

**INDONESIA INFRASTRUCTURE FINANCE DEVELOPMENT - IIFD**  
**TERMS OF REFERENCE**  
**LEGAL & REGULATORY SPECIALIST**  
**COMPONENT - I, TF0A2268**

**Introduction**

The Ministry of Finance has established Public Private Partnership (PPP) Unit in 2015 aiming to support infrastructure development in Indonesia through private participations. PPP Unit will work closely with the Government Contracting Agency (GCA) on the PPP project development and with other agencies on the provision of Government support. In addition, the unit also plays important roles such as undertake PPP awareness campaign and providing the capacity building to the GCA and other relevant stakeholders.

In order to fulfil its roles, PPP Unit requires an extensive support at the initial operation stage. The support will comprises of technical assistance and advisory functions in managing the Project Development Facility (PDF) and Government Support provision as well as performing other roles. The assistance and advisory services are also required to help PPP Unit in developing its strategic plan and resolve PPP related issues facing the unit.

Against this backdrop, the Infrastructure Finance and Development (IIFD) Project, which is funded by the Government of Canada (GOC), presents a comprehensive approach to financing infrastructure development in Indonesia that is well aligned with its current development imperative as a Middle Income Countries (MIC) of driving robust and inclusive growth amid global economic uncertainties. Making public institutions interface effectively with private capital is a key priority for Indonesian infrastructure and directly impacts the ability of GOI to drive PPPs. The World Bank's Country Partnership Framework (CPF) for Indonesia identifies and discusses this interface and it's centrality in Indonesia's developmental strategies. The work identified for the Project are grounded in the priorities identified within the World Bank's CPF, which focuses on the "Delivery of Infrastructure" as a central target for the World Bank's engagement in Indonesia, and how PPPs can be used to reduce the country's investment deficit.

The Project Development Objectives (PDO) is to assist Indonesia in closing its large public infrastructure gap by supporting the flow of private capital into infrastructure development and improving the institutional, legal and regulatory framework to enhance the ability of private capital and public institutions to work together for infrastructure development. The Project is designed to develop operational, ready-to-implement next-steps toward a robust infrastructure and PPP financing market in Indonesia. Among other things, the Project will clarify specific legal and regulatory provisions and corresponding operational policies and procedures; enhance inter-agency coordination and develop skills and capacity of national level agencies (MOF; KPPIP; Bappenas; Coordinating Ministry of Economic Affairs (CMEA) and Government Contracting Agencies (GCAs) vis-à-vis public sector and PPP financing of infrastructure; and help prepare a small number of well-structured PPP projects for market

bidding. Through IIFD-TF, PPP Unit will procure experts and specialists that have expertise in areas related to PPP Unit roles.

One of the specialist is the Legal and Regulatory Consultant. The consultant will assist and advise PPP Unit in the legal framework analysis, development and implementation as well as the evaluation of strategic legal aspects of PPP Unit operation, particularly in the provision and management of Project Development Facility and Government Supports.

This Terms of Reference describes the objectives and scope of the required services, the envisaged outputs, deliverables and consultancy inputs, the reporting requirements and the arrangements of the Legal & Regulatory Specialist.

## **Objective**

The main objectives of the provision of Legal and Regulatory Specialist are the following:

1. Create effective and efficient internal MoF/ PPP Unit process for evaluation and approval of government support applications, PDF implementation and day-to-day operation of PPP Unit;
2. Develop Standardized procedure and documentation for better accountability of Government Support approval process;
3. Develop foundation for future Government Support policy and regulatory development;

## **Responsibilities and Scope of Work**

The Scope of Work of the legal and regulatory specialist is specified as follows:

1. Review existing PPP legal and regulatory framework, including international best practice;
2. Further make recommendation to be used as reference for PPP legal analysis/assessment;
3. Analysis on Legal Framework on Government Support: PDF, Viability Gap Fund (VGF), Guarantee and Availability Payment Scheme (AP) implementation proposal;
4. Provide assistance in developing legal evaluation framework on PPP agreement and project term sheet;
5. Provide assistance in developing legal/regulatory review tools on OBC/FBC;
6. Provide legal and regulatory analysis on potential legal and regulatory issues related to PPP Unit operation and Ministry of Finance position in providing Government Support and Facility;
7. Formulate and prepare sector and project specific agreements/ legal documents concerning PDF;
8. Reports or notes on project related Ad-hoc assignments.

The detailed working plan will be developed by consultant and approved by PPP Unit on semi-annually basis and reviewed on a quarterly basis.

## **Deliverables**

Based on the above Scope of Work, the consultant responsible to provide legal advice which is required for future improvement of PPP development. Hence, the Consultant is expected to deliver as follows:

1. Sector and project specific agreements/legal documents concerning PDF;
2. Legal analysis on risk allocation and PPP agreement documentation for Government Support review purposes;
3. Legal evaluation framework on PPP agreement and project term sheet;
4. Legal/regulatory review tools on OBC/FBC.
5. Report or analysis on legal point of view on each government support proposal;
6. Regulatory drafting assistance and strategic regulatory advice;\
7. Report on legal and regulatory analysis on potential legal and regulatory issues relating to PPP Unit operation and the Ministry of Finance position on Government Support and Facility;
8. Reports or notes on project related Ad-hoc assignments.

## **Expected Results/Outcome**

1. More effective and efficient internal MoF/PPP Unit process for evaluation and approval of government support applications, PDF implementation and day-to-day operation of PPP Unit;
2. Standardized procedure and documentation for better accountability of Government Support approval process;
3. Laying foundation for future Government Support policy and regulatory development;

## **Period of Assignment**

The Legal specialist shall perform the services on a time based basis. This assignment will be for a period of October 2017 through March 2019.

## **Activity Management**

The Consultant shall report to the Director of PPP Unit on a regular basis indicating the consultant's working plan as mentioned in section III (Scope of Work). Progress Reports documenting the consultant's work program and progress towards its achievement, i.e.: 1 (one) copy of The Quarterly Progress Report that will be used as supporting document.

For major activities, reports should be issued as drafts and finalized with due regards given to comments received from the client. All the technical reports should be submitted in line with the agreed working plan.

Bi-weekly meeting will be arrange to monitor the progress of the consultant.

## Qualifications

The Consultant shall include following experts with qualifications as follows:

The qualification or experience of the legal and regulatory specialist required in general are as follows:

- a. The legal expert/lawyer with minimum of 8 (eight) years working experience including significant experiences of working with private and government institutions in public finance and infrastructure delivery related areas;
- b. Have a good knowledge of PPP policy and concept as well as the prevailing PPP related laws and regulations in Indonesia;
- c. Familiarity with the PPP Unit or other PPP institutions procedures and business process;
- d. Have a good knowledge of Indonesia's government structure and PPP infrastructure development in Indonesia;
- e. Sound English and Indonesia language capability (written and spoken) and reporting writing skills;
- f. Proven ability to work independently with limited supervision and operate effectively in a team environment;

## Annexes:

- A. For ICT or business process improvement consultancy services, provide an Annex that will describe in sufficient detail the existing system that will be improved or enhanced. This Annex will become part of the TOR that will be shared with prospective bidders/consultants.
- B. Provide an Annex for the detailed Cost Estimate (*Harga Perkiraan Sendiri*) for the consultancy service. This Cost Estimate is prepared for purposes of getting the World Bank no objection and to provide a cost estimated for negotiation purposes. This Annex will not be shared with the bidder/consultant. If the cost estimate is in Rupiah, give the USD equivalent using the exchange rate just before the NOL is requested.