

## GENERAL INFORMATION

<b>Capital:</b> Accra	<b>Population:</b> 27,409,893 Million	<b>GDP:</b> USD 37,543 Million
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## LEGAL AND INSTITUTIONAL FRAMEWORK

### PPP Law and other applicable texts

- The National Policy on Public Private Partnerships (PPP) June 2011 (NPPP)
- The PPP Bill Draft 2013 No.2, not adopted yet

### Other Applicable Sectoral Laws

- The Ghana Investment Promotion Centre Act, 2013 (Act 865)
- The Renewable Energy Act, 2011 (Act 832) (the “Renewable Energy Act”)
- The Public Procurement Act 663, 2003

### PPP Unit

The PPP Advisory Unit (PAU) (Ministry of Finance)

### Definition

(PPP Bill Draft, 2013)

The PPP Bill Draft defines the public private partnership:

“...all forms of contractual arrangement between a Contracting Entity and a private sector party with a clear agreement on shared objectives, for the provision of public infrastructure and services traditionally provided by the public sector as a result of which the private sector party performs part or all of a government’s service delivery functions, and assumes the associated risks over a significant period of time.” (*Section 2(4)*)

### General Principles

(PPP Bill Draft, 2013)

In planning, working on, implementing or doing anything connected with PPPs, or performing any PPP related tasks, all persons in both the public and private sector shall be guided by the following principles: value for money, risk allocation, ability to pay, local content & technology transfer, safeguarding public interest and consumer rights, environmental, climate and social safeguards, clear objectives and output requirements, accountability, fairness and transparency, competition, responsibility for managing the process and stakeholder consultation (*Section 3*).

## **Tendering and contracting procedures / Choice of the private partnership (PPP Bill Draft, 2013)**

- Competitive Bidding (*Section 51*)

The Competitive Bidding called “Solicitation Plan and Solicitation Documents” (Sub-part 1 Section 5) is driven by two-stages request for proposals (Section 62).

- Unsolicited Proposals (*Section 63 to Section 73*).

An assessment process is made through:

- an evaluation of unsolicited proposals regarding the programmed priorities of the government for the country; and
- a competitive PPP procurement procedure for Unsolicited proposals The process for the development and procurement of unsolicited proposals procurement is driven by the future regulations adopted by the Minister.

## **Project Evaluation (PPP Bill Draft, 2013)**

The Project evaluation has the following stages:

- Project Identification (*Section 35*)
- Project Registration (*Section 36*)
- Prefeasibility and project concept note (*Section 39*)
- Feasibility Studies (*Section 41*)
- Approval of Feasibility Studies (*Section 46-50*)

## **Negotiation and Signature of PPP Contracts (PPP Bill Draft, 2013)**

- Negotiation (*Section 87*)

Negotiations take place with the successful bidder on any issues raised in the Evaluation Report or stated in the draft PPP Agreement to be subject to negotiation After the conclusion of negotiations, the Contracting Entity shall submit a report of the negotiations to the appropriate approval authority as the context requires.

- Execution of Contract (*Section 98*)

Subject to obtaining the approvals required under the law, the Head of the Contracting Entity shall execute the PPP Agreement on behalf of the Contracting Entity in respect of every PPP arrangement that is concluded in accordance with the PPP law.

No specific provision in the Policy and the Bill Draft regarding the signature.

<b>Rights and Obligations of the public partner</b>	Safeguarding public interest and stakeholder rights ( <i>Section 3(6)</i> )
<b>Rights and Obligations of the private partner</b>	Obligations related to risk sharing ( <i>Section 41 to 42</i> ); to use local content and transfer of technology ( <i>Section 56</i> ); management and monitoring the project impact ( <i>Section 66</i> ), acquisition of rights related to project site ( <i>Section 102</i> ), easements ( <i>Section 103</i> ), financial arrangements ( <i>Section 105(1) and (4)</i> ), guidelines by the Minister on PPP agreements ( <i>Section 106</i> )
<b>Obligations of both public and private partners</b>	No specific provision in the Policy and the Bill Draft.
<b>Applicable Law</b>	The Laws of Ghana ( <i>Section 100</i> )
<b>Dispute resolution (PPP Bill Draft, 2013)</b>	Any dispute between a Contracting Entity and the private sector party after they have entered into a PPP Agreement shall be settled through the dispute settlement mechanisms agreed by the parties in the PPP Agreement or, failing such agreement, in accordance with the Alternative Dispute Resolution Act, 2010 (Act 798) or the applicable law on alternative dispute resolution mechanism for the time being in force ( <i>Section 111</i> )

## EXAMPLES OF PROJECTS STRUCTURED AS PPP

<b>Water</b>	Accra seawater desalination Plant
<b>Transport</b>	Accra-Takoradi Highway Dualisation
<b>Social</b>	Accra Sports Stadium Rehabilitation Project