

**Ministry of Works and Transport**

**Guidelines for Submission and Assessment of Unsolicited Proposals in the Transport Sector**

**Final Draft**

**July 2013**

Contents

[1. INTRODUCTION 1](#_Toc361742265)

[2 SUMMARY OF THE PROCESS 2](#_Toc361742266)

[3 GUIDING PRINCIPLES 3](#_Toc361742267)

[3.1 Optimisation of Outcomes 3](#_Toc361742268)

[3.2 Assessment Criteria 4](#_Toc361742269)

[3.3 Probity / Integrity 4](#_Toc361742270)

[3.4 Resource Commitments 4](#_Toc361742271)

[4 THE PROCESS 4](#_Toc361742272)

[4.1 Introduction 4](#_Toc361742273)

[4.2 Stage 1 – Initial Submission and Strategic Assessment 5](#_Toc361742274)

[4.3 Stage 2 – Detailed Proposal 6](#_Toc361742275)

[4.4 Stage 3 – Negotiation of Final Binding Offer 8](#_Toc361742276)

[5 TRANSITIONAL ARRANGEMENTS 8](#_Toc361742277)

[6 INSTITUTIONAL ARRANGEMENTS 8](#_Toc361742278)

[Appendix 1: Explanatory notes 10](#_Toc361742279)

[Appendix 2: Process flow for consideration of Unsolicited Proposal 14](#_Toc361742280)

[Appendix 3: Checklist for confirming compliance with Stage 1 Requirements 15](#_Toc361742281)

[Appendix 4: Checklist for documenting results of review of Detailed Proposal at Stage 2 17](#_Toc361742282)

[Appendix 5: List of personnel / organisations consulted 19](#_Toc361742283)

# 1. **INTRODUCTION**

The Government of Uganda (GoU) is determined to deliver improved transport infrastructure and services. To this end a large programme of publicly-funded projects is underway within the Ministry of Works and Transport (MoWT) and its agencies. The GoU has adopted a Public Private Partnership (PPP)[[1]](#footnote-1) Policy designed to increase the potential resource base for a wide range of infrastructure and services, and is in the process of enacting a PPP Bill[[2]](#footnote-2): these Guidelines have been prepared to be in accord with the provisions of the Bill as laid before Parliament in March 2013.

The MoWT, in pursuance of the PPP Policy, is seeking to engage with the private sector in the development and delivery of new transport infrastructure and services. The MoWT wishes to encourage the best ideas and solutions from the private sector and a greater level of private sector investment and participation in projects, with rigorous planning and costing to deliver the highest standards of public value – and confidence to investors, stakeholders and the public.

While most projects involving the private sector will be procured through normal competitive procurement processes (governed and guided by the Public Procurement and Disposal of Public Assets (PPDA) Act), it is inevitable that MoWT will also receive unsolicited bids/proposals from the private sector seeking to offer new and innovative ideas. An Unsolicited Proposal (USP) is defined as an approach to MoWT from a Proponent[[3]](#footnote-3) with a proposal to build and/or finance infrastructure, and/or provide goods or services, or manage a facility, where MoWT has not requested the proposal.

These Guidelines for Submission and Assessment of Unsolicited Proposals outline a systematic, transparent and streamlined approach that will facilitate the MoWT and the private sector working together to develop and deliver this innovation. They represent a commitment by the MoWT to the allocation of resources to meet its responsibilities as outlined in these Guidelines. The Guidelines do not address the procurement of goods and services by processes described within the PPDA Act and hence which are procured through existing procedures of the MoWT.

The key objective of this document is to provide a framework which can be used by MoWT to ensure a consistent, transparent approach in dealing with unsolicited proposals and in assessing how a proposal helps meet strategic Government objectives and offers value for money. In turn this will provide certainty to private sector participants as to how their unsolicited proposals will be processed and assessed within a transparent framework. Explanatory Notes have been included within Appendix 1 to this document for the guidance of the reader, and referred to in this text by means of *Note x*. A separate summary of these Guidelines [[4]](#footnote-4) has been prepared for the information of private sector participants / project Proponents which can be used by them in developing their Unsolicited Proposals.

# 2 SUMMARY OF THE PROCESS

The MoWT, and its agencies, procures projects, goods and services in accordance with the provisions of the PPDA Act. The predominant method of procurement used is the competitive tendering process by which the MoWT proactively invites tenders for projects, goods or services. However the PPDA Act also allows for direct procurement where exceptional circumstances prevent the use of competition[[5]](#footnote-5). And the PPP Bill allows for Unsolicited Proposals where the infrastructure or services to be provided involves an innovative design, or innovative approach to project development and management, or presents a new and cost effective method of service delivery.[[6]](#footnote-6)

The MoWT is seeking to capture innovative ideas from the private sector that provide off budget real and tangible benefit to the people of Uganda. The Ministry will therefore consider an Unsolicited Proposal where circumstances support this approach, and at its absolute discretion. The assessment of Unsolicited Proposals shall be performed in a manner which is fair, open and participatory and shall demonstrate the highest levels of probity consistent with public interest.

A three stage process has been developed to guide the processing of such Proposals. This is described in detail in section 4, and illustrated in Appendix 2. The process involves:

**Stage 1** - **Initial Submission and Strategic Assessment** includes an initial assessment of the proposal to identify whether it is in the public interest and the potential benefit to MoWT of further consideration and development. It will also include an assessment of whether the project has unique or innovative characteristics, or is capable of being tendered competitively. The outcome is advice to the Proponent of progression to Stage 2, or that the MoWT wishes to subject the proposal to competitive tendering, or that the MoWT does not wish to proceed. If MoWT wishes to proceed to Stage 2 with the Proponent, then the arrangements for Stage 2 should be contained in a Participation Agreement.

**Stage 2** - **Detailed Proposal** requires the Proponent to develop the USP further to produce a Detailed Proposal, and then for the MoWT to perform a review and assessment of the Detailed Proposal. The MoWT will also again consider whether the project is capable of being tendered competitively. The outcome is advice to the Proponent of progression to Stage 3, or that the MoWT does not wish to proceed.

**Stage 3** - **Negotiation of Final Binding Offer** involves the submission of a Final Binding Offer by the Proponent, and negotiation and finalisation of all outstanding issues with a view to entering into a binding agreement, should the MoWT accept the Final Binding Offer.

It is recognised that a Proponent will be entitled to a return for its involvement in a project and that outcomes should be mutually beneficial for the Proponent and the MoWT. Further, the Ministry recognises the right of Proponents to derive benefit from unique ideas. Therefore following Stages 1 or 2, should the MoWT decide to proceed to competitively tender the ideas contained in the proposal, the Proponent will be rewarded for its initiative with a guaranteed seat at the final round of bidding in a BAFO process (*Note 2)* during the competitive tender.

At times, a Proponent may wish to present an idea or initial proposal (concept) to the Ministry of Works and Transport that, if implemented, may provide real benefit to Uganda. The purpose in approaching Government may be because the Proponent is seeking to increase the number of projects being offered to the market rather than to directly negotiate an outcome. If the Proponent agrees with MoWT to develop the Initial Proposal into a Detailed Proposal the MoWT may at its sole discretion agree to reimburse direct costs incurred in the development of the Detailed Proposal in Stage 2 (see *Note 3*).

While negotiation of Unsolicited Proposals may be pursued on a sole-source basis “where the circumstances do not permit a competitive method[[7]](#footnote-7)”, the Ministry of Works and Transport’s default procurement approach is to test the market. This generally results in the demonstrable achievement of value-for-money outcomes and provides fair and equal opportunities for private sector participants to do business with Government. As such, for an Unsolicited Proposals to be pursued on a sole source basis it will need to include unique elements that provide justification for entering into direct procurement from the Proponent. The unique elements may include characteristics such as:

* Intellectual property or genuinely innovative ideas, eg unique design or development approach;
* Ownership of real property;
* Ownership of software or technology offering a unique benefit;
* Unique and cost effective financial arrangements;
* Unique ability to deliver a strategic outcome and project management; or
* Other demonstrably unique elements.

If an Unsolicited Proposal does not offer unique elements which justify negotiations on a sole-sourced basis, then the proposed project will be subjected to competitive processes, in which the Proponent will be eligible to participate.

3 GUIDING PRINCIPLES

3.1 Optimisation of Outcomes

By their nature, Unsolicited Proposals are unlikely to be the current focus of Government’s strategic planning. Proposals must therefore be considered in light of the wider benefits and strategic outcomes that may be derived. In order for the process to proceed however, proposals must be broadly consistent with the Ministry’s objectives and other strategic planning objectives such as those in the National Development Plan or the National Transport Masterplan.

In order to demonstrate affordability and optimal Value for Money, a feasibility study must be prepared. The Ministry will develop a Public Sector Comparator against a Reference Project defined by the Ministry that will be used as a benchmark for assessing Value for Money. In order to guide the Proponent, the Ministry of Finance, Planning and Economic Development will provide an early indication of an acceptable return on investment and other requirements to be achieved by the Proponent in the delivery or implementation of its proposal.

## 3.2 Assessment Criteria

Proposals will be assessed against the following Assessment Criteria:

1. Consistency with GoU strategic objectives
2. Unique benefits and or methods of the proposal providing justification to directly negotiate
3. Value to Government; encompassing economic benefit, service delivery, whole-life-costs, risk transfer, timely achievement of objectives and qualitative outcomes which contribute to the achievement of strategic objectives
4. Impact on Government, including opportunity cost
5. Appropriate risk allocation
6. Appropriateness of return on investment obtained by the Proponent given project risks
7. Capability and capacity of Proponent to deliver the proposal
8. Affordability.

Additional Assessment Criteria relevant to a particular proposal may also be applied. If so, the Proponent will be informed of the additional criteria in order for these to be addressed in its Detailed Proposal during Stage 2.

## 3.3 Probity / Integrity

The application of established probity principles aims to assure all parties of the integrity of the decision making processes. The assessment of Unsolicited Proposals will be conducted in line with the probity fundamentals outlined below:

* Maintain impartiality
* Maintaining accountability and transparency
* Managing conflicts of interest
* Maintaining confidentiality
* Obtaining value for money.

## 3.4 Resource Commitments

In order for an Unsolicited Proposal to progress, both the Ministry and the Proponent will be required to commit resources. The staged approach to assessment as detailed in section 4 of this Guide seeks to balance resource input at each stage in order to reduce the potential for unnecessary expenditure.

While this Guide seeks to minimise the costs for Proponents, Government will not normally reimburse costs associated with the Initial Submission of Unsolicited Proposals, but may consider making a contribution towards direct costs incurred in preparing Detailed Proposals if the Detailed Proposal does not result in a contract with the Proponent, but if the concept is subsequently used by the Government.

# 4 THE PROCESS

## 4.1 Introduction

This section outlines a three stage assessment process for the receipt and consideration of Unsolicited Proposals. It is recognised that the nominated stages may be refined in order to most effectively manage the assessment of any particular proposal. For example, each stage may include a number of milestones to be achieved in order to prevent unnecessary expenditure and to provide confidence for the Proponent to continue. Any milestones or changes to the stages will be discussed and agreed with the Proponent.

## 4.2 Stage 1 – Initial Submission and Strategic Assessment

The objective of Stage 1 is for the Ministry to undertake a comprehensive initial assessment of the proposal to identify the potential benefit to Government of further consideration and development of the ideas contained within the USP.

During Stage 1, the Proponent is responsible for:

* Preparing an Initial Submission in accordance with the Schedule of Information (see *Note 4*)
* Forwarding the Initial Submission to the Permanent Secretary, Ministry of Works and Transport
* Responding to requests for further information. The information to be provided will depend on the size and complexity of the proposed project.

During Stage 1, the Ministry is responsible for:

1. Promptly acknowledging receipt of the Initial Submission
2. Undertaking an initial compliance check to ensure the required information has been provided
3. Requesting further information from the Proponent if required. This may involve clarification meetings with the Proponent in order to promote clarity of Government requirements
4. Establishment of a Technical Assessment Team
5. Undertaking a formal assessment and requesting additional information where necessary. The assessment will be based on the potential for a subsequent Detailed Proposal to satisfactorily meet each of the Assessment Criteria if progressed to Stage 2. The areas to be examined in the Formal Assessment are documented in *Note 5* and the results of the assessment should be summarised and documented using the form in Appendix 3
6. Establishing whether the proposed project can be afforded and ensuring that the financial commitments implied are not unduly onerous on the public purse, through review and discussions with the Ministry of Finance, Planning and Economic Development of the pre-feasibility report
7. Assessing the unique elements of the proposal and determining if sufficient justification to negotiate on a sole-source basis exists, or whether the project should be subject to competitive tendering
8. Establishment of a Steering Committee
9. Preparing an Assessment Report for review and approval by the Steering Committee
10. Preparing a draft Participation Agreement (see *note 6*) for any proposal deemed appropriate to progress to Stage 2
11. Notification of the initial assessment outcome to the Proponent
12. Approval to progress to Stage 2, if warranted.

During Stage 1, the Ministry may ask for clarification of any issues contained in the initial submission, and/or may ask for additional studies to be carried out.

The following outcomes may result from this stage:

* The proposal is considered suitable for progression to Stage 2
* The proposal, in concept form, is deemed of sufficient interest to Government to warrant further development and progression to a more defined project either with the original Proponent or, at its behest other parties, with a view to bringing a project to market
* The proposal is not sufficiently unique to justify sole-source negotiations with the Proponent. In this case, the Steering Committee will agree a recommended course of action
* The submission is considered suitable for referral to the relevant agency for further consideration if the project appears to have merit, requires a relatively low resource commitment by Government, is low risk, affects a single agency only and does not conflict with any Government initiative
* The Submission is not considered suitable for further consideration. See *Note 7* for the actions to be taken following such a decision, including providing a written feedback with reasons for a decision not to proceed with a proposal.

Proponents with proposals considered suitable to proceed to Stage 2 or referral to an agency for further consideration will be provided with the following information:

* A summary of the assessment findings
* The proposed process and timelines for the further development and consideration of a Detailed Proposal. This will include governance arrangements
* Guidance regarding; value, scope, appropriate target return on investment parameters, timing, risk and other limitations which need to be reflected in the Detailed Proposal in order to avoid unnecessary costs for the Proponent
* A Draft Participation Agreement.

## 4.3 Stage 2 – Detailed Proposal

The objective of this stage is for the Initial Submission to be developed into a Detailed Proposal by the Proponent, and for the MoWT to consider and evaluate the Detailed Proposal submitted.

During Stage 2, the Proponent will:

1. Enter into a Participation Agreement;
2. Attend meetings as required; and
3. Prepare and submit a Detailed Proposal in a form agreed with the Ministry and which addresses each of the Assessment Criteria outlined in section 3.2 above ie
	* Unique benefits of proposal
	* Value to Government, including substantial technical, operational and financial risk transfer
	* Value for money
	* Impact on Government, including opportunity cost
	* Appropriateness of return on investment given project risks
	* Capability and capacity of Proponent to deliver the proposal
	* Affordability
	* Proposals for institutional arrangement eg share ownership, transfer thereof
	* Initial comments on particular clauses which are requested to be included in the legal documentation / contract
	* Evidence of funding availability

During Stage 2, the Ministry will:

* Enter into a Participation Agreement
* Facilitate such meetings as are required in order to:
* Provide feedback to the Proponent regarding risks and concerns with the Initial Submission
* Provide guidance to the Proponent regarding Government requirements and concerning the acceptable technical, financial, commercial and legal terms
* Advise of the relevant Assessment Criteria
* Agree the format for the Detailed Proposal, including the information and level of detail required
* Commit appropriately experienced and qualified resources to participate in the Stage 2 process
* Define a Reference Project which accurately reflects the scope of the proposal
* Investigate benchmarking and prepare the Public Sector Comparator (See *Note 8*) for the Reference Project
* Receive the Detailed Proposal
* Undertake assessment of the Detailed Proposal (by the Technical Assessment Team) against each of the Assessment Criteria
* Perform a detailed financial review of the Detailed Proposal, including consideration of VFM (See *Note 9*) and any financial commitments which may be required
* Request further information from the Proponent as required
* Consider whether the Proposal should still be considered as unique, or whether it should be subjected to competitive tendering
* Prepare an Assessment Report (see *Note 10*) by the Technical Assessment Team and make recommendations to the Steering Committee
* Make recommendations to the Ministry’s Top Management Team.

A Checklist to guide compliance with the provisions of the Stage 2 evaluation guidelines is given in Appendix 4.

The following outcomes may result from this stage:

1. The Detailed Proposal is considered acceptable to progress to Stage 3; or
2. The Detailed Proposal is not considered suitable for further consideration.

Proponents progressing to Stage 3 will be provided with a schedule of items and issues to be negotiated.

A written feedback providing reasons for a decision by the Ministry to not proceed will be provided.

## 4.4 Stage 3 – Negotiation of Final Binding Offer

The objective of this stage is to finalise all outstanding issues with a view to entering into a binding agreement.

During Stage 3, the Proponent will:

1. Submit a Binding Offer; including appropriate legal and commercial terms, and
2. Participate in the negotiation process

During Stage 3, the Ministry of Works and Transport will:

1. Undertake a comprehensive assessment of the Binding Offer;
2. Prepare a Negotiation Plan;
3. Inform the Proponent of the process and protocols for negotiation;
4. Provide the Proponent with a schedule of items for negotiation;
5. Commit appropriately qualified resources to complete negotiations; including legal, financial and technical advice where appropriate;
6. Define the appropriate Contract Management arrangements to monitor and ensure the project outcomes are delivered as contracted; and
7. Prepare a Cabinet Memorandum

Only one of the following two outcomes may result from this stage:

1. Recommendation to Government that the Binding Offer be accepted, or
2. Recommendation to Government that the Binding Offer not be accepted.

A written feedback providing reasons for a decision to not proceed will be provided to the Proponent.

# 5 TRANSITIONAL ARRANGEMENTS

All Unsolicited Proposals which have been submitted to the MoWT prior to publication of these Guidelines and not yet concluded must be considered under the MoWT’s current procurement system.

All Unsolicited Proposals submitted to the MoWT after publication of these Guidelines must be considered under these Guidelines, together with such provisions of the PPDA Act and PPP Bill (once enacted).

#  6 INSTITUTIONAL ARRANGEMENTS

These Guidelines are designed to be consistent with the provisions of the PPDA Act, and hence the requirements for approvals to be obtained at the appropriate time from other GoU bodies, eg the MoFPED, the Solicitor General, or the PPDA are unaffected. Further, these Guidelines are intended to be used by MoWT staff in reacting and responding to a USP received in the normal course of their duties. It is not anticipated that the volume of USPs will be sufficient to require staff to be dedicated solely to the receipt and processing of any USPs received.

MoWT staff should however be aware of the provisions contained within these Guidelines, and it is recommended that an appropriate briefing be provided to them.

These Guidelines should be “owned” by the Policy and Planning department within the MoWT, and any changes which may be required should be coordinated through that office.

# Appendix 1: Explanatory notes

1. Public Private Partnerships are an alternative method of procuring public infrastructure and services, however not every project is suitable for a PPP structure: for example in the UK it is estimated that only 15% of procurement is performed using a PPP.

PPPs can take many different forms with a range of different characteristics: combining private sector risk in various ways for designing, financing, building, operating, infrastructure and services, and for owning and transferring assets. These forms can include concessions; operation and maintenance; lease, develop and operate; build, own and maintain; design, build, finance, operate (DBFO); build, own, operate, transfer (BOOT); build, own, operate (BOO); etc. Payment involves one of three mechanisms: the institution paying the private party for the delivery of the service, or the private party collecting fees or charges from users of the service, or a combination of these.

A PPP is not a simple outsourcing of functions where substantial financial, technical and operational risk is retained by the institution, nor is it a donation by a private party for a public good, nor the privatisation or divesture of state assets and/or liabilities or the ‘commercialisation’ of a public function by the creation of a state- owned enterprise.

1. Reward structures for proponents who present USPs vary around the world, but generally fall into one of three mechanisms: Bonus, Swiss challenge, or BAFO. Under the Bonus system the proponent receives a bonus in an otherwise fair and open bidding process— typically by adding a premium to the original proponent’s technical or financial offer when bids are evaluated. The difficulty with this mechanism lies in deciding what and the size of an appropriate bonus, thereby increasing the potential for ambiguity.

In a Swiss challenge an open bidding process is conducted. If unsuccessful, the original proponent has the option to match the winning bid and win the contract. The main advantage of the Swiss challenge is that it is relatively easy to define, both in general and for each project. The original proponent’s “advantage” is based solely on the project bidding criteria and the bar is set by the competitive process. Since no further definition or negotiation is needed—of bonuses, bidding costs or returns—it does not create additional work for the government project team, nor provide room for subjective decision-making. However this mechanism can inhibit competing bidders, who may be dis-encouraged by the possibility of their bid being matched by the original proponent and hence be unwilling to commit the resources necessary to develop a competing bid.

In the Best and Final Offer (BAFO) system the key element is multiple rounds of tendering, in which the two most advantageous bids are selected in the first round, from which a final round of bidding will take place. If the original proponent is not one of these two selected, it will be given a right (by virtue of being the project proponent) to compete in the final round. This method provides a limited incentive to private sector proponents without dis-encouraging competition. It also minimises the potential risk of over-loading the MoWT with unsolicited proposals and of having to evaluate poor-quality projects, and reduces the potential cost to MoWT of having to commit resources to evaluate too many USPs.

1. Reimbursing project development costs. If unsuccessful in the bidding process, the original proponent might expect reimbursement of its development costs from the government, the winning bidder, or both. Proponents invest time and money in the projects and expect to be compensated for their efforts. However, determining the true value of the project concept and development is not easy, and there are several issues to consider when deciding the amount: costs may be exaggerated, resources have to be expended in evaluation of the costs, and it may encourage frivolous projects. On the other hand it respects the legal Intellectual Property Rights of the Proponent. It is viewed that the BAFO system provides an appropriate return for a Proponent to encourage them to submit USPs which progress to a competitive process. Should a direct procurement process result, the Proponent will receive recompense for the direct costs incurred in the development of its Detailed Proposal through the provision of the works /service.

Should a USP progress to Stage 2, but not conclude Stage 3, the Proponent may be allowed to claim its direct costs in accordance with the terms of the Participation Agreement. In calculating costs eligible for reimbursement, the MoWT and the Proponent must restrict their consideration to direct costs incurred by the Proponent in developing technical and other materials relevant to responding to the requirement of the MoWT for the Detailed Proposal. If the MoWT and the Proponent cannot reach consensus, then the MoWT will not be responsible for any costs which the proponent has incurred in preparing and submitting the Detailed Proposal, and the MoWT may not implement the project proposed in the unsolicited proposal for the current or next financial year and may not utilise at any time the proprietary information provided by the Proponent as part of its unsolicited proposal.

1. The Initial Submission should contain the following elements:
2. a concise title and description (approximately 200 words) of the proposed project, including a statement of the objectives, approach and scope of the proposed project;
3. a description of how the proposed project is demonstrably innovative and supported by evidence that the Proponent is the sole provider of the innovation;
4. an analysis of the anticipated benefits or cost advantages to the MoWT including the proposed price or total estimated cost for providing the service in sufficient detail to allow a meaningful evaluation by the MoWT. This should include a clear assessment of the economic benefits of the proposal in the form of a pre-feasibility study and hence a justification of the need for the project. Elements to be included include an estimated total project cost and financing plan, and an income and expenditure plan for operations;
5. an initial assessment and proposed allocation of key project risks
6. a statement showing how the proposed project supports the MoWT’s strategic growth and development plan and its other objectives;
7. the applicant’s role in the proposed concessionaire company and its track record to demonstrate an ability to construct, and/or operate the project, and its financial standing
8. an indication of what further environmental, technical, economic or other social impact studies may be needed in Stage 2,
9. the proposed form of support required from the MoWT / GoU , and
10. the period of time for which the proposal is valid for consideration, which may not be less than six months.
11. The formal assessment should include consideration of:
12. Assessment of economic, technical and financial viability
13. Consistency of PPP structure and risk allocation in line with PPP policy, where the fundamental principle is that risk allocated optimally – to whoever is best able to manage it
14. Value for money of proposed solution
15. Work performed to date and completeness thereof
16. Due diligence assessment of Proponent: experience, capacity, financial capability, and of the Project: existing assets, land ownership, rights and conditions, environmental scoping, and staff. It is also important to identify ground conditions on greenfield projects, and conditions of existing assets for brownfield projects
17. The Participation Agreement should contain the following items:
	1. The Commitment
	2. The nature and scope of the project which is being contemplated, and the respective roles of the parties to the Agreement
	3. The timeframe for the Agreement, ie the commencement date, and termination date, and the expected timeframes for preparation of the Detailed Proposal (eg 6 months)
	4. The process whereby the Agreement can be terminated, if not for time
	5. Agreement in respect of disclosure of information
	6. Basis for reimbursement costs associated with development of Detailed Proposal
	7. Any additional provisions needed
	8. The signatures of those entering into the Agreement, on behalf of the Proponent, and the MoWT
18. If the MoWT decides to reject the unsolicited proposal, it must:
19. notify the Proponent that the unsolicited proposal has been rejected;
20. ensure that the MoWT does not make use of any of the intellectual property or proprietary data in the unsolicited proposal; and
21. return to the proponent all documents received in the unsolicited proposal including any copies of these documents.
22. By its very definition, a Public Sector Comparator for a project which is unique (and hence eligible to be considered on a sole source basis as an Unsolicited Proposal) is unlikely to exist. In which case the evaluation committee should attempt to break down the USP and obtain comparators for separate elements of the Proposal
23. Value for Money means that the provision of the service and/or development of an asset by a private party results in a net benefit to the institution defined in terms of cost, price, quality, quantity, risk transfer or a combination thereof. Best practice for evaluation of VFM in PPP bids is therefore generally accepted to contain a consideration of: optimum whole life cost, innovation, fit for purpose, comprehensive specification, compliance on time, and appropriate risk allocation.
24. The Assessment Report should contain the following elements
	1. Background: the Scope of the proposed project and a description how it meets the MoWT / GoU’s strategic objectives; the Budgetary implications of the project; the Output specifications; justification for sole-sourced procurement
	2. Solution options analysis: Options considered; Evaluation and assessment of each option; preferred option
	3. Project due diligence: Legal aspects – Use rights and any Regulatory matters; Site enablement; Socio-economic
	4. Value assessment: Technical definition of project, costs (direct and indirect) and assumptions, revenue (if relevant) and assumptions; PSC model, costs (direct and indirect) and assumptions, revenue (if relevant) and assumptions; Discussion on model assumptions, including inflation rate, discount rate, depreciation; NPV; proposed PPP type, project structure and sources of funding, Payment mechanism
	5. Risk assessment: risk matrix, including summary of the retained and transferable risks (NPV of all retained risks to be added into value assessment ; sensitivity analysis; statement of affordability; statement of value for money
	6. Economic valuation: assumptions and valuation results

# Appendix 2: Process flow for consideration of Unsolicited Proposal



# Appendix 3: Checklist for confirming compliance with Stage 1 Requirements

|  |  |  |
| --- | --- | --- |
| **Matter to be evaluated** | **Confirm compliance (Y/N/Na)** | **Comments** |
| Has the proposal been described in sufficient clarity to enable the uninformed reader to understand the purpose and objectives of the USP? |  |  |
| Does the proposed project meet MoWT’s strategic objectives and goals, and is it consistent with the objectives in the NDP? |  |  |
| Has a pre-feasibility study been prepared in sufficient detail to enable consideration of costs (capital and operating) and revenue streams? |  |  |
| Does the initial cost / benefit analysis seem reasonable? |  |  |
| Has an initial risk assessment been performed? |  |  |
| Is the proposed risk allocation appropriate? |  |  |
| Does the proponent have the necessary experience and capacity to develop and or deliver the proposed project? |  |  |

**How have you satisfied yourself that the proposal is innovative and that the Proponent is the sole potential provider of the innovation?**

**What is your recommendation for next steps? (circle one)**

Reject Accept and Proceed to Stage 2 Accept for Competitive Proposal

(If Accept and Proceed to Stage 2) **Any specific matters which require particular further development by the Proponent as part of their preparation of the Detailed Proposal?**

**Any other comments?**

**Name of evaluator**

**Signature**

Date

# Appendix 4: Checklist for documenting results of review of Detailed Proposal at Stage 2

|  |  |
| --- | --- |
| **Matter to be evaluated** | **Comments** |
| Have you evaluated the economic, technical and financial viability of the project? |  |
| Have any other options been considered? If so, why were they rejected, or why is this the preferred option |  |
| What are the expected economic and financial returns? |  |
| What are the key risks identified and which party is proposed to bear each one?  |  |
| Is this risk allocation appropriate? |  |
| Have you evaluated the VFM provided by the project, and is it appropriate? How does it compare to the PSC? |  |
| Has the MoFPED provided comment on whether the RoI is appropriate for the level of risk transferred? |  |
| What are the results from the Due diligence assessment of Proponent: does it have the necessary experience, capacity, financial capability,  |  |
| What are the results from the Due diligence assessment of the Project: for brownfield projects have you considered the nature and condition of existing assets, land ownership, rights and conditions, environmental scoping, and whether there are any staff issues. For greenfield projects have you identified ground conditions, land ownership, rights and conditions, environmental matters?  |  |
| Does the proponent have the necessary experience and capacity to develop and or deliver the proposed project? |  |

**How have you satisfied yourself that the proposal is still unique?**

**What is your recommendation for next step? (circle one)**

 Reject Accept and Proceed to Stage 3 Accept for Competitive Proposal

(If Accept for Stage 3) **Any specific matters which require particular discussion during Contract Negotiation?**

**Any other comments?**

**Name of evaluator**

**Signature**

**Date**

# Appendix 5: List of personnel / organisations consulted

* Ministry of Energy and Mineral Development: Mr James Isingoma, Ag Commissioner Energy Resources Department
* Ministry of Finance Planning and Economic Development, Privatisation Unit: Mr Otweyo-Orono, Mr Bernard Oundo, Ms Beatrice Ikilai, Ms Monica Mukasa
* PPDA, Ms Patricia Asiimwe, Director Legal and Advisory Services
* Ministry of Justice, Ms Sherina Tibenkana, Senior State Attorney
* Ministry of Works and Transport, Charles Muganzi, Permanent Secretary (until June 2013)
1. PPPs can cover a wide range of partnership forms, which are outlined in *Note* 1 in Appendix 1 [↑](#footnote-ref-1)
2. The Public Private Partnerships Bill 2012 [↑](#footnote-ref-2)
3. A Proponent means any person, whether natural or juristic, that submits an unsolicited proposal to MoWT [↑](#footnote-ref-3)
4. Guide for Private Sector Participants on the Assessment and Evaluation of Unsolicited Proposals [↑](#footnote-ref-4)
5. PPDA Act, 2003, Para 85(1) [↑](#footnote-ref-5)
6. PPP Bill, Para 24(3) [↑](#footnote-ref-6)
7. PPDA Act, 2003, Para 85(2) [↑](#footnote-ref-7)