros Island Region and Correction of the Names of Two Barangays.

Region are considered autonomous regions but are not considered LGUs under the LGC. However, the provinces, cities, municipalities, and barangays within their territories are LGUs.

Infrastructure Development Plans of Local Governments

In the Philippines, development planning and investment programming follow a dynamic and iterative process whereby the national, regional, and local levels of governance work together to support and reaffirm each other's priority development thrusts and objectives.[233]

At the planning stage, the national government provides guidance and directions for the preparation of sector- and lower-level plans in terms of policies and macroeconomic targets, taking into account prevailing development issues and concerns affecting national, regional, and local conditions. From these national planning guidelines, regional and local development plans and investment programs are then prepared with consideration of local development needs and service delivery gaps. These documents serve as bases for the preparation of sector plans and investment programs, which become components of the national medium-term development plan and investment program (Footnote 233).

LGU development plans contain programs, projects, and activities responding to their development needs and gaps, while LGU investment programs outline a set of prioritized programs, projects, and activities, their specific time frames of implementation, and their budget requirements. LGUs likewise propose fund sourcing alternatives and resource mobilization strategies to ensure these identified and prioritized programs, projects, and activities are implemented (Footnote 233).

The local development councils (LDCs) and regional development councils (RDCs) likewise play an important role in supporting infrastructure development and in particular PPP projects at the local government level (Table 61). The LGC requires each LGU to have a comprehensive multisectoral development plan to be initiated by its development council and approved by its legislative council, known as a *sanggunian*. For this purpose, the LDC at the provincial, city, municipal, or barangay level assists the corresponding *sanggunian* in setting the direction of economic and social development, and coordinating development efforts within its territorial jurisdiction.

Policies, programs, and projects proposed by LDCs are submitted to the *sanggunian* of the LGU concerned, for appropriate action.[234] Approved development plans of provinces, highly urbanized cities, and independent component cities are further submitted to the RDC, to be integrated into the regional development plan for submission to NEDA. (See Table 61 for details.)

In July 2024, the DILG, DHSUD, NEDA, DBM, and DOF issued Joint Memorandum Circular No. 1, Series of 2024, entitled, "Updated Guidelines on the Harmonization of Local Development Planning, Land Use Planning, Investment Programming, Resource Mobilization, Budgeting, Expenditure Management, and Performance Monitoring and Coordination in Fiscal Oversight for Enhanced Local Service Delivery in line with the Supreme

233 PPP Center. 2012. *A PPP Manual for LGUs 1. Understanding PPP Concepts & Framework.*

234 Local legislative power is exercised by the *sangguniang panlalawigan* for the province, the *sangguniang panlungsod* for the city, the *sangguniang bayan* for the municipality, and the *sangguniang barangay* for the barangay (Section 48 of LGC).

Court Ruling on the Mandanas-Garcia Petitions." This synchronizes national and local planning and budgeting calendars to ensure timely cascading of national priorities and targets for integration in local development plans and investment programs, and so that local priority programs, projects, and activities can be appropriately channeled into national programming and budgeting.

Public–Private Partnership Enabling Framework for Local Government Projects

1. Public–Private Partnership Legal Framework for Local Government Projects

The LGC empowers LGUs to exercise powers for its efficient and effective governance, and those that are essential to the promotion of the general welfare. They also have the authority to discharge functions and responsibilities for the efficient and effective provision to their constituents of basic services and facilities, as provided in Table 62, Table 63, and Table 64.[235] The delivery of these basic services and facilities is now in the process of being fully devolved from the national government to the LGUs in accordance with Executive Order No. 138 (2021), following the ruling of the Philippine Supreme Court in the Mandanas-Garcia case.[236]

As corporate entities, LGUs may enter into contracts and may be implementing agencies for the purposes of PPPs. In the exercise of their proprietary functions, LGUs enjoy full autonomy, subject to the limitations provided in the LGC and other laws (as discussed below). For a contract entered into by the LGU's local chief executive to be valid, it must have the prior authorization of the legislative body of the LGU, the *sanggunian.* A legible copy of such contract must also be posted in a conspicuous place in the provincial capital or the city, municipal, or barangay hall.[237]

In undertaking projects, LGUs may group themselves, consolidate, or coordinate their efforts, services, and resources for purposes commonly beneficial to them. In doing so, LGUs are required to conduct a public hearing for the specific undertaking; seek the approval of the *sanggunian* concerned; contribute funds, real estate, equipment, and other kinds of property; appoint or assign personnel under the agreed upon terms and conditions; and draft and sign a memorandum of agreement for the purpose. The local development council of each LGU assists the *sanggunian* in coordinating development efforts within its territorial jurisdiction.[238]

Devolution of Services to Local Government Units

In 2019, the Supreme Court ruled with finality in the Mandanas-Garcia case that all collections of national taxes (not just national internal revenue taxes as stated in the LGC), except those accruing to special purpose funds and special allotments for the utilization and development of the national wealth, should be included in the computation of the base of the just share of LGUs.

[235] Government of the Philippines. 1991. *Local Government Code of the Philippines*; 2021. *Implementing Rules and Regulations of Executive Order No. 138, S. 2021, Annex A.*

[236] Supreme Court of the Philippines. 2018. *Mandanas v. Ochoa, G.R. No. 199802.*

[237] Government of the Philippines. 1991. *Local Government Code of the Philippines.*

[238] Government of the Philippines. 1991. *Local Government Code of the Philippines.*

In line with the Mandanas-Garcia ruling, President Rodrigo Duterte issued Executive Order No. 138 in 2021, ordering the full devolution from the national government to the LGUs, no later than the end of fiscal year 2024, of functions indicated under the LGC and other existing laws, which subsequently devolved functions of the national government to the LGUs. Table 62, Table 63, and Table 64 enumerate these devolved functions per LGU and the national agencies performing them. Executive Order No. 138 notes that the substantial increase in the shares of the LGUs in the national taxes will empower them in providing basic services and facilities to their constituents and aid them in effectively discharging other duties and functions devolved to them. It recognizes that, with the full devolution of the provision of basic services and facilities to the LGUs, national government agencies (NGAs) can assume more strategic and steering functions to address persistent development issues.

Executive Order No. 138 directs all department secretaries and agency heads concerned to conduct a functional and organizational review of their respective mandates guided by the following principles:

- The role of the national government is to set the national policy, development strategy, and service delivery standards, and to assist, oversee, and supervise the LGUs, complementary to the stronger implementing role that the LGUs shall assume by reason of devolution.
- The devolution of the provision of basic services and facilities to the LGUs and the determination of the functional assignments between and among the different levels of government will be guided by the following:
  - Public services with little or no benefit spillover are best administered and financed by lower-level governments, while public services with significant inter-jurisdictional externalities or benefit and cost spillovers are best assigned to higher levels of government.
  - The provision of public goods and services that involve economies of scale is best assigned to higher levels of government.
  - Functions related to the redistributive role of government are best assigned to the national government.
- The national government, in close collaboration with the LGUs, shall formulate and pursue an institutional development program to support the LGUs in order to strengthen their capacities and capabilities to fully assume the devolved functions based on the LGC and other relevant laws.

Under Executive Order No. 138, except for those functions that the national government will continue to share with the LGU, LGUs are now primarily and ultimately responsible and accountable for the provision of all basic services and facilities fully devolved to them. Local programs and policies must be integrated and coordinated toward a common national goal and must align with the national government’s policies, standards, and strategies (see also Table 62, Table 63, and Table 64).[239]

Executive Order No. 138 created a Committee on Devolution (ComDev) headed by the secretary of the DBM, to oversee and monitor the implementation of the administrative and fiscal decentralization goals of Executive Order No. 138 consistent with the LGC. The ComDev is also tasked to evaluate the status and monitor the implementation of the devolution transition plans (DTPs) of both NGAs and LGUs.

All NGAs and LGUs have been required to prepare their respective DTPs in accordance with the joint guidelines of the DBM and the DILG. The DTPs of NGAs should (i) identify and clarify the functions and services devolved to the LGUs, by LGU level, and the strategy for and phasing of devolution to the LGUs; and (ii) include the

[239] Government of the Philippines. 1991. *Local Government Code of the Philippines*; 2021. *Implementing Rules and Regulations of Executive Order No. 138, S. 2021, Annex A.*

definition of standards for the delivery of devolved services, the strategy for the capacity development of the LGUs, the framework for monitoring and performance assessment of the LGUs, and an organizational effectiveness proposal to strengthen the department/agency in assuming steering functions as part of the devolution efforts. The LGUs are to prepare their respective DTPs in close coordination with the NGAs concerned, especially with regard to devolved functions and services critical to them. The DTPs of LGUs will be used as guides in the monitoring and performance assessment of the LGUs by the DBM, the DILG, and the NGA concerned.[240] The DTP of each LGU must be approved by its *sanggunian* through a resolution while the DTP of each NGA must be approved by the DBM.[241]

Executive Order No. 138 further gives the following directives to effect its full devolution agenda, which are crucial to the implementation of PPP projects for the provision of basic services and facilities by the LGUs, and include implementing capacity development programs for LGUs.

Table 60: National Government Directives to Support Full Devolution

Government Entity	Directive
Capacity Development	
LGUs	Formulate their respective Capacity Development Agenda based on the assessment framework and guidelines to be issued by the DILG-Local Government Academy (DILG-LGA), and guided by, among others, the strategy for capacity development of the LGUs as contained in the NGA DTPs, local development thrusts, and performance goals and objectives
DILG	• Through its DILG-LGA: – oversees the provision of capacity development interventions for LGUs and develops the appropriate mechanisms to ensure efficient utilization of government resources on this effort – harmonizes all capacity development interventions by the DBM, NEDA, DOF, other NGAs, DAP, and third-party service providers for the LGUs and – optimizes the potential of the Local Governance National and Regional Resource Centers as the convergence platform for capacity development[a] • Develops other capacity development strategies, facilitates institutionalization of performance standards, and develops performance incentive mechanisms under the Seal of Good Local Governance to promote excellence in local governance
DILG, DBM, and BLGF	Include public financial management processes, such as local planning, investment programming, resource mobilization, and budgeting, in the capacity development of LGUs to ensure the allocation of the revenue allotment for basic services and facilities is in accordance with Section 17 of the LGC and other relevant laws
Strengthening Planning, Investment Programming, and Budgeting Linkage	
Regional development councils	• Set the strategic direction for the faster development of the regions, especially in lagging areas • Facilitate the alignment of local development and land use plans with the goals, objectives, and targets in the updated Philippine Development Plan and the respective regional development plans The regional development investment programs shall contain the proposed intra and interregional programs, projects, and activities of regional line agencies to be funded by the national government, while the P/LDIPs of provinces, cities, and municipalities shall contain their prioritized list of PPAs for funding by the LGUs. The annual investment program of the LGUs to be funded through local funds, borrowings, and PPPs shall be sourced from their respective P/DLIPs

continued on next page

[240] Government of the Philippines. 2021. *Executive Order No. 138, S. 2021.*
[241] DBM. 2021. *Joint Memorandum Circular No. 2021-2*; the NGAs whose development transition plans have been approved are the DOF, the DOH, and the Commission on Population and Development (DILG. 2024. Approved NGA DTPs).

Table 60 *continued*

Government Entity	Directive
LGUs	• Improve coordination, synchronization, and joint execution of programs and projects between and among them to strengthen horizontal linkages • Provincial governments perform their oversight and coordination functions in the provision of services and implementation of projects within their provinces that cut across city/municipal borders
DILG, DOF, NEDA, and DBM	Update existing circulars and recalibrate the synchronized local and regional planning and budgeting calendars accordingly
Strengthening M&E Systems	
DILG, DBM, DOF, and other NGAs	Put in place results-based M&E systems to ensure the purposive conduct of evaluations by the agencies concerned and to guarantee the LGUs have assumed the devolved functions and services effectively in support of good governance, transparency, accountability, and evidence-based decision making

BLGF = Bureau of Local Government Finance, DAP = Development Academy of the Philippines, DBM = Department of Budget and Management, DILG = Department of Interior and Local Government, DILG-LGA = DILG-Local Government Academy, DOF = Department of Finance, DTP = devolution transition plan, LGC = Local Government Code, LGU = local government unit, M&E = monitoring and evaluation, NEDA = National Economic and Development Authority, NGA = national government agency, P/LDIP = provincial/local development investment program.

Note:

[a] Local Governance Resource Centers were established in select DILG regional offices in 2005 with support from the Canadian International Development Agency. To date, there are 17 Regional Centers nationwide (DILG. Local Governance Resource Center. Brief History).

Source: Government of the Philippines. 2021. *Executive Order No. 138, S. 2021*.

Review and Approval of Local Public–Private Partnership Projects

All local PPP projects, regardless of project cost, must be approved by the local *Sanggunian* in the case of LGUs and by the board in the case of a LUC. Prior to such approval, confirmation by the concerned LDC must be obtained. Local PPP projects with proposed government undertakings using national government funds (which also require ICC approval) and/or those that may affect national or sectoral development plans and national projects further require review and endorsement by the respective RDC. (see Table 61 and Figure 80).

Table 61: Local Development Councils and Regional Development Councils

Development Council	Functions
Local development councils of provinces, cities, and municipalities	• Formulate long- and medium-term and annual socioeconomic development plans and policies, and medium-term and annual public investment programs • Appraise and prioritize socioeconomic development programs and projects • Formulate local investment incentives to promote the inflow and direction of private investment capital • Coordinate, monitor, and evaluate the implementation of development programs and projects (including PPP projects) • Confirm local PPP projects of LGUs and LUCs prior to approval by the *Sanggunian*, in case of LGUs, and the respective boards, in the case of LUCs • Have two representatives as non-voting members of the PBAC of the local implementing agency
Local development councils of barangays	• Mobilize people's participation in local development efforts • Prepare barangay development plans based on local requirements • Monitor and evaluate the implementation of national or local programs and projects (including PPP projects) • Confirm local PPP projects

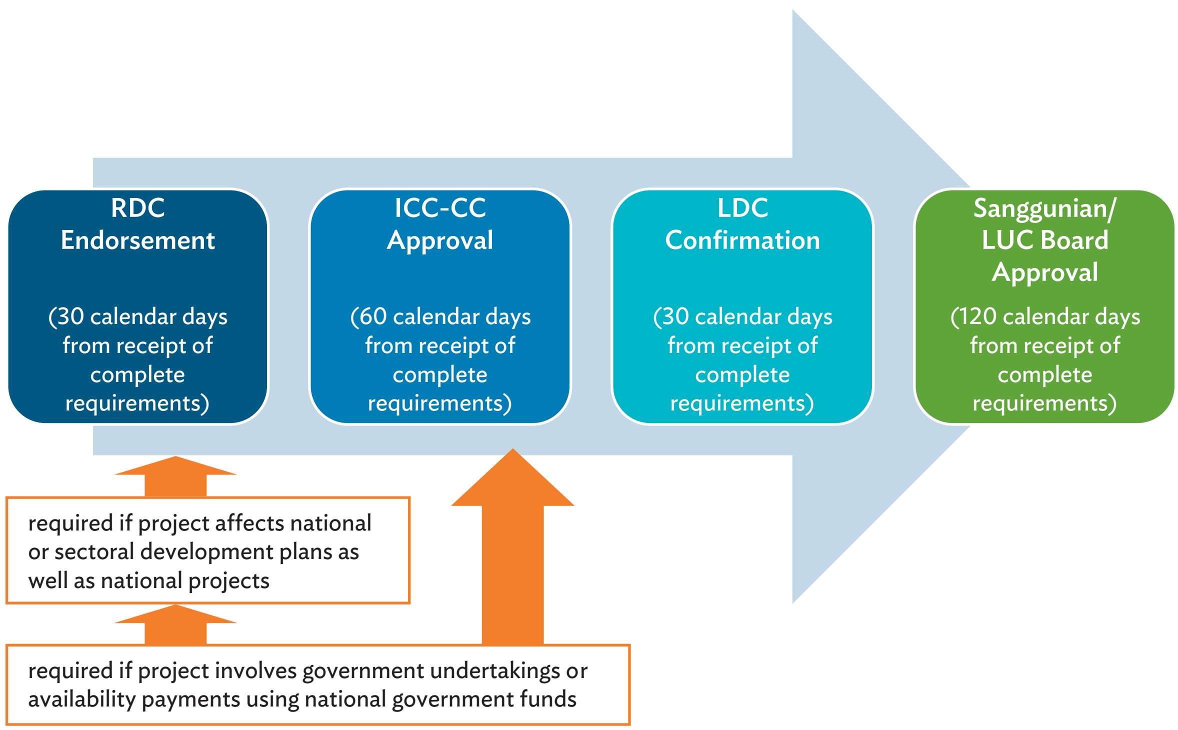
continued on next page

Table 61 *continued*

Development Council	Functions
Regional development councils	• Highest planning and policymaking body in the region and serve as counterpart of the NEDA Board at the subnational level • Review (for endorsement) local PPP projects affecting national or sectoral development plans, as well as national projects, prior to endorsement by the LDC, particularly their alignment with the CLIPs and the list of PPP projects of the relevant implementing agency • Review (for endorsement) local PPP projects that involve government undertakings and/or availability payments using national government funds prior to endorsement by the LDC • May assist in the coordination of LGUs in the approval by the approving bodies of a local project to be implemented by two or more LGUs • May assist in the coordination of LGUs in the approval by the approving bodies of a local project covering two or more LGUs

CLIPs = Consolidated List of Investment Programs, LDC = local development council, LGU = local government unit, LUCs = local universities and colleges, NEDA = National Economic and Development Authority, PPP = public–private partnership.
Source: Government of the Philippines. 1991. *Local Government Code of the Philippines*; 2023. *Public–Private Partnership Code of the Philippines*; 2024. *Implementing Rules and Regulations of the PPP Code*; NEDA. About RDC.

Figure 80: Approval Process for a Local Public–Private Partnership Project



ICC-CC = Investment Coordination Committee-Cabinet Committee, LDC = local development council, LUC = local university and college, RDC = regional development council.
Source: Government of the Philippines. 2023. *Public–Private Partnership Code of the Philippines*; 2024. *Implementing Rules and Regulations of the PPP Code*; NEDA. 2024. *NEDA Board-ICC Guidelines on the Review and Approval of Public–Private Partnership Proposals Requiring ICC and/or NEDA Board Approval.*

Procurement Processes for Local Public–Private Partnership Projects

After securing the approval of the approving body, the local implementing agency commences the procurement process by publishing the invitation to qualify/prequalify and bid/for comparative proposals on its website/official digital platform and the website of the PPP Center. The PBAC created by the local implementing agency is responsible for all aspects of pre-bidding and bidding, including, among others:

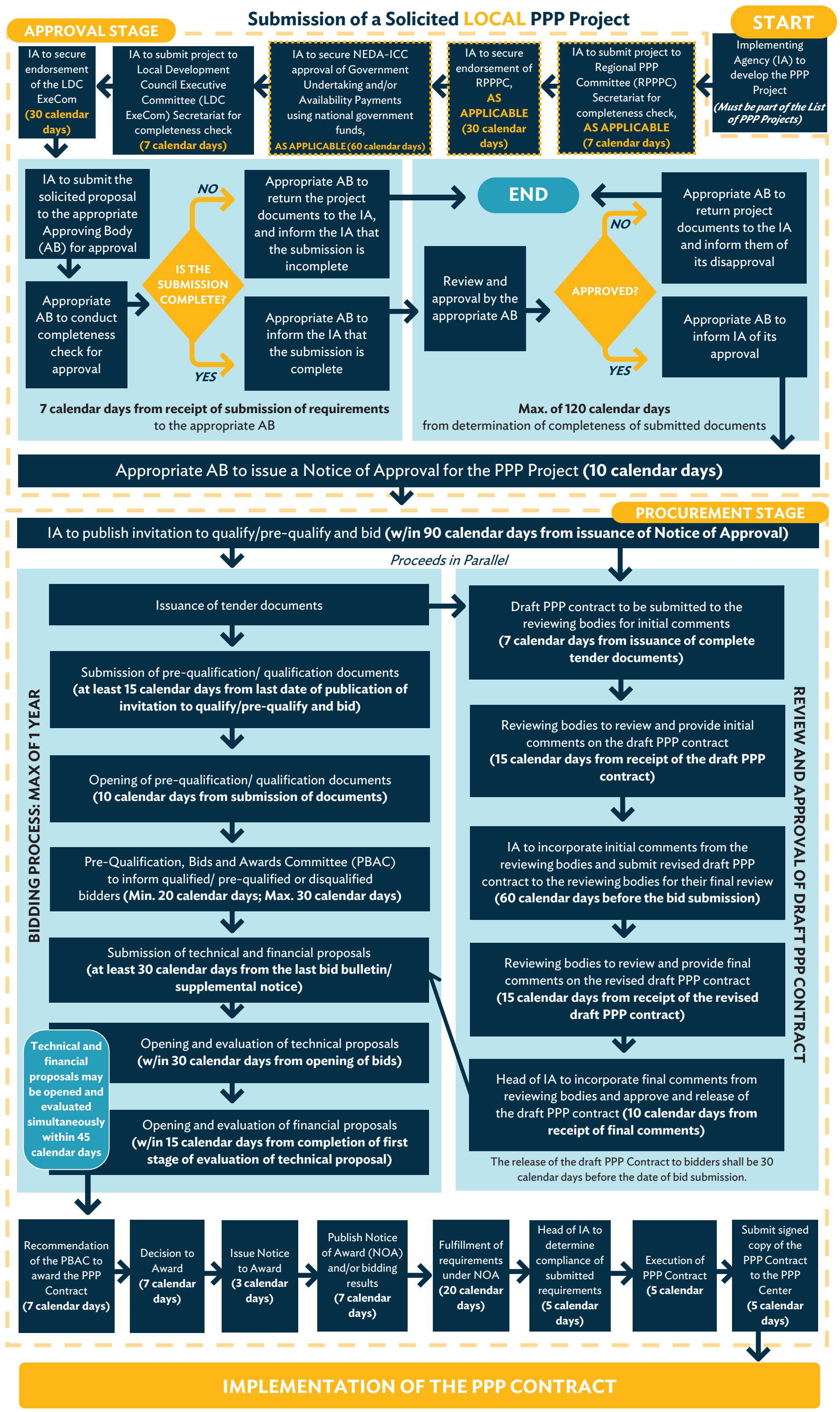
- preparation and issuance of the tender documents;
- publication of the invitation to qualify/prequalify and bid/for comparative proposals;
- assessment of qualification/prequalification of prospective bidders/challengers;
- conduct of pre-bid conferences and issuance of bid bulletins and supplemental notices;
- interpretation of bidding rules;
- conduct of bidding;
- evaluation of bids;
- resolution of protests; and
- recommendation for the acceptance of the bid and/or for the award of the PPP contract.[242]

The requirements for the PPP procurement processes of local implementing agencies follow the requirements discussed in section PPP Procurement Process in the Philippines. Similarly, the local implementing agency must secure the initial comments and clearance for the draft PPP contract of the reviewing bodies for local PPP projects, consisting of its statutory counsel and, if the project involves a national government undertaking or availability payments, the DOF.

The PPP approval and procurement processes for solicited and unsolicited local PPP projects, as presented by the PPP Center on its website, are shown in Figure 81, Figure 82, and Figure 83.

[242] Government of the Philippines. 2024. *Implementing Rules and Regulations of the PPP Code.*

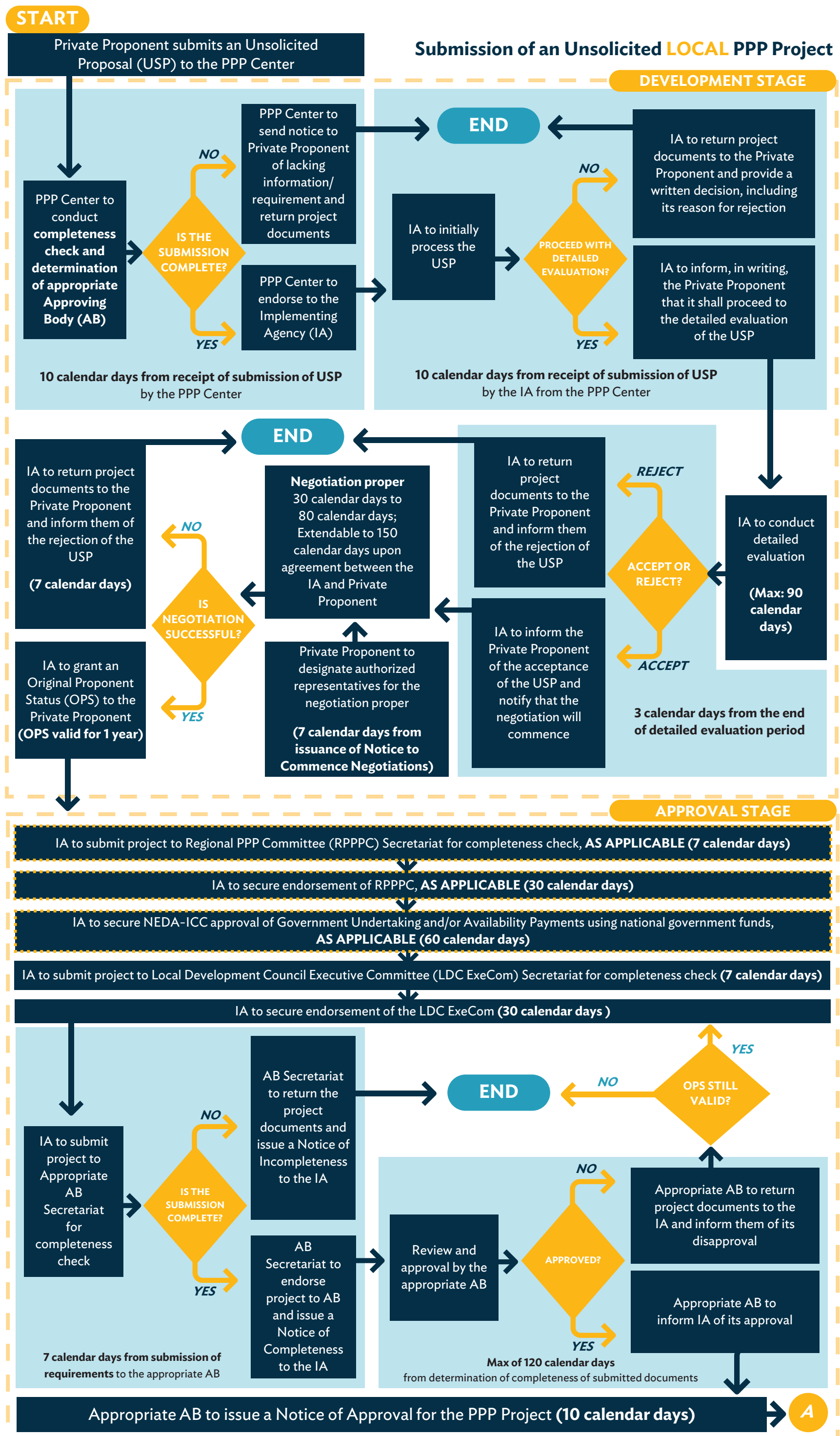
Figure 81: Submission of a Solicited Local Public–Private Partnership Project



AB = approval body, IA = implementing agency, NOA = notice of award, PBAC = Prequalification, Bids, and Awards Committee, PPP = public–private partnership.

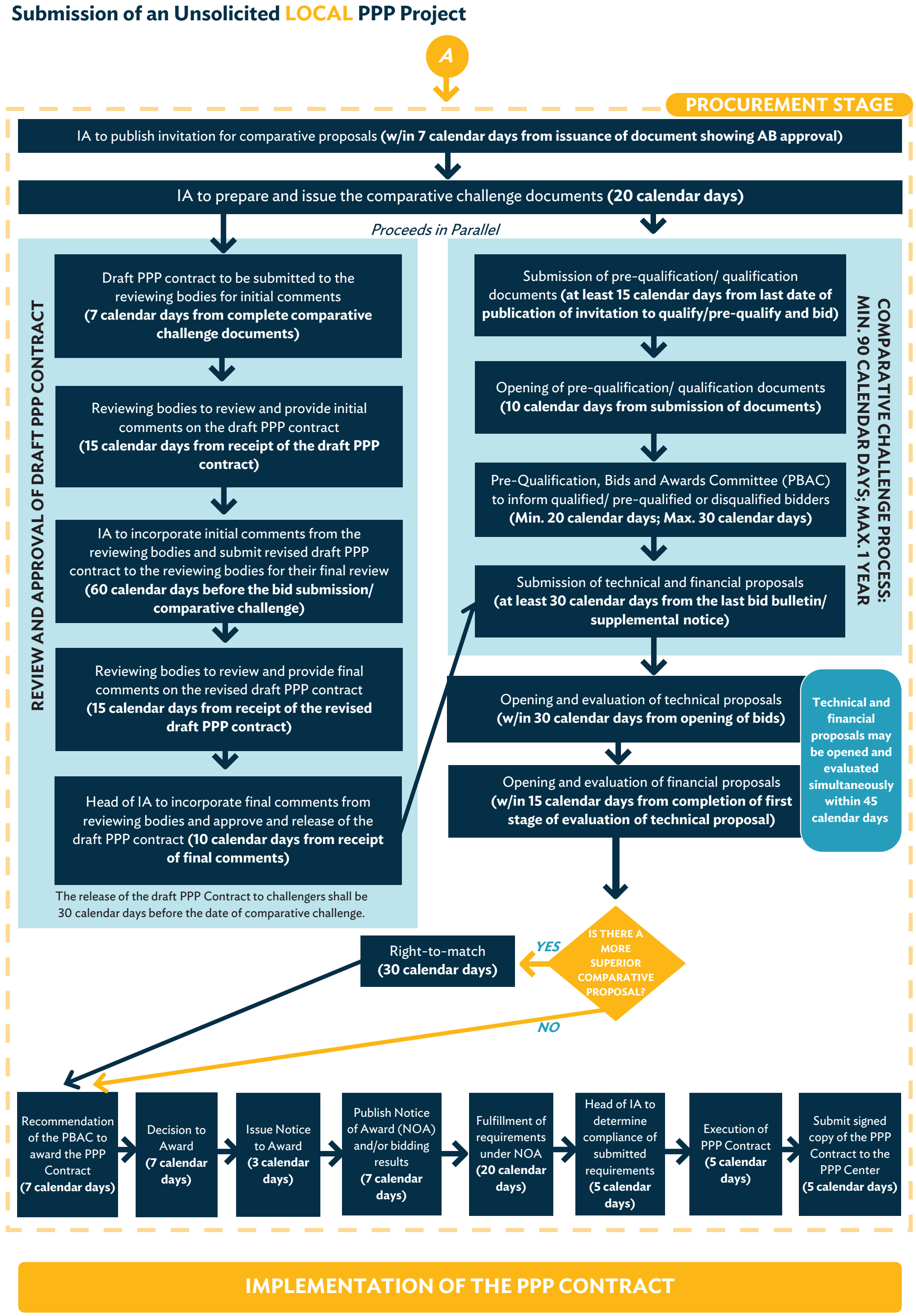
Source: PPP Center. Submission of a Solicited Local PPP Project.

Figure 82: Submission of an Unsolicited Local Public–Private Partnership Project



AB = approval body, IA = implementing agency, ICC = Investment Coordination Committee of the NEDA Board, NEDA = National Economic and Development Authority, OPS = original proponent status, PPP = public–private partnership, PTCs = parameters, terms, and conditions, USP = unsolicited proposal.
Source: PPP Center. Submission of an Unsolicited Local PPP Project.

Figure 83: Submission of an Unsolicited Local Public–Private Partnership Project (Comparative Challenge)



AB = approval body, IA = implementing agency, NOA = notice of award, PBAC = Prequalification, Bids, and Awards Committee, PPP = public–private partnership.
Source: PPP Center. Submission of an Unsolicited Local PPP Project.

2. Public–Private Partnership Institutional Framework for Local Government Projects

Along with various institutions responsible for PPPs and the government's devolution agenda at the national level (Table 60), specific institutions responsible for PPPs at the local government level include (i) the local legislative councils or *Sanggunian* of LGUs or Boards of LUCs, (ii) PPP units established by LGUs or LUCs, (iii) contract monitoring units and PPP regulatory units established by LGUs, (iv) LDCs, and (v) RDCs.

The PPPGB is the overall policymaking body for all PPP-related matters. It is responsible for setting the strategic direction of the PPP program and PPP projects and creating an enabling policy and institutional environment for PPPs.

In July 2024, the PPPGB approved the final "Guidelines and Procedures for the Review and Approval of Local PPP Projects by the Appropriate Approving Body under the PPP Code of the Philippines and Its Implementing Rules and Regulations."[243] These supersede the interim guidelines and cover the following actions of appropriate approving bodies for local PPP projects:

- confirmation by the respective LDC Executive Committee;
- review and approval by the local *Sanggunian* or LUC Board;
- endorsement by the Regional PPP Committee of the RDC for local PPP projects affecting national or sectoral development plans and national projects, and/or involving government undertakings and/or availability payments using national government funds;
- approval by the ICC of proposed government undertakings and/or availability payments using national government funds for local PPP projects;
- review and approval of proposed changes in the approved PTCs for local solicited PPP projects prior to submission of bids;
- determination of the reasonable rate of return in case of single complying solicited bids;
- review and approval of proposed variation, expansion, or extension of an existing local PPP project requiring the approval of the appropriate approving body; and
- approval of changes in and withdrawals or substitutions of private partners or member firms of a consortium.[244]

The PPP Center is tasked, among others, to assist local implementing agencies in identifying, prioritizing, developing, and maintaining a pipeline of PPP projects. Pursuant to the PPP Code, the PPP Center issued in April 2024, the procedures for the submission of USPs to the PPP Center for determination of completeness and appropriate approving body pursuant to Section 10(a) of the PPP Code and Sections 52 and 53 of its IRR, which apply to both national and local unsolicited PPP projects.

[243] These guidelines were made available to the public on the PPP Center website in September 2024.

[244] PPP Center. 2024. *PPP Governing Board Resolution No. 2024-07-02: Guidelines and Procedures for the Review and Approval of Local PPP Projects by the Appropriate Approving Body under the PPP Code of the Philippines and its Implementing Rules and Regulations.*

The Bureau of Local Government Finance (BLGF) under the DOF plays a crucial role in the credit financing of LGUs. Some of the BLGF's functions are as follows:

- assist in the formulation and implementation of policies on local government revenue administration and fund management;
- exercise administrative and technical supervision and coordination over the treasury and assessment operations of local governments; and
- develop and promote plans and programs for the improvement of resource management systems, collection enforcement mechanisms, and credit utilization schemes at the local level.[245]

The head of the local implementing agency (local chief executive or head of the LUC) has the discretion to decide on the composition of the local implementing agency's PPP unit, provided the PPP unit is headed by a senior official and includes as members, among others, technical, finance, and legal personnel who are knowledgeable on PPPs. Such personnel may be outsourced by the local implementing agency.[246]

3. Public–Private Partnership Financing Institutions for Local Government Public–Private Partnership Projects

LGU credit financing

In 2019, the BLGF and the DOF signed a memorandum of agreement with eight state-owned and private domestic banks on the exchange of information on indebtedness, payments, and balances of LGUs. The agreement seeks to establish mechanisms for more timely and accurate monitoring of the credit transactions of LGUs, which will serve as inputs to policy and system improvements in overseeing LGU loans.[247]

Project Development and Monitoring Facility

The PDMF is a revolving fund managed and administered by the PPP Center. It is a funding mechanism available to implementing agencies, including LGUs, for the procurement of advisory and support services related to the preparation, structuring, evaluation, procurement, probity management, financial close, and monitoring of implementation of PPP projects. These services may include preparation and conduct of business cases, pre-feasibility and feasibility studies, preparation of tender documents, appointment of probity advisors, procurement of independent consultants and third-party appraisers who will conduct valuation of government assets, and other activities in the preparation, procurement, and implementation of local PPP projects.

PPP Risk Management Fund

The PPP Code created the PPP Risk Management Fund of the national government to be used for the payment of contingent liabilities arising from PPPs in accordance with contract terms. It will be managed by the PPP Center. In the case of local projects, a similar PPP Risk Management Fund may be established by the LGU subject to the guidelines to be issued by the PPPGB. The local fund may be funded from the budget of the LGU and its income from PPP projects. LGUs may also access the PPP Risk Management Fund of the national government, subject to payment by LGUs of contributions in accordance with the guidelines to be issued by the DBCC.

245 Government of the Philippines. 1987. *Executive Order No. 127*.
246 Government of the Philippines. 2024. *Implementing Rules and Regulations of the PPP Code*.
247 Bureau of Local Government Finance (BLGF). BLGF, DOF Partner with Banks on LGU Debt Information Exchange.

Cities Development Initiative for Asia

The CDIA is a multi-donor trust fund managed by ADB. It works closely with secondary cities in Asia and the Pacific to prepare bankable and sustainable infrastructure investments.[248] In 2016, the PPP Center renewed its partnership through a memorandum of understanding with the CDIA. In 2021, the CDIA granted project development support for the Tri-City Ferry System Project, which is a joint project of the city governments of Alaminos and Dagupan, Pangasinan, and San Fernando, La Union. The CDIA support will include the preparation of a feasibility study for the project and the PPP call for proposals.[249]

Asia Pacific Project Preparation Facility

The Asia Pacific Project Preparation Facility is a multi-donor trust fund aiming to increase the level of infrastructure development and enhance the quality of infrastructure in Asia and the Pacific. Its primary objective is to assist ADB developing member country (DMC) governments and their public sector agencies to prepare and structure infrastructure projects with private sector participation, including privatization through to PPP modalities, and bring them to the global market. The The Asia Pacific Project Preparation Facility also provides capacity-related assistance, including for the reform and improvement of policy, legislative, regulatory, and institutional practices in DMCs; and ongoing project performance assistance, including project monitoring and project restructuring.[250]

ASEAN Infrastructure Centre of Excellence

The ASEAN Infrastructure Centre of Excellence (AICOE) assists ASEAN countries in building capacity to identify, screen, and prioritize projects for private sector participation and to develop a pipeline of financeable PPP projects; and in funding project structuring support to prepare PPP transactions for financing.[251]

Eligible Sectors for Potential Public–Private Partnership with Local Governments

Table 62, Table 63, and Table 64 set out the devolved functions and services of the national government to the LGUs pursuant to the LGC. All the services and facilities of the municipality and province; adequate communication and transportation facilities; and support for education, police, and fire services and facilities are devolved to cities.[252]

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248 Cities Development Initiative for Asia (CDIA). Who We Are.

249 PPP Center. 2021. PPPC Partner, CDIA Grants Project Development Support for the Tri-City Ferry System.

250 ADB. Asia Pacific Project Preparation Facility.

251 ADB. 2020. *Public–Private Partnership Monitor: Philippines.*

252 Government of the Philippines. 1991. *Local Government Code of the Philippines*; 2021. *Implementing Rules and Regulations of Executive Order No. 138, S. 2021, Annex A.*

Table 62: Basic Services and Facilities Devolved to Provinces Under the Local Government Code

Functions/Services (National Agencies)[a]	Provinces
Agriculture services (Department of Agriculture)	Agricultural extension and on-site research services and facilities, which include the prevention and control of plant and animal pests and diseases; dairy farms, livestock markets, animal breeding stations, and artificial insemination centers; and assistance in the organization of farmers and fishers' cooperatives, and other collective organizations, as well as the transfer of appropriate technology
Natural resource management services Environmental services (DENR)	Enforcement of forestry laws limited to community-based forestry projects, pollution control law, small-scale mining law, and other laws on environment protection Enforcement of pollution control law
Energy-related services (DOE)	Mini-hydroelectric projects for local purposes
Other services: revenue mobilization services (DOF)	Upgrading and modernization of tax information and collection services through the use of computer hardware and software and other means
Health services (DOH, DOST-FNRI, NEDA-CPD)	Health services, which include hospitals and other tertiary health services
Telecommunications services (DICT-NTC)	Inter-municipal telecommunications services
Other services: local infrastructure services Local development and supervision services Maintenance of peace and order (DPWH, DILG)	Provincial buildings, freedom parks, and other public assembly areas and similar facilities Provincial jails
Local infrastructure services (DPWH, DENR)	Provincial roads and bridges, inter-municipal waterworks, drainage and sewerage, flood control, reclamation projects
Social welfare services (DSWD, OPPP, NYC, NEDA-CPD)	Social welfare services, including programs for rebel returnees, relief operations, and population development services
DTI	Investment support services, including access to credit financing
Tourism services (DOT)	Tourism development and promotion programs
Housing services (NHA, SHFC)	Programs and projects for low-cost housing and other mass dwelling
Local infrastructure services (NIA)	Irrigation systems

DENR = Department of Environment and Natural Resources, DICT-NTC = Department of Information and Communications Technology-National Telecommunications Commission, DILG = Department of Interior and Local Government, DOE = Department of Energy, DOF = Department of Finance, DOH = Department of Health, DOST-FNRI = Department of Science and Technology-Food and Nutrition Research Institute, DOT = Department of Tourism, DPWH = Department of Public Works and Highways, DSWD = Department of Social Welfare and Development, DTI = Department of Trade and Industry, NEDA-CPD = National Economic and Development Authority-Commission on Population and Development, NHA = National Housing Authority, NIA = National Irrigation Administration, NYC = National Youth Commission, OPPP = Office of Presidential Adviser on the Peace Process, SHFC = Social Housing Finance Corporation.

Note:

[a] These are the national agencies performing the devolved functions/services.

Source: Government of the Philippines. 1991. *Local Government Code of the Philippines*; 2021. *Implementing Rules and Regulations of Executive Order No. 138, S. 2021, Annex A.*

Table 63: Basic Services and Facilities Devolved to Municipalities Under the Local Government Code

Functions/Services (National Agencies)[a]	Municipalities
Agriculture services (Department of Agriculture)	• Agriculture extension on-site research services and facilities related to agriculture and fishery activities related to dispersal of livestock, poultry, fingerlings, and seedlings; operation of demonstration farms; improvement of local distribution channels and inter-barangay irrigation systems; enforcement of fishery laws • Fish ports
Local infrastructure services (DepEd)	• School buildings and other facilities for public elementary and secondary schools • Information services, which include maintenance of public library
Natural resource management services Environmental services (DENR)	Implementation of community-based forestry projects, which include integrated social forestry programs and similar projects; management and control of communal forests with an area below 50 square kilometers; establishment of tree parks, greenbelts, and similar forest development projects Solid waste disposal system or environmental management system
Other services: revenue mobilization services (DOF)	Information services, which include tax and marketing information systems
Health services (DOH, DOST-FNRI, NEDA-CPD)	• Health services, which include the implementation of programs and projects on: – primary health care, – maternal and childcare, and – communicable and non-communicable disease control services • Access to secondary and tertiary health services • Purchase of medicines, medical supplies, and equipment needed to carry out the services herein enumerated • Rehabilitation programs for victims of drug abuse • Nutrition services and family planning services • Clinics, health centers, and other health facilities necessary to carry out health services
Other services: local infrastructure services	Municipal buildings, cultural centers, public parks, including freedom parks, playgrounds and other sports facilities and equipment, and other similar facilities
Local development and supervision services	Sites for police and fire stations and substations and municipal jails
Maintenance of peace and order (DILG, DPWH)	Public markets, slaughterhouses, and other municipal enterprises
	Public cemeteries
Other services: employment facilitation (DOLE)	Information services, which include job placement information systems
Local infrastructure services (DPWH, DENR)	• Municipal roads and bridges, small water impounding projects, and other similar projects; rainwater collectors and water supply systems; seawalls, dikes, drainage and sewerage, and flood control • Facilities related to general hygiene and sanitation

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Table 63 *continued*

Functions/Services (National Agencies)[a]	Municipalities
Social welfare services (DSWD, OPPP, NYC, NEDA-CPD)	• Social welfare services, including child and youth programs, family and community programs, welfare programs for women, older people and people with disabilities, community-based rehabilitation programs for vagrants, beggars, street children, and juvenile delinquents • Livelihood and other pro-poor projects
DTI	Information services on investments information systems
Transportation services (DOTr)	Infrastructure facilities such as traffic signals and road signs, and similar facilities
Tourism services (DOT)	Tourism facilities and other tourist attractions, including the acquisition of equipment, regulation and supervision of business concessions, and security services for such facilities
Local infrastructure services (NIA)	Communal irrigation

DENR = Department of Environment and Natural Resources, DepEd = Department of Education, DILG = Department of Interior and Local Government, DOF = Department of Finance, DOH = Department of Health, DOLE = Department of Labor and Employment, DOST-FNRI = Department of Science and Technology-Food and Nutrition Research Institute, DOT = Department of Tourism, DOTr = Department of Transportation, DPWH = Department of Public Works and Highways, DSWD = Department of Social Welfare and Development, DTI = Department of Trade and Industry, NEDA-CPD = National Economic and Development Authority-Commission on Population and Development, NIA = National Irrigation Administration, NYC = National Youth Commission, OPPP = Office of Presidential Adviser on the Peace Process.
Note:
[a] These are the national agencies performing the devolved functions/services.
Sources: Government of the Philippines. 1991. *Local Government Code of the Philippines*; 2021. *Implementing Rules and Regulations of Executive Order No. 138, S. 2021, Annex A*.

Table 64: Basic Services and Facilities Devolved to Barangays Under the Local Government Code

Functions/Services (National Agencies)[a]	Barangays
Agriculture services (Department of Agriculture)	Agricultural support services, which include planting materials distribution system and operation of farm produce collection and buying stations
Local infrastructure services (DepEd)	Information and reading center
Natural resource management services Environmental services (DENR)	Services and facilities related to beautification, and solid waste collection
Health services (DOH, DOST-FNRI, NEDA-CPD)	Health services, which include the maintenance of barangay health centers
Other services: local infrastructure services Local development and supervision services Maintenance of peace and order (DILG, DPWH)	Satellite or public markets, where viable
DOJ	Maintenance of *Katarungang Pambarangay* [b]
Local infrastructure services (DPWH, DENR)	Maintenance of barangay roads and bridges and water supply systems Infrastructure facilities such as multipurpose halls, multipurpose pavements, plazas, sports centers, and other similar facilities Services and facilities related to general hygiene and sanitation

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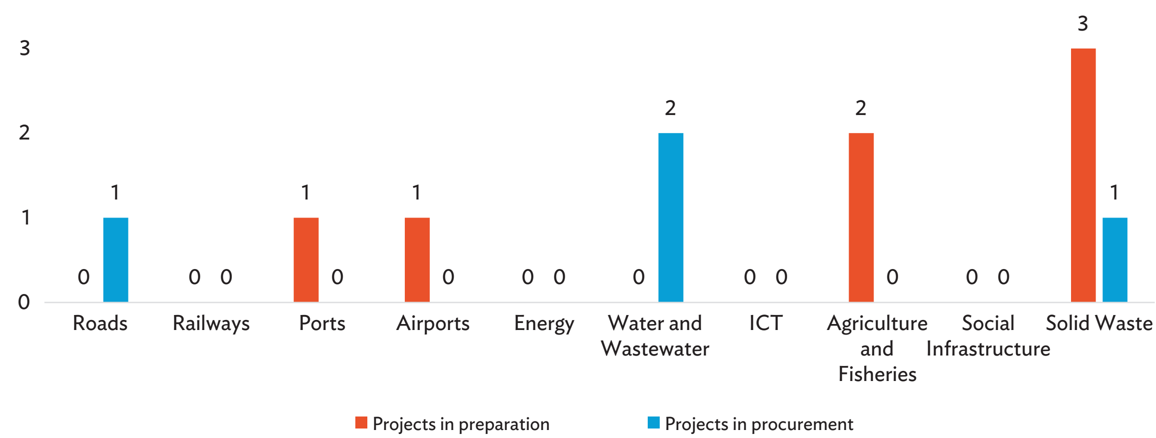
Table 64 *continued*

Functions/Services (National Agencies)[a]	Barangays
Social welfare services (DSWD, OPPP, NYC, NEDA-CPD)	Social welfare services, such as maintenance of daycare centers

DENR = Department of Environment and Natural Resources, DepEd = Department of Education, DILG = Department of Interior and Local Government, DOH = Department of Health, DOST-FNRI = Department of Science and Technology-Food and Nutrition Research Institute, DPWH = Department of Public Works and Highways, DSWD = Department of Social Welfare and Development, NEDA-CPD = National Economic and Development Authority-Commission on Population and Development, NYC = National Youth Commission, OPPP = Office of Presidential Adviser on the Peace Process.
Note:
[a] These are the national agencies performing the devolved functions/services.
[b] Barangay conciliation proceedings which are a pre-condition to filing a complaint in court between persons actually residing in the same or adjoining barangays to explore possible amicable settlement.
Source: Government of the Philippines. 1991. *Local Government Code of the Philippines*; 2021. *Implementing Rules and Regulations of Executive Order No. 138, S. 2021, Annex A.*

Figure 84 shows the number of local PPP projects under preparation and procurement in 2023.

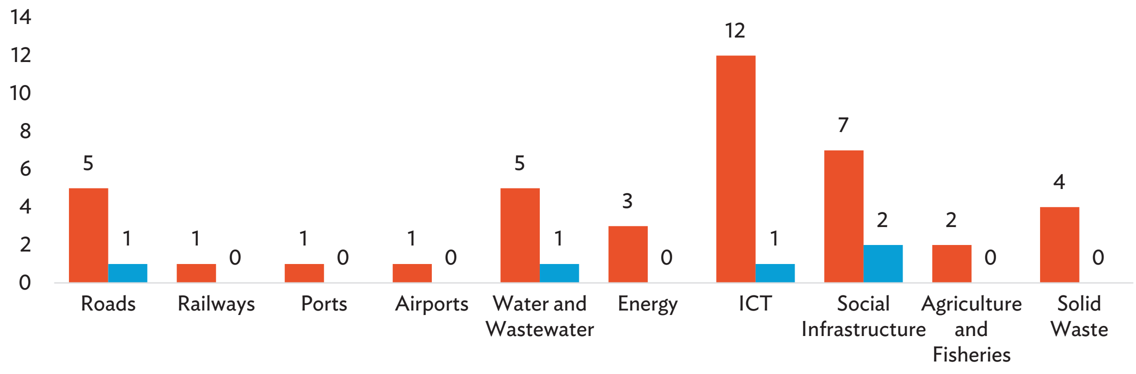
Figure 84: Local Public–Private Partnership Projects Under Preparation and Procurement, 2023



ICT = information and communication technology.
Source: PPP Center. Corporate Planning and Development Division. Projects List (provided 9 August 2024)

Based on the projects list of the PPP Center as of October 2024, there were 46 local PPP projects in the pipeline across various infrastructure sectors (roads, railways, ports, airports, energy, water and wastewater, ICT, agriculture and fisheries, social infrastructure, and solid waste). A total of 41 PPP projects are under preparation (including those in the approval phase and in the negotiation phase for USPs). Five are under procurement. Please see Figure 85. These pipeline PPP projects are listed in Table 65. The PPP Center's list of pipeline projects includes PPP projects in property development and tourism, which are not considered in this PPP Monitor and not included in Figure 85 and Table 65.

Figure 85: Local Public–Private Partnership Projects Under Preparation and Procurement, as of October 2024



ICT = information and communication technology.
Source: PPP Center. 2024. List of PPP Projects in the Pipeline (accessed 27 October 2024).

Table 65: Pipeline Local Public–Private Partnership Projects, as of October 2024

No.	Project	Implementing Agency	Procurement Mode	Sector	Estimated Project Cost ($ million)	Estimated Project Cost (₱ billion)	Status
1.	Cavite Bus Rapid Transit System	Provincial Government of Cavite	Unsolicited	Roads	32.07	1.87	Procurement phase (under comparative challenge)
2.	Smart Urban Mobility Project	City Government of Baguio	Unsolicited	Roads	43.39	2.53	Negotiation phase
3.	High-Capacity Bus System in Iloilo City	City Government of Iloilo	Unsolicited	Roads	42.53	2.48	Negotiation phase
4.	Baguio City Intermodal Terminal Project	City Government of Baguio	Unsolicited	Roads	20.41	1.19	Approval phase
5.	La Union Integrated Terminal Exchange	Provincial Government of La Union	Solicited	Roads	-	TBD	Preparation phase (under conceptualization)
6.	South-Luzon Integrated Terminal Exchange Project	City Government of Carmona	Unsolicited	Roads	13.55	0.79	Preparation phase (under evaluation by IA)

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Table 65 *continued*

No.	Project	Implementing Agency	Procurement Mode	Sector	Estimated Project Cost ($ million)	Estimated Project Cost (₱ billion)	Status
7.	Baguio Transport Solutions (Elevated Monorail and Electric Bus System)	City Government of Baguio	Unsolicited	Railways	198.94	11.60	Negotiation phase
8.	Tri-City Ferry System	City Governments of Alaminos and Dagupan, Pangasinan, and San Fernando, La Union	Solicited	Ports	83.52	4.87	Preparation phase (under development)
9.	New Surigao Airport Project	City Government of Surigao	Solicited	Airports	-	TBD	Preparation phase (under conceptualization)
10.	Development and Improvement of Asin Hydropower Plants	City Government of Baguio	Unsolicited	Energy	21.78	1.27	Negotiation phase
11.	Solar Rooftop Project	Provincial Government of Bataan	Unsolicited	Energy	0.69	0.04	Negotiation phase
12.	Bataan Rooftop Microgrid Project	Provincial Government of Bataan	Unsolicited	Energy	4.63	0.27	Negotiation phase
13.	Negros Occidental Bulk Water Supply Project	Province of Negros Occidental	Solicited	Water and wastewater	20.58	1.2	Procurement phase
14.	Bulk Water Supply System	Provincial Government of Bataan	Unsolicited	Water and wastewater	27.44	1.6	Negotiation phase
15.	Pampanga Bulk Water Supply Project	Provincial Government of Pampanga	Unsolicited	Water and wastewater	137.37	8.01	Negotiation phase
16.	Cavite Bulk Water Supply Project	Provincial Government of Cavite	Solicited	Water and wastewater	-	TBD	Preparation phase (under development)
17.	La Union Bulk Water Facility Project	Provincial Government of La Union	Solicited	Water and wastewater	-	TBD	Preparation phase (under conceptualization)

continued on next page

Table 65 *continued*

No.	Project	Implementing Agency	Procurement Mode	Sector	Estimated Project Cost ($ million)	Estimated Project Cost (₱ billion)	Status
18.	Iloilo Bulk Water Supply Project	Provincial Government of Iloilo	Unsolicited	Water and wastewater	144.92	8.45	Preparation phase (under evaluation by IA)
19.	Bacolod Super City Project	City Government of Bacolod	Unsolicited	ICT	36.02	2.1	Procurement phase (under comparative challenge)
20.	Digitalized Traffic Enforcement for Bacoor City	City Government of Bacoor	Solicited	ICT	0.51	0.03	Negotiation phase
21.	Digitized Traffic System	Provincial Government of Bataan	Unsolicited	ICT	0.17	0.01	Negotiation phase
22.	Binan City Digitalized Traffic Enforcement	City Government of Binan	Unsolicited	ICT	0.34	0.02	Negotiation phase
23.	Sta. Rosa City Digitalized Traffic Enforcement	City Government of Sta. Rosa	Solicited	ICT	0.34	0.02	Preparation phase (under evaluation by IA)
24.	Municipality of Cainta Digitalized Traffic Enforcement	Municipal Government of Cainta	Solicited	ICT	0.34	0.02	Preparation phase (under evaluation by IA)
25.	Caloocan City Digitalized Traffic Enforcement	City Government of Caloocan	Solicited	ICT	0.51	0.03	Preparation phase (under evaluation by IA)
26.	Cauayan City Digitalized Traffic Enforcement	City Government of Cauayan	Solicited	ICT	0.34	0.02	Preparation phase (under evaluation by IA)
27.	Catbalogan City Digitalized Traffic Enforcement	City Government of Catbalogan	Solicited	ICT	0.34	0.02	Preparation phase (under evaluation by IA)
28.	Lipa City Digitalized Traffic Enforcement	City Government of Lipa	Solicited	ICT	0.34	0.02	Preparation phase (under evaluation by IA)
29.	Municipality of Pagsanjan Digitalized Traffic Enforcement	Municipal Government of Pagsanjan	Unsolicited	ICT	0.17	0.01	Preparation phase (under evaluation by IA)
30.	Dasmariñas City Digitalized Traffic Enforcement System	City Government of Dasmariñas	Unsolicited	ICT	0.34	0.02	Preparation phase (endorsed to IA after completeness check)

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Table 65 *continued*

No.	Project	Implementing Agency	Procurement Mode	Sector	Estimated Project Cost ($ million)	Estimated Project Cost (₱ billion)	Status
31.	Gen. Mariano Alvarez Cavite Digitalized Traffic Enforcement	Municipal Government of Gen. Mariano Alvarez, Cavite	Unsolicited	ICT	0.17	0.01	Preparation phase (endorsed to IA after completeness check)
32.	Redevelopment of the Baguio City Public Market	City Government of Baguio	Unsolicited	Agriculture and Fisheries	78.72	4.59	Negotiation phase
33.	Redevelopment of General Santos City Public Market Project	City Government of General Santos	Unsolicited	Agriculture and Fisheries	39.96	2.33	Approval phase
34.	Santiago City Hemodialysis Center Project	City Government of Santiago, Isabela	Solicited	Social Infrastructure	6.17	0.36	Procurement phase
35.	O&M of Pampanga Dialysis Centers Project	Provincial Government of Pampanga	Unsolicited	Social Infrastructure	12.52	0.73	Procurement phase (under comparative challenge)
36.	Mariveles Dialysis Center	Provincial Government of Bataan	Unsolicited	Social Infrastructure	0.69	0.04	Negotiation phase
37.	Establishment of Hemodialysis Centers in Iloilo Provincial and District Hospitals	Provincial Government of Iloilo	Unsolicited	Social Infrastructure	3.94	0.23	Negotiation phase
38.	O&M of Palayan City Hospital	City Government of Palayan, Nueva Ecija	Unsolicited	Social Infrastructure	1.03	0.06	Negotiation phase
39.	Subdivision and Housing Program in Barangay Ordovilla and Bethel, Victoria Oriental Mindoro	Provincial Government of Victoria, Oriental Mindoro	Solicited	Social Infrastructure	-	TBD	Preparation phase (under conceptualization)
40.	La Union Dialysis Center Central Circuit	Provincial Government of La Union	Unsolicited	Social Infrastructure	-	TBD	Preparation phase (under evaluation by IA)
41.	San Juan-4PH Program	City Government of San Juan	Unsolicited	Social infrastructure	25.21	1.47	Preparation phase (under evaluation by IA)

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Table 65 *continued*

No.	Project	Implementing Agency	Procurement Mode	Sector	Estimated Project Cost ($ million)	Estimated Project Cost (₱ billion)	Status
42.	O&M Including Supply and Installation of Laboratory Equipment and Information System	City Government of Antipolo	Unsolicited	Social infrastructure	0.34	0.02	Preparation phase (endorsed to IA after completeness check)
43.	General Santos City Sanitary Landfill Project	City Government of General Santos	Solicited	Solid waste	-	TBD	Preparation phase (under conceptualization)
44.	Catanduanes Solid Waste Management Project	Provincial Government of Catanduanes	Solicited	Solid waste	-	TBD	Preparation phase (under conceptualization)
45.	Zamboanga City Integrated Solid Waste Management System	City Government of Zamboanga	Solicited	Solid waste	-	TBD	Preparation phase (under evaluation by IA)
46.	Comprehensive Provincial Waste Management and Carbon Capture System Utilizing Bio-Methanation No-Burn Project	Provincial Government of Quirino	Unsolicited	Solid waste	13.72	0.8	Preparation phase (under evaluation by IA)

4PH = *Pambansang Pabahay Para sa Pilipino*, IA = implementing agency, ICT = information and communication technology, O&M = operation and maintenance, TBD = to be determined.
Source: PPP Center. 2024. List of PPP Projects in the Pipeline (accessed 27 October 2024).

Revenues for Local Governments

LGUs have the power to create their own sources of revenue and to levy taxes, fees, and charges, which accrue exclusively to such LGUs. The LGUs source their revenues from both local and external sources, which are summarized in Table 66. The BLGF publishes the statement of receipts and expenditures of LGUs on a quarterly and annual basis.[253] As of 2022, the total revenues of LGUs from all sources amounted to 1,108,735.97, with revenues from external sources accounting for almost 75% of all revenues.

[253] BLGF. 2022. *SRE-FY2022-by-LGUupdated.*

Table 66: Sources of Revenues of Local Government Units, 2022

Sources of Revenue	Revenues ($ thousands)		(₱ million)	
Local sources				
Local tax revenue		3,551.66		207,093.63
Real property tax (41% of local tax revenue)	1,462.48		85,275.63	
Tax on business (52% of local tax revenue)	1,851.00		107,929.88	
Other taxes (7% of local tax revenue)	238.18		13,888.12	
Local non-tax revenue		1,282.51		74,782.12
Regulatory fees (23% of local non-tax revenue)	294.63		17,179.60	
Service/user fees (35% of local non-tax revenue)	447.92		26,117.69	
Receipts from economic enterprises (34% of local non-tax revenue)	440.47		25,683.55	
Other receipts (8% of local non-tax revenue)	99.49		5,801.35	
Total revenue from local sources		**4,834.17**		**281,875.82**
External sources				
National tax allotment		13,140.52		766,211.18
Other shares from national tax collection		790.28		46,080.37
Share from Economic Zones (Republic Act No. 7227, as Amended, and Republic Act No. 7916, as Amended)	140.87		8,214.15	
Share from expanded value-added tax	1.49		86.74	
Share from national wealth	81.77		4,768.18	
Share from PAGCOR/PCSO/Lotto	15.75		918.10	
Share from tobacco excise tax (Republic Act No. 7171)	541.99		31,602.75	
Others	8.41		490.44	
Inter-local transfers		126.20		7,358.76
Extraordinary receipts/grants/donations/aids		123.65		7,209.84
Total revenue from external sources		14,180.65		**826,860.15**
Total revenue from all sources		19,014.82		**1,108,735.97**

PAGCOR = Philippine Amusement and Gaming Corporation, PCSO = Philippine Charity Sweepstakes Office.
Source: BLGF. 2022. SRE-FY2022-by-LGUupdated.

1. Local Sources

Provinces and cities, as well as municipalities within the Metropolitan Manila area, impose a uniform rate of basic real property tax based on the assessed value of the real property: 1% in the case of a province and 2% in the case of a city or a municipality within the Metropolitan Manila area. An additional 1% over the basic real property tax is imposed for a special education fund. Cities and municipalities likewise impose community and business taxes. Provinces may impose franchise, professional, and amusement taxes, among others. Aside from local taxes, LGUs have non-tax revenues derived from their collection of fees and charges for services rendered; rates for the operation of public utilities they own, operate, and maintain within their jurisdiction; and toll fees or charges for the use of any public road, pier or wharf, waterway, bridge, ferry or telecommunication system funded and constructed by them.[254]

2. External Sources

LGUs have a share in the national taxes and in the gross collection of the national government and GOCCs relating to the utilization and development of the national wealth within their jurisdiction.[255]

Registered enterprises within the Subic, Clark, John Hay, and Poro Point special economic zones, in lieu of paying local and national taxes, pay 3% of their gross income earnings to the national government, 1% to the LGUs affected by the declaration of the zone, and the remaining 1% to a development fund utilized for the development of municipalities outside and contiguous to the zone.[256] Enterprises registered with the PEZA, in lieu of all taxes, except real property tax on land owned by the developers, pay 3% of their gross income earnings to the national government and 2% to the municipality or city where they are registered.[257]

There are also special allotments to LGUs pursuant to various laws. Provinces producing Virginia tobacco are entitled to special financial support from the national government. Provinces producing burley and native tobacco have a 15% share in the incremental revenues collected by the national government from the excise tax on tobacco products.[258] LGUs receive a share in the national government's revenues from collection of expanded value-added tax for the immediately preceding year, and 20% share for the Fire Code revenue fees collected by the Bureau of Fire Protection.[259] The Philippine Amusement and Gaming Corporation, a state-owned enterprise, remits fixed amounts to cities hosting casinos for their respective community development programs.[260] The Philippine Charity Sweepstakes Office shares lotto and small town lottery proceeds to LGUs.[261]

[254] Government of the Philippines. 1991. *Local Government Code of the Philippines.*
[255] See discussion below under Budgetary Allocation to Local Governments.
[256] Bureau of Internal Revenue. 1997. *Revenue Regulations No. 12-97*; Government of the Philippines. 1992. *Bases Conversion and Development Act of 1992*.
[257] Bureau of Internal Revenue. 2000. *Revenue Regulations No. 1-2000*; Government of the Philippines. 1995. *The Special Economic Zone Act of 1995.*
[258] Government of the Philippines. 2012. *Republic Act No. 10351.*
[259] Government of the Philippines. 1992. *Republic Act No. 7643*; 2008. *Fire Code of the Philippines of 2008*; 2019. *Republic Act No. 11346*.
[260] Philippine Amusement and Gaming Corporation. Our Corporate Profile.
[261] Philippine Charity Sweepstakes Office. Mandatory Contributions.

Borrowings by Local Governments

The basic policy under the LGC is that LGUs may create indebtedness, and avail of credit facilities to finance local infrastructure and other socioeconomic development projects in accordance with the approved local development plan and public investment program. They may likewise avail of credit lines from government or private banks and lending institutions for the purpose of stabilizing local finances.

Specifically, the LGC authorizes LGUs to contract loans, credits, and other forms of indebtedness with any government or domestic private bank and other lending institutions to finance the construction, installation, improvement, expansion, operation, or maintenance of public facilities, infrastructure facilities, or housing projects, the acquisition of real property, and the implementation of other capital investment projects. LGUs may likewise secure from any government bank or lending institution short-, medium-, and long-term loans and advances against security of real estate or other acceptable assets for the establishment, development, or expansion of agricultural, industrial, commercial, house financing, or livelihood projects, and other economic enterprises. Provinces, cities, and municipalities are also authorized to issue bonds, debentures, securities, collaterals, notes, and other obligations to finance self-liquidating, income-producing development or livelihood projects pursuant to the priorities established in the approved local development plan or the public investment program. LGUs may secure loans from other LGUs. They may also jointly or severally contract loans, credits, and other forms of indebtedness for purposes mutually beneficial to them. The LGC further allows LGUs to source additional financing from loans secured by the national government from foreign financial institutions or other international funding agencies.

Borrowings by LGUs need to be authorized by the local legislative body or *sanggunian* and included in their annual investment plans and priorities. Further, LGUs must secure a Certificate of Net Debt Service Ceiling and Borrowing Capacity from the BLGF and the prior opinion of the Monetary Board on the probable effects of the proposed borrowing on monetary aggregates, the price level, and the balance of payments.[262]

Budgetary Allocation to Local Governments

LGUs have a 40% share in the national taxes based on the collection of the third fiscal year preceding the current fiscal year. This national tax allotment (NTA) is allocated among the LGUs as follows: provinces, 23%; cities, 23%; municipalities, 34%; and barangays, 20%. The share of each province, city, and municipality in the NTA is determined on the basis of the following formula: population, 50%; land area, 25%; and equal sharing, 25%. LGUs also have a 40% share in the gross collection of the national government from the preceding fiscal year from mining taxes, royalties, forestry and fishery charges, and such other taxes, fees, or charges, relating to the utilization and development of the national wealth within their jurisdiction. In addition, LGUs share in the proceeds derived by any GOCC engaged in the utilization and development of the national wealth.[263]

LGUs are required to use the NTA first for the provision of basic services and facilities, particularly those devolved by the national government, before other purposes. Each LGU is required to appropriate in its annual budget no less than 20% of its annual NTA for development projects, referred to as the 20% Development Fund.[264]

[262] BLGF. LGU Credit Financing; Government of the Philippines. 2019. *Republic Act No. 11211.*

[263] Government of the Philippines. 1991. *Local Government Code of the Philippines.*

[264] DBM. 2024. *Local Budget Memorandum No. 90*; Government of the Philippines. 1991. *Local Government Code of the Philippines.*

Credit Rating of Local Governments

Part of the strategy framework in the PDP to ensure sound fiscal management is to strengthen local government finance to enable LGUs to raise more revenues and implement devolved functions. This comprises the development of a local credit market and a credible and independent LGU credit rating system, including the conduct of a comprehensive preliminary study on the development of an LGU bond market.[265] The PDP recognizes that bond financing can provide LGUs with access to direct funding sources and, in the process, require them to practice discipline in transparency, accounting, and auditing finances. It also notes that a local credit market system would allow the public to participate in local governance and invest their savings in worthwhile local programs.[266] The development of the LGU capital market through the formulation of its appropriate framework highlights the importance of likewise developing capacity-building programs for LGUs to enable them to issue bonds, especially sustainable bonds, to finance their programs and projects.

[265] Government of the Philippines. 2023. *Philippine Development Plan 2023–2028.*
[266] Government of the Philippines. 2023. *Philippine Development Plan 2023–2028.*

Appendix: Methodology

Research Period

The research was carried out in 2024.

Critical Macroeconomic and Infrastructure Sector Indicators for the Philippines

The various macroeconomic and infrastructure sector indicators for the Philippines are as provided in the table below.

Critical Macroeconomic and Infrastructure Sector Indicators for the Philippines

Parameter	Value	Unit
Total population (2023)	111.9	million
Average annual population growth rate (2018-2023)	1.3	%
Population density (2023)	376	persons per km^2 of surface area
Urban population (2023)	48.3	% of total population
Surface area (2021)	300	‘000 km^2
Unemployment rate (2023)	4.3	%
Population below $2.15 purchasing power parity a day (2021)	3.0	%
Nominal GDP (2023)	437.1	$ billion
Annual growth rate of GDP (2023)	5.5	%
Annual growth rate of GDP (2024 forecast)	6.0	%
Annual growth rate of GDP (2025 forecast)	6.2	%
GDP at purchasing power parity per capita (2023)	11,339	$
GDP at current market prices (2023)	437.1	$ billion
Gross fixed investment at current market prices (2023)	23.4	% of GDP
Per capita GNI, Atlas Method (2023)	4,230	$

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Parameter	Value	Unit
Inflation rate (2023)	6.0	%
Inflation rate (2024 forecast)	3.3	%
Inflation rate (2025 forecast)	3.2	%
Current account (2023)	-2.6	% of GDP
External trade, goods, value of imports, CIF (2022)	145.060	$ billion
External trade, goods, value of exports, FOB (2022)	137.155	$ billion
CPI % change over 2022 (headline)	6.0	% of CPI in 2022
Real effective exchange rate (2024M07)	113.29	based on CPI
Investment in energy with private sector participation (2022)	245,180	current $ million
Investment in transport with private sector participation (2022)	2,170	current $ million
Investment in water and sanitation with private sector participation (2022)	155,480	current $ million
Logistics Performance Index rank (2023)	43	no.
Logistics Performance Index score (2023)	3.3	no.
Customs rank (2023)	59	no.
Customs score (2023)	2.8	no.
Infrastructure rank (2023)	47	no.
Infrastructure score (2023)	3.2	no.
International shipments rank (2023)	47	no.
International shipments score (2023)	3.1	no.
Logistics competence rank (2023)	46	no.
Logistics competence score (2023)	3.3	no.
Tracking and tracing rank (2023)	49	no.
Tracking and tracing score (2023)	3.3	no.
Timeliness rank (2023)	21	no.
Timeliness score (2023)	3.9	no.
Structure of output (% of GDP at current producer basic prices, 2023)		
Agriculture	9.4	%
Industry	28.2	%
Services	62.4	%
CPI (national)	6.0	% annual change
Producer price index	1.4	% annual change
Wholesale price index (national)	4.9	% annual change
Retail price index	4.5	% annual change
Exchange rates (end of period)	55.57	local currency: $

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Parameter	Value	Unit
ADB portfolio (as of 31 December 2023)		
Total number of loans and ADF grants		
1. Sovereign	25	no.
2. Nonsovereign	10	no.
Total loan and ADF grant amount		
1. Sovereign	10,749.85	$ million, cumulative
2. Nonsovereign	244.80	$ million, cumulative
Disbursed amount		$ million, cumulative
1. Sovereign	2,125.325	$ million, cumulative
2. Nonsovereign		$ million, cumulative
Net foreign direct investment inflows (2023)	2.0277	% of GDP
Sovereign debt risk rating		letter rating
Central government debt		% of GDP
CPIA quality of budgetary and financial management rating	UA	1=low to 6=high
Business ready (2024)		
Pilar I (regulatory framework) performance score (out of 100)	70.68	no.
Pilar II (public services) performance score (out of 100)	50.80	no.
Pilar III (operational efficiency) performance score (out of 100)	57.95	no.
Business entry score (out of 100)	48.49	no.
Business location score (out of 100)	60.27	no.
Utility services score (out of 100)	66.47	no.
Labor score (out of 100)	75.54	no.
Financial services score (out of 100)	60.70	no.
International trade score (out of 100)	71.47	no.
Taxation score (out of 100)	56.66	no.
Dispute resolution score (out of 100)	62.88	no.
Market competition score (out of 100)	50.13	no.
Business insolvency score (out of 100)	45.51	no.
World Competitiveness Ranking (2024)		
World competitiveness rank (out of 67)	52	no.
Economic performance rank (out of 67)	40	no.
Government efficiency rank (out of 67)	49	no.
Business efficiency (out of 67)	43	no.
Infrastructure rank (out of 67)	61	no.

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Parameter	Value	Unit
Corruption and sustainable development		
Corruption Perceptions Index rank (out of 180) (2023)	115	no.
Corruption Perceptions Index score (out of 100) (2023)	34	no.
Sustainable Development Index rank (out of 166)	92	no.
Sustainable Development Index score (out of 100)	67.47	no.
Cumulative lending, grant, and technical assistance commitments		
Number of projects (ADB, April 2023)	1,378	no.
Total lending (ADB, April 2023)	43,755.15	$ million
GCI infrastructure score	4.4	out of 7
Infrascope score (2019)		
PPP regulations score (out of 100)	85	no.
PPP regulations rank	2	no.
PPP institutions score (out of 100)	94	no.
PPP institutions rank	3	no.
PPP market maturity score (out of 100)	58	no.
PPP market maturity rank	11	no.
PPP financing score (out of 100)	68	no.
PPP financing rank	3	no.
Investment and business climate score (out of 100)	81	no.
Investment and business climate rank	1	no.

ADB = Asian Development Bank, ADF = Asian Development Fund, CIF = cost, insurance, and freight, CPI = consumer price index, CPIA = Country Policy and Institutional Assessment, FOB = free on board, GCI = Global Competitive Index, GDP = gross domestic product, GNI = gross national income, km^2 = square kilometer, PPP = public–private partnership, UA = unavailable.

Note: Infrascope ranks are at regional (Asia) level.

Sources: ADB. 2023. Cumulative Lending, Grant, and Technical Assistance Commitments; 2024. 2024 Basic Statistics; 2024. Key Indicators Database Philippines; 2024. GDP Growth in Asia and the Pacific, Asian Development Outlook (ADO); 2024. *Country Partnership Strategy 2024–2029*; Economist Impact. 2020. Infrascope Index Scores; IMD World Competitiveness Center. *IMD World Competitiveness Yearbook 2024*; International Monetary Fund. IMF Data Access to Macroeconomic & Financial Data; Trade of Goods Selected Indicators; Exchange Rate Selected Indicators; National Competitiveness Council Philippines. Philippines Ranks 56th in World Economic Forum's Global Competitiveness Report; PSA. 2023. Summary Inflation Report Consumer Price Index (2018=100): December 2023; Trading Economics. 2023. Philippines – Foreign Direct Investment, Net Inflows (% of GDP); Philippines Forecast; Transparency International. 2023. Corruption Perceptions Index; Sustainable Development Report. Rankings; World Bank. 2021. Surface Area (sq. km) – Philippines; 2022. Investment in Energy with Private Participation (Current $) – Philippines; 2022. Investment in Transport with Private Participation (Current $) – Philippines; 2022. Investment in Water and Sanitation with Private Participation (Current $) – Philippines; 2023. Logistics Performance Index; GNI per Capita, Atlas Method (Current $) – Philippines; 2024. *Business Ready*; PPP Legal Resource Center. Philippines.

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Public–Private Partnership Monitor—Philippines

The Government of the Philippines has made great strides at improving the public–private partnership (PPP) enabling environment and strengthening its PPP institutional framework. Its new PPP Code adopted in 2023 considers key challenges and lessons learned in PPPs for over 3 decades. Under the guidance of its PPP Governing Board and Public–Private Partnership Center, the Philippines is now poised to embark upon a massive PPP program in the national and local spheres. This publication examines the Philippines' national, sectoral, and local PPP landscape and gives a detailed account of the various laws, institutions, initiatives, sector plans, and subnational policies that characterize the country's PPP ecosystem.

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