



# Partnerships Victoria Requirements

November 2016

Version Control	Last Updated	Updated sections	Rationale
1	February 2009		Original publication
2	January 2010	Section 12 and Annexure 6  Annexure 3	<i>Public Sector Comparator (PSC) Requirements.</i>  The new requirement is for procuring agencies to conduct an internal quality assurance review PSC workshop. The workshop objective is to reduce the risk of error or inaccuracy by cross-checking the PSC outputs against the inputs and assumptions, prior to release of the request for proposal.  A change made to the Notes related to Discount Rate Inputs.
3	May 2013	Material revisions throughout document	Updates made to reflect reforms to the public private partnerships model introduced following industry and practitioner consultation.
4	November 2016	Material revisions throughout document	Updates made to reflect best practice. Reforms will make it easier for private parties to participate and will improve project outcomes.

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Image right: Western Distributor, Maribyrnong Bridge (artist impression)



## Treasurer's foreword

**Victorian communities benefit from important infrastructure and services delivered through public private partnerships (PPPs). Since the 1990s roads, prisons, hospitals, schools and many other projects have been procured by the Government working with the private sector to deliver high quality infrastructure and services using the PPP framework.**

The PPP model promotes efficiency and social and economic returns from government expenditure and ensures value for money over the longer term. The Partnerships Victoria Requirements 2016 include reforms to make it easier to do business and improve project outcomes.

The National PPP Guidelines provide a degree of consistency on the application of PPP procurement across Australian jurisdictions. The Victorian Requirements operate alongside the National Guidelines and maintain Victoria's world leadership in PPP projects. The Office of Projects Victoria will improve project development and implementation and monitor major projects including PPPs.

The updated Requirements reflect best practice, implementing reforms to make it easier for the private sector to participate. Standard expression of interest, request for tender and base contract documents will reduce costs for bidders and improve certainty for PPP participants and investors. Victoria continues to look for the most effective way to finance infrastructure and will consider innovative financing to optimise risk allocation and value for money.

The Victorian Government looks forward to working with the private sector to invest in infrastructure and deliver related services to Victorians.

**TIM PALLAS, MP**  
**Treasurer**



# Introduction

The Government uses PPPs to contract with the private sector to provide infrastructure and related services. PPP procurement promotes government objectives including:

- > maximising social and economic returns from government investment;
- > meeting demand and promoting growth; and
- > ensuring value for money over the longer term.

The Victorian Government has reformed the PPP procurement model to adapt to the changing operating environment. Key areas of reform are:

- > expression of interest, request for proposal and interactive tender process templates are standardised as much as possible;
- > a standard base contract is to be used for availability PPPs;
- > modified financing solutions can be considered where they reduce project financing costs and optimise risk allocation and value for money; and
- > an updated contract management guide will help manage long term performance of PPPs.

## National PPP Policy and Guidelines

The National PPP Policy and Guidelines provide a framework that enables the public and private sectors to work together to improve public service delivery through private sector provision of infrastructure and related services.

The National PPP Guidelines have achieved a high degree of uniformity and agreement for the procurement of PPPs on a national basis and apply across the Commonwealth, states and territories.

The National PPP Policy and Guidelines were updated in 2015 and the changes focus on assessing modified financing options, improving procurement, maintaining and optimising effective risk allocation, and ensuring effective monitoring of long term performance based contracts.

Under the National PPP Guidelines there is a policy requirement to consider PPP procurement when planning for any capital expenditure over \$50 million.

## Partnerships Victoria framework

The Partnerships Victoria framework provides an overarching framework for developing contractual relationships between the State and private sector for the delivery of public infrastructure and related services. Value for money and the public interest test are key elements of this framework and must be satisfied in order for private sector delivery to occur.

The Partnerships Victoria framework requires compliance with:

- > the National PPP Policy and Guidelines; and
- > the Partnerships Victoria Requirements.

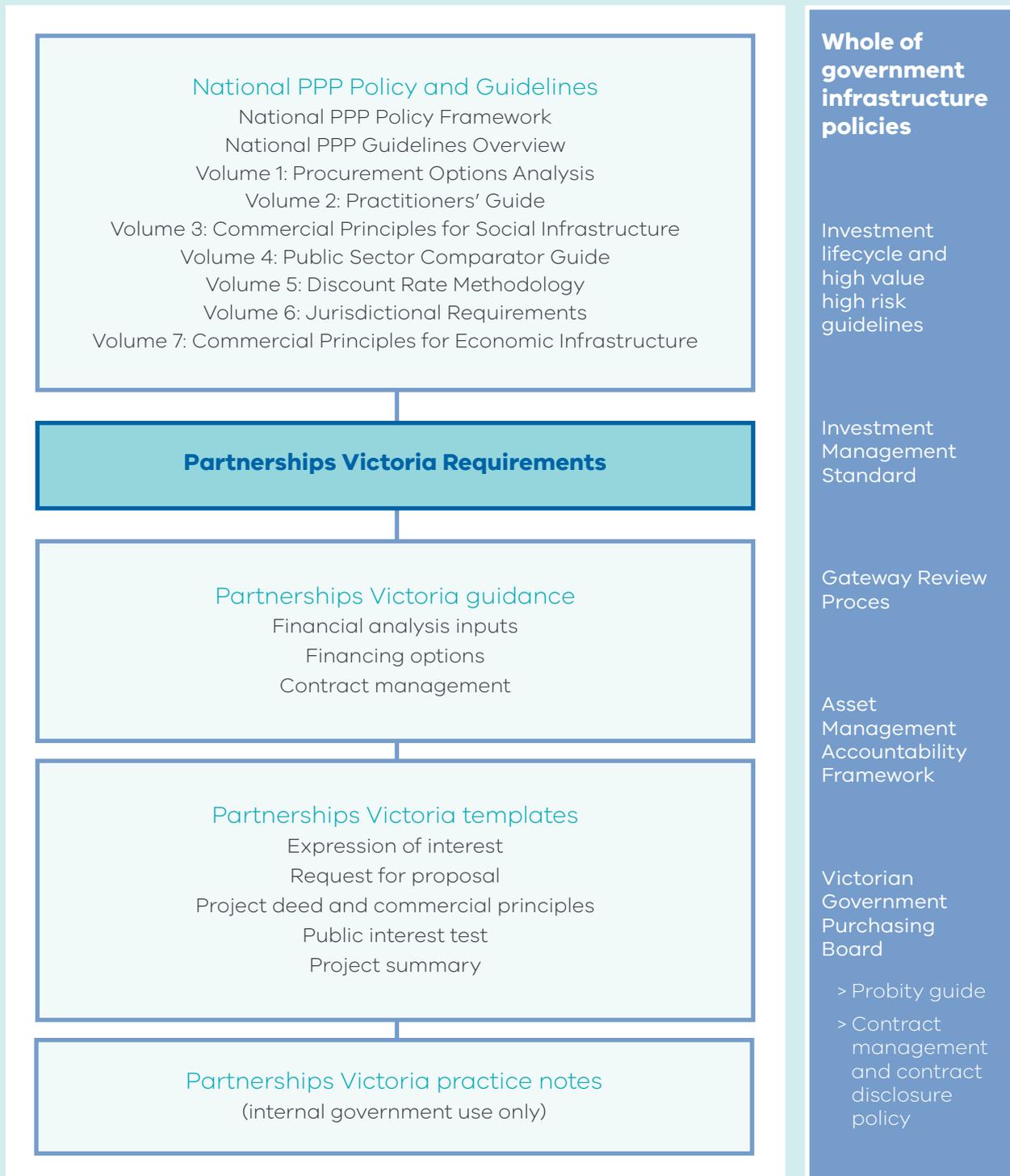
The Partnerships Victoria Requirements set out specific requirements for PPPs in Victoria.

The Partnerships Victoria Requirements complement the investment lifecycle and high value high risk guidelines and other asset management initiatives that apply in Victoria. These, and other whole of government procurement policies, apply to PPP projects in Victoria. The Office of Projects Victoria operates as a project assurance and oversight entity and will monitor the delivery of all PPP projects.

The Partnerships Victoria Requirements include PPP-specific guidance, templates and practice notes that are important for effectively procuring and managing long-term contracts.

Figure 1 depicts the policy and guidelines that apply to all PPP projects in Victoria.

Figure 1: Partnerships Victoria framework



## Coverage of Victoria's PPP policy

The Partnerships Victoria framework encompasses the National PPP Policy and Guidelines and Partnerships Victoria Requirements, including guidance, templates and practice notes.

The framework applies to public infrastructure projects when the estimated value of payments to be made by the State will exceed \$50 million capital expenditure.

The framework applies to all PPP procurements entered into by Victorian budget sector agencies.

Applying the framework to infrastructure provided by a government business enterprise (GBE) will be determined on a project by project basis following consideration by the portfolio minister of the business plan for the GBE.

The Treasurer is responsible for:

- > the Partnerships Victoria Requirements; and
- > Victoria's contributions to the National PPP Policy and Guidelines.

The Council of Australian Governments (COAG) will monitor, review and refine the National PPP Policy and Guidelines. COAG is responsible for approving substantive changes to the National PPP Policy and Guidelines. Individual jurisdictions are responsible for maintaining and updating their specific requirements.

The National PPP Policy and Guidelines are available at [www.infrastructure.gov.au](http://www.infrastructure.gov.au).

## Scope of services

The national policy applies to procurement of public infrastructure and related services involving private investment or financing. In Victoria infrastructure encompasses major information and communications technology procurements. The policy does not apply to the general procurement of services by government where public infrastructure is not being procured.

The scope of services included for private sector delivery as part of a PPP should be considered on a project by project basis during development of the project business case.

The extent of private service provision will be guided by the potential improvement in value for money and service outcomes.

## PPP as a procurement option

Victoria's investment lifecycle guidelines require a business case to outline the rationale for investment and assess procurement options.

PPP procurement will be evaluated as an option against value-for-money drivers when planning for any capital expenditure over \$50 million. The capital threshold may be triggered by bundling projects together.

The procurement options analysis is to be done in accordance with the:

- > National PPP Guideline Volume 1: Procurement Options Analysis; and
- > Victorian investment lifecycle and high value high risk guidelines on Stage 2: Prove and Stage 3: Procure.



Victorian Comprehensive Cancer Centre

## PPP project governance

Each PPP project in Victoria will have ministerial oversight of project procurement and implementation. The relevant portfolio minister will have responsibility for delivering the PPP project and ongoing responsibility for the management and implementation of the project once the procurement process is complete.

Procuring agencies are responsible for the PPP project and securing the desired outcomes and outputs. Procuring agencies must obtain the required Government approvals, establish governance and a project team, manage key stakeholders and deliver the project within government policies and objectives. The project team is to be led by a project director who is appropriately skilled and resourced.

The Department of Treasury and Finance (DTF) is the Relevant PPP Authority as defined in the National PPP Guidelines. DTF is not responsible for direct project delivery and has a broader quality assurance and advisory role. DTF has whole of government responsibility for:

- > maintaining and ensuring procuring agencies consistently apply the National PPP Policy and Guidelines and Partnerships Victoria Requirements;
- > supporting and reviewing Partnerships Victoria projects, providing advice to the Government at key project approvals; and
- > monitoring and independently advising the Treasurer and the Government on significant PPP issues.

Strong governance is integral to successful PPP project delivery. Delivery agencies must consult DTF when developing project governance arrangements and DTF will participate at all levels of governance.

At a minimum:

- > high value high risk projects must report to the Government through quarterly major projects performance reporting and DTF will actively monitor project risks;
- > senior representatives of DTF and the Department of Premier and Cabinet must be members of the PPP project steering committee. DTF must also be represented on project working groups;
- > procuring agencies are responsible for project appointments and must consult with DTF on key project appointments such as project directors, commercial/transaction managers and project advisers; and
- > project directors must formally sign off to DTF at key milestones and obtain formal sign off from key project advisers at each stage of the procurement process.

DTF must be consulted and agree any variations to the standard Project Deed and commercial principles/risk allocation during the procurement process and after contract close, including any significant contract variations, modifications or augmentations and any disputes.

Procuring agencies must consult DTF on budgeting, accounting and taxation matters for PPP projects.

PPP projects will be subject to Gateway reviews except for Gate 4 (tender decision) in accordance with the Gateway Review Process.

The first Gate 6 (benefits evaluation) review should occur 6-12 months into the operational phase of Partnerships Victoria projects, repeated throughout the contract life and shortly before the end of term.

The Office of Projects Victoria aims to improve government infrastructure project development and implementation. The Office of Projects Victoria operates as a project assurance and oversight entity, monitoring the delivery of all major projects and advising on potential project specific interventions where necessary, including for PPP projects. As processes and procedures for the Office of Projects Victoria develop, they will apply to PPP projects.

All public servants working on Partnerships Victoria projects must be, and be seen to be, impartial at all times and are bound by the Code of Conduct for Victorian Public Sector Employees. The Victorian Secretaries Board is committed to strengthening a robust integrity culture across the Victorian public sector. Any behaviour in the public service that is corrupt, or perceived to be corrupt, will be dealt with seriously and reported to the Independent Broad-based Anti-corruption Commission.

Each procuring agency has conflict of interest policies, procedures and guidelines and the Victorian Public Sector Commission has a model conflict of interest policy and guidance materials on its website.

The Victorian Government Purchasing Board probity guide applies to all Partnerships Victoria projects

Procuring agencies should consider using expertise and guidelines available from the Victorian Government Architect in relation to good design. The Victorian Design Review Panel provides design review of significant projects at key stages of the design and development process on a fee for service basis.

The Auditor-General will have full and complete access as required to information on any Victorian PPP project.

## Procurement sign offs

The project director and key project advisers will sign off at key stages of the procurement process to provide assurance that key risks are understood and managed and the public sector comparator and other project outputs are reliable. The project director and advisers should sign off as part of the approval process for release of the request for proposal and contract execution.

DTF can advise procuring agencies on the form and content of each sign off. The project director will sign an overarching assurance and is responsible for coordinating the sign off process and providing copies to DTF.



Royal Children's Hospital

## Approvals

Consistent with the high value high risk assurance process the required approval steps for Partnerships Victoria projects are listed below.

Stage	Approval required
Investment decision and procurement model	<p>Government approves:</p> <ul style="list-style-type: none"> <li>&gt; the investment decision and budget funding based on the full business case</li> <li>&gt; the procurement model based on the procurement options analysis and strategy</li> </ul> <p>Gate 2: Business case</p>
Expression of interest	<p>Government approves release of the expression of interest document</p> <p>Following evaluation, Government approves the shortlist of bidders</p>
Request for proposal Public sector comparator (PSC) and scope ladder	<p>Government approves:</p> <ul style="list-style-type: none"> <li>&gt; release of the request for proposal document to shortlisted bidders including any modified financing and variations to standard tender processes</li> <li>&gt; the PSC and level of disclosure of the PSC</li> <li>&gt; any scope ladder and associated negotiation remit</li> </ul> <p>Gate 3: Readiness for market</p>
Preferred bidder	<p>Government approves selection of the preferred bidder following evaluation of shortlisted bids</p>
Contract execution and financial close	<p>Government or the portfolio minister in consultation with the Treasurer approves contract execution</p>
Financial close report back, release of project summary, contract publication and contract management plan	<p>Financial close report back to Government:</p> <ul style="list-style-type: none"> <li>&gt; notes a report from the portfolio minister on the financial close outcome and if necessary approves any budget impacts arising from financial close</li> </ul> <p>Portfolio minister in consultation with the Treasurer approves the project summary and contractual documents for disclosure within 60 days of financial close</p> <p>Portfolio minister in consultation with the Treasurer approves the contract management plan within 60 days of financial close</p>
Construction and commissioning	<p>DTF agrees to project governance for the operating phase</p> <p>DTF reviews the final contract administration manual or equivalent</p> <p>Gate 5: Readiness for service</p>
Material variations	<p>Government must approve augmentations or material variations</p> <p>The Treasurer consents to refinancing</p> <p>DTF reviews and agrees significant PPP contract matters</p>
Operations	<p>Gate 6: Benefits realisation</p>

Note: Government approval will be via a Cabinet subcommittee, unless Government has delegated authority to Ministers for tender milestone approvals.



Melbourne Convention and Exhibition Centre

Additional Government approvals are required where there is:

- > a material change to the project including an amendment to the project objectives or scope of services;
- > a significant change to the final business case assumptions including the economic and financial appraisals;
- > a material change to the project's risk profile since the last Government approval stage which requires Government consideration, for example change in market appetite, feedback or response or change in law or policy;
- > a change to the PSC or budget funding requirements; or
- > a significant issue relating to the public interest.

This accountability structure and approval process will be applied consistently to PPP projects unless the Government approves an alternative process due to the requirements of a specific project.

## Budgeting for PPPs

PPP project costings and budgets are developed in the same way as they would be if the project were procured using any procurement approach for consideration as part of business case development and the investment decision.

If PPP procurement is approved for a project, then the budget treatment differs from other procurement approaches. Procuring agencies should consult DTF when developing business cases that propose PPP procurement.

When a project is approved as a PPP procurement, the estimated finance lease liability and any State capital contribution will be reflected in the budget and forward estimates. When a project is contracted, the amount and timing of the finance lease is confirmed. Based on accounting advice, the operating, maintenance and lifecycle components of the service payments are reflected in the operating statement.

## Public sector comparator

The public sector comparator (PSC) is a critical tool to ensure the Government is an informed buyer and has the information to drive competitive outcomes during the tender process.

The procuring agency is required to develop a PSC that must be approved by the Government before the request for proposal is released to shortlisted bidders. Any subsequent material changes must be approved by the Government.

### Role of the PSC and disclosure in the request for proposal

The role of the PSC will be determined on a project by project basis.

Role	Disclosure	Scope ladder
PSC to drive price competition	Raw PSC including breakdown between capital and maintenance	No upscope ladder Optional to include downscope ladder
PSC as affordability benchmark to drive scope competition	Full risk adjusted PSC including breakdown between transferred risk, capital and maintenance	Scope ladder including upscope and downscope ladder

The Government will approve the scope ladder and the level of disclosure of the PSC for each project based on project specific circumstances. In most cases the role of the PSC is to drive competition. Where projects are more complex or where the Government is seeking to maximise scope, a clearly defined scope ladder would be disclosed to shortlisted bidders with the full risk adjusted PSC as an affordability benchmark in the tender documents.

## Scope ladder

Where applicable, procuring agencies should develop a scope ladder for approval with the PSC. The complexity of the scope ladder will depend on the type of project.

The purpose of the scope ladder is to identify any scope items bidders can either remove or add should bids be over or under the PSC. Developing the scope ladder concurrently with the PSC and request for proposal means priorities are clearly communicated to bidders. The Government will approve a project director's mandate to negotiate with bidders on scope items in order to bring scope options back to the Government for approval.

Any scope ladder will need to be clearly defined as it is not intended to be used to request multiple options from bidders as part of the tender process.

Any scope changes or cost movement against the PSC should be justified by a full value-for-money analysis. The scope ladder is evaluated as part of the net present cost risk adjusted cost of the proposals.



Melbourne Metro Rail Parkville Station (artist impression)

## Developing and reviewing the PSC

Procuring agencies are responsible for developing the PSC and defining the reference project and service specification that is costed in the PSC.

The PSC is developed at two stages:

- > at business case stage a preliminary PSC improves understanding of the potential value for money when recommending PPP procurement to the Government; and
- > at procurement stage a full risk adjusted PSC provides a cost benchmark for bidders to beat during the tender process.

Specialist skills are required to develop the PSC and generally external expert advisers are engaged. The process should be methodical and rational and include the systematic recording of cost and risk information. The procuring agency must maintain adequate documented evidence to support costings and calculations for the PSC approved by the Government.

DTF may help to develop the preliminary PSC and will review the preliminary PSC during review of the business case.

The accuracy and robustness of the full PSC must be assessed before Government approval of the request for proposal. This will include:

- > a quality assurance review workshop conducted and documented by procuring agencies. The workshop objective is to improve the quality of the PSC and reduce the risk of inaccuracies and omissions. It should ensure the outputs appropriately reflect inputs and assumptions; and
- > a high value high risk review of the PSC by an independent external adviser to ensure it is robust. The review will be managed by DTF with DTF's costs reimbursed by the procuring agency.

## Discount rate methodology

Discounted cash flow analysis is required to compare PSC and bid cash flows on a consistent basis. The National PPP Guidelines provide a methodology for determining the discount rates to be used in making this comparison and determining whether PPP procurement offers value for money.

Procuring agencies should consult DTF on the appropriate discount rates:

- > to be applied to the PSC; and
- > to be used when assessing responses to the request for proposal.

The National PPP Guidelines focus on developing the discount rate for social infrastructure projects, that is projects with net cash outflows for government. Different considerations will apply for economic infrastructure projects.

The appropriate national guidance is found in Volume 5: Discount Rate Methodology Guidance, which should be read in conjunction with Partnerships Victoria guidance on financial analysis inputs. The guidance includes a range of indicative asset beta factors as one of the key inputs in determining the discount rate. Procuring agencies must consult DTF to determine the appropriate asset beta factor to be used based on project specific considerations.

The discount rate methodology in the National PPP Guidelines is not appropriate for use in making the investment decision or applying to the cost benefit analysis.



Melbourne Metro Rail Parkville Station (artist impression)

## Modified financing structures

Modified financing structures should be considered where project outcomes can be improved.

Typically, construction of PPP projects is fully privately financed and effectively repaid over the concession period. An alternative to full private finance is part public finance during construction or by substantial repayments at or after commercial acceptance, or at scheduled refinancing events during the operational phase of the project.

In consultation with DTF, procuring agencies should consider State capital contributions where there are liquidity constraints or where project costs could be reduced by reducing the level of private capital at risk during the operations period. It is important to maintain sufficient private sector capital at risk to absorb the remaining risks the private sector is taking and to incentivise performance.

The following criteria will be used to assess modified financing structures against a standard PPP approach:

- a) risk allocation;
- b) cost and complexity;
- c) preservation of the benefits of private finance;
- d) competitive tension;
- e) alignment of the tenor of finance with the project's risk profile; and
- f) potential for innovation.

Government may make a partial capital contribution through:

- > milestone payments during construction, for example where private capital cannot be raised to fully fund a very large project;
- > lump sum payment once construction is complete to achieve greater value; and/or
- > lump sum payment at a refinancing event during the operational phase of the project to achieve greater value.

### Additional financing options

The Government will consider other structures on a project-specific basis.

Additional structuring options include considering:

- > debt funding competition where it would likely deliver better value; and
- > early debt paydown where paying all or part of private sector debt during the contract term would deliver value once the project has been significantly de-risked.

To respond to market conditions, it has been common in recent PPP projects for the State to assume base interest rate risk from the first refinancing and this risk allocation will continue to apply. Further opportunities to manage long-term sustainable financing will be pursued through inflation linked or bond products.

Government approval is required to use modified financing structures as part of the request for proposal approval process. In consultation with procuring agencies, DTF will evaluate modified financing structures against the criteria listed above.

Further guidance on modified financing structures and evaluation is contained in the separate financing options guidance at [www.partnerships.vic.gov.au](http://www.partnerships.vic.gov.au).

## Tender process requirements

The Government is making it easier to do business in Victoria. Procuring agencies should continue to improve tender processes to reduce bid costs by minimising information requirements for bidders, short listing only two bidders where appropriate and minimising the use of best and final offer processes in PPP projects where possible.

### Reimbursing partial bid costs

Partial reimbursement of bid costs for unsuccessful bidders on PPP projects will be considered on a case by case basis. It will only be used for projects where it:

- > improves project outcomes;
- > achieves broader market objectives; and/or
- > addresses significant changes in the State's requirements during the tender process.

Procuring agencies are to consider partial bid cost reimbursement as part of the business case and market sounding. Procuring agencies must consult DTF to determine if partial reimbursement of bid costs is applicable to a project.

Partial reimbursement of bid costs will only apply to external costs incurred by bidders during the request for proposal phase. Reimbursement will be linked to receipt of intellectual property rights from an unsuccessful bidder's proposal and subject to submitting a conforming bid.

The level of bid cost reimbursement must be approved by the portfolio minister in consultation with the Treasurer. The approach to partially reimbursing bid costs should be disclosed in the terms and conditions of the expression of interest and confirmed in the request for proposal.

### Market sounding

The procuring agency should undertake market sounding prior to the release of the invitation for expressions of interest. This will assist bidders to understand the key objectives, proposed scope and indicative timing of the project. Feedback provided through the market sounding process will assist the procuring agency structuring the tender documentation.

### Expression of interest

The invitation for expressions of interest should provide a clear description of the project including context, project scope, key project issues, governance and commercial framework. Information should be sought that can be used to differentiate and short list respondents and is clearly linked to the evaluation criteria.

Procuring agencies must use the DTF expression of interest template, including terms and conditions, as a base document available at [www.partnerships.vic.gov.au](http://www.partnerships.vic.gov.au).

All Victorian government tenders, including invitations for expressions of interest released for PPP projects, are to be advertised on the Victorian Government Tenders website in accordance with the requirements of the Victorian Government Purchasing Board.

### Request for proposal

The request for proposal is a key document that details the project requirements and risk allocation for the project.

Procuring agencies must use the DTF request for proposal templates volume 1A (project overview and general requirements) and volume 1B (evaluation criteria and proposal requirements) as base documents available at [www.partnerships.vic.gov.au](http://www.partnerships.vic.gov.au).

The request for proposal is to include comprehensive contractual documentation aligned with the Partnerships Victoria Project Deed. Release of the Project Deed at the same time as release of the request for proposal ensures short listed bidders are aware of and have the opportunity to consider the contract terms government is seeking. It also limits subsequent negotiations to clearly identified and fully drafted departures.

### Interactive tender process

Victorian PPP projects are to incorporate an interactive tender process into the procurement stage. The National PPP Guidelines Volume 2 Practitioners' Guide includes guidance on the process, and procuring agencies should use the Partnerships Victoria interactive tender process plan template is part of the request for proposal volume 1A available at [www.partnerships.vic.gov.au](http://www.partnerships.vic.gov.au).

## Partnerships Victoria Project Deed

The Partnerships Victoria Project Deed provides a consistent and efficient risk allocation framework for availability PPP projects, while recognising the need for flexibility to accommodate project requirements. There is one template each for social and linear availability PPP projects, to be used by procuring agencies and adapted only where indicated for project specific factors.

The key commercial principles underpinning the Project Deed are largely based on the National PPP Commercial Principles for Social Infrastructure. Some commercial principles have been amended in order to reflect current practice, optimise risk allocation and improve the value-for-money potential for the State as reflected in the commercial principles summary.

Any derogation from the Partnerships Victoria Project Deed must only be for project specific matters and must be approved by DTF when Government approval is sought to:

- > issue the request for proposal (that contains the contract documentation) if the derogation is proposed by the procuring agency; or
- > appoint a preferred bidder or execute the contract if the derogation is proposed by a short listed bidder.



New schools PPP project (artist impression)

## RFP submission requirements

The request for proposal submission requirements should be based on information that is required to evaluate proposals and be aligned with the evaluation criteria. To reduce bid costs, procuring agencies should defer requesting information that is not required for evaluation to the preferred bidder stage.

Bidders should be asked in the request for proposal to submit a fully marked up Project Deed and schedules. Term sheets are sufficient for some sub contracts.

Bidders should be asked for evidence of committed finance when they submit their proposals, unless specific project circumstances deem otherwise. This usually takes the form of commitment letters from debt and equity providers. For debt, this is likely to be a firm credit approval or term sheet signed by authorised officers with clearly defined conditions that can be evaluated. For equity, a demonstration of board commitment and funding capacity are required.

DTF's request for proposal volume 1B template requires evaluation criteria to be aligned to project objectives.

The specification of a complying proposal should be made and assessed in accordance with project evaluation requirements in the request for proposal and the request for proposal evaluation plan. The evaluation plan should address how to:

- > assess any mandatory requirements such as lodgement time;
- > evaluate how well each bid meets the requirements of the request for proposal and contract (this includes ranking evaluation criteria and outlining how technical, services and commercial criteria will be evaluated); and
- > evaluate any additional features or enhancements offered.

The Victorian Industry Participation Policy (VIPPP) applies to PPP projects. Bidders will be asked to respond in accordance with VIPPP requirements.

The Major Projects Skills Guarantee applies to PPP projects. Bidders will be asked to respond in accordance with the Major Projects Skills Guarantee policy requirements.

Procuring agencies should also have regard to other Government policy objectives when designing tender requirements, for example Aboriginal employment targets and disability employment targets.

Taxation rulings are not typically required at the bid submission stage, however where there is potential for a different tax structure, procuring agencies may consider requiring a taxation ruling as a condition precedent to financial close. The request for proposal should foreshadow this requirement. Procuring agencies are to consult DTF and the Australian Taxation Office on taxation issues. Tax assessments are a proponent risk.

## Public interest test

Victorian PPP projects must complete a public interest test for approval. The public interest test covers consumer rights, transparency and other criteria designed to protect the interests of the community.

Confirmation or updates of the public interest assessment are required at key project approval stages, at a minimum at expression of interest release and contract close.

A public interest test template is available at [www.partnerships.vic.gov.au](http://www.partnerships.vic.gov.au). The public interest test is also published as part of the project summary.



Victorian Comprehensive Cancer Centre

## Probity requirements

Probity signifies integrity, fairness and honesty. Probity means good process demonstrated by transparency of actions, equity, confidentiality and managing actual or perceived conflicts of interest.

Procuring agencies must ensure that all procurement activity meets high standards of behaviour and action and procurement teams operate with integrity, impartiality and accountability.

In accordance with the Victorian Government Purchasing Board probity guide, a probity framework must be in place for Victorian PPP projects. The probity guide provides further information on good probity practice at [www.procurement.vic.gov.au](http://www.procurement.vic.gov.au). Probity services can be procured under the Professional Advisory Services state purchase contract managed by DTF at [www.procurement.vic.gov.au](http://www.procurement.vic.gov.au).

The Victorian Public Service Code of Conduct applies to all Victorian government employees involved in PPP projects.

The engagement of private sector advisers as part of government procurement teams will need to include meeting confidentiality and conflict of interest requirements.

In accordance with the National PPP Guidelines, project directors are responsible for implementing conflict of interest guidelines and the principles based approach to assessing a conflict of interest event. Project directors may be supported by a senior responsible officer in the procuring agency. All conflict of interest assessments in engaging private sector advisers are considered as part of the evaluation process and notifications made in accordance with that process. All conflict of interest assessments for private sector advisers outside the initial engagement process must be conducted promptly and the adviser notified of the outcome.

PPP bidders should be familiar with related party probity principles in the National PPP Guidelines Volume 2: Practitioners' Guide.

## Accounting treatment and taxation matters

Accounting and taxation matters are a complex part of PPP transactions and require the advice of specialist advisers and liaison with DTF. The National PPP Guidelines Volume 2: Practitioners' Guide contains advice on accounting and taxation matters that are relevant in Victoria (refer Chapter 9 and Appendices F and G).

DTF must be consulted on accounting issues in order to confirm the accounting advice commissioned by procuring agencies is consistent with DTF's whole of government financial reporting requirements. DTF must also be kept informed as to the likely balance sheet impact of PPP projects and the budget implications of the accounting treatment.

*Note: At the time of writing, a revised methodology for accounting for finance leases is due to come into effect, therefore DTF's requirements will be updated accordingly.*

## Contract disclosure and project summary requirements

All Victorian PPP projects are subject to Victorian Government Purchasing Board contract publishing requirements.

The executed PPP contract must be published on the Victorian Government Tenders website within 60 days of financial close. The contract is to be published in full with limited exceptions from disclosure, guided by the criteria in the *Freedom of Information Act 1982*.

A project summary of each PPP project will be released within 60 days of financial close.

The project summary will summarise:

- > project objectives, scope, procurement process and the parties involved;
- > financial outcome, including the value of the project and cost to government; and
- > commercial risk allocation of the project based on the contract.

The Treasurer and responsible portfolio minister must approve the project summary. The portfolio minister is responsible for tabling the project summary in Parliament within 60 days of financial close (or the next available Parliamentary sitting day). Following tabling, the project summary will be publicly released.

Content for each project summary is determined according to each project's circumstances and characteristics. Content evolves as new areas of public interest emerge. Procuring agencies must update project summaries if any significant changes are made to the contract after release.

Project summaries for existing Victorian PPP projects are on the DTF website along with a template to guide project summaries at [www.partnerships.vic.gov.au](http://www.partnerships.vic.gov.au).

## Market-led proposals

The Market-led Proposals Guideline at [www.dtf.vic.gov.au](http://www.dtf.vic.gov.au) provides a transparent framework for assessing proposals from the private sector for a project or service that offers something genuinely unique and of value to Victorians.

Market-led proposals directly related to PPP contracts or that progress as PPP contracts must comply with the National PPP Guidelines and the Partnerships Victoria Requirements.



Western Distributor (artist impression)

## Contract management framework

Contract management is a key activity for procuring agencies managing Victorian PPP projects after contract execution. Managing contracts effectively will help achieve project objectives and value for money over the long term.

The Partnerships Victoria contract management guide assists contract managers develop and implement suitable contract management strategies. It was updated in 2016 and provides:

- > guidance for contract managers in managing contracts over the project lifecycle;
- > guidance for the procurement team during project development to ensure the executed contract can be effectively managed; and
- > best practice principles relevant to managing PPP contracts.

A contract management plan must be approved by the portfolio minister in consultation with the Treasurer within 60 days of financial close. Procuring agencies should develop and maintain a contract administration manual or equivalent tool to help manage the contract during the development and operating phases of projects.

Contract management is an integral part of PPP project delivery and contract management issues should be considered when developing project contract documentation. Contract management teams should be involved in the procurement phase where appropriate and there should be an effective transition and hand over from the project director to the contract director.

The processes in the contract administration manual must be implemented and may need to be modified over the life of the project.

Governance, communications and accountability arrangements are managed by the procuring agency to facilitate a sustainable long-term partnership.

### Procuring agency accountability

The procuring agency is responsible for establishing a robust contract management framework, maintaining effective contract management practices during the contract term and achieving project objectives. The procuring agency will implement:

- > appropriate governance structures and effective communication and reporting lines;
- > appropriate training for contract management team members within 12 months of their appointment, unless they have existing contract management experience or credentials;
- > systems to ensure the continuity and retention of project knowledge and information;
- > risk and dispute mitigation and reporting; and
- > ongoing review of contract management practices to manage issues.

To maintain consistency across PPP projects procuring agencies must consult DTF on matters such as:

- > change in control;
- > refinancing;
- > material modifications and augmentations; and
- > dispute resolution.

### DTF accountability

DTF will:

- > support and review contract management and assist in risk mitigation and dispute resolution;
- > manage all refinancing consent requests;
- > facilitate the sharing of contract management knowledge, including by conducting forums for contract managers to share lessons learned;
- > implement appropriate training for public sector contract managers; and
- > monitor and advise the Treasurer and the Government on significant contract management issues.

## Refinancing

All refinancing consent requests are to be managed by DTF, in conjunction with the procuring agency.

To the extent a refinancing results in a gain, the State's share in a PPP refinancing gain will be returned to the Consolidated Fund either as a lump sum or through a reduction to the ongoing quarterly service payments, and the procuring agency's financial estimates adjusted accordingly.



New schools PPP project (artist impression)

## Additional guidance material

### **Code of Conduct for Victorian Public Sector Employees**

[www.vpsc.vic.gov.au/resources/code-of-conduct-for-employees/](http://www.vpsc.vic.gov.au/resources/code-of-conduct-for-employees/)

### **Gateway**

[www.dtf.vic.gov.au/Investment-Planning-and-Evaluation/Understanding-investment-planning-and-review/What-is-the-Gateway-review-process](http://www.dtf.vic.gov.au/Investment-Planning-and-Evaluation/Understanding-investment-planning-and-review/What-is-the-Gateway-review-process)

### **High value high risk projects**

[www.dtf.vic.gov.au/Investment-Planning-and-Evaluation/High-Value-High-risk](http://www.dtf.vic.gov.au/Investment-Planning-and-Evaluation/High-Value-High-risk)

### **Investment Lifecycle Guidelines**

[www.dtf.vic.gov.au/Investment-Planning-and-Evaluation/Understanding-investment-planning-and-review/What-are-the-investment-lifecycle-and-high-value-high-risk-guidelines](http://www.dtf.vic.gov.au/Investment-Planning-and-Evaluation/Understanding-investment-planning-and-review/What-are-the-investment-lifecycle-and-high-value-high-risk-guidelines)

### **Major Projects Skills Guarantee**

[www.economicdevelopment.vic.gov.au/about-us/overview/strategies-and-initiatives/major-projects-skills-guarantee](http://www.economicdevelopment.vic.gov.au/about-us/overview/strategies-and-initiatives/major-projects-skills-guarantee)

### **Market-led Proposals Guideline**

[www.dtf.vic.gov.au/Publications/Infrastructure-Delivery-publications/Market-led-Proposals-Guideline/Market-led-Proposals-Guideline](http://www.dtf.vic.gov.au/Publications/Infrastructure-Delivery-publications/Market-led-Proposals-Guideline/Market-led-Proposals-Guideline)

### **National PPP Policy and Guidelines**

[www.infrastructure.gov.au/infrastructure/ngpd/](http://www.infrastructure.gov.au/infrastructure/ngpd/)

### **Partnerships Victoria**

[www.partnerships.vic.gov.au](http://www.partnerships.vic.gov.au)

### **Victorian Government Architect**

[www.ovga.vic.gov.au/](http://www.ovga.vic.gov.au/)

### **Victorian Government Purchasing Board**

[www.procurement.vic.gov.au/Home](http://www.procurement.vic.gov.au/Home)

### **Victorian Government Tenders**

[www.tenders.vic.gov.au](http://www.tenders.vic.gov.au)

### **Victorian Industry Participation Policy**

[www.economicdevelopment.vic.gov.au/victorian-industry-participation-policy](http://www.economicdevelopment.vic.gov.au/victorian-industry-participation-policy)

