“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 (then) Minister of Finance, Trevor Manuel, August 2004
1. What is a PPP?

2. South African Regulatory Framework for PPPs

3. The PPP Unit in South Africa

4. PPP project history to date

Introduction

While PPPs have been around here in South Africa for ten years, they are not universally known and understood

• So, before talking about National Treasury’s views on PPPs, it’s helpful to provide an introduction to PPPs generally and to the PPP Unit specifically

• Beginning with the PPP Unit, it was established within the Budget Office at National Treasury by Cabinet Memorandum in 2001

• USAID and GTZ provided funding and technical expertise early on

• Starting with four professionals and one admin staff, the PPP Unit today has 13 professionals, 6 admin staff and an office manager
What is a PPP?

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**

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### Degree of Risk Transfer

**Outsourcing**
- Capitalisation is for the Government Account
- Government buys specific services but retains risk
- Fixed and movable assets typically belong to Government

**PPPs**
- Private Party:
  - Finances (whole or most)
  - Designs
  - Builds
  - Operates
- Government purchases complete service and/or enables business
- Fixed assets belong to Government

**Privatisation**
- State assets sold
- State liabilities dispensed
- Government has Regulatory function only
What is a PPP?

Conventional Government procurement and maintenance of a building

Capped

Overruns

Delays

Time (years)

0 3 10 20

Opex: Budgeted vs. Actual

Unitary Payment example:

Construction period
No payment

Operational period
Payment against delivery

Time (years)

0 2 10 20

Govt Payment

Govt Payment

What is a PPP?
What is a PPP?

Generic Project Finance Structure for PPPs

- Government
- PPP Agreement
- Private Party (Special Purpose Vehicle) [SPV]
  - Equity Shareholding
  - 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
• And Transaction Advisors and Bidders for PPPs
• 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

• Municipal Finance Management 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."
South African Regulatory Framework for PPPs

- Module 1: South African Regulations for PPPs
- Module 2: Code for BEE in PPPs
- Module 3: PPP Inception
- Module 4: PPP Feasibility Study
- Module 5: PPP Procurement
- Module 6: Managing the PPP Agreement
- Module 7: Auditing PPPs
- Module 8: Accounting Treatment for PPPs
- Module 9: Introduction to Project Finance

Similar contents in the Municipal Service Delivery and PPP Guidelines

EXCEPT
- Had to rationalise and interpret two Acts of Parliament
- Took opportunity to streamline processes required by both Acts

Toolkits for Tourism PPPs and for Private Sector use of State Lands also provide step-by-step guidance for specialised PPPs
PPP Unit in South Africa

• Informed by the Partnerships UK model

• Head of the PPP Unit is a Chief Director

• Reports through the Deputy Director-General: Budget Office to the Director-General and the Minister of Finance

• Current Head was first “non-acting” appointee & spent two years with World Bank spreading South Africa’s version of the PPP doctrine around the globe

PPP Unit in South Africa, cont’d

• Has both Technical Assistance and Regulatory Roles

• 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

PPP Unit in South Africa
Current staffing, cont’d

- There are six Desks in the Unit
  - Project Evaluation – overall evaluation of national & provincial projects
  - Financial Analysis – review of PSC, value-for-money in all projects
  - Business Development – media, publications, presentations
  - Municipal Desk – overall evaluation of municipal projects
  - IT – overall evaluation of IT component in all projects
  - Performance Monitoring and Evaluation – contract management in all projects
PPP Unit in South Africa
Current Staffing, cont’d

• The total staff complement is twenty (20)
  – Thirteen (13) professionals
  – Six (6) support staff and
  – One (1) office manager
• Project Evaluation has two professionals
• Financial Analysis: three professionals
• Business Development: two professionals
• Municipal Desk: three professionals
• IT: one
• Performance Monitoring & Evaluation: two professionals

In practice, is significant cross-over and team formation

PPP Unit in South Africa
Challenges – staffing and otherwise

• Staffing challenges
  – PPPs require a host of different disciplines
    • Project management
    • Financial analysis
    • Sectoral technical expertise
    • Legislative and regulatory knowledge
    • Communications
    • Legal
    • Human resources
    • Insurance
    • Black Economic Empowerment (BEE)
  – South Africa is an expanding developing country, with significant skills shortages in all of the above disciplines
The current disciplines possessed of PPP Unit staff include:

- Financial – gleaned from development banking and Big Four consulting experience
- Technical – obtained via obtaining an Engineering degree and significant on-the-job expertise
- Legal – via obtaining a legal degree and engaged in the practice of law
- Legislative and regulatory – by working with/for other governmental and quasi-governmental entities engaged in infrastructure provision
- BEE – through previously obtained experience in both the public sector and private sector
- IT, through years of experience obtained as a senior executive for an IT services provider

Obtaining persons possessed of some – or many of these disciplines is difficult because:

- The private sector provides better wages and career ladders than government
- BEE policies encourage Historically Disadvantaged Individuals to rapidly move up their career ladder
- With the preparation for the Football World Cup in 2010, there was a great demand for persons with these professional credentials

PPP Unit has thus taken a decision to rather seek to attract bright young recent university graduates and provide significant, robust on-the-job training
PPP Unit in South Africa
Challenges, staffing and otherwise

Other challenges:

• The PPP Unit has developed Guidance documents that have legal
  significance for local, provincial and national PPPs, including:
  – The Public Private Partnership Manual, applicable to provincial and
    national PPPs
  – Standardised Public Private Partnership Provisions – standard PPP
    agreement provisions applicable to all PPPs
  – Public Private Partnership Toolkit for Tourism PPPs
  – Municipal Service Delivery and PPP Guidelines for municipal PPPs

• All of the foregoing are regulatory tools that empower the PPP Unit
  to provide the technical and regulatory advice required for
  successful PPPs

• All are “living documents” that require periodic updating and revision

• Currently, the Standardised PPP Agreement provisions are
  undergoing revision

• The Municipal PPP Guidance was issued in January of 2008

PPP Unit in South Africa
Interface with other stakeholders

• 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
    • 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
    • The DBSA and Industrial Development Corporation – both DFIs –
      with which have concluded two recent Memos of co-operation
    • 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
PPP Unit in South Africa
Interfaces with other stakeholders, cont’d

– 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 and Environmental Affairs (water services and solid waste)
  • Department of Cooperative Governance and Traditional Affairs (local government service delivery, generally)
– With the nine (9) provinces—
  • Provinces have principal responsibility for health and education services
  • Some of our largest PPPs are with the Provinces – i.e. Gautrain

– With the 240 units of local government
  • Are three kinds of local government –
    – Metropolitan Municipalities – of which there are six
    – District Municipalities – that contain local municipalities
    – Local Municipalities
  • Local government has the primary responsibility for most public services –
    – Potable water treatment and reticulation
    – Waste water treatment, reticulation and disposal
    – Solid waste collection, transport and disposal
    – Electricity distribution (some Metros also generate electricity)
    – Streets, roads, storm water systems
    – Planning and zoning
PPP Unit in South Africa
Interfaces with other stakeholders, cont’d

– With the South African financial community
  • There are four or five major banks in South Africa
  • They are extremely risk averse
  • They syndicate virtually all financing among themselves
  • They have expressed continued interest in PPPs in spite of recent world-wide economic conditions

– With organised labour
  • South African Labour Law applies to PPPs where public sector employees are taken over by the private party
  • Organised labour is opposed to PPPs, calling them “privatisation”
  • Less of a problem at the provincial and national level
  • Major problem at the local government level

PPP Unit in South Africa
Challenges going forward

• As just noted, at the local government level, finding a middle ground with organised labour is biggest challenge
  – Many local government council persons are members of organised labour
  – The South African Municipal Workers Union is unalterably opposed to PPPs
  – One consequence is that there have been no new local government PPPs for key municipal services – water, sanitation, solid waste collection and disposal – for nine years
  – Deteriorating state of this infrastructure must lead to a resolution of this impasse in the near future
  – With the current state of flux in South African politics, road ahead is not positive
Challenges going forward

- Dealing with the South African financial community is also a major challenge
  - Recent financial turmoil has not had a significant adverse effect at this time
  - We regularly consult with UK counterparts
  - We are implementing a debt bidding competition
  - We are also approaching development banks, insurance and pension funds to interest them in providing equity to challenge the banks
  - National Treasury is also considering providing a significant capital grant to public sector PPP sponsors to reduce the amount of debt that must be accessed
  - No clear understanding of how this will be resolved at this time

- Dealing with the lack of capacity within South African governmental entities to undertake PPPs
  - There is a massive skills shortage in South Africa which affects governmental entities as well
  - Lack of capacity is particularly acute in terms of the appointment of a Project Officer
  - National Treasury maintains a Project Development Facility which provides funding for the procurement of a Project Officer
  - That same fund may be used to procure Transaction Advisors as well

- Dealing with the lack of reliable information possessed by governmental entities necessary for conducting a feasibility study
- Dealing with governmental entity staff turn-over and changes in the political structure of a governmental entity
- All of which delays the project assessment and procurement processes
PPP Unit in South Africa
Prospects for the future

• Having recently issued the local government PPP Guidelines, entered into co-operative memos with the DBSA and IDC and nearing completion of the review of the Standardised PPP Agreement provisions, we view the prospects as promising

• There will be municipal elections in South Africa next year, which could affect the way forward

• Recovery from the current world-wide recession seems to be having a positive effect, albeit slower than we would like

• There will be an increased focus on health care PPPs for the next few years, including clinical services delivery

• IPPs, though not “pure” PPPs will also receive significant focus

PPP Project History to Date

• By the end of 2009, the South African PPP Unit had closed 20 PPP projects in the following sectors:
  – Health Care, including medical equipment installation, operation and maintenance, hospital co-location, provision of renal dialysis services, and hospital refurbishment, maintenance and operation at various hospitals
  – Office Accommodation, for the financing, design, construction, maintenance and operation of office accommodation facilities for government departments
  – Toll Roads, for commercial and tourism activities
  – Social Grants, for the distribution of social grants, including the accounting therefor
  – Fleet Management, for the provision and maintenance of motor vehicle fleets for government departments
  – IT, for the provision, maintenance and upgrading of IT equipment for government departments
  – World Heritage Site, for the design, construction, maintenance and operation of the Cradle of Humankind World Heritage Site in South Africa
  – Rapid Rail, for the partial financing, design, construction, maintenance and operation of a Rapid Rail system in Gauteng Province, South Africa
PPP Project History to Date, cont’d

• By the end of 2009, 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
  – Private sector use of state land for commercial purposes
  – Municipal solid waste management
  – Municipal water services

Conclusion

• For the last ten years, the PPP Unit at South Africa’s National Treasury has been an important driver for the development of government services infrastructure

• The success has been possible because of an enabling legislative and regulatory environment, together with robust support from our Minister of Finance

• Staffing, and maintaining our staffing with capacitated professionals has been, and will continue to be a challenge

• However, the PPP Unit brand is universally recognised in South Africa and makes our job much easier
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