

## Comparative Analysis: GPRA, BOT and JV

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	<b>GPRA</b>	<b>BOT</b>	<b>JV</b>
Purpose	Procurement of goods and services within the budget cycle of the government agency/LGU	Development of infrastructure projects through project finance and other financing modes	Joint undertaking of an enterprise
Financing	Generally, financed from public sector	Generally, financed from private sector	Joint financing from public and private sector
Term	Generally, short-term	Generally, long-term	Generally, short-term
Ownership	Stays with Government	Stays with Government	Allows take-over by private sector; divestiture is encouraged as soon as possible.
Fees	Fixed fees. Attached to ABC (approved budget for the contract).	Fees may be adjustable in accordance with pre-determined parametric formulas.	No prescribed fees
Price escalation	Prohibits price escalation	Allows price escalation	---
Payment / Proceeds	Procuring entity will pay private entity	Operator/contractor will remit fees to public entity	GE and Private partner share in the proceeds according to their proportionate ownership
Cost	ABC covers costs of individual components	Fees regard the project as a whole	with regard to the entire enterprise
Approvals	PhP500Million: Government Procurement Policy Board	PhP300Million: NEDA-ICC	Head of Agency

	<b>GPRA</b>	<b>BOT</b>	<b>JV</b>
New Concept/ Technology	Not required; If intellectual property, no bidding.	Required if unsolicited	Not required
Incentives	Prohibits incentives	Provides incentives for large capital investments	No incentives
Application	Applies to all Government Entities; Exempts from its coverage those projects falling within BOT law.	Applies to all Government Entities	Limited to GOCCs, GCEs, GICPs, GFIs, and SUCs. (LGUs under separate guidelines)
Income	None	Fees	Income/ Dividends
Approval Period	30 days	30 days	Internal
Overall Period	200 days	250 - 410 days	75- 165 days

### **Advantages of a JV**

1. **Sharing of Profit, Losses and Risks** – Unlike other modes of public-private partnerships, where government bears *all, if not most*, of the risk, in JVs, the risk is shared with the private sector participant. Hence, in theory, use of Government funds and resources are maximized since its equity participation is a “minority” participation, and it is the private sector which takes a “lead” in the investment.
2. **Government Entity generates income and dividends** – In procurement under the GPRA, no income or dividends are earned, and Government spends for the project. In certain BOT contracts, fees are paid. In JV arrangement, Government’s earnings are in proportion to its investment.
3. **Arrangement largely contractual** – The parameters for setting up a JV is less stringent than the rules under the BOT law and the GPRA.
4. **Duration of partnership dependent on purpose** – The flexibility of Government exit is unique to JV arrangements. In BOT and GPRA contracts, it is private sector participation which ceases, and Government takes over the project/ property.

5. **No OP/ NEDA-ICC/ DOF/ DBM approvals** – Stringent agency approvals from the Office of the President (OP), National Economic Development Authority (NEDA) – Investment Coordination Committee (ICC), Department of Finance (DOF) and Department of Budget Management (DBM) are *generally* not required for JV project, save for some narrow exceptions.
6. **Period shorter than GPRA and BOT** – The process in selecting a JV partner is abbreviated primarily because Government approvals are not required, and accountability for the project rests largely on the Head of the Government Entity involved.

## **Features of JV**

**Legal Basis.** Law on Partnerships, Civil Code of the Philippines; implements MO 266 (1989) and issued pursuant to EO 423 (2005); Implementing/ Supplementary Rule.

**Parties.** Private Sector with track record (Majority share) and Government Corporation (Minority share – money, capital, services, assets, anything of pecuniary value)

**Activity.** Specific; Responsive to national development goals; Pursuant to mandate/ charter of government corporation

**Period.** Fixed or Dependent on Conditions (attainment of purpose; continuation by private sector without government); Private Sector Take-over encouraged

**Vehicle.** SEC-Registered Stock JV Company (preferred mode) or Contractual JV

**Procedures.** Governing Board determines mandate and responsiveness; DOF/ DBM clearance if with national government undertaking, subsidy or guarantee; choice of mode (3 Annexes – “A” Competitive Selection [solicitation; akin to bidding]; “B” – Limited Negotiations [when only 1 qualified bidder in Annex “A”]; “C” – Competitive Challenge – Evaluation, Negotiations, Swiss Challenge])