

DOCUMENT OF THE INTER-AMERICAN DEVELOPMENT BANK
MULTILATERAL INVESTMENT FUND

BRAZIL

**NATIONAL PROGRAM FOR THE INSTITUTIONAL DEVELOPMENT
OF PUBLIC-PRIVATE PARTNERSHIPS**

(BR-M1026)

DONORS MEMORANDUM

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APPENDIX

Proposed resolution

INFORMATION AVAILABLE IN THE RE1/FI1 TECHNICAL FILES

Preparation:

1. Law 11079 of 30 December 2004.
2. Report on the public-private partnership program.
3. “Public-private partnerships: A new concept of infrastructure development,” United Nations, 1999.
4. Toolkit for public and private partnership in highways, Public Private Infrastructure Advisory Facility (PPIAF), World Bank, 2004.
5. (<http://rru.worldbank.org/Toolkits/highways/documents>)
6. Website: Partnership UK (<http://www.partnershipsuk.org.uk/index.html>)
7. “Public investment and fiscal policy: Summaries of the pilot country studies,” International Monetary Fund.
8. “Public investment and fiscal policy: Lessons from the pilot country studies,” International Monetary Fund.
9. “Pilot project report,” preliminary draft, CONFIDENTIAL, Secretary of the Treasury, Brasilia, DF, Brazil, 25 January 2005.
10. Presentation, “*PPP Brasil, Propostas do Fundo Garantidor Aspectos Jurídicos*,” Mauricio Portugal Ribeiro.

Execution:

1. Draft PPMR (IDBdocs No. 625450)
2. Operational Manual Guidelines (IDBdocs No. 625433)
3. Procurement Plan (IDBdocs No. 625318)

ABBREVIATIONS

COF/CBR	Bank's country office in Brazil
CESI	Committee on Environmental and Social Impact
GDP	Gross domestic product
IMF	International Monetary Fund
MIF	Multilateral Investment Fund
MPPG	Brazilian Ministry of Planning, Budget and Management
PPP	Public-private partnership
REI/FI1	Finance and Basic Infrastructure Division 1

NATIONAL PROGRAM FOR THE INSTITUTIONAL DEVELOPMENT OF PUBLIC-PRIVATE PARTNERSHIPS (BR-M1026)

I. EXECUTIVE SUMMARY

Executing agency:	Unidade de Associações Público Privadas [Public-Private Partnerships Unit] of the Ministry of Planning, Budget and Management (MPPG).	
Beneficiaries:	The direct beneficiary of the project will be the Ministry of Planning, Budget and Management. The indirect beneficiaries will be: (i) federal, state and municipal government; (ii) the Brazilian population, which will receive more, better, and more efficient public and infrastructure services; and (iii) the private sector, which will have access to more business opportunities.	
Financing:	MIF – Facility I: ¹	US\$2,480,000
	Local counterpart:	<u>US\$2,450,000</u>
	Total:	US\$4,930,000
Objectives:	<p>The general objective is to make public infrastructure services more widely available through private sector participation for better and more efficient allocation of available public funds. The specific objective is to institutionalize the public-private partnership (PPP) methodology as a new contracting model that promotes private sector participation in the delivery of public and infrastructure services.</p> <p>The project has three components: (i) institutional consolidation and strengthening of the PPP Unit of the MPPG, which will support the sector ministries and states in implementing the PPP institutional structure; (ii) regulation and formalization of the PPP methodology; and (iii) support for the design and execution of two PPP pilot projects.</p>	
Execution timetable:	Execution period:	30 months
	Disbursement period:	36 months

¹ The MIF contribution includes US\$30,000 for MIF public-private partnership cluster coordination activities.

Environmental and social review:	The Committee on Environment and Social Impact (CESI) reviewed the program on 16 September 2005. No specific actions, other than those proposed, are required.
Coordination with other official development agencies:	The strategy to promote private participation has been coordinated with other agencies working with the Brazilian government, such as the World Bank and the International Monetary Fund.
Special contractual clauses:	None.
Exceptions to Bank policy:	None.

II. BACKGROUND AND JUSTIFICATION

A. Increasing infrastructure investment: optimization of public resources and greater private sector participation

- 2.1 After average annual growth of 2.5% over the last decade, the Brazilian economy grew by more than 5% for 2004. Experts agree that a major reason for this strong economic performance has been the implementation of a rigorous program to rein in public spending,² which the Brazilian authorities have been successful in doing to strengthen fiscal solvency. As part of the adjustment program, nonfinancial public sector investment fell from 3.2% of GDP for the 1996-1998 period, to 2.5% for the 1999-2004 period. This, along with strong economic growth in 2004, has created infrastructure bottlenecks that could work against sustained economic growth in the medium term.
- 2.2 With this objective of sustained economic growth, the Brazilian authorities have been taking a series of measures designed to stimulate productive investment, make the Brazilian economy more competitive abroad, and spur domestic consumption. One essential tool of sustainable economic growth is rehabilitation and maintenance of the country's infrastructure, especially transportation infrastructure, which significantly impacts logistics costs and the economy's competitiveness.
- 2.3 The need to meet growing demand for infrastructure services good enough to heighten the competitiveness of Brazil's economy must be seen in a context of tight fiscal constraints and social priorities in public spending. This will mean making the most effective use of scarce public resources, and exploring new options for greater private sector participation in the delivery and maintenance of public utilities and infrastructure services.
- 2.4 Recognizing this challenge, the federal government has made an aggressive program of infrastructure maintenance, construction and expansion a key component of its plan, in order to meet the Brazilian's economy's demand for strong growth while safeguarding the solvency of public finances through strict enforcement of the Fiscal Accountability Law. Building on nearly 10 years of experience with concessions, a key part of the plan is to institute a new type of arrangement for the construction, maintenance and running of public utilities and infrastructure services: public-private partnerships (PPPs).³

² The ratio of net public debt to GDP has fallen by over 10% since 2002, to around 55% of GDP at year-end 2004.

³ Known in Brazil as “associações público privadas (APP)” or “parceiras público privadas (PPP).”

B. Federal program of public-private partnerships (PPPs)

- 2.5 The Federal Congress enacted Law 11079 in December 2004, establishing the legal framework for PPPs. This law completes the framework for private sector participation in the construction, maintenance, and delivery of public and infrastructure services in Brazil, as the final piece of the puzzle that also includes the Concessions Act (Law 8987/95) and the Public Contracting Act (Law 8666/93). It allows for greater private sector participation, guaranteeing contributions from the State to make projects feasible, when they could not be financed solely by the private sector or through user charges.
- 2.6 Law 11079 sets out the general principles that are to govern PPP contracts, and the criteria to be applied in regulating and implementing them. It defines PPPs as administrative contracts for the delivery of public services of which the government is a direct or indirect user. Thus, these partnerships are a contractual means of transferring responsibility to the private sector for the construction, maintenance, or operation of assets that later become public property. The law sets certain constraints on this type of contract, including the following: (i) people cannot be hired under this system for government employment; (ii) the contract has a minimum term of 5 years and a maximum term of 35 years; (iii) the minimum value is 20 million reais; (iv) payments to the private sector must be tied to the quality of service provided, and monitoring and evaluation must be based on performance standards; and (v) the asset will revert to the public partner, with or without payment, at the end of the contract period, depending on the specific terms of the contract.
- 2.7 PPPs are hard to define, since different countries have built different versions of them into their legal systems, in some cases not even under the name of PPP.⁴ A number of countries have instituted PPP programs in recent years. The most widespread, close to becoming a global model, is the United Kingdom's Private Finance Initiative.⁵ Though it must be borne in mind that a contractual mechanism like a PPP cannot be transferred unchanged from a common law system such as Britain's to a civil code system modeled upon European continental law, such as Brazil's, Brazilian legislation has incorporated some of the basic features of the British PPP concept. These include: (i) the PPP as a service delivery contract, rather

⁴ For example, the concessions program in Chile, perhaps the most successful example of private sector participation in the region, was carried forward in the wake of the Concessions Act, which allowed for subsidized concessions (negative concessions). See "Public investment and fiscal policy: Summaries of the pilot country studies," prepared by the IMF Fiscal Affairs Department (in consultation with other departments and in cooperation with the World Bank and the Inter-American Development Bank), IMF, 7 March 2005.

⁵ The PPP concept and methodology have been tested and instituted in the UK under the name, "UK Private Finance Initiative (PFI)." The experience was quickly replicated in other countries such as Ireland, Spain, Portugal, Italy, Canada, and South Africa.

than an infrastructure construction contract; (ii) the use of the value-for-money concept in evaluating projects, so as to obtain effective services at the least possible cost; (iii) performance-based measurements as a part of the PPP contract design, so as to tie the compensation received by the private partner directly to the service quality it provides; and (iv) proper risk allocation, so as to apportion risk between the public and private partners to the one best equipped to manage it.

- 2.8 As experience has shown in countries with PPP programs, the special features of these contracts call for institutional capacity and methodologies for project assessment, selection, risk allocation, and design, so that this new approach to infrastructure management is implemented in a way that yields the expected efficiency and quality gains in public service delivery.
- 2.9 Through PPPs, the government proposes to fund development plans to get the most out of resources available for the delivery of public and infrastructure services, so as to eliminate bottlenecks that could constrict the Brazilian economy's growth and competitiveness. This will require a regulatory framework for the recently enacted legislation. In addition, an institutional environment must be created and nurtured in which authorities have the tools to assess, prioritize, structure, and design PPP projects.

C. Justification for the proposed program, and its place in the Bank's program

- 2.10 Implementation of the PPP program at the federal level is a vitally important initiative for Brazil, since it will create an effective relationship between the public and private sectors as partners in the delivery of public and infrastructure services, expanding the available resources. Successful implementation of the program will make knowledge transfer possible from the federal level to the state governments. MIF and Bank participation will be important for successful implementation, since they will facilitate the adoption of better practices and up-to-date knowledge in the technical, financial, institutional, regulatory, and legal aspects of preparing PPPs. The program, in turn, will enable the MIF to participate in two pilot projects, which will be used to disseminate the practices and processes that emerge from the initiative.
- 2.11 This project is part of a series of actions that the Bank has undertaken with the government to institute PPPs in Brazil. At the federal level, the Bank approved a US\$120,000 technical cooperation project in 2002 (TC-02-02-01-3) to help the Brazilian Ministry of Planning, Budget and Management (MPPG) establish a PPP conceptual framework for the federal government. The Bank also approved loan 1560/OC-BR for an Infrastructure Investment Fund to support basic infrastructure development in Brazil. At the state level, the MIF approved a technical cooperation project for the state of Minas Gerais in 2004 (MIF/AT-594), and the Region 1 State and Civil Society Programs Division (RE1/SC1) is preparing a program (BR-L1026) to support the modernization and transparency of fiscal management in the

state of Bahia, including activities to develop fiscal management of PPP projects, especially in relation to the potential impact of contingent liabilities arising out of PPP contracts.

- 2.12 Members of the project team also participated in a pilot case study on public investment and fiscal policy, which was prepared by the Fiscal Affairs Department of the International Monetary Fund (IMF) with cooperation from the World Bank and the IDB, and presented to the IMF Executive Board on 22 May 2005. The study included two missions to Brazil, during which the project team met with private-sector representatives and state and federal government authorities in the state of Minas Gerais, São Paulo and Brasília. This pilot study produced a number of suggested amendments to the PPP bill before Congress, some of which were incorporated into the version ultimately approved. One of the study's conclusions was that institutional and regulatory strengthening are needed, to implement the PPP program in Brazil. The study's findings were presented at a seminar in Brasília on 25-27 April 2005. The IDB and the World Bank have been coordinating support for the PPP program in this context, to ensure that the proposed program complements the initiatives for implementing the PPP program.
- 2.13 **Program compatibility with the Bank's country strategy.** The proposed program is compatible with a priority area of the Bank's country strategy with Brazil, in that it seeks to: (i) restore levels of infrastructure investment within a framework of fiscal responsibility; (ii) promote private-sector participation in infrastructure through public-private partnerships; (iii) enhance efficiency in public resource allocation; and (iv) deepen modernization of the State at the federal, state, and municipal levels. It will also enable the MIF to participate in a pilot project that will be a model for other states and, indeed, for the region, helping to disseminate the practices and processes that emerge from this operation.
- 2.14 The proposed program is part of the action plan for the MIF cluster to support competitiveness through public-private partnerships (MIF/GN-107). As such, the MIF funding includes US\$30,000 for coordination activities and collaboration between the proposed program and other cluster programs, to disseminate lessons learned and best practices.

III. PROGRAM OBJECTIVES AND DESCRIPTION

A. Objectives

- 3.1 The general objective is to make public infrastructure services more widely available through private sector participation for better and more efficient allocation of available public funds. The specific objective is to institutionalize the public-private partnership (PPP) methodology as a new contracting model that promotes private sector participation in the delivery of public and infrastructure services.

B. Components

- 3.2 **Component I. Consolidation of the PPP Unit of the Ministry of Planning, Budget and Management (MPPG), and support for sector ministries and states in implementing the PPP institutional structure (MIF US\$546,680; MPPG US\$412,060).** This component seeks to develop and consolidate the institutional structure of the PPP Unit by creating specific technical capacity for PPP project design, so that the PPP Unit becomes a center of knowledge, providing support to sector ministries and state governments for PPP implementation. The activities under this component will be to: (i) determine the organizational model for the MPPG's PPP Unit; (ii) train PPP Unit staff at both the federal and state levels; (iii) set guidelines for the implementation of PPP programs; (iv) disseminate know-how and information on PPPs at the federal and state levels, as well as to the private sector and civil society; (v) create and maintain the PPP Unit's website ("APP Brasil"); and (vi) make the administrative structure of the MPPG's PPP Unit viable by providing and installing equipment (hardware, software, and mobile equipment) and establishing an administrative and technical support structure.
- 3.3 **Component II. Regulation and formalization of the PPP methodology (MIF US\$270,040; MPPG US\$213,640).** This component seeks to support regulation associated with the PPP legislation and to establish legal instruments and procedures, as well as institutional structures, for the PPP methodology. This will be done through the following actions: (i) provide technical assistance for regulation associated with the PPP Act (Law 11079); (ii) make the recently enacted PPP legislation compatible with the general legal framework for government contracting (the Public Contracting Act, Law 8666/93) and with the Concessions Act (Law 8987/95), as well as with the regulatory frameworks of sector public services; (iii) support the development of legal procedures and instruments for the contracting, execution, auditing, and performance assessment of PPP contracts; (iv) design methods of payment based on the private partner's performance; and (v) prepare the standard documents to be used for PPP contracting (models for general and specific bidding conditions and model contracts).
- 3.4 **Component III. Support for the structuring of PPP projects (MIF US\$1,471,730; MPPG US\$1,701,780).** This component seeks to plan and make pilot PPP projects viable, creating the necessary technical, economic/financial, legal, and contractual structures. As mentioned in connection with the case study done by the IMF in cooperation with the World Bank and the IDB (see section 2.11), 90% of the 19 projects that were part of the pilot PPP program prepared by the Brazilian government were in the transportation sector. From this group, the steering committee (conselho gestor) has selected a set of priority projects to be executed immediately, since they are designed to resolve bottlenecks in the export sector of the economy, especially in the "logistical export corridors." (i) the North-Central Corridor, which has Itaquí as its terminal port and the North-South Railway as underlying project; (ii) the San Francisco Corridor,

which terminates at the port of Aratu y Salvador, with Bahia-Minas highway BR-116 as underlying project; (iii) the Southeast Corridor, which has Sepetiba and Santos as terminal ports, with the Rio de Janeiro beltway and São Paulo rail beltway as underlying projects; and (iv) the Southern Corridor, which terminates at the port of Paranagua, with the Guarapuava-Ipiranga railway as underlying project.

- 3.5 The activities under this component include: (i) identification of two of the four projects mentioned in the foregoing paragraph, and their preliminary design; (ii) technical, social/environmental, economic/financial, and legal studies for implementation of the two selected pilot projects; and (iii) documentation of the knowledge gained during the pilot projects, so as to produce lessons learned for future PPP projects.
- 3.6 **Expected outcomes.** The program is expected to produce the following outcomes: (i) an institutional structure able to properly structure PPP projects; (ii) a consolidated legal and regulatory framework that provides certainty for the private sector; and (iii) lessons learned from the pilot projects that will help to consolidate the PPP methodology. With these outcomes, the PPP methodology can be promoted as a new model for the management and financing of public and infrastructure services on the federal and state levels, creating incentives for private sector participation.

IV. PROGRAM COST, FINANCING AND EXECUTION TIMETABLE

- 4.1 The program budget will be US\$4.93 million, which includes US\$2.48 million from the MIF and US\$2.45 million in local counterpart resources. The PPP Unit budget for 2006 provides for the payments required during the execution period.

Table I. Itemized budget (in US\$)

Budget items	MIF	Local	Total
Component I: Consolidation of the PPP Unit of the MPPG, and support for sector ministries and states in implementing the PPP institutional structure	1,026,000	376,830	1,402,830
Component II: Regulation and formalization of the PPP methodology	264,000	132,250	396,250
Component III: Support for the structuring of two PPP pilot projects	1,146,000	1,709,000	2,855,000
Cluster activities	30,000		30,000
Contingencies	14,000	231,920	245,920
Total	2,480,000	2,450,000	4,930,000

- 4.2 The operation will be executed over 30 months, with a disbursement period of 36 months. The executing agency has taken the action necessary to be ready to begin execution of the project as soon as it is approved. For this purpose, based on

the experience of the Minas Gerais program (MIF/AT-594), the Operating Regulations have been structured in such a way as to prevent delays in execution.

- 4.3 **Sustainability.** Efficiency and quality gains as a result of the pilot projects will lead to increased investment for infrastructure projects by mobilizing private capital, making it possible to expand the use of the PPP modality for public services and infrastructure projects. Once the program has ended, PPP Unit staff will apply the methods used and lessons learned during execution of the present program, using the unit's own resources for future PPP projects.
- 4.4 The MIF will provide US\$30,000, to be used for PPP cluster coordination activities. This amount will be deducted from the MIF contribution as of the effective date of the technical cooperation agreement, with no requirement for a disbursement request from the executing agency.

V. EXECUTING AGENCY AND MECHANISM

- 5.1 The federal Ministry of Planning, Budget and Management (MPPG) is the requesting organization for the proposed program. The MPPG will execute the project through its PPP Unit, and as such will be responsible for execution and coordination of the program operations. To implement the PPP program, the federal government has been restructuring to strengthen its regulatory, planning, and leadership capabilities through partnerships with the states, the private sector, and third-sector organizations, in addition to actions in the fiscal domain. Given the progress with such restructuring, the MPPG is deemed capable of executing the proposed program.
- 5.2 The program will be executed through the PPP Unit under the leadership of its general coordinator, who will be responsible for: (i) coordinating and supervising all consultants and firms commissioned for the project activities; (ii) preparing the necessary plans of action and itemized budget for project components; (iii) preparing periodic progress reports for the Bank, which are to include semi-annual financial reports (closing on June 30 and December 31) reflecting funds allocated and disbursed for the program (both for MIF funds and disbursements in cash and in kind); and (iv) processing disbursement requests and expense vouchers in accordance with Bank disbursement procedures.
- 5.3 The PPP Unit will administer a separate project budget and keep separate accounts for the monitoring and management of project resources. It will be responsible for technical implementation of the program, selection of consultants, and contractual and administrative decision-making. As necessary for the evaluation of consultant proposals, the PPP Unit will establish a technical committee in accordance with Bank rules.

- 5.4 The PPP Unit will open two separate accounts at a local bank, one for MIF funds and the other for local counterpart funds. The accounts will be used specifically on this MIF program. Funds will be disbursed via payments to the PPP Unit, consultants and providers, following the payment schedule agreed with them in the contracts and approved by the Bank. Funds will be disbursed through a revolving fund equivalent to 10% of the MIF contribution.
- 5.5 **Accounting.** The PPP Unit will establish and oversee accounting, financial, and internal control systems that can be used to identify the source and use of program funds, as Bank policies require. The accounting system will be structured so as to produce the necessary documents, allow verification of transactions, and facilitate the timely preparation of financial statements and reports. Program records will be kept in such a way as to: (i) identify the amounts of money received from different sources; (ii) provide information on project expenditures based on the chart of accounts previously approved by the Bank, which keeps MIF contributions separate from counterpart funds; and (iii) include sufficient detail to identify the services contracted for, as well as the purposes for which such services are used.
- 5.6 **Financial audits.** Program execution will be audited annually by the Office of the Federal Inspector General of the Federal Secretariat for Oversight (CGU/SFC). However, the PPP Unit will prepare and submit the project's final financial statements to the Bank within 90 days after the close of the program execution period, but before the date of the last disbursement. These will be audited by an independent outside auditor acceptable to the Bank and contracted under terms of reference previously approved by the Bank. The audit costs will be funded out of the MIF contribution.
- 5.7 **Procurement.** The PPP Unit will procure goods and consulting and other services for project execution in accordance with Bank policies and procedures.
- 5.8 **Readiness.** The project team and counterpart made progress on the Operating Regulations during the analysis mission, so the PPP Unit is ready to begin program execution upon approval.

VI. PROGRAM BENEFITS AND RISKS

- 6.1 The project will help to improve the structuring of PPP projects for the delivery of public and infrastructure services, and consequently promote private-sector participation in the delivery of such services. The project is in line with the MIF's goal of being a flexible instrument to catalyze private sector development, while complementing ongoing Bank activities in the infrastructure sector. The program beneficiaries will be: (i) federal and state governments, whose institutional structures for the selection, evaluation and implementation of infrastructure projects and public service delivery will be strengthened; (ii) the Brazilian population,

which will receive more, better, and more efficient public and infrastructure services; and (iii) the private sector, which will have access to more business opportunities in the delivery of public services that had been State-run before the PPP legislation.

- 6.2 The program will provide the PPP Unit with the tools and ability to identify, evaluate and select projects that generate the greatest benefits by using the PPP methodology, as well as the ability to identify critical areas to be addressed in such projects. At the same time, implementation of the two pilot projects will make it possible to institutionalize and apply PPP best practices, which will later provide lessons learned for future PPP projects.
- 6.3 **Risks.** Experiences shows⁶ that some PPP projects could be awarded because the private sector did not respond as expected in terms of assuming risk. Thus, the private sector's positive perception of the institutional design, regulatory framework and confidence that the public partner will fulfill its obligations are essential to the success of a PPP program. For that reason the program emphasizes institutional strengthening of the PPP Unit and the development of a regulatory framework in keeping with international best practices. The government has also created a guarantee fund (*fundo garantidor*), to ensure that the government fulfills its PPP obligations. Finally, the PPP Unit will maintain ongoing contact with the private sector representatives through the program's dissemination activities. Furthermore, the PPP Unit will designate liaisons to work with state authorities who request assistance with PPP implementation. As such, the PPP Unit of the MPPG will play the key coordination and technical support role given to it as part of the federal PPP program, as the technical unit with specific know-how in structuring PPP projects.
- 6.4 **Incorporating lessons learned from similar operations into the program design.** The Bank is funding an operation in Brazil with MIF funding to support the institutional and regulatory development of the PPP Unit of the state of Minas Gerais. In addition, the MIF has conducted four operations in the area of regulatory systems in the transportation, sanitation, irrigation, and health sectors. One of the key lessons learned from previous operations is the importance of setting attainable goals within a realistic execution timeframe, and preparing the Operating Regulations before the project is approved, so that execution can commence immediately upon approval.

VII. MONITORING AND EVALUATION

- 7.1 **Monitoring.** The PPP Unit will prepare and deliver project progress reports to the Bank's Country Office within 30 days after the close of each six-month period, and a final report within 30 days after the scheduled date of the last disbursement, with

⁶ See "Toolkit for public and private partnership in highways," World Bank.

the exception of funds disbursed for the audit. These reports will follow the format for project monitoring that the Bank provides the PPP Unit, and will cover the program's activities and finances. They will also include measurement of outcomes using the indicators and benchmark parameters set forth in the project's Logical Framework in Annex 1. The Bank will use these reports to monitor progress in program implementation and to prepare the project completion report within the three months following the execution period. The project will be overseen by the Bank's Country Office in Brazil, in conjunction with the project team.

- 7.2 **Evaluation.** The Bank will hire consultants to conduct two evaluations of the program: one midterm and one final evaluation. The midterm evaluation will be done once 50% of the MIF resources have been disbursed. The aim of this review will be to determine whether the program objectives are being properly met. Based on the midterm evaluation, the Bank's Country Office, along with the project team, will decide whether the project should proceed, be suspended, or be cancelled. The PPP Unit will compile the project's monitoring and evaluation indicators during program execution. The Bank's Country Office and the executing agency will use these indicators, which are presented in the Logical Framework in Annex I, to measure the program's overall impact and evaluate its outcomes. These initial parameters may be revised by the PPP Unit with Bank approval, within three months after the contract enters into force, and will be adjusted to reflect real conditions more precisely, so that the program can be evaluated more accurately.
- 7.3 The final evaluation will be done within three months after program completion, to evaluate outcomes and measure the degree to which goals have been met in accordance with the Logical Framework.

VIII. ENVIRONMENTAL AND SOCIAL FEASIBILITY

- 8.1 This technical cooperation program includes technical assistance in overall project preparation and training, as well as enhancements to existing institutional and regulatory frameworks to facilitate PPP project implementation. Therefore, no adverse environmental or social impacts are associated with this operation.
- 8.2 In order to ensure that potential environmental and social impacts of the pilot PPP projects receive proper attention and are mitigated, funding will be provided for the necessary environmental impact assessments and management plans, as required by applicable laws and Bank policies. The program Operating Regulations will also include measures to mitigate potential environmental and social impacts, to the extent that the assessments reveal this to be necessary.
- 8.3 As part of the training and project preparation activities, environmental and social issues related to PPP projects will be explored, and greater attention paid to this area. For this purpose, the PPP Unit staff must have the technical capacity to ensure

that contracts between PPP projects' public and private partners contain the contractual mechanisms for environmental and social accountability, that they provide for addressing existing environmental problems in both the construction and operation phases, that they include environmental and social criteria in the evaluation of potential projects, and that they incorporate environmental strategies as a part of high-priority projects.

**NATIONAL PROGRAM FOR THE INSTITUTIONAL DEVELOPMENT OF
PUBLIC-PRIVATE PARTNERSHIPS
(BR-M1026)
LOGICAL FRAMEWORK**

OBJECTIVES	INDICATORS	MEANS OF VERIFICATION	ASSUMPTIONS
OBJECTIVE			
To make public infrastructure services more widely available through private sector participation for better and more efficient allocation of available public funds.	<ul style="list-style-type: none"> The State implements more public and infrastructure services projects with private-sector participation. The participation of private firms in the bidding process increases. Users perceive that the quality of infrastructure services under public-private partnerships (PPPs) improved. 	<ul style="list-style-type: none"> Minutes of the PPP Steering Committee (CGAPP). Records of participation of firms in bidding process. Reports on ongoing monitoring of PPP project performance indicators by the MPPG's PPP Unit. Population surveys conducted by the PPP Unit. 	<ul style="list-style-type: none"> The Brazilian government maintains its political commitment to implementing its PPP program for infrastructure investment. The private sector perceives that risks are sufficiently mitigated under the PPP mechanism to attract greater participation from firms in the PPP bidding process.
PURPOSE			
Institutionalize the PPP methodology as a permanent system for public service delivery or infrastructure projects.	<p>By the end of the program:</p> <ul style="list-style-type: none"> By project end, the PPP Unit is operating with sufficient financial (budgetary) resources and trained human resources to properly perform its function as technical secretariat of the PPP Steering Committee. The PPP Unit effectively performs its function as technical support unit for sector ministries and state governments for the implementation of PPP projects. The PPP Unit has structured five PPP projects (three in addition to the two pilot projects under Component III). 	<ul style="list-style-type: none"> Final evaluation. Bidding documents and contracts. Minutes of PPP Steering Committee. Federal budget. Project performance monitoring report (PPMR) prepared by Country Office. Project completion report prepared by Country Office. Progress and final reports from Headquarters. 	<ul style="list-style-type: none"> The guarantee fund has been properly instituted and performs its function of mitigating the risk of failure by the federal government to comply with its PPP financial obligations.

OBJECTIVES	INDICATORS	MEANS OF VERIFICATION	ASSUMPTIONS
COMPONENTS			
I. Consolidation of the MPPG's PPP Unit, and support for sector ministries and states in implementing the PPP institutional structure.	<ul style="list-style-type: none"> By month 18, the administrative structure for the MPPG's PPP Unit is in place, and its technical team trained. At least two seminars have been held to disseminate the PPP methodology, attended by the sector ministries and state governments. Administrative procedures have been established for the Office of the Executive Secretary of the PPP Steering Committee. The MPPG's PPP Unit has a focal point for responding to the needs of states requesting support for implementation of PPP projects. 	<ul style="list-style-type: none"> Consultant reports. Progress reports. Headquarters reports. PPMR. 	<ul style="list-style-type: none"> The State budgets sufficient resources for the MPPG's PPP Unit to operate effectively.
II. Regulation and formalization of the PPP methodology.	<ul style="list-style-type: none"> By month 18, the PPP Unit has prepared the implementing regulations for the PPP Act, and other legal and regulatory documents necessary for PPP project implementation. By program end, at least two bidding processes have been held for PPP projects. 	<ul style="list-style-type: none"> Consultant reports. Progress reports. Headquarters reports. PPMR. 	<ul style="list-style-type: none"> Congress does not change the law such that regulations and legal documents for PPP project implementation need to be reformulated or amended.
III. Support for the structuring of PPP projects.	<ul style="list-style-type: none"> By month 18, the MPPG's PPP Unit has finished the technical studies and structuring of the two pilot projects. By program end, the private partners have been selected, and execution of the pilot projects has begun. 	<ul style="list-style-type: none"> Consultant reports. Progress reports. Headquarters reports. PPMR. 	<ul style="list-style-type: none"> There are no regulatory or judicial obstacles to the development and implementation of PPP projects. The guarantee fund for PPP projects has been created, and the private sector perceives it as an effective mechanism to facilitate its participation in PPP projects. Interest and resources exist in the private sector for participation in PPP projects.

OBJECTIVES	INDICATORS		MEANS OF VERIFICATION	ASSUMPTIONS
ACTIVITIES				
Component I activities <div><div>i.</div>Create organizational model and structure of MPPG’s PPP Unit.<div>ii.</div>Train technical team at the MPPG’s PPP Unit.<div>iii.</div>Disseminate the PPP methodology, and support state governments in implementing PPP programs.<div>iv.</div>Disseminate the PPP methodology to the private sector and civil society.<div>v.</div>Establish an administrative and logistical support structure for institutionalization of the federal PPP program.</div>	MIF Counterpart Total	US\$546,680 US\$412,060 US\$958,740 <ul style="list-style-type: none">• The PPP Unit is up and running.• At least three training courses have been held with representatives of sector ministries and interested states.• Regular meetings are held with representatives of the private sector, civil society and government employees from sector ministries and state governments throughout the project execution period.	<ul style="list-style-type: none">• Consulting contracts and reports.• Project execution progress reports.• Financial execution timetable.• Project accounting report.• Reports on training courses, including budget, attendees and curriculum.	<ul style="list-style-type: none">• The work of the PPP Unit attracts qualified professional staff.• The federal government maintains its interest in PPP implementation.• Private sector and civil society participate in seminars.
Component II activities <div><div>i.</div>Provide technical assistance for the regulations implementing Law 11079/2004.<div>ii.</div>Support the development of legal procedures and instruments for the contracting, execution, audits, and performance assessment of PPP contracts.</div>	MIF Counterpart Total	US\$270,040 US\$213,640 US\$483,680 <ul style="list-style-type: none">• Regulations implementing Law 11079/2004 have been drafted.• The technical studies, bidding documents, and model contracts for PPPs have been prepared.	<ul style="list-style-type: none">• Regulations implementing Law 11079/2004 have been formally approved.• Bidding documents and model contracts for PPP contracts have been formally approved.• Consulting contracts and reports.• Project progress report.• Financial execution timetable.• Project accounting report.	<ul style="list-style-type: none">• The PPP Steering Committee promptly reviews the technical documents prepared by the PPP Unit team.
Component III activities <div><div>i.</div>Identify and select projects for addition to the PPP project portfolio.<div>ii.</div>Preliminary structuring of projects.<div>iii.</div>Structure two pilot projects.<div>iv.</div>Document lessons learned and know-how gained during the design and structuring of the pilot projects, and compile good practices.</div>	MIF Counterpart Total	US\$1,471,730 US\$1,701,780 US\$3,173,510 <ul style="list-style-type: none">• Projects to be a part of the PPP portfolio have been identified.• The two pilot projects have been selected.• Structuring, studies and documentation have been completed for the two pilot projects.	<ul style="list-style-type: none">• Consulting contracts and reports.• Project progress reports.• Financial execution timetable.• Project accounting report.	<ul style="list-style-type: none">• The PPP Steering Committee approves bidding documents and contracts.• No legal action is brought.

BR-M1026 - IDB/MIF**National Program for the Institutional Development of Public-Private Partnerships**

COMPONENTS/ACTIVITIES	Activity type	Reference	Qty.	Unit cost	MIF	Counterpart			TOTAL	
						Financial	Economic	Total		
I	Consolidation of the MPPG’s PPP Unit, and support for sector ministries and states in implementing the PPP institutional structure					546,680	183,000	229,060	412,060	958,740
1.1.	Determine the organizational model and structure for the PPP Unit					0	30,000	66,000	96,000	96,000
i.	Evaluate and develop institutional design for PPP unit	Consulting assignment	Output	1	30,000	0	30,000	0	30,000	30,000
ii.	Human resources management for PPP Unit	Technical team	Month	20	2,200	0	0	44,000	44,000	44,000
iii.	Develop administrative and support processes for the Office of the Executive Secretary of the PPP Steering Committee	Consulting assignment	Month	10	2,200	0	0	22,000	22,000	22,000
1.2.	Train technical staff at sector ministries at the federal and state levels					170,000	60,000	118,060	178,060	348,060
i.	Training courses	Courses		10	14,000	80,000	60,000	0	60,000	140,000
ii.	Seminars to disseminate the PPP methodology and know-how to states and sector ministries	Seminars		12	5,000	60,000	0	0	0	60,000
iii.	Exchanges (secondment) with institutions with experience in PPP implementation (PUK, EIB)	International travel		4	1,500	0	0	6,000	6,000	6,000
		Financial assistance	Month	16	2,000	0	0	32,000	32,000	32,000
		Remuneration	Month	16	2,750	0	0	44,000	44,000	44,000
iv.	Attend seminars organized by other institutions on infrastructure financing and PPPs	Local seminars		18	1,000	18,000	0	0	0	18,000
			Travel	18	350	0	0	6,300	6,300	6,300
			Per diem	27	80	0	0	2,160	2,160	2,160
		International seminars		6	4,000	12,000	0	12,000	12,000	24,000
			Travel	6	1,200	0	0	7,200	7,200	7,200
			Per diem	24	350	0	0	8,400	8,400	8,400
1.3.	Support PPP program implementation at the state level					177,180	50,000	0	50,000	227,180
i.	Operational manual guidelines for PPP program implementation at the state level	Consulting assignment	Output	1	50,000	0	50,000	0	50,000	50,000
ii.	Technical assistance for PPP program implementation at the state level	Specialized technical team	Month	28	6,000	168,000	0	0	0	168,000
		Travel		18	350	6,300	0	0	0	6,300
		Per diem		36	80	2,880	0	0	0	2,880
1.4.	Communicate and disseminate the PPP concept to the private sector and civil society					97,500	43,000	15,000	58,000	155,500
i.	Develop manual on PPP concepts	Consulting assignment	Output	1	25,000	0	25,000	0	25,000	25,000
ii.	Produce dissemination materials	Materials		6,500	15	97,500	0	0	0	97,500

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COMPONENTS/ACTIVITIES	Activity type	Reference	Qty.	Unit cost	MIF	Counterpart			TOTAL
						Financial	Economic	Total	
iii.	Create and maintain the PPP Unit's website ("APP Brasil")	Technical team	Month	30	500	0	0	15,000	15,000
iv.	Seminars on public service delivery via PPP contracts	Seminars		6	3,000	0	18,000	0	18,000
1.5.	Structure and administrative and financial support for program execution (PEU)				102,000	0	30,000	30,000	132,000
i.	Equipment (hardware, software, printers)	Equipment		15	800	0	0	12,000	12,000
		Software		6	3,000	18,000	0	0	18,000
ii.	Monitoring of execution and administrative, accounting, and financial control (PEU)	Technical team	Month	36	500	0	0	18,000	18,000
		Specialized technical team	Month	30	2,800	84,000	0	0	84,000
II	Regulation and formalization of the PPP methodology				270,040	150,000	63,640	213,640	483,680
2.1.	Support the development of legal procedures and instruments for the contracting, execution, audits, and performance assessment of PPP contracts, and regulations implementing the PPP Act				270,040	150,000	63,640	213,640	483,680
i.	Develop a methodology for submission and structuring of PPP projects	Consulting assignment	Output	1	120,000	120,000	0	0	120,000
iii.	Regulations implementing the PPP Act, and other legal instruments to support the Steering Committee and PPP Unit	Consulting assignment	Month	28	6,000	168,000	0	0	168,000
		Technical team	Month	28	2,200	0	0	61,600	61,600
iv.	Prepare the standard documents to be used for PPP contracting (bidding conditions, model contract, and related agreements)	Consulting assignment	Output	1	150,000	0	150,000	0	150,000
v.	Develop model report and monitoring system for PPP contracts	Consulting assignment	Output	1	100,000	100,000	0	0	100,000
		Domestic travel		8	350	1,400	0	1,400	2,800
		Per diem		16	80	640	0	640	1,280
III	Support for the structuring of PPP projects				1,471,730	1,458,000	243,780	1,701,780	3,173,510
3.1.	Identify, select, and prestructure PPP projects				178,710	168,000	133,910	301,910	480,620
i.	Identify sectors and projects eligible for the PPP project portfolio, and develop a methodology for selection and ranking of projects	Technical team	Month	28	2,200	0	0	61,600	61,600
ii.	Analysis of legal compatibility of PPP projects with relevant sector legislation	Consulting assignment	Month	28	6,000	0	168,000	0	168,000
iii.	Preliminary viability assessment and prestructuring of projects, including: (a) participation of public and private stakeholders; (b) business considerations; (c) risk matrix; (d) technical considerations; (e) economic and budgetary viability; (f) project funding	Consulting assignment	Month	28	6,000	168,000	0	0	168,000
		Technical team	Month	28	2,200	0	0	61,600	61,600
		Domestic travel		42	350	7,350	0	7,350	14,700

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COMPONENTS/ACTIVITIES		Activity type	Reference	Qty.	Unit cost	MIF	Counterpart			TOTAL
							Financial	Economic	Total	
	(*) Economic and category: housing, (*) project: housing	Per diem		84	80	3,360	0	3,360	3,360	6,720
3.2.	Structuring of 2 pilot projects					1,220,000	1,220,000	82,450	1,302,450	2,522,450
i.	Coordination of project development	Technical team	Month	34	2,200	0	0	74,800	74,800	74,800
ii.	Market studies	Consulting assignment	Output	2	130,000	130,000	130,000	0	130,000	260,000
iii.	Environmental and social impact studies and development of countervailing and mitigating measures	Consulting assignment	Output	2	140,000	140,000	140,000	0	140,000	280,000
iv.	Engineering studies and project technical studies	Consulting assignment	Output	2	400,000	400,000	400,000	0	400,000	800,000
v.	Economic/financial evaluation	Consulting assignment	Output	2	300,000	300,000	300,000	0	300,000	600,000
vi.	Legal structuring (special bidding conditions and contracts) and support for bidding process and proposal evaluation	Consulting assignment	Output	2	250,000	250,000	250,000	0	250,000	500,000
		Domestic travel		15	350	0	0	5,250	5,250	5,250
		Per diem		30	80	0	0	2,400	2,400	2,400
3.3.	Performance monitoring and evaluation and definition of good practices					73,020	70,000	27,420	97,420	170,440
i.	Monitoring and evaluation of pilot project outcomes	Consulting assignment	Month	12	6,000	72,000	0		0	72,000
		Technical team	Month	12	2,200	0	0	26,400	26,400	26,400
ii.	Development and publication of PPP project structuring and solicitation guidelines	Consulting assignment	Output	1	70,000	0	70,000	0	70,000	70,000
		Domestic travel		4	350	700	0	700	700	1,400
		Per diem		8	80	320	0	320	320	640
IV	Evaluations (midterm and final) (*)	Consulting assignment	Outputs	2	20,000	40,000	0	0	0	40,000
V	Contingencies	-	-	-	-	121,550	122,520	0	122,520	244,070
TOTAL						2,450,000	1,913,520	536,480	2,450,000	4,900,000

(*) Audit to be done by the Office of the Federal Inspector General of the Federal Secretariat for Oversight (CGU/SFC).

MIF Projects in the Public-Private Partnership Cluster
NATIONAL PROGRAM FOR THE INSTITUTIONAL DEVELOPMENT OF PUBLIC-PRIVATE PARTNERSHIPS
(BR-M1026)

A. Similar or related projects

Project number / date of approval	Project title, sector, executing agency, and amount	Date of signature and original disbursement period in months	Percentage disbursed	Comments
ATN/MT-5531-BR April 1997	Consolidation of the State of São Paulo's transport concessions program Department of Transportation, State of São Paulo US\$1.14 million	--	--	Cancelled.
ATN/MT-5975-BR May 1998	Regulatory framework for private investment in the irrigation sector Banco de Noreste US\$1.4 million	September 1998 48 months	95.73%	Project at the final stage of execution.
ATN/MT-6003-BR June 1998	Sanitation regulatory framework and concession development for the State of Goiás Agencia Goiana de Regulación, Control y Fiscalización de Servicios Públicos (AGR) US\$1.4 million	August 1998 30 months	50%	Project reformulated in October 2001 to change the original executing agency, Empresa de Saneamiento de Goiás (SANEAGO), to Agencia Goiana de Regulación, Control y Fiscalización de Servicios Públicos (AGR).
ATN/MT-6982-BR May 2000	Regulation of private health plans Department of Health US\$3.1 million	May 2001 30 months	100%	Sufficient counterpart resources were unavailable until May 2002. Project is proceeding normally.

B. Similar or related Bank projects

Project number / date of approval	Project title, executing agency and amount	Date of signature and original disbursement period in months	Percentage disbursed	Comments
ATN/IT-7852-BR (TC-0202013) April 2002	Supporting the Brazilian Government in the establishment of the Public Private Partnership (PPP) Brazil Initiative Ministry of Planning US\$120,000	June 2002 6 months	68%	Project in execution.
BR-L1010	Brazilian Infrastructure Investment Fund National Economic and Social Development Bank US\$300 million	In preparation	--	Project being prepared by RE1/FI1.
1560 OC-BR (BR-L1011)	Brazil Infrastructure Investment Fund US\$75 million	June 2004	--	Project in execution.
ATN/II-9389-BR (BR-T1030) September 2005	Legal advice on the bid process for Ferrocarril Norte-Sur US\$150,000	September 2005 6 months	--	
ATN/MT-8724-BR (BR-M1001) May 2004	Public-private partnership (PPP) program for the State of Minas Gerais US\$675,000	May 2004	--	

C. Projects related to the same sector or beneficiaries (2 projects)

None.

DOCUMENT OF THE INTER-AMERICAN DEVELOPMENT BANK
MULTILATERAL INVESTMENT FUND

PROPOSED RESOLUTION

Brazil. Nonreimbursable Technical Cooperation for a National Program for the
Institutional Development of Public-Private Partnerships

The Donors Committee of the Multilateral Investment Fund

RESOLVES:

1. That the President of the Inter-American Development Bank or such representative as he shall designate is authorized, in the name and on behalf of the Bank, as Administrator of the Multilateral Investment Fund, to enter into such agreements as may be necessary with the Federative Republic of Brazil, and to take such additional measures as may be pertinent for the execution of the project proposal contained in document MIF/AT- with respect to a technical cooperation program for a national program for the institutional development of public-private partnerships.
2. That up to the amount of US\$2,480,000, or its equivalent in other convertible currencies, shall be authorized for the purpose of this resolution, chargeable to the technical cooperation resources of the Technical Cooperation Facility of the Multilateral Investment Fund.
3. That the above-mentioned sum is to be provided on a nonreimbursable basis.