



The
Treasury

February 2015

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15-02

**Budgeting for Availability based
Public Private Partnerships**

Policy & Guidelines Paper

Preface

Availability based Public Private Partnerships (Availability PPPs) are a unique partnership arrangement made between the private sector and Government to deliver specified assets and services (including the initial financing of these assets) under a performance based contract.

Successful delivery of infrastructure through this model is a key part of the NSW Government's State Infrastructure Strategy which has and continues to establish a portfolio of PPP assets under the control of various State entities.

This *Budgeting for Availability based Public Private Partnerships* Policy and Guidelines Paper reflects the Government's objective of a consistent, strategic and systematic approach to recognising the present and future liabilities associated with Availability PPPs across the whole of Government.

This policy applies to all General Government agencies and Public Trading Enterprises (PTEs) for financial years beginning on or after 1 July 2014 for all Availability PPPs.

Philip Gaetjens
Secretary
NSW Treasury
February 2015

Treasury Ref: **TPP 15-02**
ISBN: **978-0-7313-3671-5**

Note

General inquiries concerning this document should be initially directed to:
The Infrastructure & Structured Finance Unit, NSW Treasury
Tel: 9228 3944, or email: isfu@treasury.nsw.gov.au.

This publication can be accessed from the Treasury's website
<http://www.treasury.nsw.gov.au/>.

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Executive Summary

Budgeting for Availability PPPs policy reflects the Government's objective to achieve a systematic, consistent and comprehensive approach to budgeting for assets and services that are delivered under Availability PPP contracts.

Budgeting for Availability PPPs policy requires General Government agencies and PTEs (Relevant Entities) to budget for the liabilities that arise in relation to projects that are delivered under Availability PPP contracts. This includes budgeting for the capital, operational and financing elements of the Service Payment. In addition, it requires Relevant Entities to budget for the relevant projects at all stages, from investment decision through to the operational period of the Availability PPP project and provides guidance on reporting requirements.

The key requirements of this policy are outlined below:

- All Relevant Entities that are in the process of procuring or are bound by an Availability PPP contract must comply with this policy.
- Relevant Entities must develop and maintain data submissions in accordance with this policy.
- Submissions comprise completed Availability PPP Budgeting Data Tables (PPP Data Tables) and completed quarterly Construction Progress Reports and annual Operational Progress Reports.
- PPP Data Table submissions should be made as part of the budget returns process.
- Any relevant templates and associated guidance will regularly be reviewed and updated by Treasury.

Budgeting for Availability PPPs

Introduction

Availability PPPs have unique implications for capital and recurrent budgetary frameworks for major projects.

Availability PPP contracts will typically involve a General Government agency or Public Trading Enterprise (Relevant Entities) entering into a design, build, finance, maintain and operate (DBFMO) contract with a private sector Special Purpose Vehicle (SPV) for an extended operating term (e.g. 15 to 30 years).

Availability PPPs are typically structured with the private sector SPV being responsible for raising private finance to fund the capital expenditure required to construct the asset during a project's Construction Phase. Construction completion and commencement of the Operational Phase is usually the key trigger for the Relevant Entity to start making monthly or quarterly Service Payments to the private sector SPV until the end of the Operational Phase. Abatements to the Service Payment are typically made for unavailability of the asset or poor performance, in accordance with the agreed contractual arrangements. Under an Availability PPP, Government retains demand risk and the main form of revenue for the SPV is therefore the Service Payment for making the asset available and providing the required services to the required performance standard.

Availability PPPs differ to demand based PPPs whereby the private sector SPV bears demand risk and derives revenue from third parties (for example user charges) instead of receiving a Service Payment from Government.

At a high level, Service Payments for Availability PPPs comprise three key components:

- Capital element associated with the cost of constructing the asset
- Financing costs associated with the debt and equity raised to finance the project
- Ongoing operating, maintenance and lifecycle costs.

Procurement of Availability PPP projects is governed by the NSW Government's Public Private Partnerships Guidelines (August 2012) and National PPP Guidelines. The Policy should be read in conjunction with these guidelines, relevant accounting standards and other NSW Treasury Policy and Guidelines related to major capital projects, Total Asset Management and Public Private Partnerships.

The Policy is not intended to provide details concerning accounting treatment and financial disclosure requirements for PPP projects. Yet the budgeting should be consistent with the relevant accounting treatment, which varies from Project to Project. Prior to contract execution the Relevant Entities should seek confirmation of the accounting treatment with NSW Treasury and advise the Auditor General per the NSW PPP Guidelines.

Compliance

All General Government agencies and PTEs (Relevant Entities) that are in the process of procuring or bound by an Availability PPP contract are required to comply with this policy.

Policy Overview

Relevant Entities are required to develop and maintain data submissions in accordance with this policy comprising completed **PPP Data Tables** and completed quarterly **Construction Progress Reports** and annual **Operational Progress Reports**.

PPP Data Table submissions should be made as part of the budget returns process.

Purpose and Use of the Availability PPP Budgeting Information

Budgeting for Availability PPPs policy reflects the Government's objective to achieve a systematic, consistent and comprehensive approach to budgeting for assets and services that are delivered under Availability PPP contracts.

This policy requires Relevant Entities to budget for the liabilities that arise in relation to projects that are delivered under Availability PPP contracts. This includes budgeting for the capital, operational and financing elements of the Service Payment. In addition, it requires Relevant Entities to budget for the relevant projects at all stages, from investment decision through to the operational period of the Availability PPP project, and provides guidance on reporting requirements.

For the avoidance of doubt, this policy does not replace any existing government policies or circulars concerning budgeting for capital projects. The guidance is to be used in conjunction with relevant policies that relate to planning for and managing major capital works.

Use by the Agency

Budgeting for Availability PPPs is a valuable planning tool at the individual agency level. It allows agencies to consider all costs associated with Availability PPPs and budget for them accordingly. It provides a reporting framework for agencies to follow throughout the life of the project. It allows agencies to consider how they should provision for potential future liabilities and reflect these in Risks and Pressures reports submitted to Treasury analysts.

Use by NSW Treasury

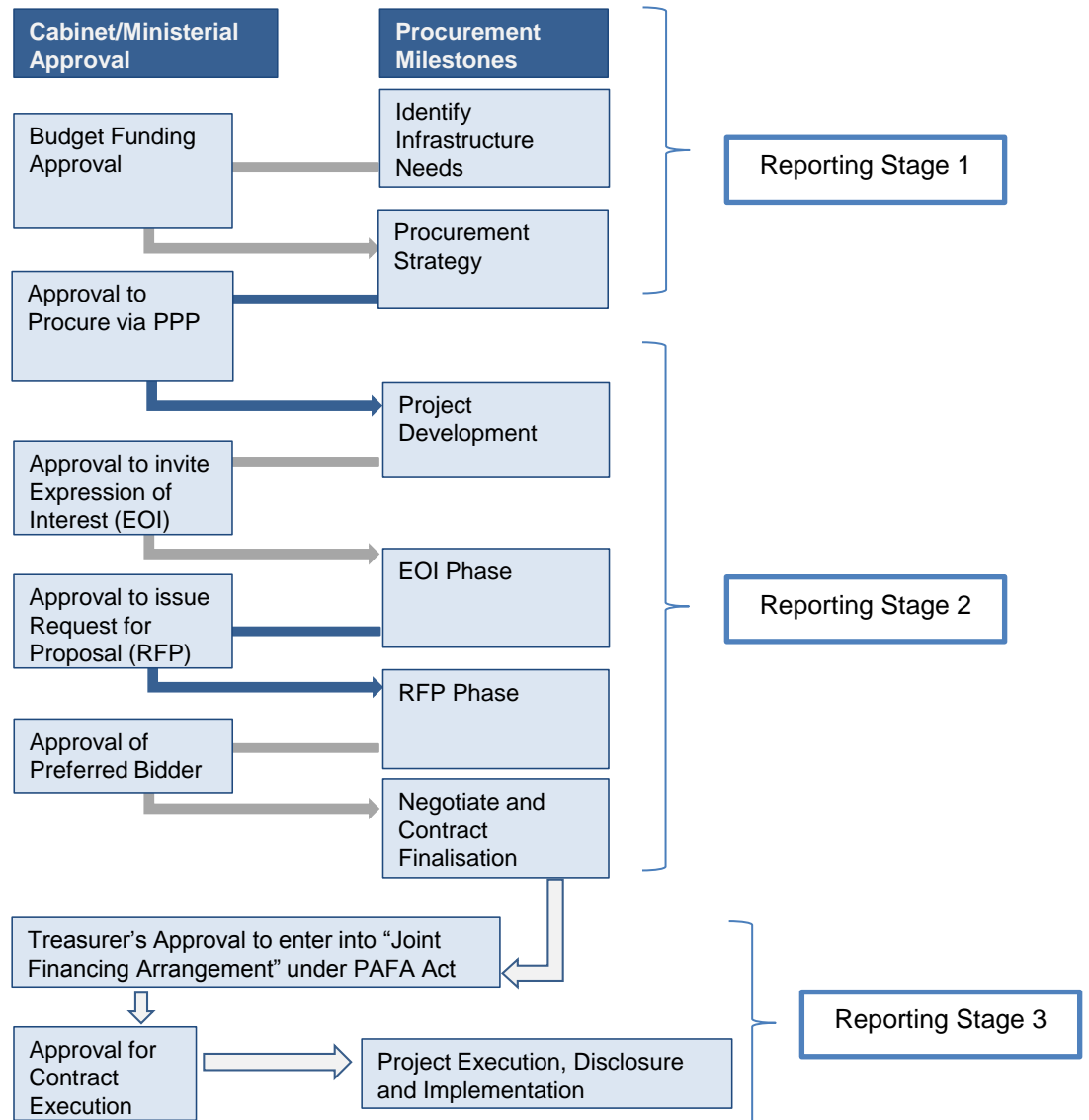
Treasury uses the Budgeting for Availability PPPs data to assist consideration of the:

- Financial impact of Availability PPPs on the State budget over the PPP lifecycle (i.e. project procurement, development, construction and operations).
- Impact of Availability PPPs on State Budget Aggregates (e.g. the impact to State Gross Debt, State Net Debt and impacts to the Fiscal Balance).
- Financial implications of Availability PPPs and ensure that they are appropriately captured for longer term fiscal planning purposes.
- Impact on the State's credit rating.

Budgeting and Reporting Process

Overview

Availability PPPs follow the approval and procurement stages per the diagram below (sourced from Figure 3.1 of the existing NSW Public Private Partnerships Guidelines) Each reporting stage of Budgeting for Availability PPPs has been identified alongside this diagram.



Reporting Requirements

Relevant Entities are required to follow the approach below when budgeting for Availability PPPs.

Reporting Stage 1: Investment Decision made to Procurement Decision

At this stage there has been no decision made with regard to the procurement process to be followed for the major project. Planning should follow the Total Asset Management (TAM) policy (TPP 13-03) and there is no requirement for any additional data or reporting. The major project is budgeted for as a traditional project per the approved business case with the capital expenditure profile budgeted for in the relevant years.

Reporting Stage 2: Procurement Decision to Contractual and Financial Close

At this stage, if a decision has been made to procure the major project (i.e. go to market) as an Availability PPP, then the PPP Data Tables will need to be provided by the Relevant Entities to Treasury analysts as part of their submission for budget and contract approval. These tables will be used to estimate the budgetary and fiscal impact of the Availability PPP, including any provisions. In particular this will help compare the budget for PPP procurement against the Public Sector Comparator and budget for traditional procurement.

Relevant Entities should continue to follow the TAM process for the major project. The major project is budgeted for as a traditional project with the capital expenditure profile budgeted for in the relevant years.

Reporting Stage 3: Financial Close to End of Availability PPP Contract

At financial close of the major project, the Relevant Entities will work with their Treasury Analysts to amend their TAM submissions, Capital Expenditure Authorisation Limits (CEALs) and other Budget Controls as part of the budget process (in accordance with NSWTC 12/20). The capital reallocation will involve:

- Removal of the traditional capital expenditure profile for the major project from the relevant years resulting in reduced CEALs
- Reallocation, resulting in an increased CEAL to coincide with when the completed asset is recognised in the accounts of the Relevant Entity to reflect the timing and value stipulated by the relevant accounting policy

In addition, Relevant Entities will provide the PPP Data Tables, as per the reporting frequency requirements of this policy, showing the impact of the Availability PPP to the budget and forward estimates.

Appropriations, Grants and Budget Controls

Following the submission of the PPP Data Tables and inclusion in the annual Budget Process each Availability PPP will be granted an annual capital appropriation budget reflecting the capital element of the forecast Service Payment liabilities. This capital appropriation is provided to make Principal repayments on the PPP and is not included in the CEAL of the 'Relevant Entity'.

For any grant funded Relevant Entities, the principal agency will be granted an annual recurrent appropriation reflecting the capital element of the forecast Service Payment, which will then be provided to the grant funded Relevant Entity as a capital grant.

As mentioned in Reporting Stage 3, the traditional project's CEAL will be replaced by a new CEAL for the PPP, coinciding with when the completed asset is recognised on the Relevant entity's accounts. This revised CEAL will include any interest capitalised by the SPV during the Construction Phase only if there are no capital savings (relative to the traditional project's CEAL) to draw upon.

The global recurrent element of the Service Payment may be met through the Relevant Entity's existing budget or through an additional recurrent appropriation if approved through the Budget process as a Measure or Parameter and Technical Adjustment (PTA).

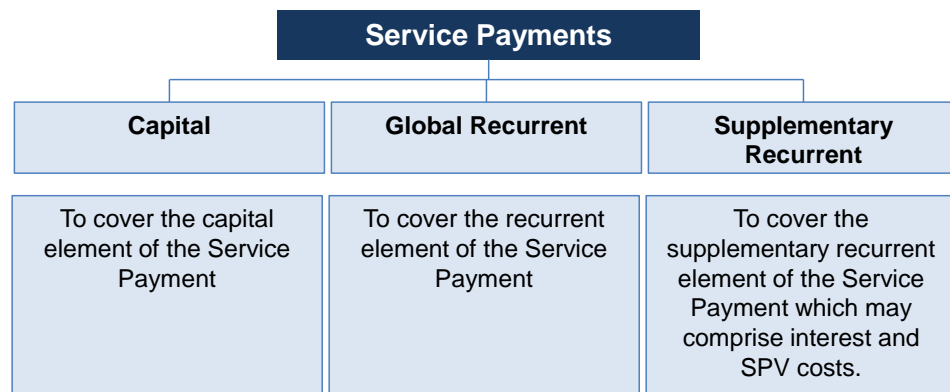
Appropriations and budget controls may be adjusted for supplementary recurrent elements of the Service Payment as a Measure or PTA. Additional funding will be provided to the Relevant Entity for any interest expense element.

A standing government approval (for the project term) should be sought for changes in interest and other liabilities and payments assumed by Treasury, to avoid seeking government approval each year.

Funding of other (original and additional) supplementary recurrent elements will be decided and approved on a case by case basis through the Budget process. The contingency should be reflected in the total PPP project’s budget, just like it is for a traditional project, and managed in accordance with TC 14-29 (Management of Contingency Provisions for Major Projects)

Submission Requirements

Availability PPP cash flows and their call on budgets are materially different to those under traditional procurement. Availability PPP Service Payments need to be factored into forward budgets and considered as part of the State’s broader financial management framework. To support this reporting requirement, at financial close, an Availability PPP should no longer be reported on a traditional basis but on the basis of the anticipated future liabilities of the Relevant Entities as set out in the diagram below.



Relevant Entities are required to submit PPP Data Tables in accordance with the budget process timeline. The PPP Data Tables provide information on the anticipated future liabilities of the Relevant Entities in relation to a specific Availability PPP.

PPP Data Tables should capture, at relevant stages of the project lifecycle, the following information:

- Initial TAM expenditure profile: As agreed at investment decision
- Asset recognition profile as at financial close
- Forecast PPP Service Payments pre and post financial close: Provision of the forecast total service payment expenditure broken down into:
 - Capital element
 - Interest element and Interest Rate Adjustments
 - Recurrent service payment element
 - SPV costs
 - Any other cost categories agreed with the Treasury analyst (e.g. insurance)
- Capital Contributions: Where these have been committed to be made during the Construction Phase

- Conditional Debt Pay Down (CDPD) amounts: Where these have been committed to be made during the Operational Phase subject to agreed conditions being met
- Actual PPP Service Payments: Reflecting actual payments made by the Agency including any market adjusted amounts

PPP Data Tables should provide all information available for the project over the entire life of the PPP (including that beyond the normal 10 year capital project budgeting cycle). It is noted that the PPP Data Tables are intended to be output schedules and can be tailored to each Project. Any calculations required to inform the PPP Data Tables should be carried out separately.

It is noted that the Forecast PPP Service Payments and the related accounting entries for the Availability PPP will be informed by the Budget and Accounting Model (B&A Model). The B&A model is intended for budgeting purposes and may also be used for other annual reporting purposes. It will be developed and updated in accordance with the following steps:

- The Infrastructure and Structured Finance Unit (ISFU) within Treasury will work with the Relevant Entity during procurement to develop a tailored B&A Model. If the Relevant Entity has an existing model that is consistent with the B&A Model, then this may be used instead.
- At financial close the model is updated to reflect the financial close model and protocols are agreed for annual updates.
- Throughout delivery and operations:
 - If using the B&A Model, ISFU updates the model and provides the model's forecasts to the relevant Agency, Budget and Policy (ABP) analyst within Treasury for review in line with existing budget approvals.
 - If using the Relevant Entity's own model, ISFU reviews this model and its forecasts for consistency.
- Relevant Entities complete the Data Tables. Treasury reviews these before being reflected in the Budget and Forward Estimates for the final Allocation Schedule prior to the annual State Budget.

Relevant Entities are required to submit quarterly Construction Progress Reports and annual Operational Progress Reports to the relevant ABP and ISFU analysts. If Treasury is represented on the relevant Project Steering Committees than this reporting requirement is optional. The reports provide information on the progress and performance of the Availability PPP project. To avoid duplication the Relevant Entities may draw upon information used in other reports that are consistent and for similar purposes. There is no prescribed template for the reports, however all information must be presented as a single document.

Quarterly Construction Progress Reports should capture:

- Progress of the construction of the asset against the planned program including reporting against milestones
- Any cost variances that have an impact on the cost of the project to the agency (It is noted that all changes and variations must go through formal approval processes)
- Key issues and risks associated with the project
- Expected completion date
- Expected date/timeframe for asset recognition

Annual Operational Progress Reports should capture:

- Summary of the SPV’s performance in relation to the asset
- Summary of abatements for availability and performance
- Operational issues and performance against KPIs
- Major lifecycle work undertaken
- Description of any variations, refinancing or any other changes (note these may require formal approval by the relevant authority)
- Any significant issues raised in relation to the contract by the Relevant Entity or the SPV in that year

The Data Tables, Budget & Accounting Model and associated guidance will be regularly reviewed and updated by Treasury.

Note: *The information should be sourced from the most accurate source possible, typically proxy financial models developed during the procurement phase by the agency and bidders and the financial close model described in the PPP Project Agreement and/or that used for calculation of service abatements. Performance information is typically sourced from the SPV reporting documents as stipulated in the Project Deed.*

Reporting Frequency

The PPP Data Tables should be prepared as part of the NSW Treasury’s Budget Process and consequently prepared in accordance with the following indicative timeframes:

Indicative Timeframe	Budget Process	Submission requirements
October - November	Annual Budget Process <ul style="list-style-type: none"> ▪ Half Year Review ▪ Capital proposals, Business Cases and Gateway Review Reports, as required TAM Submissions (as per TPP 13-03) <ul style="list-style-type: none"> ▪ Asset Strategy ▪ TAM data tables 	
December / January	Annual Budget Process <ul style="list-style-type: none"> ▪ Revised Forecasts ▪ Recommendation of projects for approval ▪ INSW recommendation of 5 year infrastructure plan for endorsement (projects >\$100m) 	
February -May	Annual Budget Process <ul style="list-style-type: none"> ▪ Budget Forward Estimates ▪ Approve Projects ▪ Approve Budget – year works 	Submit completed PPP Data Tables
June	Budget <ul style="list-style-type: none"> ▪ Publish Budget Papers ▪ Finalise the NSW 5 year infrastructure plan 	

Construction Progress Reports are to be prepared and provided to Treasury quarterly throughout the relevant period, 30 days after the end of each of the quarters ending September, December, March, June.

Operational Progress Reports are to be prepared and provided to Treasury annually throughout the relevant period no later than 30 September after the end of the financial year.

Sign off

Project Director or Chief Financial Officer of the relevant entity.

Further information

Guidance material

Budgeting for Availability PPPs policy and guidelines are accessible at NSW Treasury website:

http://www.treasury.nsw.gov.au/Treasury_Policy_Papers_Index_Page

Treasury contacts

Budgeting for Availability PPPs

ISFU, NSW Treasury

9228 3944, isfu@treasury.nsw.gov.au

Associated instruments

- NSW Treasury Circular NSWTC 14-29 – Management of Contingency Provisions for Major Projects
- NSW Treasury Circular NSWTC 14-28 – Parameter and Technical Adjustments and Measures (New Policy)
- NSW Treasury Circular NSWTC 12/20, Budget Controls – Capital Expenditure Authorisation Limits
- NSW Treasury Circular NSWTC12/08, Budget Controls - Net Cost of Services
- NSW Treasury and Guidelines Paper TPP 13-03 Total Asset Management (TAM) submission Requirements
- NSW Treasury and Guidelines Paper TPP 08-05 Guidelines for Capital Business Cases
- NSW Treasury and Guidelines Paper TPP 06-08 Accounting for Privately Financed Projects
- NSW Public Private Partnerships Guidelines, August 2012

Please note that the above list outlines the primary instruments for consideration. It is not intended to be exhaustive.

Acronyms and Glossary

Acronyms

CDPD	Conditional Debt Pay Down
CEAL	Capital Expenditure Authorisation Limit
DBFMO	Design, Build, Finance, Maintain and Operate
EOI	Expression of Interest
INSW	Infrastructure NSW
ISFU	Infrastructure and Structured Finance Unit
KPI	Key Performance Indicator
MTFM	Medium Term Fiscal Model
PAFA	Public Authorities Financial Arrangements
PPP	Public Private Partnership
PTA	Parameter and Technical Adjustment
PTE	Public Trading Enterprise
RFP	Request for Proposal
SPV	Special Purpose Vehicle
TAM	Total Asset Management

Glossary

Term	Meaning
Abatement	Deductions to the Service Payment for unavailability of the asset or poor performance
Availability PPP	A PPP project where the government pays the private party a Service Payment for the availability of an asset. The Service Payment also covers the provision of ongoing maintenance and operational services to the asset for the duration of the PPP contract. Typically, the private party will be responsible for designing, building, financing, maintaining and operating the asset.
Budget and Accounting Model	A model developed and maintained by Treasury's ISFU to reflect the accounting treatment of the Availability PPP
Construction Phase	The period of time during which the asset is built
Financial Close	The final step in the procurement process when all conditions precedent have been met, all contracts are signed and the financing for the project is locked in
Key Performance Indicator	A performance requirement set to define the level of service the SPV is required to adhere to in accordance with the PPP contract
Operational Phase	The period of time during which the completed asset is operated by the SPV
Public Private Partnership (PPP)	A contract entered into between Government and a private sector party for the provision of assets and/or services.
Relevant Entities	All General Government agencies and Public Trading Enterprises
Service Payment	The monthly or quarterly payment made to the SPV for making the facility available and providing the required services
Special Purpose Vehicle (SPV)	An entity created for the sole purpose of delivering the asset and services that are the subject of the PPP