

GENERAL INFORMATION

Capital: Maseru

Population: 2,135,022

GDP (USD): 2,278 Million

LEGAL AND INSTITUTIONAL FRAMEWORK

PPP Law

- No dedicated PPP Law
- Draft PPP Policy of Lesotho not available

Other Applicable Sectoral Law

- Public Procurement Regulations, 2007 (PPR)

PPP Unit

- No PPP Unit; PPP are governed by the Ministry of Finance and Development Planning with collaboration with relevant line Ministries
- Public Policy and Advice Division (PPAD) is responsible of the public procurement system and policy.

Definition

(SADC3P and XSAxis Consulting Draft PPP Policy, January 2014, and Castalia Strategic Advisers, Confidential Draft Lesotho Public-Private Partnerships Policy, Report to the International Finance Corporation, September 2013)

No provision related to PPP or Concession in the PPR.

“PPP involves a contractual arrangement between a Public Partner/Procuring Unit and Private Partner for a significant period of time whereby the latter designs, finances, constructs, operates, maintains, rehabilitates a public asset or service in whole or in part in accordance with predefined output specifications on behalf of the Public Partner/Procuring Unit. The arrangement involves risk sharing between both parties. The Private Partner receives benefits /financial remuneration for provision of assets or services according to pre-agreed terms either by way of tariffs, user charges or government based payments or combination thereof”

**General Principles
(Art. 6 of PPR, 2007)**

- Development of the public procurement system by securing legality, accountability, efficiency, transparency and overall value for money in the implementation of public procurement
- Stimulation of a competitive environment with equality of treatment among bidders in the public procurement process

Take due regard of the Government's policy and aims in respect of local preference schemes (art. 6 – Functions of the PPAD)

**Tendering and contracting procedures/ Choice of the private partnership
(Art. 7 and 8 of PPR, 2007)**

Procurement procedure (art. 7):

- Open tendering (art. 19) with a two-stage open tendering process (art. 20)

Exceptional procurements (art. 8):

- Limited Tendering (art. 34)
- Comparison (art. 35)

Non-Competitive Procurement (art. 36)

**Project Evaluation
(PPP country Paper 2013 by SADC)**

Feasibility study (including technical feasibility, financial viability analysis, and environmental and social viability)

**Negotiation and Signature of PPP Contracts
(Art. 36 of PPR, 2007)**

Applicable for non-competitive procurement only:

PPP Unit may enter into negotiations with the tenderer in order to agree on a contract that is acceptable, and the agreement reached during negotiations shall be included in the formal contract, in accordance with the specified conditions, and when the non-competitive tender is in part unacceptable (art. 36 (2)).

Rights and Obligations of the public partner

No provision in the Regulations and the Policy.

Rights and Obligations of the private partner

No provision in the Regulations and the Policy.

Obligations of both public and private partners

No provision in the Regulations and the Policy.

Applicable Law/ Dispute resolution No provision in the Regulations and the Policy.

(PPR, 2007)

EXAMPLES OF PROJECTS STRUCTURED AS PPP

Energy

Lesotho Electricity Corporation (LEC)