AKWA IBOM STATE FCCL FRAMEWORK

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Acronyms/Abbreviations

AG	Accountant General
AO	Accounting Officer
CA	Contracting Authorities
CL	Contingent Liabilities
DMO	Debt Management Office
DML	Debt Management Law
FCCL	Fiscal Commitments and Contingent Liabilities
FDMO	Federal Debt Management Office
ExCo	Executive Council
FBC	Full Business Case
FC	Fiscal Commitments
FCCL register	Fiscal Commitments and Contingent Liabilities Register
FRC	Fiscal Responsibility Commission
FRL	Fiscal Responsibility Law (FRL)
IFI	International Financial Institutions
IPSAS	International Public Sector Accounting Standards
AKSG	Akwa Ibom State Government
AKICORP	Akwa Ibom Investment Corporation
LTFP	Long Term Fiscal Planning
MAGA	Material Adverse Government Actions
MDA	Ministry, Department and Agencies
MTEF	Medium-Term Expenditure Framework
OBC	Outline Business Case
OPPP	Office of Public Private Partnership
P&BC	Planning and Budget Commission
PDT	Project Delivery Team
PFF	Project Facilitation Fund
PFS	Pre-Feasibility Study
PFM	Public Financial Management
PFRAM	PPP Fiscal Risk Assessment Model 2.0
PFRM	Project Fiscal Risk Matrix
PFRR	Project Fiscal Risk Register
PIM	Public Investment Management
PO	Project Officer
PPIAF	Public-Private Infrastructure Advisory Facility
PPP	Public Private Partnership
PPPManual	Public Private Partnership Manual
VfM	Value for Money

1. Introduction

1.1 Purpose of developing an FCCL framework

This Fiscal Commitments and Contingent Liabilities (FCCL) Framework provides a structured approach for Akwa Ibom State to identify, assess, manage, and report fiscal risks arising from Public-Private Partnerships (PPPs). PPPs are essential for addressing infrastructure gaps in sectors such as transportation, energy, housing, healthcare, and agriculture, leveraging private sector expertise and capital to accelerate development under the State's ARISE Agenda. However, without robust governance, PPPs can create long-term fiscal burdens through direct commitments (e.g., availability payments, subsidies) and contingent liabilities (e.g., guarantees, termination payments), potentially straining the State's budget and debt sustainability.

1.1.1 PPP project pipeline

The PPP landscape in Akwa Ibom State has taken more traction with the recent PPP formalization of the PPP Unit in AKICORP which has been backed by law. .

The underlisted projects are selected PPP pipeline projects out of many currently ongoing in the State. However, the FCCL Framework applies broadly to all present and future PPP projects. These projects are spread across key infrastructure sectors of Akwa Ibom State, including:

- **Agriculture**
  - Ibom Model Farm: A 50-hectare flagship project in Nsit Ubium modeled after Songhai Farms to demonstrate mechanized excellence.
  - **Tree Crop Revolution:** A major 2025/2026 initiative focusing on oil palm, cocoa, and coconut plantations.
  - **Agro-Processing:** Opportunities in palm oil refining (projected 30% annual revenue growth), cassava processing, and seafood value-addition.

- **Energy – (Ministry of Power and Energy)**
  - Ibom Power Plant

- **Tourism and Hospitality**
  - ARISE Palm Resort: Transformation of a 73-hectare landscape into a world-class business and leisure park.
  - Ibom Hotel & Golf Resort: Complete overhauling and upgrading of this 5-star facility to maintain its status as a premier African destination.
  - MICE Tourism: The Ibom International Convention Centre (5,000 capacity) is under construction to drive Meetings, Incentives, Conventions, and Exhibitions

- **Aviation Ecosystem**
  - African MRO: Africa's first state-owned MRO facility to service regional and international aircraft.
  - Victor Attah International Airport: Recent completion of the world-class international terminal building at Victor Attah International Airport.
  - Raspernium – Aviation Village: A comprehensive support hub for pilots, crew, and technical staff

- **Health and Medical Tourism**
  - **Ibom Medical Corridor:** Integration of the 350-bed **Ibom International Hospital** with specialized referral centers.
  - **Model Primary Healthcare:** 31 newly commissioned model centers (one per LGA) to ensure grassroots health coverage.
  - **Medical Oxygen Plant:** Production facility in Ituk Mbang to support regional medical needs

- **Education and Human Capital Development**
  - **Model Secondary Schools:** Establishment of 31 state-of-the-art model schools with digital learning infrastructure.
  - **ARISE Sports Academy:** Targeted investment in youth talent and professional sports education.
  - **Skills Acquisition:** Heavy investment in TVET (Technical and Vocational Education and Training) to provide a skilled workforce for the industrial sector

- **Housing – (Ministry of Trade and Investment)**
  - Ewet Luxury Garden Estate
  - ARISE Green Park

- **Maritime and Industry**
  - Ibom Deep Seaport and Industrial City

Table 1-1: EBSG current PPP project pipeline

S/N	PPP PIPELINE PROJECT	SPONSORING MDA	SECTOR	VALUE	STAGE
1	Ibom Model Farm	Ministry of Trade and Investment & Ministry Of power and Energy	Agriculture	US$	Commencement
2	Tree Crop Revolution	Agribusiness Unit	Agriculture	N6 Billion	Commencement
3	Dakkada Global Oil Palm Plantation and Mill	AKSG (AKICORP)	Agriculture	$6.4 million	Reactivation
	St Gabriel Coconut Plantation and Oil Refinery Ltd	AKSG (AKICORP)	Agriculture	$16 million	Concessioning
4	Ibom Power Plant	AKSG (AKICORP)	Energy	$71 million	Concessioning

5	Ibom Deepsea Port/ Ibom Industrial City		Maritime	$4.6 billion	Preliminary Feasibility
6	Liberty Free Trade Zone		Maritime		Documentation
7	ARISE Palm Resort		Tourism and Hospitality		Ongoing
8	Ibom Hotel & Golf Resort	AKSG (AKICORP)	Tourism and Hospitality	$4.95	Reactivation
9	Ibom Convention Centre		Tourism and Hospitality		Commencement
10	Ibom Tropicana Mall		Tourism and Hospitality		Reactivation
11	Ibom Airlines LImited	AKSG (AKICORP)	Aviation	$169.4 million	Operational
12	MRO		Aviation		Completion
13	Victor Attah International Airport		Aviation		Operational
14	Raspernium - Aviation Village		Aviation		Commencement
15	Ibom				
16	Ibom International Hospital		Health & Medical		
17	Ewet Luxury Garden Estate		Housing		

1.2 Components of the FCCL Framework

The FCCL Framework is divided into two main sections:

i **FCCL Guidelines**: This provides a detailed description of fiscal liabilities arising from the execution of PPP agreements. It presents how they should be managed through the project life cycle in accordance with the legal, institutional and regulatory framework.

ii **FCCL Technical Guidance**: This presents the methodologies for measuring and valuing direct and contingent liabilities. It describes how they are applied in the Long- Term Fiscal Planning (LTFP)Tool which has been developed to monitor these liabilities.

2. FCCL Guidelines

2.1 Overview

2.1.1 Introduction

The objective of the FCCL Framework is to provide a platform for officials of the Akwa Ibom Investment Corporation (AKICORP), Akwa Ibom State Ministry of Finance, Akwa Ibom State Ministry of Budget and Economic Planning, Fiscal Responsibility Board (FRC), Debt Management Office (DMO) and the Contracting Authorities, to assess and manage PPP projects.

2.1.2 Regulatory framework

This section summarizes the existing regulatory framework for PPPs and PFM in Akwa Ibom State and its impact on developing the FCCL Guidelines.

Effective governance is the backbone of fiscal risk management. Without clearly defined responsibilities, fiscal costs can be underestimated, and moral hazard may arise when line ministries push ahead with projects assuming the Finance Ministry will cover any shortfall. Akwa Ibom State therefore assigns roles to multiple institutions and establishes coordination mechanisms to ensure that no single entity dominates the process.

2.1.3 Key institutions and their roles

Institution	Role
Office of Public-Private Partnerships (OPPP)	Coordinates PPP project development, procurement and contract management. Provides technical assistance to line ministries ensures compliance with PPP law and maintains standardised procurement documents.
Ministry of Economic Planning and Budget (MEPB)	Integrates PPP fiscal commitments into the **Medium Term Expenditure Framework (MTEF)** and annual budgets. Ensures that long-term payment obligations are consistent with fiscal ceilings and sectoral priorities.
Ministry of Finance (MoF)	Leads fiscal policy, assesses guarantees, viability gap funding and payment obligations. Maintains the fiscal commitment tracker and contingent liability dashboard, performs scenario analysis and approves risk mitigation instruments. International experience shows that having the finance ministry centrally review PPP proposals demonstrates government commitment to private partners and reduces uncertainty.
Debt Management Office (DMO)	Evaluates whether PPP debt should be recognized as public liabilities for debt sustainability analysis; manages guarantees and monitors contingent liabilities.
Attorney General's Office	Provides legal vetting of PPP contracts, ensures enforceability of risk allocation and termination clauses.
Akwa Ibom State House of Assembly	Approves fiscal commitments and guarantees exceeding statutory thresholds, providing democratic oversight.
Line Ministries and Contracting Authorities	Identify projects, prepare business cases, implement projects and monitor performance. They are responsible for first level risk identification and must cooperate with PPP and MoF for fiscal assessments.

2.1.4 COORDINATION MECHANISM

To ensure that fiscal risk management is not fragmented, the framework establishes a **PPP Fiscal Risk Management Committee (PFRMC)** comprising senior representatives from the OPPP, MEPB, and MoF. The committee:

- **Reviews fiscal risk assessments** during the Outline Business Case (OBC) and Full Business Case (FBC).
- **Approves risk mitigation strategies**, including guarantees, reserve funds and insurance instruments.
- **Monitors compliance with aggregate fiscal ceilings** and recommend corrective actions when limits are approached.
- **Reports to the State Executive Council and the House of Assembly**, ensuring accountability and transparency.

2.1.5 Legal and policy instruments

Instrument	Purpose
Akwa Ibom State PPP Law	Provides the legal foundation for PPPs, defines institutional roles, sets procurement procedures and specifies approval requirements.
Fiscal Responsibility Law	Sets fiscal rules, defines debt and deficit limits and requires disclosure of contingent liabilities.
Debt Management Guidelines	Establish criteria for issuing guarantees, managing public debt and determining when PPP obligations should be recognized as public liabilities.

Instrument	Purpose
Public Procurement Law	Ensures competitive and transparent procurement, outlines bidding procedures and prohibits direct negotiation without competitive tendering.
Budget Rules and MTEF Procedures	Require that PPP commitments be integrated into multi-year budgeting and disclosed in fiscal risks tatements.

2.1.6 Application of FCCL framework

The FCCL Framework will be mandatory for all PPP projects submitted for consideration and approval by AKICORP.

The FCCL Framework is a dynamic document that will be refined and revised periodically as the PPP program evolves. The framework describes the management of FCCL across the PPP project life-cycle, including milestones for assessment and approvals.

It also provides detailed technical guidance for the identification and assessment of FCCL at project development stage and their monitoring and reporting during project operation.

2.2 PPP Fiscal Liabilities and Risks

While PPPs can offer a range of benefits both qualitative and quantitative, they have fiscal implications. PPPs are not “cost-free” to government. Although PPPs are viewed as means of leveraging financial resources from the private sector, government assumes fiscal commitment over the life of the contract as set out under the PPP agreement.

2.2.1 Public liabilities under PPP

Under a PPP arrangement, the government almost always bears some risk which can take the form of support that gives rise to a non-going Fiscal Commitment (FC)-either a CL or an actual direct liability.

- A **Direct Liability (DL)** takes the form of a defined and quantified undertaking to pay or carry a funding obligation for a feature, phase or item in a PPP project essential to its development, operation and/or completion. Its salient characteristic is that the occurrence of the payment obligation is known, although uncertainty may remain as to the size. Examples of such direct liabilities include: (i) supplying the land needed for the project; (ii) upfront "viability funding gap" payments, in which the government makes a capital contribution to ensure a project that is economically desirable but commercially unattractive can proceed; and (iii) annuity or availability payments in which a regular unitary payment over the life of a project is conditional on the availability of the service, etc.

- A **Contingent Liability (CL)** is an obligation that arises from a particular discrete but uncertain future event (i.e. one that may or may not occur) that is outside the control of the government. For CL, the occurrence (trigger event), value, and timing of a payment may all be unknown or cannot be definitively determined. Such liabilities include guarantees on specific risk variables e.g. exchange rate, inflation, prices and traffic, force majeure, termination payments and credit guarantees, among others.

Most FCs are explicitly specified in PPP agreements. However, FCs can also come from implicit sources. For example, a letter of support for a specific project may be considered a type of guarantee for some stakeholders. Also, political or socially sensitive projects maybe expected to be rescued by government in the event of financial distress.

Additionally, increase of existing obligations or creation of new obligations may arise from contract adjustments and re-negotiations. They may, for example, significantly modify the costs of the projects and the payments to be made by Government.

Even though direct liabilities are often considered more predictable than contingent liabilities, there can also be some uncertainty with respect to certain components. For example, the project agreement of a toll road project may include a service payment defined as an annual payment to be made by the government to the concessionaire based on the availability indicators set out in the agreement. This service payment can change due to a change in several factors - inflation, exchange rate, local interest rate, change of scope, increase of road size, and other components which may lead to change in the amount and/or timing of payments. Hence, direct liabilities can also carry a significant amount of uncertainty.

2.2.2 Contingent Liabilities Management

Contingent liabilities are potential obligations that may crystallize if specified events occur. They include guarantees of debt, revenue or demand, termination payments and compensation arising from legal claims. When triggered, they can have a significant impact on public finances. Proper identification, quantification and management are therefore critical.

i. Types of contingent liabilities

Liability Type	Description
Demand guarantees	Payments triggered if user demand falls below an agreed threshold (e.g. minimum revenue guarantee).
Debt guarantees	The State agrees to cover debt service if the private partner defaults. This ensures lenders recover their principal but exposes the State to credit risk.

Termination Payments	Compensation owed to the private partner if the contract is terminated prematurely
Legal Claims and Arbitration	Costs arising from disputes, litigation or arbitration. Many claims occur when risk allocation is ambiguous or the government changes policy.
Operational Guarantees	Assurances covering specific inputs or exchange rate fluctuations.

ii Identification and classification of Contingent liabilities

Contingent liabilities should be identified early in the project cycle and documented in a **Contingent liability register**. Each liability is classified by:

1. **Trigger event**–The specific circumstance that would cause the liability.
2. **Risk owner**–The party (State, private partner, insurers) responsible for the liability. Good risk allocation assigns risks to the party best able to manage them.
3. **Probability**– An assessment of how likely the trigger event is to occur, based on historical data, market analysis and expert judgment.
4. **Time horizon**–When the liability might materialize.

iii. Mitigation strategies

Mitigation reduces the probability or impact of contingent liabilities:

Strategy	Description
Contractual safeguards	Clear clauses allocate risks to the party best able to manage them. Termination compensation should be capped and formula based to avoid negotiation disputes.
Insurance instruments	Transfer specific risks to insurers. Premium costs must be weighed against expected savings.
Reserve funds	Dedicated funds set aside to meet contingent liabilities, such as a PPP contingency reserve or maintenance reserve. Annual contributions should be made during fiscal surpluses to build buffers.
Performance bonds and parent-guarantees	Require the private partner to post financial guarantees that can be called upon if the partner defaults or fails to deliver.

Strategy	Description
Indexed tariffs and revenue adjustment mechanisms	Adjust user charges based on inflation or demand to reduce the likelihood that demand guarantees are triggered.

3. FCCL Technical Guidance

Overview

The purpose of the technical guidance is to

- Develop an analytical process to identify, assess and monitor FCCL during the project life cycle of PPP projects
- Detail a methodology for implementing the tools involved in the management of FCCL including pre-formatted tools for the identification and quantification of FCCL.

FCCL Management during Project Development Stage

The project development stage covers all the steps taken to design, prepare and procure a PPP project. The FCCL framework includes: (1) the identification and assessment of FCs and risks, and (2) the assessment of affordability. Both activities will help authorities to take well-informed decisions over the project.

This section sets out:

- The identification and evaluation of PPP fiscal risks through the PFRM and Project Fiscal Risk Register (PFRR);
- The calculation of FCCL through the FCCL Register and Affordability;

3.2.1 Identification and evaluation of PPP fiscal risks through the PFRM

Risk allocation is a centerpiece of structuring a PPP agreement. The basic principle is that each risk should be allocated to the party best able to manage it. Risks may be allocated to one party or shared in a specified way.

During the preparation of a PPP project, the assessment and allocation of project risks should be completed. The CA (or the Transaction Advisors appointed for the project by the CA or OPPP as the case may be) should create a risk matrix and a risk register, documenting the evaluation of the likelihood and impact of each risk at the OBC stage. These should be periodically assessed by the CA.

3.2.1.1 Rationale

Assessing the fiscal implications of a PPP agreement involves the identification and allocation of risks of the project, definition of payment mechanism, and determination of the other financial obligations and rights of parties. In practice, the base information needed shall be found in the risk analysis and risk matrix within the relevant feasibility studies. For active projects, these would be determined based on a review of project agreements, letters of support, guarantee instruments, and other relevant project documentation.

PPP project agreements, letters of support and other forms of explicit government support provide the baseline information on FCCL arising from PPP projects. They contain the core financial provisions, namely: the payment mechanism and allowed adjustments to availability payments; tariff-based payments; guarantees and trigger conditions; and termination payments.

However, the project documentation may not explicitly contain all risks and therefore their fiscal impact not fully understood. For instance, a government may take revenue risk and pay to the concessionaire an availability payment. In this case, the contract

provides the terms of the availability payment yet does not set out the effects of, for instance, real demand falling below expectations. Hence, the risk matrix complements the contract agreement in identifying FCs and fiscal risks.

In addition, fiscal risks may also result from risks not identified or not clearly allocated in the contract. The most obvious is the risk that the private partner does not have the managerial capacity to implement the project or face the stipulated risks, culminating in its bankruptcy and potentially the failure of the project. Project finance solutions, with limited or no recourse to the assets of the borrower, require a careful assessment of the capital and private-sector guarantees needed for sound project execution to spread the risk among multiple investors, insurers, and diverse financial entities.

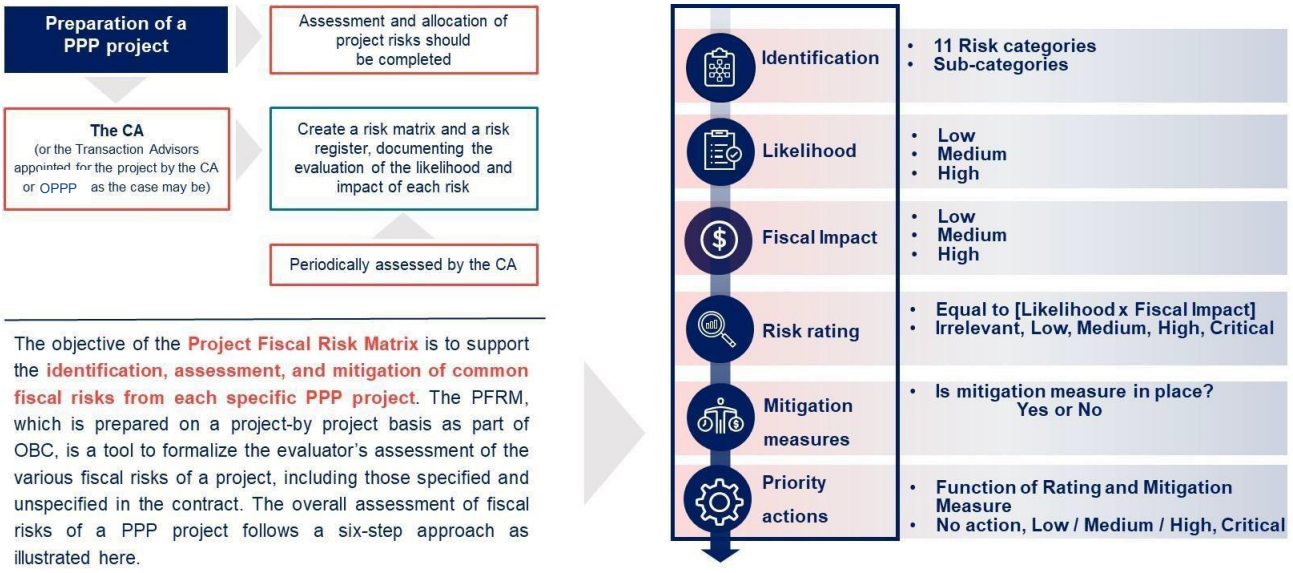
Changes to the project and the contract, especially if not triggered by the private partner, can generate a fiscal risk. When negotiating and agreeing to such changes, the private partner always has greater leverage than the CA as the project incumbent. The two most common sources for such changes are as follows:

- Fiscal costs related to changes in scope or policy changes introduced by government during the term of the contract. Typical examples for this are:
- (1) transferring some cost overruns to the government when the government asks for changes in project design, or
- (2) renegotiating the contract when the government decides to change the user-fee structure in response to lower-than-expected demand. It is key to understand the FCCL impact of such government-initiated changes on PPPs and conduct the cost-benefit analysis of initiating such changes in this context.
- Fiscal costs triggered by exogenous changes resulting, for example, from technological improvements, demographic movements, or changes in consumers' preferences. It is crucial for the government to manage the consequences of exogenous changes in a continuous and proactive manner to mitigate the impact on projects and provide solutions to challenges.

The objective of the **Project Fiscal Risk Matrix** is to support the **identification, assessment, and mitigation of common fiscal risks from each specific PPP project**. The PFRM, which is prepared on a project-by project basis, is a tool to formalize the evaluator's assessment of the various fiscal risks of a project, including those specified and unspecified in the contract. The overall assessment of fiscal risks of a PPP project follows a six-step approach as illustrated in Figure 3-1.

The PFRM should be prepared as per the provisions of this Section 3.2.1 as part of the OBC preparation under Step 7 as illustrated in the Figure 2-1: PPP Project Planning and Budgeting, Procurement and Approval Process Cycle lifecycle .

Figure 3-1: Assessment of Fiscal Risks



3.2.1.2 Approach to PFRM

a. Identification of fiscal risks (and allocation)

The identification of fiscal risks focuses on those risks that may have significant fiscal implications.

In doing so, it looks into both contractual risks and other risks not allocated directly by contract (for example, risks arising from the governance structure, legal framework, or government institutional capacity). It does not assess all of the potential risks that can arise during the project cycle

Based on the World Bank's PPP Fiscal Risk Assessment Model (PFRAM 2.0) instrument, 11 major categories of risks and 40 subcategories are to be captured in the PFRR. The main risk categories, as well as the subcategories included in PFRAM 2.0, are presented in Table 3-1.
3.3.3Appendix A presents a detailed illustration of risks and sub-risks. Appendix B provides a detailed questionnaire as to how these risks should be assessed by a CA (or Transaction Advisor appointed for the project).

Table 3-1: Risk categories

Main Risk Category	Number of Risks Subcategories
1 Governance Risks	3 detailed risks
2 Construction Risks	11 detailed risks
3 Demand Risks	7 detailed risks
4 Operation & Performance Risks	6 detailed risks
5 Financial Risks	4 detailed risks
6 Force Majeure Risks	No Subcategories
7 Material Adverse Government Actions (MAGA)	No subcategories
8 Change in Law	No Subcategories
9 Rebalancing of Financial Equilibrium	3 detailed risks

10 Renegotiation Risks	No Subcategories
11 Contract Termination Risks	2 detailed risks

Source: PFRAM 2.0 User Manual

At the early stage of the project design, and when preparing the draft contract, it is recommended that CAs:

- Review the major risk categories.
- Identify the important fiscal risks from the project that should be covered in the PPP agreement or the legal framework.
- Starts establishing the PFRR illustrated in Table 3-2.

Table 3-2: Project Fiscal Risk Register

Risk Identification		Allocation	Likelihood	Fiscal Impact		Rating	Mitigation
Category	*Event type*	*Govt /Private/ Shared*	*Probability of occurrence*	*Base Costs*	*Cost of occurrence*		*Measures and costs*
Governanc e	Risk A						
	Risk B						
Constructio n	Risk A						
	Risk B						
	Risk C						
Demand	Risk A						
Operation	Risk A						
	Risk B						

Risk allocation

As stated above (section 3.2.1.1), risk allocation is at the heart of PPP structuring. Risks may be allocated to either the Government or the private partner or shared. The more the risk is borne by the private partner, the less its occurrence will impact the Government purse. In its project risk assessment, the evaluator (CA or Transaction Advisor) should primarily focus on those borne by the Government or shared.

c. Assessment of Likelihood of risks

After identifying the relevant risks for a PPP project, the evaluator shall assess the likelihood of such risks materializing in the future.

Initially, it is sufficient to identify whether the likelihood is low, medium, or high. A number of factors can help determine the likelihood. For example, the logic illustrated in

Table 3-3 could be used as a reference.

Table 3-3: Risk likelihood assessment

	Low	Medium	High
Likelihood	• Very unlikely but not negligible • Would require highly unusual circumstances	• Likely and possible • Not unprecedented	• Very likely, almost certain • Extensive precedents

Source: PFRAM 2.0 User Manual

In case the risk rating is high, and it's further assessment is a priority in accordance with the project heat map (Table 3-5), the probability of occurrence may need to be determined for the purpose of contingent liabilities monitoring (section 3.2.2.1).

c. Estimation of fiscal impact of risks

Evidently, the most critical output when looking at FCCL is the cost of risk occurrence. It is also the most difficult to predict as most fiscal risks could have varying impact depending on how they materialize.

Firstly, the Project Officer (PO) / Accounting Officer (AO)[16] should evaluate the potential fiscal impact of a particular risk in a holistic manner from a qualitative perspective, providing as much information as possible to support the assessment of low, medium, or high.

For instance, this qualitative assessment could be made by comparison with the state GDP or with the project costs. The fiscal implications of governance risk materializing would be reflected also in terms of the government's loss of reputation, efficiency, availability, and transparency.

Table 3-4 provides an example of fiscal impact scale rating.

Table 3-4: Fiscal impact assessment of identified risks

Scale	Value	Fiscal Impact
Low	< 0,1% of GDP or < 5% of CAPEX	• Impact on government deficit and debt lower than X % of GDP (accumulated construction cost of the asset) • Minimal damage to government's reputation, service availability, and operation
Medium	0,1%-0,2% of GDP or 5%-25% of CAPEX	• Impact on government deficit and debt between X% and Y% of GDP (accumulated construction cost of the asset) • Limited damage to government's reputation, service availability, and operation
High	>0,2% of GDP or >25% of CAPEX	• Impact on government deficit and debt above Y % of GDP (accumulated construction cost of the asset) • Significant damage to government's reputation, service availability, and operation

Source: Based on PFRAM 2.0 User Manual

As per the likelihood, in case the severity of the risk is rated as high or critical in the project heat map (Table 3-5), the fiscal impact would need to be further determined for the purpose of contingent liabilities monitoring (section 3.2.2.1).

d. Determination of risk rating

The qualitative likelihood and fiscal impact are put together to estimate the overall risk rating (typically called the *severity of the risk*). This is done by combining the likelihood and fiscal impact, as show in Table 3-5. Risks assessed as having a high likelihood and a high fiscal impact, would be regarded as "critical". A "high" risk rating would be the result of a high likelihood and a medium fiscal impact, as well as a medium likelihood and a high fiscal impact.

Table 3-5: Example of Heat Map based on Risk Rating

Risk Rating = Likelihood x Fiscal Impact				
Fiscal Impact	High	Medium	High	Critical
	Medium	Low	Medium	High
	Low	Irrelevant	Low	Medium
		LOW	MEDIUM	HIGH
		Likelihood		

Source: PFRAM 2.0 User Manual

e. Identification of mitigation strategy

Possible mitigation measures vary with the risks. 3.3.3Appendix A presents a detailed illustration of risks, sub-risks and typical mitigation measures for each of the subcategories. These suggestions are not meant to be exhaustive; they represent typical mitigation measures based on international good practices.

For risks, the severity of which are rated high or critical, mitigation measures should be considered, and associated costs assessed.

f. Determination of priority actions

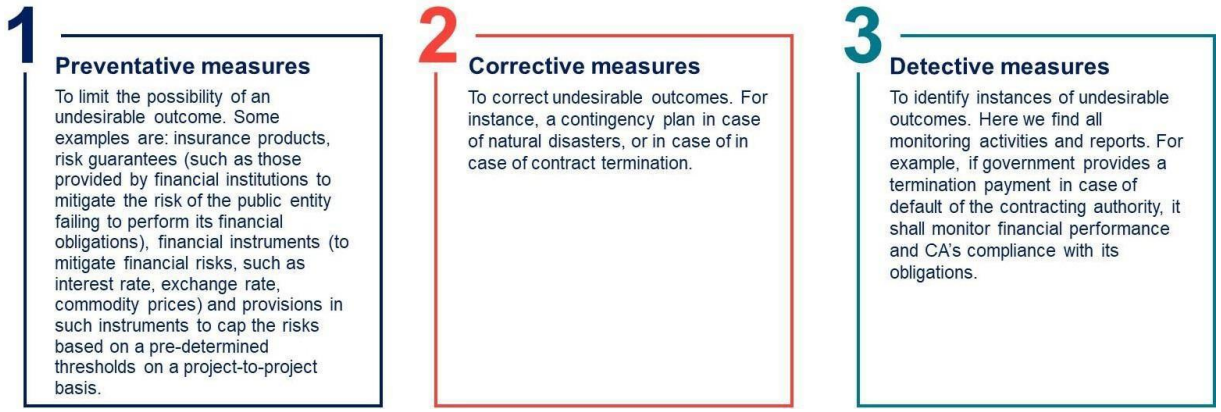
Based on the risk rating and the mitigation measures, an assessment of the priority of the required actions is to be undertaken as demonstrated in Table 3-6. The more severe risks - those with a high rating - should be addressed first. Risks rated as critical, paired with no mitigation measures in place, would result in the need to implement a "critical" priority action; the priority would be considered a "high priority" if mitigation measures exist. Addressing the less important risks, even if they are an easy fix, does not improve the overall risk profile of the project and does not reduce the risk for the government

Table 3-6: Prioritization of risk mitigation measures

Priority action = Risk rating x Mitigation measure						
Mitigation measure	NO	No action	Medium priority	High Priority	High Priority	Critical
	YES	No action	Low Priority	Medium priority	Medium priority	High priority
		Irrelevant	Low	Medium	High	Critical
		Risk Rating				

Source: PFRAM 2.0 User Manual

Depending on the stage of the project cycle, risks identified as areas for priority actions can be addressed as follows: (1) by changing the design of the project to avoid the risk—this is only relevant before the PPP is contracted; (2) by introducing additional mitigation measures; or (3) by creating fiscal space to absorb the potential fiscal cost if the risk materializes.



With respect to mitigation, the following are some suggested types of mitigation measures by the Government:

- *Preventive measures*: To limit the possibility of an undesirable outcome. Some examples are: insurance products, risk guarantees (such as those provided by financial institutions to mitigate the risk of the public entity failing to perform its financial obligations), financial instruments (to mitigate financial risks, such as interest rate, exchange rate, commodity prices) and provisions in such instruments to cap the risks based on a pre-determined thresholds on a project-to-project basis.
- *Corrective measures*: To correct undesirable outcomes. For instance, a contingency plan in case of natural disasters, or in case of contract termination.
- *Detective measures*: To identify instances of undesirable outcomes. Here we find all monitoring activities and reports. For example, if government provides a termination payment in case of default of the contracting authority, it shall monitor financial performance and CA's compliance with its obligations.

For each project, the compilation of the qualitative assessment of the identified fiscal risks constitute the PFRM which will provide for a heat map for the monitoring of fiscal risks during the project life cycle.

Table 3-7: Project Fiscal Risk Matrix

Risk identification	Likelihood	Fiscal Impact	Risk Rating likelihood Impact	Mitigation strategy is it in place?	Priority actions	Suggested Mitigation Strategy
Governance Risks	Low	Medium	Low	No	Medium Priority	
Construction Risks	Medium	High	High	Yes	Medium Priority	
Demand Risks	Medium	Low	Low	No	Medium Priority	

Operational and Performance Risks	Low	Low	Irrelevant	Yes	No action	
Financial risks	Medium	Medium	Medium	No	High Priority	
Force Majeure	Low	Low	Irrelevant	Yes	No action	
Material adverse government actions	Medium	Medium	Medium	No	High Priority	

Risk identification	Likelihood	Fiscal Impact	Risk Rating likelihood Impact	Mitigation strategy is it in place?	Priority actions	Suggested Mitigation Strategy
Change in law	Medium	High	High	No	Critical	
Rebalancing of financial equilibrium	High	Medium	High	Yes	High Priority	
Renegotiation	High	Low	Medium	Yes	Medium Priority	
Contact termination	Medium	Medium	Medium	Yes	Medium Priority	

Source: PFRAM 2.0 User Manual

The PFRM should be reviewed annually and each time an event changes the project risk profile, and the PFRR be filled in accordingly for all medium, critical and high priority risks.

3.2.2.1 FCCL register and calculation

As discussed in section 2.2, FCCL comprise direct and contingent financial liabilities. The direct liabilities include **upfront payment, VGF, construction or operation subsidies, and availability payments**.

The universe of contingent liabilities is in essence more diverse but primarily include:

1) Any guarantee, insurance or financial support provided by the CA or any other public entities to ensure either
    a. a minimum level of revenues to the private partner: **Revenue guarantee**, or
    b. the interest, fees or repayment due by the private partner under the terms of the financing products (debt, bonds, guarantees) arranged for the project financing: **Debt guarantee**
2) Any payment due to the private partner by the CA in case of termination of the PPP agreement before its terms: **Termination payment**. It shall be noted that

Termination payment depends upon the cause of early termination, which comprise: private partner default, force majeure, contracting authority default, or termination for convenience.

3) Contingent liabilities arising from the occurrence of **other fiscal risks** as identified in the PFRR.

Based on the PFRR, the evaluator will quantify the contingent liabilities arising from the occurrence of a fiscal risk identified in the PFRM and analyzed the PFRR. This quantitative assessment shall be done in accordance with the priority actions determined on the project heat map and address the risks which have been qualified as critical or requiring high priority monitoring.

All direct and indirect liabilities shall be consolidated in the following FCCL Register (refer Table 3-8). The FCCL Register contains the type of liability, description of adjustment factors and trigger events, and the location (which will depend on the stage of the project).

Table 3-8: FCCL register

Fiscal Commitment	Type of fiscal commitment/Definition	Adjustment factors/Trigger events	Location
Project X			
Payment 1	**Direct** Explain payment concept, periodicity, and form of calculation	Detail adjustment factors and trigger events if apply	Specific location where this information was taken (Feasibility Study, PPP Contract, Letter of Support, etc.) -
Payment 2	**Contingent** Explain payment concept, periodicity, and form of calculation		
Payment 3	-	-	-

Source: CPCS

Table 3-9 provides guidelines on what measures and methodologies to use for the assessment of typical FCCL.

Table 3-9: Methodologies for assessment of FCCL

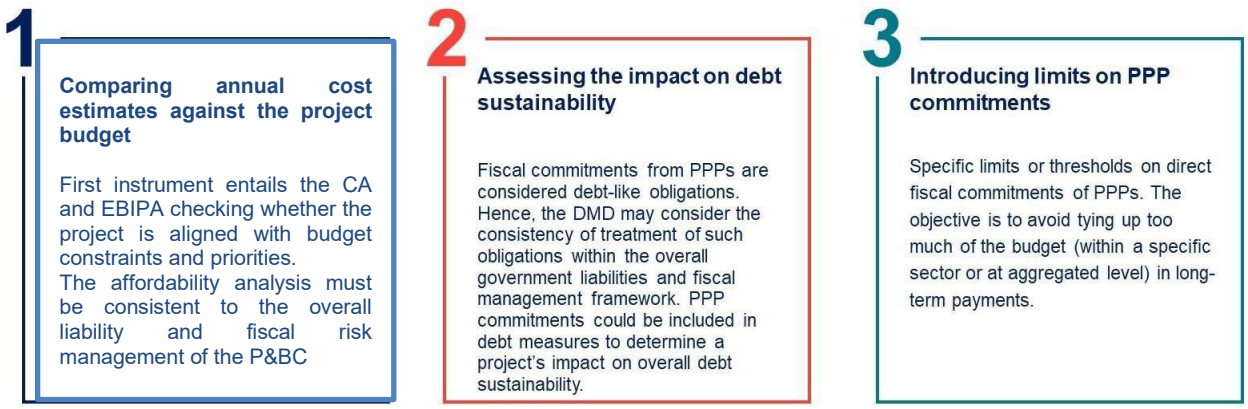
FCCL	Estimate	Function of available information
Direct Liabilities		
Upfront payment	- Annual cost over life of project - Present value of payment stream	- Base Case
Availability payment		
Availability payment adjusted permanently by macroeconomic parameters		- Scenario analysis - Qualitative analysis

Availability payment adjusted by contingent events	for the period of agreement	of likelihood of reaching trigger values - Probability of occurrence
Contingent liabilities		
Revenue guarantee Debt guarantee Guarantee over annual payment by state- owned enterprise, local or subnational government	- Estimated annual cost over life of project - Estimated present value of payment stream for the period of agreement	- Scenario analysis - Qualitative analysis of likelihood of reaching trigger values - Probability of Occurrence
Termination payment	- Maximum value	
Other fiscal risks		

Source: CPCS

3.2.2.2 Assessment of affordability

With the estimations of fiscal costs, the government must now check if the project is affordable. This should be undertaken as part of the OBC preparation under Step 7 as illustrated in the Figure 2-1: PPP Project Planning and Budgeting, Procurement and Approval Process Cycle lifecycle .



The three common instruments used to check affordability are:

(1) Comparing annual cost estimates against the projected budget;

(2) Assessing the impact on debt sustainability; and

(3) Introducing limits on PPP commitments.

The first instrument entails the CA and Office of Public Private Partnership checking whether the project is aligned with budget constraints and priorities. Verifying that the FCs are affordable within the budget is the primary step. This is achieved by assessing if the commitments allow the CA to achieve their fiscal targets or surplus i.e. does the CA's annual budget allocation accommodate the cost of FCCL.

It must be noted that this step needs to be done in line with the overall PPP framework, i.e. verification that the FC estimations allow for positive social benefits (pass the cost-benefit analysis). Also, the affordability analysis must be consistent to the overall liability

and fiscal risk management of the P&BC.

FCs from PPPs are considered debt-like obligations. Hence, the DMO may consider the consistency of treatment of such obligations within the overall government liabilities and fiscal management framework. PPP commitments could be included in debt measures to determine a project's impact on overall debt sustainability.

Finally, some governments adopt specific limits or thresholds on direct FCs of PPPs. The objective is to avoid tying up too much of the budget (within a specific sector or at aggregated level) in long-term payments. At this point, however, such limits are usually not needed in the early stages of PPP programs, such as the case of EBSG. This could be developed later as the magnitude and potential of the program becomes clear.

Table 3-10 presents the affordability indicators proposed in this framework.

Table 3-10: Affordability indicators

FC	Cost	Indicator of fiscal affordability (Including projections over PPP contract length- beyond medium-term horizon)
Direct liabilities	- Estimated Annual payments - NPV	- Cost as percentage of ministry or sector agency, and national annual revenue / deficit-surplus budget - Cost as percentage of sub-national public debt - Cost as percentage of GDP
Guarantees	- Estimated annual payment, or expected average payment - NPV (Base/Downside cases)	- Cost as percentage of ministry or sector agency, and national annual revenue / deficit-surplus budget - Cost as percentage of contingency line - Cost as percentage of public debt - Cost as percentage of GDP
Termination payment	- Estimated worst-case payment or expected average payment - NPV	- Cost as percentage of national budget - Cost as percentage of contingency line - Cost as percentage of GDP
Other fiscal risk	- Estimated worst-case payment or expected average payment - NPV (Base/Downside cases)	- Cost as percentage of ministry or sector agency, and national annual revenue / deficit-surplus budget - Cost as percentage of contingency line - Cost as percentage of GDP

Source: CPCS

FCCL Management during project implementation

3.3.1 Monitoring

Managing FCs entails monitoring, reporting and budgeting of PPP projects, both at individual project level and at portfolio program level. Adequate monitoring and disclosure of FCs and risks will allow the government to prevent undesirable events from occurring, mitigate their impact, and make informed decisions during the operation phase.

This stage will require gathering project financial parameters, risks and performance, and country macroeconomic information, and any other input that may affect fiscal commitments and fiscal risks. The objective will be to ensure that updated information is reported at the right time to the relevant gatekeeping entities, in line with the provisions of the FRCL, 2020 and DMOL, 2020.

Each commitment or fiscal risks must have specific information, such as financial and accounting ratios and indicators, to monitor the evolution across the full term of the contract. Table 3-11 highlights what minimum information shall be collected and registered by the CAs in each PPP project:

Table 3-11: Monitoring Information: FCs and Fiscal Risks

FC	Required information / Periodicity	Entity who must send information	Obligation to submit information set at: (PPP Agreement, Letter of Support, etc.)	Follow-up of mitigation activities of Risk Register
Project X				
Direct Liabilities				
Payment 1	-	-	-	-
Payment 2	-	-	-	-
Contingent Liabilities				
Payment 1	-	-	-	-
Payment 2	-	-	-	-
Other fiscal risks				
Risk A	-	-	-	-

3.3.2 Reporting and Disclosing

Reporting

The political, legal, and institutional environment for the disclosure of information on PPPs in Akwa Ibom State shows that "the Freedom of Information (FOI) Act, 2011 and the Akwa Ibom State Public Procurement and Related Matters Law, 2020 provide rights and guidance on access to information and an approach to commercially sensitive information, particularly as it pertains to the procurement phase.

With respect to information dissemination, it purports that "Procurement information can be found via OPPP website. OPPP website contains general information on private sector investment opportunities, including specific information about the current PPP pipeline and ongoing PPP projects. No PPP annual (or otherwise periodic) reports have been published. For PPP procurement information, there is separate PPP procurement section on OPPP website and on the Open Contracting Portal, and users can specifically search for or filter PPP procurement opportunities as a separate procurement type."

Appendix C provides information on the current legal framework for disclosure and implications for PPP disclosure as summarized in the above study. Appendix D provides a summary of the recommended disclosures for PPP projects.

In line with the above, EBSG needs to **account for and report** on their FCs of PPP agreements. The FRC / Ministry of Finance and Economic Development shall keep a centralized register of FCs of PPP transactions at the national or sub-national level. Proper reporting incentivizes the government to scrutinize its own financial position. Also, making reports available to other parties, such as lenders, rating agencies, PPP stakeholders, and the public, enables them to make informed opinions on the government's PPP fiscal management and performance.

For internal and external transparency of the financial effects of PPPs on government's position, FCs shall be reported. Also, it is recommended that, given the FCs may have debt-like effects on public finances, they are subject to similar checks and limits to debt obligations.

Table 3-12 shows the suggested information to be reported on direct and contingent liabilities for each PPP project by CAs. Description shall include: description of the liability, estimate of the value of the liability, annual cost and present value (for direct liabilities), and maximum exposure (for contingent liabilities). This reporting shall be included in medium-term budget reports and debt strategy reports.

Disclosures

Specifically, the FRC shall publish information on all FCs and contingent liabilities as a section in the "Report on Public Debt, Guarantees and other Financial Liabilities", as may be required under the FRCL, 2020 (and the MTEF).

For public disclosure purposes, it is recommended to disclose the stream of annual payments and net present value of all payments of direct liabilities per

project. It is also recommended to publish maximum exposure for those contingent liabilities which probability or occurrence is considered low (such as for instance termination payments). For the case of guarantees, it is recommended either: (1) to disclose the stream of annual payments and net present value of all payments per project if the information used for its estimation is reliable, or (2) maximum exposure of aggregated payments.

Table 3-12 shows a sample of reporting format to present direct and contingent liabilities by project.

Table 3-12: Reporting Sample of FCs by project

PPP project	Direct liabilities	Annual payments value for 3-year budget			Present value of all payments
		2024	2025	2026	2027
Project 1	- Annuity payment. Indexed quarterly by inflation.				
Project 2	- Annuity payment. Indexed quarterly by inflation.				
PPP project	**Contingent liabilities**	**Estimated annual payments value for 3-year budget**			**Present Value of Maximu m exposure**
		2024	2025	2026	2027
Project 1	- Revenue Guarantee				
	- Termination payment In case of default of contracting authority				
Project 2	- Termination payment In case of default of contracting authority				

It must be noted that estimations of liabilities (Table 3-11) and follow-up activities must be updated in an ongoing basis.

Estimates should be updated at least during the following project milestones:

- Approval of PPP project in the PPP project pipeline by the Executive Council (ExCo)
- Approval of OBC

- Approval of Full Business Case (FBC) by ExCo
- After financial closure for PPP project
- During construction years (they are the riskiest years) on an annual basis
- During operation (checking on financial performance of firm) on an annual basis

3.3.3 Accounting

Fiscal responsibility is usually examined in relation to thresholds over government's liabilities and expenditures. It must be considered that adequate accounting and reporting tackle the perception bias that PPPs attract immediate private financing without increasing government spending and debt. Determining how PPP commitments are to be recognized is important as it defines whether such liabilities count toward debt management limits. International public-sector accounting standards, such as International Public Sector Accounting Standards (IPSAS) 32, and international government financial reporting and statistics guidelines, such as IMF's GFSM (2014), and IMF's Guide on Public Sector Debt Statistics (2013) provide a framework for accounting and statistics of PPP transactions.

IPSAS 32 defines when PPP assets and liabilities should be recognized, assuming government is following accrual accounting standards. Assets and liabilities appear in government's balance sheet, if:

(1) the government controls or regulates the services the operators must provide through a PPP agreement, and

(2) the government control any residual interest in the asset at the end of the contract.

Under this framework, the assets provided by the concessionaire are recognized, as well as its correspondent liabilities, either if the assets are funded by users-tariffs or by government.

Regarding contingent liabilities, IPSAS 19 states that the expected cost of a contingent obligation should be recognized only if:

(1) it is more likely than not (50%) that the event will occur; and

(2) the amount of the obligation can be measured with sufficient reliability.

Based on the understanding that EBMOFED is already accustomed to IPSAS, this framework be used as a guide for accounting for FCCL.

Appendix A PFRAM Risks and Mitigation Measures

PFRAM 2.0 User Manual proposes the following list of risks and associated potential mitigation measures to be considered when establishing the Project Risk Matrix:

1. Governance Risks

- **R1.** If the Public Investment Management (PIM) framework is not strong enough to guarantee that only priority projects are selected, a non-priority project might be implemented and absorb public resources, crowding out priority projects and leading to efficiency losses. To mitigate this risk, the public investment management framework should to be reinforced.

- **R2.** If the Ministry of Finance and Economic Development (MOFED) is not able to effectively manage fiscal risks arising from this project, the risks might be amplified, and the probability and impact of other fiscal risks may be higher than they would be with adequate experience and capacity. To mitigate this risk, capacity in the fiscal risk management team in the MOF/Budgetary authority should be strengthened.
- **R3.** If project and contract information is not disclosed adequately, public concerns regarding the governance of the project/contract may arise, preventing users from acting as independent auditors of the project and/or exerting pressure to change the project. To mitigate this risk, the government should put in place a strong communication strategy engaging stake holders and creating ownership of the project, together with clear and standardized disclosure procedures for project information and, ultimately, contract disclosure.

2. Construction

R4. Risks related to land availability

- If the land is not already available, the government might face additional fiscal costs arising from possible compensation for construction delays. To mitigate this risk,
  (1) a complete assessment of land needs should be undertaken prior to contract closure; (2) the land acquisition process should be prepared; and (3) buffers and flexibility clauses should be included in the contract.
- If the project might be canceled due to lack of land, the government might face costs due to compensation to the private partner and the project redesign. To mitigate this risk, the government should ensure land availability at an early stage of the project cycle.
- If the private partner has to pay for the land acquisition, the private partner might not be able to cope with the cost; the government would be confronted with the cost of project cancellation and retender, or renegotiation at higher fiscal cost. To mitigate this risk, the government is to make land available at an early stage of the project cycle and provide sufficient information regarding the need and value of the land to ensure that the private partner is able to cope with the cost.
- If the government has to pay for land acquisition, it may face additional fiscal costs arising from the acquisition and possible delays due to unavailability of land, which might lead to compensation payments for possible delays. To mitigate this risk, the government (1) completes the assessment of land availability and cost prior to contract closure; and (2) builds in buffers and flexibility clauses in procurement and contracts.

R5. Risks related to relocation of people and activities

- If people and/or activities are subject to relocation due to project implementation:
  - If the government is paying for the relocation of people and/or activities and possible project delays, it will face the cost of relocation and compensation. To mitigate this risk, the government undertakes a timely assessment of relocation needs and engage in effective stakeholder management.
  - If the private partner is paying for the relocation of people and/or

activities and is unable to cope with cost, the government will be faced with the cost of project cancellation and retender, or renegotiation at higher fiscal cost. To mitigate this risk, the government should ensure timely assessment of relocation needs and provide sufficient information on relocation needs and costs.

R6. Risks related to land decontamination

- If the government has to pay for land decontamination and the need for decontamination arises, this will result in fiscal costs. To mitigate this risk, the government should undertake a timely assessment of the need and cost of decontamination.
- If the private partner has to pay for land decontamination and is not able to cope with the cost, the government may face the cost of project cancellation and retender, or renegotiation at higher fiscal cost. To mitigate this risk, the government should
- (1) ensure a timely assessment of decontamination needs; and
- (2) should provide sufficient information on land condition.

R7. Risks related to environmental and archeological issues

- If there is a possibility of facing environmental/archeological issues and the government has to pay for them, the government may face costs
- (1) for environmental and archeological issues; and
- (2) for compensation payments it might have to make to the private partner due to project delays.

To mitigate this risk, the government should

- (1) specify environmental constraints prior to tender (including permits and licenses); and
- (2) develop a plan to deal with archeological findings.
- If there is a possibility of environmental/archeological issues and the private partner has to pay for them, the private partner might not be able to cope with the associated costs; the government may be faced with the cost of project cancellation and retender, or renegotiation at higher fiscal cost.

To mitigate this risk, the government should

- (1) specify environmental constraints prior to tender (including permits and licenses); and
- (2) develop a plan to deal with archeological findings.

R8. Risks related to geological issues

- If there is a possibility of geological issues and the government has to pay for them, it may face compensation payments.

To mitigate this risk, the government should

(1) ensure a timely assessment of the geological conditions and their implications for the project; and

(2) develop a plan to deal with these issues.

- If there is a possibility of geological issues and the private partner must pay for them, the private partner might not be able to cope with the costs related to these issues; the government may be faced with the cost of project cancellation and retender, or renegotiation at higher fiscal cost.

To mitigate this risk, the government should

- (1) ensure a timely assessment of the geological conditions and their implications for the project; and
- (2) provide sufficient information regarding geological conditions.

R9. Risks related to licensing

If the project is subject to licensing and the government pays compensation for project delays due to delayed licensing, the government may face the costs of compensation for project delays. To mitigate this risk, the government should ensure that subnational governments are fully supportive of the project and that project deadlines are consistent with subnational regulations.

R10. Risks related to failures/errors/omissions in project design

- If the government can be held responsible for design failures, errors, or omissions, it may have to pay compensation for failures in designs presented to the private partner if the cost of design risks is not fully transferred to the private partner. To mitigate this risk, the tender process and the contract should ensure that the private partner takes full responsibility for the design.

R11. Risks related to inherent defects in assets transferred to the private partner

- If the government can be held responsible for any inherent defect in assets transferred to the private partner, it may have to pay compensation to the private partner for inherent defects and the costs of defect remediation. To mitigate this risk, the government should ensure a prior assessment of the quality of the assets to be transferred to the private partner, allowing for full pricing of identifiable defects.

R12. Risks related to changes in project design and scope required by procuring agencies

- If the government is responsible for compensation due to changes in design and scope required by procuring agencies, it may have to compensate the private partner for net costs due to changes in the design and/or scope. To mitigate this risk, the contract should include provisions allowing for changes in the design/scope of the project, up to a predetermined limit. In addition, the accountability framework to monitor project cost overruns should be reviewed and improved, as necessary.

R13. Risks related to changes in input prices

- If the government is responsible for compensation in the event of excess volatility in input prices, it may have to pay compensation for significant changes in input prices. To mitigate this risk, the volume and prices of the relevant inputs should be monitored, and sufficient funds should be allocated for expected compensation payments.
- If the private partner faces any excess volatility of input prices, the private partner may not be able to cope with significant changes; the government may be faced with the cost of project cancellation and retender, or renegotiation at higher fiscal cost. This risk can be mitigated by renegotiating the contract to reestablish financial equilibrium.

R14. Risks related to changes in nominal exchange rate

- If the government is responsible for compensation in the event of excess volatility in nominal exchange rate, it may have to pay compensation for significant increases. To mitigate this risk, the volume of foreign currency required and the exchange rate should be monitored, and sufficient funds should be allocated for expected compensation payments.
- If the private partner faces any excess volatility in the nominal exchange rate, the private partner may not be able to cope with significant changes; the government may be faced with the cost of project cancellation and retender, or renegotiation at higher fiscal cost. This risk can be mitigated by renegotiating the contract to reestablish financial equilibrium.

3. Demand

- If the PPP is **fully funded by the government**, and the **payments are linked to the volume** of service being provided:
  - **R15.** If a cap is in place, the project may be confronted with much higher demand than included in the contract, which might require a costly renegotiation of the cap or require the government to purchase services from other providers. This risk can be mitigated by managing demand and possibly diverting demand to less costly alternative services.
  - **R16.** If no cap is in place, the government may face higher than expected demand, leading to higher than expected costs. This risk can be mitigated by managing demand and possibly diverting demand to less costly alternative services.
  - **R17.** If the project is suffering from insufficient demand, this may lead to project failure; the government may face costs for early termination or renegotiation. This risk can be mitigated by managing the demand or by renegotiating the contract to re-establish financial equilibrium.
- If the PPP is **fully funded by the government**, and the **payments are not linked to the volume** of service being provided:
  - **R18.** If demand is much higher than expected, the project may collapse, and the government may face the cost of early termination or contract collapse. This risk can be mitigated by managing or diverting demand, which could have a fiscal cost.
  - **R19.** If demand is much lower than expected, the project might be challenged; the government would not face additional fiscal costs, but it would pay for a service that is not/not fully being taken up by the user. This risk can be mitigated by managing demand by increasing demand or diverting it from other projects.
- If the project is either **totally user-funded or funded by a combination of government payments and user fees:**
  - **R20.** If users consider user fees—regulated or not—excessive relative to services received, this might have a bearing on the reputation of the government. This risk can be mitigated by effective communication.
  - **R21.** If the project is suffering from insufficient demand, this might lead to project failure, presenting the government with additional fiscal costs for early termination or renegotiation. This risk can be mitigated by managing the demand or by renegotiating the contract to re-establish

financial equilibrium.

4. Operation & Performance

- **R22.** If the PPP agreement does not ensure that the government has full access to information on project performance, the government may be unable to effectively manage the contract. To mitigate this risk, the information-sharing requirements should be included in the contract and addressed in the legal framework.
- **R23**. If the contract does not clearly specify performance indicators, reference levels, and penalties or deductions, the government may face significant risks for not being able to address poor performance by the private partner. Failure to monitor project performance can lead to poor contract enforcement, which has administrative, efficiency, and political costs. It may also cause difficulties in applying project cancellation clauses and possibly in using step-in rights by financiers. To mitigate this risk, (1) key performance indicators should be included in the PPP agreement, with reference levels, linked to penalty mechanism (preferably automatic deductions form periodic payments); and (2) the core contract management team should be involved in contract negotiation to guarantee that performance indicators/levels are fair, measurable, and contractible, that is, able to be presented as evidence in court.
- **R24**. If the government does not have the capacity and procedures in place to monitor performance, it faces significant risks for not monitoring performance, which has administrative, efficiency, and political costs. To mitigate this risk, contract monitoring procedures should be in place when contracts are signed; a core contract management team should be assigned before contract closure and should be involved in contract negotiation to guarantee that contract management procedures are feasible and efficient.

R25. Depending on whether and how the contract addresses the introduction of new technologies, technical innovation may create explicit and implicit fiscal risks for the government. To mitigate this risk, the duration of PPP agreements should not exceed the expected life cycle of the technology used in the sectors, enabling the government to respond to technological innovation within a reasonable timeframe. For PPP agreements for projects including high and low innovation components, it can be appropriate to separate the two components—for example, a hospital building from the medical equipment—into separate contracts that might be of different duration or nature; the high-tech component might not be under a PPP agreement but might be undertaken as traditional public procurement.

- **R26**. If there is a scarcity of specialized human resources, this could lead to performance issues. To mitigate this risk, the government should reallocate human resources from other activities or plan capacity-building activities in advance.
- **R27**. If there is a risk of significant increases in labor costs, this may lead to project failure. To mitigate this risk, the government should plan capacity building activities ahead of time.

5. Financial

- **R28.** If the private partner is unable to obtain finance for project implementation, the government may face project failure **before implementation starts**, being forced to take over the project, re-tender, or redesign and re-tender the project. To mitigate this risk, the government

should (1) undertake a proper due diligence on private bidders' financial conditions and their ability (technical and managerial) to conduct the project; (2) establish adequate qualification requirements; (3) consider bid bonds and performance bonds to discourage not suitable candidates from bidding for PPPs; and (4) require some degree of commitment by financing parties during tender for very sensitive projects in less developed financial markets

- **R29**. If the private partner is unable to refinance short-term financing instruments, the government may face project failure **after implementation starts.** In such cases, the government could (1) be required to pay compensation for capital investment,
  (2) take over the project, or (3) renegotiate an interim financial solution and then re-tender the project (possibly under worse cost conditions for government). To mitigate this risk, in addition to undertaking the measures listed under **R28**, the government may require bidders to obtain long-term financing for very sensitive projects.
- **R30**. If the private partner is unable to cope with excess volatility in interest rates, the government may face project failure **after implementation starts**. The government could
  (1) be required to pay compensation for capital investment, (2) assume the project, or (3) renegotiate an interim financial solution and then re-tender the project (possibly under worst cost conditions for government). To mitigate this risk, the government should undertake the measures listed under the **R28**.
- **R31**. If government contractually accepted some exchange rate risk, fiscal support may be needed in the form of compensation; it may have to pay compensation for excessive volatility of exchange rate. Also, if the private partner is unable to cope with excess volatility in the nominal exchange rate, the government may have to (1) renegotiate under stress or face project collapse and pay compensation for capital investment; or (2) assume the project and then re-tender under a different risk allocation scheme. To mitigate these risks, the government should ensure a proper consideration of exchange rate risk, which may lead to better risk sharing and proper use of hedging mechanisms.

6. Force Majeure

- **R32**. If there is no exact list of events to be considered force majeure tailored for the project, the government might have to pay compensation, adjust, or even terminate the contract due to force majeure events. Full or partial compensation by the government may even force the government to buy the assets or assume debt. To mitigate this risk, the scope of the force majeure events should be clearly stated in the contract, considering the legal requirements and specific project conditions. The contract should create incentives for the private partner to get insurance against some risks when insurance is available at a reasonable cost and to effectively manage risks by designing assets and managing services in ways that minimize the probability of occurrence and size of impact.

7. Material Adverse Government Actions (MAGA)

- **R33**. If no clear definition of events to be considered MAGA are included in

the contract, the government might have to pay compensation, adjust, or even terminate the contract due to acts and omissions by public entities, potentially forcing the government to buy the assets or assume debt. To mitigate this risk, contract managers should monitor the channels through which government's actions and omissions can affect the project during the life of the contract. Executive government actions and policy changes should be carefully evaluated by the contract manager and the fiscal management team to assess any impact on the PPP agreement.

8. Change Law

- **R34**. If the PPP agreement does not identify changes in law that do and do not require compensation by the government, the government might have to pay unforeseen compensation when adjusting or even terminating the contract due to changes in law. Changes in law might also benefit the private partner and, if not considered in the contract, increase the private partner's profit margin without benefitting the government. The cost of changes in law might include compensation payments, need to buy the asset or to assume debt, or loss of potential compensation paid by the private partner to the government. To mitigate this risk, the PPP agreement should clearly identify changes in law that trigger a compensation or the right to terminate and should define the consequences. In addition, legislation and public policies should be in place to efficiently deal with this risk.

9 Rebalancing of financial equilibrium

- **R35**. The legal framework may prescribe that the government is paying compensation and/or terminating the contract due to requirement to reinstate financial equilibrium. The government may have to pay compensation or cancel the project. To mitigate the risk from this, the PPP agreement should restrict its application to the cases of force majeure, MAGA, avoiding its application to a wider range of situations.
- **R36**. The government might have to pay compensation and/or terminate the contract due to contract guaranteeing a rate of return for the private partner. To mitigate this risk, clauses and expectations on a guaranteed level of project rate of return or the shareholder's rate of return should be avoided.
- **R37**. The government might have to pay compensation and/or terminate the contract due to excessive protection against some hardships. To mitigate this risk, hardship clauses, if needed, should be precise and strict. Alternative methods to reduce excessive private sector risks should be considered, including insurance, future markets, and other hedging mechanisms.

10. Renegotiation

- **R38**. If the government opens an uncontrolled renegotiation process, under information asymmetry and no competitive pressure, it might jeopardize economic efficiency by allowing the private partner to transfer to the government costs and risk that had originally been accepted by the private partner, with the fiscal impact depending on the government's ability to manage the renegotiation process. To mitigate this risk, the government should have a strategic view of PPP agreement management and create the capacity to renegotiate.

11. Contract Termination

R39. If the government enters into an early termination process without clear

knowledge of the consequences and procedures, the lack of clarity regarding consequences on early termination increases the private partner's bargaining power, leading to increases in the cost of termination; possibly preventing the government from cancelling non-performing contracts, or generating incentives for governments to nationalize a project or assets without proper assessment of the cost of that decision. To mitigate this risk, contracts should include a clear definition of the reasons for early termination (for example, underperformance of the private partner, public interest, or force majeure) and should present its consequences in terms of transfer of assets and responsibilities, namely, financial compensation for capital investment. Compensation should vary according to the party responsible for the early termination.

- **R40**. If the government terminates the contract without a clear understanding of transfer processes, including financial consequences, then (1) it may need to pay for stock of inputs or outputs; (2) human resources issues may imply financial compensation or increased current expenditures; and (3) licenses needed to continued operation may create fiscal surprises. To mitigate this risk, contracts should include a clear definition of the termination process; all financial consequences and identified gaps in the contract should be resolved by having both parties sign transfer protocols detailing the rules.

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4. Risk Mitigation Instruments

This section describes instruments available to Akwa Ibom State to transfer or reduce fiscal risks. The choice of instruments should balance cost and risk exposure.

3.1 Contractual safeguards

Well drafted PPP contracts are the first line of defence against fiscal risk. Key clauses include:

Clause	Purpose
Termination clause	Specifies conditions for early termination and a formula for compensation. Limits the government's exposure by capping payments and distinguishing between termination due to government default, private partner default, or force majeure.
Force majeure clause	Defines events beyond the control of both party (e.g. war, natural disasters) and sets out the fiscal consequences. May include suspension of payments or early termination rights.
Step in rights	Allows the State or lenders to temporarily take over operations if the private partner fails to perform. Reduces the risk of prolonged service disruptions and ensures continuity.
Revenue sharing	Allocates excess revenue between the State and private partner, aligning incentives and providing upside for the government.
Change in law and currency clauses	Provide mechanisms to adjust payments if laws or tax regimes change or if significant exchange rate movements occur, thereby reducing uncertainty for both parties.

3.2 Reserve fund structures

Creating dedicated reserve funds helps the government meet potential obligations without disrupting general budgets:

Fund type	Description
PPP Contingency Reserve Fund	A pool of resources earmarked for meeting contingent liabilities like guarantees and termination payments. Contributions may come from budget surpluses, project user fees or earmarked taxes. The fund should have clear rules governing deposits and withdrawals, be managed by the MoF/DMO and be audited annually.

Viability Gap Reserve	A fund dedicated to capital grants for socially beneficial projects that are not financially viable. Helps spread the fiscal impact of large grants over time.
Maintenance Reserve Fund	Ensures that adequate funds are available for major maintenance and asset renewal, thereby protecting service quality and reducing the likelihood that poor maintenance leads to contingent liabilities.

Annual contributions should be budgeted in the MTEF. Withdrawals must be reported in the fiscal risk statement.

3.3 Insurance instruments

Insurance can transfer specific risks to third parties. Common products include:

Insurance type	Coverage
Political risk insurance	Covers losses arising from expropriation, currency in-convertibility, civil unrest and government actions. Offered by multilateral agencies and commercial insurers.
Construction risk insurance	Covers delays, cost overruns and accidents during construction. The private partner usually procures this but the government should verify coverage as part of due diligence.
Revenue guarantee insurance	Ensures minimum revenue levels for private partners. Premiums may be expensive; alternatives include capped guarantees or revenue adjustment mechanisms.

3.4 Performance bonds and guarantees

The private partner may be required to provide:

- **Performance bonds** to guarantee completion of construction and delivery of services.
- **Advance payment guarantees** to protect government funds disbursed before work begins.
- **Parent company guarantees** or corporate guarantees, ensuring that obligations are backed by financially strong entities.
- **Letters of credit** issued by banks to guarantee payment obligations. The PFRMC should verify that guarantees are sufficient and enforceable.

3.5 Institutional oversight

The **PFRMC** oversees risk mitigation instruments and ensures that contracts comply with legal and fiscal requirements. Legal and financial advisers review complex instruments and monitor market developments to update guidelines. The Auditor General conducts periodic reviews to assess whether instruments are used appropriately.

4. Monitoring and Evaluation and Reporting

Monitoring and evaluation (M&E) systems enable Akwa Ibom State to track project performance, ensure compliance and manage fiscal risks. The framework mandates continuous M&E.

4.1 Monitoring framework

Component	Description

Contract compliance	Tracks adherence to contractual obligations, including service quality, maintenance standards and payment mechanisms.
Performance indicators	Measures service delivery, financial performance and user satisfaction. Indicators should be clearly defined in the contract and monitored regularly.

Component	Description
Risk monitoring	Updates risk registers, fiscal trackers and contingent liability dashboards. Identifies emerging risks and triggers corrective actions.
Financial reporting	Tracks payments, liabilities, budget alignment and reserve fund balances. Financial reports should reconcile with the fiscal commitment tracker.

4.2 Evaluation mechanisms

- **Mid-term reviews**–Conducted at key milestones to assess whether the project meets performance targets and remains affordable. Recommendations may include renegotiation of terms, adjustment of tariffs or reallocation of risks.
- **Post-implementation reviews**–Undertaken after the contract closes to evaluate outcomes, fiscal impact and lessons learned. Findings inform future project preparation and updates to the framework.
- **Independent audits** – Annual audits by the Auditor-General or external auditors cover both financial compliance and performance. Audit reports are submitted to the House of Assembly and published.

4.3 Reporting requirements

Reporttype	Frequency	Responsibleagency
Performance dashboard	Quarterly	OPPP, in coordination with line ministries and private partners
Fiscalrisk statement	Annually	MoF/MEPB
Auditreports	Annually	Auditor-General
Public disclosure	Ongoing	MEPB & OPPP – publishes project summaries, contracts (redacted where commercially sensitive), fiscalcommitmentdataandcontingentliabilitiesonthe State's website

Additionally, the PFRMC prepares a brief **PPP fiscal risk bulletin** after each meeting summarizing new approvals, emerging risks, mitigation actions and decisions taken. The bulletin is circulated internally and to oversight bodies.

Overall, it is important to note that Government commitments to PPPs are materially different to Government's public debt and require a different management approach. When a government borrows, it uses the borrowed funds, and the Government is obliged to repay the debt regardless of how well the borrowed funds are used. Government liabilities to PPPs are non/limited recourse in nature, structured as performance-based payments for services delivered and/or assets/infrastructure developed/made available for use.