GENERAL INFORMATION

| Capital: Mbabane / Lobamba | Population: 1,286,970 | GDP (USD): 4,118 Million |

LEGAL AND INSTITUTIONAL FRAMEWORK

PPP Law
- No PPP law;
- Swaziland Final PPP Policy, 2008 (SPPPP)

Other Applicable Sectoral Law
- Public Procurement Regulations, 2008 (PPR)
- Mines and Minerals Act, 2011
- Diamonds Act Notice, 2011

PPP Unit
- No PPP Unit; PPP are governed by relevant line Ministries

Definition
The Swaziland PPP Policy defines the PPP:
(Art. 7 of SPPPP, 2008)
“Public Private Partnerships” normally defined as a partnership between the public sector and the private sector for the purpose of delivering a service or project traditionally falling within the ambit of public sector (art. 7)

General Principles
(Art. 8 of SPPPP, 2008)
- Defending the public interest;
- Provide value for money;
- Be conducted and procured transparently;
- Be developed with full stakeholder consultation;
- Not infringe consumer rights;
- Share risks.

(art. 8 – Principles governing implementation of PPPs)
The Procurement Procedure must be in accordance with regulations and applies to the implementation of a PPP (art. 11 of SPPPP).

Procurement processes (art. 40 to 44 of Regulations) that apply to the PPP:
- Open tendering (art. 40)
- Limited tendering (art. 41)
- Single Source Procurement (art. 44)

According to the SPPPP, the Minister of Finance remains responsible for implementing the PPP but the line Ministries conduct the initial feasibility study (Initial Feasibility Assessment). Articles 58 to 66 of Regulations are applicable to the evaluation project process.

Under the PPR, signature of contracts differs depending on the procurement method chosen:

(i) the Tendering method (art. 109; the procuring entity shall obtain prior authorization of the contract document from the controlling officer, before sending it to the supplier for signature);

(ii) the Single Source Procurement (art. 111 and 112)

Sharing of risks:
The negotiation of risk, and the use of risk mitigation measures (such as insurances and guarantees) by the private party, should be used to reduce the risk cost to the government. At the same time, government must work to
limit any risks which are within its control (Principle 9: Appropriate sharing of risk of PPP Policy)

Applicable Law/ Dispute resolution (Art. 8 of SPPP)

No provision in the Policy but the future PPP law shall include contractual clauses on arbitration and dispute resolution (art. 8 – Principles governing implementation of PPPs)

EXAMPLES OF PROJECTS STRUCTURED AS PPP

No PPP projects identified in Swaziland