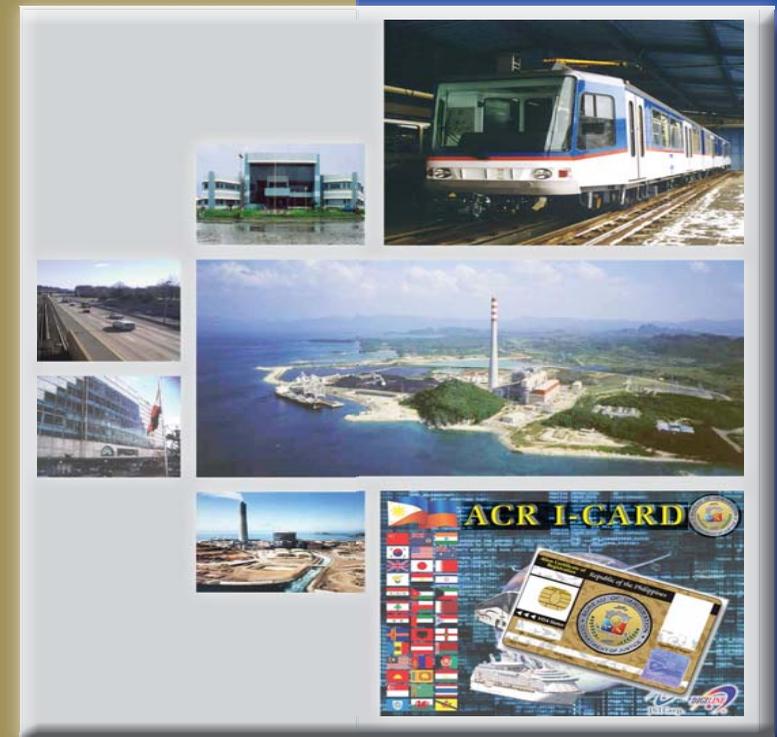


# Primer

## THE PHILIPPINE PPP PROGRAM

## THE BOT CENTER



BOT Center



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PHILIPPINES

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# PHILIPPINE INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIP (PPP) PROGRAM

## *Public-Private Partnership (PPP) Program*

The 1987 Philippine Constitution recognizes the private sector as the government's partner in development. Its role as the main engine of growth and development has been most prominent in critical infrastructure and development projects that can best be undertaken through Public-Private Partnerships (PPPs).

It is through this partnership with the private sector that government, with its limited resources, addressed the power crisis in the early 1990s under Executive Order No. 215, series of 1987, which, through the Build-Operate-and-Transfer (BOT) Law, later evolved into other forms of PPPs aimed at meeting the infrastructure requirements of a growing economy.

## *PPP Legal Framework for Infrastructure*

The Philippine Infrastructure Public-Private Partnership (PPP) has fundamentally developed from the Build-Operate-and-Transfer (BOT) Law. Taking off from Republic Act No. 6957 and its amendment (R.A. 7718) in 1994, the BOT Law institutionalized a framework for PPPs to evolve in the country's infrastructure development program.

Consistent with relevant laws such as the Public Service Law, the Foreign Investment Act, the Local Government Code, the Procurement Reform Act, and the charters of implementing agencies (IAs) and government-owned and controlled corporations (GOCCs), the Amended BOT Law and its Implementing Rules and Regulations (IRR) laid down the legal structure in the government's pursuit to harness private sector finance, technology, and expertise in realizing infrastructure and development projects at the national and local levels and across all sectors.

Today, the BOT Law and its IRR can be credited to have realized various BOT and PPP arrangements both at the national and local levels, from the traditional infrastructure projects in the power, transportation, and water sectors to the non-traditional infrastructure and development sectors such as information and communications technology, health, and property development.

# Republic Act No. 7718 The Amended BOT Law

## TITLE

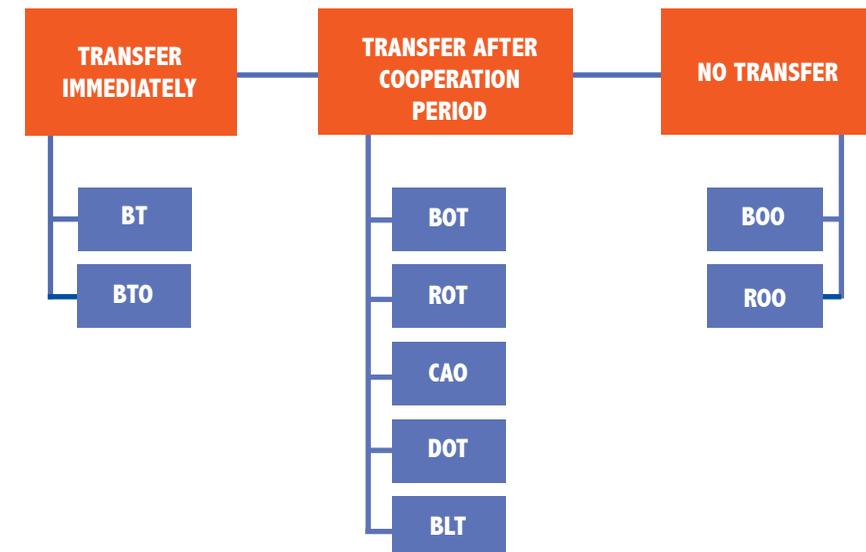
An Act Amending Certain Sections of R.A. No. 6957, Entitled “An Act Authorizing the Financing, Construction, Operation and Maintenance of Infrastructure Projects by the Private Sector, and for Other Purposes”

## DECLARATION OF POLICY

*It is the declared policy of the State to recognize the indispensable role of the private sector as the main engine for national growth and development and provide the most appropriate incentives to mobilize private resources for the purpose of financing the construction, operation and maintenance of infrastructure and development projects normally financed and undertaken by the Government. Such incentives, aside from financial incentives as provided by law, shall include providing a climate of minimum government regulations and procedures and specific government undertakings in support of the private sector.”*

## BOT VARIANTS/SCHEMES

- ◆ Build-Operate-and-Transfer (BOT)
- ◆ Build-and-Transfer (BT)
- ◆ Build-Own-and-Operate (BOO)
- ◆ Build-Lease-and-Transfer (BLT)
- ◆ Build-Transfer-and-Operate (BTO)
- ◆ Contract-Add-and-Operate (CAO)
- ◆ Develop-Operate-and-Transfer (DOT)
- ◆ Rehabilitate-Own-and-Transfer (ROT)
- ◆ Rehabilitate-Own-and-Operate (ROO)
- ◆ Other variations as may be approved by the President



## ELIGIBLE INFRASTRUCTURE & DEVELOPMENT PROJECTS

- ◆ ***Agri-Business Development***
  - post-harvest facility, irrigation, and related facilities
- ◆ ***Transportation***
  - tollroads, highways, railways, roads and bridges, and mass transport systems
- ◆ ***Logistics***
  - airports, seaports, terminals, and other port infrastructures and related facilities
- ◆ ***Energy Development***
  - power generation projects utilizing indigenous, renewable and other energy sources
- ◆ ***Water Supply Development***
- ◆ ***Telecommunications***
  - backbone network, terrestrial and satellite facilities
- ◆ ***Environment***
  - sewerage, solidwaste management, drainage, and dredging
- ◆ ***Property Development***
  - government buildings, market, slaughter-houses, and mass housing
- ◆ ***Tourism, Educational, and Health Facilities***
- ◆ ***Information & Communications Technology***
- ◆ ***Industrial Estates***

## ALLOWABLE MODES OF BOT/PPP IMPLEMENTATION

Private sector proponents can participate in BOT/PPP projects through any of the following implementation modes:

### ◆ ***Public Bidding (Solicited Mode)***

Implementing agency (IA) / local government unit (LGU) procures their priority infrastructure and development projects through transparent and competitive public bidding process. The IA/LGU requests for bids for its priority infrastructure projects, approved by the approving body, from project proponents that are pre-qualified through the bidding process.

### ◆ ***Unsolicited Mode***

The IA/LGU may accept unsolicited proposals from project proponent to undertake infrastructure or development projects on a negotiated basis provided that all of the following conditions are met:

1. Project involves new concept or technology and/or is not part of the list of priority projects;
2. No direct government guarantee, subsidy or equity is required; and
3. The IA/LGU has invited by publication, for three (3) consecutive weeks, in a newspaper of general circulation, comparative or competitive proposals.

The original proponent has the right to match the better price proposal submitted by a comparative proponent.

## REPAYMENT SCHEMES

The Project Proponent of infrastructure projects undertaken pursuant to the BOT Law and Its IRR may be repaid depending on the contractual arrangement, or as may be approved by the approving body:

- ◆ Collection of reasonable tolls, fees, charges and rentals for the operation of the facility or the provision of service under the following contractual arrangements as specified herein:
  - BOT, BTO, CAO, DOT, ROT, BOO and ROO arrangements (for a fixed term)
  - BOT, CAO, DOT and ROT arrangements (term not to exceed 50 years)
  - BOO and ROO arrangements (continued collection but requires renewal of franchise or contract)
- ◆ Amortization (for BTO, BT and BLT arrangements);
- ◆ Management fee to facility operator (for BTO arrangement);
- ◆ Share in the revenue of the project;
- ◆ Other non-monetary payments; and
- ◆ Other repayment schemes as approved by the NEDA Board (for other contractual arrangements not mentioned above).

## GOVERNMENT SUPPORT

### A. *Investment Incentives*

The following investment incentives will be made available to project proponents (Section 13.2 of the Revised IRR of R.A. 6957, as amended by R.A. 7718):

- ◆ Projects costing more than PhP 1.0 billion shall, upon registration with the Board of Investments (BOI), be entitled to incentives as provided for under E.O. 226 (Omnibus Investment Code of 1987);
- ◆ Projects costing PhP 1.0 billion or less may, upon registration with the BOI, avail of incentives provided for under E.O. 226 subject to the inclusion of the project activity in the current Investment Priorities Plan (IPP) of the BOI;
- ◆ Incentives provided under P.D. 535 (Tourism Incentives Program of 1974), and R.A. 7156 (Mini-Hydroelectric Power Incentives Act) may also be availed of; and
- ◆ LGU may provide additional tax incentives, exemptions or reliefs, subject to the provisions of R.A. 7160 (Local Government Code of 1991) and other pertinent laws.

### B. *Government Undertakings*

Subject to existing laws, policies, rules and regulations, the Government or any of its IAs/LGUs may provide any form of direct or indirect support or contribution, such as, but not limited to the following, subject to the conditions for unsolicited proposals:

- ◆ Cost sharing of up to 50% of project cost;
- ◆ Credit enhancements;
- ◆ Direct government subsidy;
- ◆ Direct government equity;
- ◆ Performance undertaking; and
- ◆ Legal and/or security assistance.



*“Promoting and Developing  
Public-Private Partnerships  
in Infrastructure  
for Investment Growth*”

# THE BOT CENTER

## *Mandate*

The Build-Operate-and-Transfer Center is mandated to promote Public-Private Partnerships (PPPs) in national and local infrastructure and development projects through the BOT Law, as well as to advocate policy initiatives in continued evolution of the country’s infrastructure privatization policy framework.

### **A. PROMOTION OF THE BOT AND PPP PROGRAM AND PROJECTS UNDER THE NATIONAL INFRASTRUCTURE DEVELOPMENT PLAN**

- ◆ Provision of capacity building and hands on training to IAs and LGUs in developing and promoting their BOT/PPP projects
- ◆ Provision of technical advisory assistance through the Project Development Facility (PDF)
- ◆ Provision of promotional and marketing support to various BOT/PPP investment opportunities of other government corporations and instrumentalities
- ◆ Institutionalization and implementation of an inter-agency BOT/PPP Strategic Promotion and Development Plan through the BOT Center-led Inter-Agency Committee and Advisory Board (IACAB)

### **B. POLICY ADVOCACY**

- ◆ Formulation of BOT/PPP policy guidelines to ensure transparent, consistent and expeditious preparation, review, approval and implementation of BOT/PPP projects
- ◆ Initiation and/or participation in BOT/PPP policy reviews/reform agenda
- ◆ Institutionalization of an advocacy program in pursuit of an effective and sustainable BOT/PPP program implementation

## *Vision and Mission*

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### **VISION**

Effective, efficient and sustainable infrastructure systems and services to meet the basic needs of every Filipino and spur economic development

### **MISSION**

To actively promote Public-Private Partnership as a cornerstone of the national infrastructure development plan

### **GOAL**

Increase private sector investments in infrastructure and development sectors and protection of public interest

### **SERVICES**

- ◆ Provide capacity building and training programs to IAs and LGUs as well as other government bodies in various aspects of BOT/PPP project development
- ◆ Provide Project Development Facility (PDF) technical and financial support to IAs' and LGUs' BOT/PPP projects eligible under the PDF guidelines
- ◆ Provide promotion and marketing support to IAs and LGUs through marketing campaigns, investment matching and other investment facilitation work in coordination with the Board of Investments and other investment promotion offices
- ◆ Advocate policy reforms in BOT/PPP policy dialogues, formulation and reviews
- ◆ Provide general information on the Philippine BOT/PPP program, policies, processes and guidelines, as well as specific projects for promotion

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