South African Public Private Partnership Unit

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“The diverse interests of different sectors can in fact, be harnessed for the collective good. This is what PPPs are about. The public gets better, more cost-effective services; the private sector gets new business opportunities. Both are in the interests of the nation.”

South Africa’s Minister of Finance, Trevor Manuel, August 2004
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A PPP is defined in South African law as:

- A **contract** between government institution and private party

- Private party **performs an institutional function** and/or **uses state property** in terms of **output specifications**

- Substantial project **risk** (financial, technical, operational) transferred to the private party

- Private party benefits through: **unitary payments** from government budget and/or **user fees**
What is a PPP?

Generic Project Finance Structure for PPPs

- Government
- PPP Agreement
- Private Party (Special Purpose Vehicle) [SPV]
  - Equity
  - Shareholding
  - Subcontracts
    - Subcontractor e.g. Construction
    - Subcontractor e.g. Operations
  - Loan Agreements
  - Debt
Key PPP Regulatory Features

- Three tests for a PPP:
  - Affordability
  - Value for money
  - Appropriate risk transfer

- Applied in a set PPP project cycle:
  - Inception
  - Feasibility
  - Procurement
  - PPP agreement management
What is a PPP?

Why Use PPPs as an infrastructure procurement option?

• Leverage of private party capital and expertise (Provides an incentive for on-time, on-budget infrastructure delivery)

• Not because you don’t have capital budget (Affordable)

• Substantial project risk (financial, technical, operational) transferred to the private party

• Transfer of risk is essential: demonstrates Value-for-Money

• Better service delivery mechanisms

• Long-term maintenance of public infrastructure
Why Use PPPs as a Procurement Option cont’d:

• Ease of budgeting through South Africa’s Medium Term Expenditure Framework

• Proper business case developed through the mandatory feasibility study

• Alignment with Department’s strategic objectives

• Ability to act as manager for service delivery by private sector

• Measurement of Outcomes not inputs

• Enhanced service delivery to end-users

• Compliance with Black Economic Empowerment Codes
What is a PPP?

Lessons learnt to date:

• Don’t expect each project to end up as a PPP
• Projects must be well-defined, well understood by all stakeholders
• Private sector must be comfortable with the undertaking
• All projects are subject to a feasibility study
• Private sector must increase its capacity as well
• Refers to both Advisors and Bidders for PPPs (Consortia also local)
• It is a combined effort of the Public and Private Sectors
• We want a positive outcome for Private Sector Involvement
South Africa’s Regulatory Framework for PPPs

• Public Finance Management Act
  – PFMA Treasury Regulation 16
  – Public-Private Partnership Manual
  – Standardised Public Private Partnership Provisions
  – Public Private Partnership Toolkit for Tourism
  – Toolkit for Head Office Accommodation Projects

• Municipal Finance Management Act
• Municipal Systems Act
• Local Government: Municipal Systems Act
  – Municipal PPP Regulations
  – Municipal Service Delivery and PPP Guidelines

The South African Constitution provides:

• “When an organ of state ... contracts for goods or services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective.”
• Preferential Procurement Framework Act
Why a PPP Unit in South Africa?

• There were already PPPs being undertaken in a number of sectors
  - Water, prisons and roads infrastructure

• Absence of a policy and regulatory framework - government not deriving sufficient value for money outcomes

• Strategically placed with the Ministry of Finance (National Treasury) where budgets are allocated and approved

• Also a central place to manage PPPs in the entire country

• Tasked with developing policy and amendments to the PFMA to regulate PPPs

• Tasked to assist departments where a lack of capacity challenged infrastructure roll outs

• Key to prepare bankable projects for the market
PPP Unit in South Africa

- Established by a Cabinet Memorandum in 2001
- A division of the Budget Office Directorate in National Treasury
- Reports through the Deputy Director-General: Budget Office to the Director-General and the Minister of Finance
- Head of PPP Unit is a Chief Director
- PPP Unit acts and enabler for PPPs at all levels of government by assisting departments to identify and prepare appropriate projects
PPP Unit in South Africa, cont’d

• Has both *Technical Assistance* and *Regulatory* Roles
• PPP Unit developed both the policy and regulatory framework for PPPs – Developed private sector confidence in process
• Provides technical assistance on:
  – Procuring Transaction Advisors
  – Procuring Project Officers
• Acts as a Regulator in terms of:
  – Approving feasibility studies to permit procurement as a PPP
  – The development and issuance of tender documents
  – The selection of the preferred bidder
  – Approving the execution of the negotiated PPP Agreement
  – Approving material variations and amendments to executed PPP Agreements
The PPP Unit in South Africa
Current Staffing

Minister

Director General

Deputy Director-General

Head: PPP Unit

Project Evaluation

Financial Analysis

Business Development

Municipal Desk

Performance Monitoring & Evaluation

IT
There is considerable, ongoing interface with other stakeholders

- Within National Treasury
  - Public Finance, for the funding of national PPPs
  - Intergovernmental Relations for the funding of municipal and provincial PPPs
  - Development Finance Institutions
  - Budget Office – our “boss” for overall PPP Unit performance
  - The Director General, for high-level policy direction and reporting
  - The Minister

- With other national departments
  - Many national departments are procuring head offices via PPPs
  - The Department of Public Works, which would otherwise undertake that role, is sometimes an uneasy participant
- With other national departments that have executed PPP agreements, to assist them with contract management issues as they arise and particularly in terms of *Variations*

- With other national departments that have service delivery responsibilities –
  - Department of Water Affairs and Forestry (water services)
  - Department of Environmental Affairs and Tourism (solid waste)
  - Department for Provincial and Local Government (local government service delivery, generally)

- With the nine (9) provinces—
  - Provinces have principal responsibility for health and education services
  - Two provinces desire to procure new legislative facilities via PPP

- With Municipalities
Challenges to PPPs in South Africa

- Political and top level support
- Public Sector understanding of PPPs
- Capacity constraints both public (project officers; contract management) and private (advisors; sponsors)
- Competition in the funding of PPP – Debt Funding Competitions
- Increase deal flow
Challenges – Financial crisis

- Impact of the financial crisis on projects in procurement.
  - SA banks protected to a certain extent
  - Syndication market contracted
  - Shorter tenors
  - Liquidity cost higher

- NT Response
  - Government willing to take more risk to drive value for money
  - Reduce underwriting requirements
  - Debt Funding Competitions for non underwritten portions
  - Shorter tenors
  - Compulsory Refinancing – government risk vs. benefits
  - Floating vs. Fixed pricing until commercial close
  - Reset of prices allowed within validity periods - except credit margin
  - Approaching development financing institutions to provide support at municipal and provincial level e.g. DBSA
  - Providing significant capital grants or contributions to public sector PPP sponsors to reduce the amount of debt in deals
By the end of 2008, the South African PPP Unit had some 60 PPP projects in the pipeline, at both the national/provincial level and the municipal level, including:

- Office accommodation
- Management of monies in trust
- Clinical services
- Airports
- Correctional facilities (prisons)
- Emergency call centres
- Fleet
- Pharmaceutical supply chain services
- Hospital rehabilitation
- Juvenile detention centres
- Provincial legislature
- Eco-tourism facilities
- Public Transport and Roads
- Municipal solid waste management
- Municipal water services
PPP Unit in South Africa

Prospects for the future

• Prioritising service delivery projects and key sectors such as health and education; water and sanitation

• There will be elections for a new President of South Africa this year, which could affect the way forward

• In late 2008, the PPP Unit received an award from African investor magazine for the Infrastructure Regulation Initiative of the Year, which has highlighted our efforts in terms of promoting PPPs.
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