



MINISTRY OF FINANCE AND THE PUBLIC SERVICE

TERMS OF REFERENCE

**Consultant to Develop a Comprehensive and Concise
Policy Papers on Joint Ventures and Unsolicited Proposals**

STRATEGIC PUBLIC-SECTOR TRANSFORMATION PROJECT

IBRD LOAN NO.: 8406-JM



1.0.BACKGROUND:

The Government has committed to strengthen Jamaica's public investment management system, as part of a comprehensive public financial management (PFM reform) agenda. By Cabinet Decision No 38/13 of October 2013 the GOJ gave approval for the institutionalization of the Public Investment Management System (PIMS) and, in doing so, standardize the treatment of all public investments across the public sector across the entire project cycle. Amendments were tabled to allow both the Financial Administration and Audit (FAA) and the Public Bodies Management and Accountability (PBMA) Acts to provide a legislative foundation for the future treatment of public investment in Jamaica. This reform has seen the incorporation of public investment management as part of an enhanced fiscal governance framework that seeks to increase fiscal surpluses over time and concurrently reduce the debt to gross domestic product (GDP) ratio so that public resources can be allocated to public investments and other activities that have the potential to contribute to economic growth.

The policy and legislative framework of the PIMS require that all types of public investments be subjected to the PIMS process for approval for a public investment to be undertaken. Joint Ventures are one type of public investment to be subject to the PIMS process. The PPP Policy acknowledges Joint Ventures as a mechanism to facilitate private sector participation in the economy. For the purposes of this policy a Joint Venture is defined as "a contractual agreement in which the GOJ and the private sector agree to develop and operate a new entity, for a finite time, by contributing equity which may be in the form of land or other physical asset or cash. The parties exercise ownership and/or operational control over the new entity in accordance with their shareholdings and consequently proportionally share risks and rewards based on the entity's performance". This Policy does not currently consider or provide guidelines for Joint Ventures as a privatization modality as they are likely to increase

the GOJ's ownership and operational risks in the project. The ultimate objective of the Privatization programme is the transfer of operational or ownership risk from the public to the private sector. Joint Ventures pose potential fiscal liabilities for the GOJ because they are considered Public Investments and therefore require specific policy decisions to ensure they are properly implemented. In keeping with Cabinet's Decision and the relevant amendments to the FAA Act, 2014 & 2015 all Joint Ventures shall require the approval of the PIMC and Cabinet. Therefore, all Joint Ventures are to be submitted to the PIMSEC by the proposing Ministry or Agency for review and assessment.

Public investments may also be caused from unsolicited proposals. An unsolicited proposal is currently defined as one made by a private party to undertake a project, submitted at the initiative of the private party, rather than in response to an RFP from government. An unsolicited proposal may also be occasioned where a private party, on its own initiative, makes a written expression of interest to obtain a government asset not in response to an offer by government. Either approaches could result in a PPP or a matter for privatization of a government asset or service. The PPP policy recognises such unsolicited proposals. "The PPP Programme accommodates unsolicited proposals because they indicate PPP projects that would be successful in the market and may contain new ideas that add value for both the private sector and the public at large. All unsolicited proposals must be submitted, in writing, to the Privatisation and PPP Unit of the DBJ as prescribed in the Procedures Manual for PPPs.¹" As an avenue by which a public investment may come about, a clear and unequivocal policy position by government would serve as a definitive guide in how unsolicited proposal should be treated within the context of the PIMS.

¹ Source: PPP Policy, October 2012

The Strategic Public-Sector Transformation Project: The Government of Jamaica (GOJ) has received loan financing from the International Bank for Reconstruction and Development (IBRD) towards the cost of the Strategic Public-Sector Transformation Project (SPSTP). The Project Development Objective (PDO) is to strengthen public resource management and support selected public sector institutions in facilitating a more enabling environment for private sector growth. The project has 6 components divided into 2 thematic areas.

The first thematic area of the proposed intervention seeks to reinforce fiscal discipline and revenue enhancement through four main components: (a) Strengthening the Public Investment Management System (PIMS); (b) Strengthening the Budget Preparation Process and Results Based Budgeting (c) Adaptive Public-Sector Approaches to Promote Fiscal Sustainability and Project Management; (d) Modernizing of the Accountant General's Department.

The second thematic area seeks to support those institutions that sit at the interface between the public and private sectors: Bureau of Standards of Jamaica (BSJ) through component 5, Fostering Industrial Growth and Trade Facilitation, that will support strategic public-sector institutions essential to creating an enabling environment for the private sector. The management of the project makes up the sixth component.

Strengthening the Public Investment Management System (PIMS) is a sub-set of Component 1 and the PIMS was established by legislation to provide a common framework for the preparation, appraisal, approval and management of public investments carried out by entities within the Public Sector, irrespective of source of funding or procurement modalities including PPPs, Joint Ventures and Unsolicited Proposals.

2.0.OBJECTIVES OF THE CONSULTANCY:

The primary purpose of this assignment is to develop comprehensive and concise policy(ies) for (i) Joint Ventures (JV) and
(ii) Unsolicited proposals (USPs)

The policy(ies) should provide a deliberate system of principles to guide decisions and achieve rational outcomes in accordance with the government's fiscal responsibility framework. They are

to be the definitive statements of intent, that will guide implementation as a procedure or protocol. The development of the JV and USP policies should take account of the legislative framework and guidelines that govern the PIMS in Jamaica. The consultant should however, explore in the policy options to be recommended, whether the JV policy statements would be best suited as an addendum to the PPP Policy or a separate stand-alone policy and develop the policy statements that would amend the PPP policy in keeping with the details expressed in the scope of works.

3.0. SCOPE OF WORKS:

The specific tasks of the consultant under this assignment shall include:

- i. A desk review of all relevant legislation and related policy that have implications for the implementation of policies on JVs & USPs. The review should include appropriate international comparisons.
- ii. A review of any institutional or legislative framework that exist that speaks to JVs and USPs so as to determine what gaps exists and make recommendations to remedy in respect to both
- iii. Development of clear definitions for both JVs and USPs such that the respective approach to each can be streamlined and appropriately aligned under the PIMS
- iv. Conduct of an examination of the current situation with respect to JVs – highlighting failings and/or weaknesses as well as, any best practice in light of the PIMS
- v. Conduct of an assessment to determine how best to position USPs under the PIMS
- vi. Identification of any inherent risks from JVs and USPs that could ensue in the context of the PIMS and make recommendations for how they could be remedied.
- vii. Development of policy options that consider the objectives of the assignment which should inform consultations and support the design of the policy positions
- viii. Conducting stakeholder consultations to inform development of the policies
- ix. Designing the JV & USP policy(ies) to take account of the following key elements:
 - a. a statement of what the respective policies are seeking to achieve
 - b. the underpinning principles, values and philosophies
 - c. broad objectives which explain the areas which the policies will address
 - d. strategies to achieve each objective
 - e. specific actions to be taken
 - f. desired outcomes of specific actions

- g. performance indicators
- h. management plans and day to day operational rules covering all aspects of the governance and implementation of the policy across all phases of the project life cycle
- i. ensure the policies take account of the adequacy of the GOJ's legislative and policy framework for procurement of USPs and JVs and recommend where amendments may be necessary
- j. specific criteria for selection of projects under the PIMS, which shall be in keeping with the PIMS Guidelines, 2018.
- k. a review programme to include an examination of the performance indicators
- x. A policy paper for each (JV & USP), if it is so agreed, that captures the key elements detailed above and is consistent with the following broad outline:
 - a. Executive summary
 - b. Background
 - c. Literature/desk review
 - d. Stakeholder/Situation Analysis
 - e. Policy options with stated advantages and disadvantages of each in the context of the PIMS
 - f. Discussions/counter-arguments
 - g. Recommendations/Strategy
 - h. Conclusion

A similar tailored approach should be taken if it is agreed that JVs would be an addendum to the PPP policy.

4.0. DELIVERABLES:

Key Deliverables	Proposed Timeline	Standard for delivery
1. Work plan & methodology	10 days	Workplan to include broad implementation strategy & methodology, related activities; projected beginning and end times for major activities and resources required
2. Report on the desk review and existing institutional and legislative framework including gap analysis and	20 days	As indicated in Section 3.0 (ii) & (iii) in the Scope of Works

Key Deliverables	Proposed Timeline	Standard for delivery
recommendations.		
3. Report on situational analysis and risk assessment with recommendations	20 days	As indicated in Section 3.0 (iv), (v) & (vi) in the Scope of Works
4. Preparation and presentation of draft policy options to the TWG	30 days	As indicated in Section 3.0 (vii) in the Scope of Works
5. Report on stakeholder consultations	20 days	As indicated in Section 3.0 (viii) in the Scope of Works
6. Draft policy papers	25 days	As indicated in Section 3.0 (viii) & (ix) in the Scope of Works
7. Final policy papers	15 days	As indicated in Section 3.0 (ix) & (x) in the Scope of Works

5.0.CHARACTERISTICS OF THE CONSULTANCY

- **Level of effort:** Full time level of effort (FTE)
- **Duration of contract:** 140 days over 10 months
- **Location:** Jamaica
- **Type of Consultancy:** Individual

Schedule of Deliverables:

Work Plan	Within 10 days of contract start date
Deliverables 2	Within 30 days of contract start date
Deliverables 3	Within 50 days of contract start date
Deliverables 4	Within 80 days of contract start date
Deliverables 5	Within 100 days of contract start date
Deliverables 6	Within 125 days of contract start date
Deliverables 7	Within 140 days of contract start date

Type of contract: Lump sum payments as follows:

Upon submission and acceptance of Work Plan	10%
Upon submission and acceptance of D2	15%
Upon submission and acceptance D3 & D4	20%
Upon submission and acceptance D5	15%
Upon submission and acceptance D6	25%
Upon submission and acceptance D7	15%

6.0.QUALIFICATION & EXPERIENCE:

- Post graduate qualification in public policy, government, law or public administration or any other related field

Desired experience, skills & competencies:

- Minimum 5 years relevant experience in policy development preferably in the public sector
- Knowledge of Jamaica’s PIMS, PPPs, JVs and USPs
- Training or certification in policy development would be an asset
- Excellent writing and communications skills
- At least 5 years’ experience in conducting research & analysis

7.0.REPORTING AND SIGN-OFF

The Consultant shall report directly to the **Technical Coordinator**, *Strengthening the Public Investment Management System (Component 1, SPSTP)*; contract monitoring meetings will be convened within 5 days of delivery of each deliverable listed. Deliverables will be considered certified as satisfactory when they are accepted by the process owners and cleared by the Technical Coordinator, Component 1 based on the defined and agreed performance standards for delivery. Turnaround time for deliverables to be reviewed and feedback provided by the client will be in keeping with the time established and accepted in the work plan which shall be the first deliverable under the contract. All deliverables under the contract may be submitted in electronic format; the

final deliverable may also be submitted in electronic form along with 3 hard copies of the requisite policy papers.

8.0.CONDITIONS

The consultant is expected to provide his/her own tools & resources to undertake this assignment; where necessary the client will provide a venue for meetings and or workshops. Office space will be the responsibility of the consultant during the conduct of the assignment. The consultant will be required to consult periodically with the Technical Working Group (TWG) established under the SPSTP to give guidance, as necessary, for matters relating to the PIMS. All materials and documents accessed during the conduct of this consultancy remain the property of the MOF&PS and is not authorized for use by the consultant for any other purpose than for the effective conduct of the assignment, unless expressly authorized in writing by the client. Travel as required under this assignment is authorized.