

Guidelines for Public-Private Partnerships

Guidelines for Public-Private Partnerships

Department of Finance

Republic of South Africa

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PREFACE

The government alone cannot meet South Africa's development challenge. To generate economic growth, provide infrastructure and deliver services, the government and private sector must combine their different strengths, providing a supportive policy and regulatory environment, entrepreneurial innovation, specialist skills and all the other qualities that make a modern economy competitive.

To stimulate such partnerships, the Cabinet adopted a policy (*Strategic Framework for Delivering Public Services through Public-Private Partnerships*) and a set of regulatory principles that form the basis for the *Treasury Regulations* in terms of the Public Finance Management Act. The *Guidelines for Public-Private Partnerships* aim to assist departments in implementing this policy and legislation in their management of public-private partnerships (PPPs).

PPPs are, of course, not run-of-the-mill public administration. They pose new challenges to government officials and their non-government partners. Exceptional management and complex negotiation are required to ensure that the public good is served through the right mix of risk transfer and value for money at a price the government can afford.

The *Regulations* and *Guidelines* deliberately avoid bureaucracy, keeping the Treasury's role to a minimum and entrusting the relevant line departments with technical and managerial accountability. Accounting officers are expected to ensure that PPP processes are competitive, transparent and open to public scrutiny, with sufficient safeguards against favouritism, improper practices and corruption.

The new Treasury Unit on PPPs will build on these *Regulations* and *Guidelines* to assist office-bearers and accounting officers in applying sound principles of governance when considering, negotiating or monitoring PPPs. We hope to see best practice emerging and dynamic service provision taking root. The government's goals of transformation, development and sustainable service delivery may not depend on this exclusively, but are nonetheless inextricably tied to the success of the drive for PPPs.

Trevor Manuel

Minister of Finance

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ABBREVIATIONS

BOO	build-own-operate
BOT	build-operate-transfer
DCD	Department of Constitutional Development
DOT	Department of Transport
ILO	International Labour Office
IP3	Institute for Public-Private Partnerships
JUPMET	Joint Universities Public Management Trust
MIIU	Municipal Infrastructure Investment Unit
MTEF	Medium Term Expenditure Framework
NBI	National Business Initiative
NGO	non-governmental organisation
NPV	net present value
PPP	public-private partnership
PSC	public sector comparator
RFP	request for proposals
RFQ	request for qualification
SAMDI	South African Management Development Institute
SMME	small, medium and microenterprise
USAID	United States Agency for International Development

Introduction

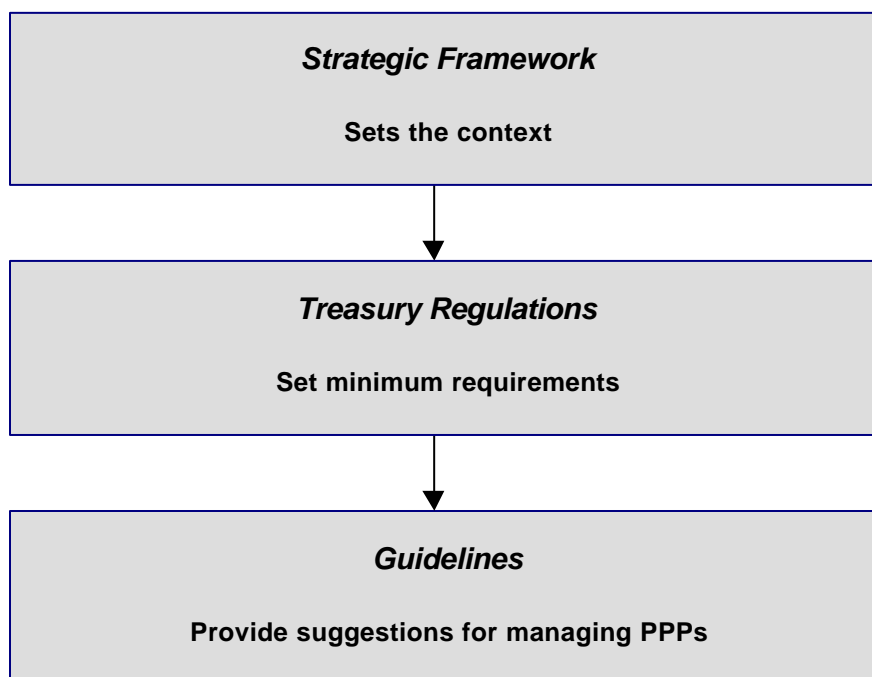
Aims and objectives of the *Guidelines*

In 1997, the Cabinet approved the appointment of an Interdepartmental Task Team to explore ways in which to make public-private partnerships (PPPs) a more viable option for performing selected departmental functions on behalf of national and provincial government departments.

The work programme of the Interdepartmental Task Team comprised six areas:

- An audit of PPP activities in South Africa
- An analysis of possible fiscal impacts
- A preliminary scan of the legal framework
- A consideration of institutional options
- A review of international best practices
- An assessment of organisational capacity to carry out PPPs

The work of the Task Team formed the basis for the government's three key documents on PPPs – *Strategic Framework for Delivering Public Services through Public-Private Partnerships*, *Treasury Regulations* and *Guidelines for Public-Private Partnerships*. The figure below depicts the purpose of each of these documents.



The *Strategic Framework* addresses key constraints to the successful implementation of PPPs, and identifies a package of legislative, regulatory and institutional reforms to strengthen the enabling environment.

The *Treasury Regulations*, issued in terms of the Public Finance Management Act of 1999 regulate PPPs in national and provincial government departments to ensure that accounting officers remain fully accountable for the outcomes of departmental functions performed under PPP arrangements.

The *Guidelines* contain a set of procedures to advise departmental accounting officers and project managers on sound practices when preparing, procuring and implementing PPP arrangements.

In short, these *Guidelines* are intended to:

- assist national and provincial departments in applying the *Treasury Regulations*
- provide an overview of PPP arrangements – the benefits, reasons, types of PPP and outsourcing arrangements
- outline the key issues in understanding and implementing PPP projects.

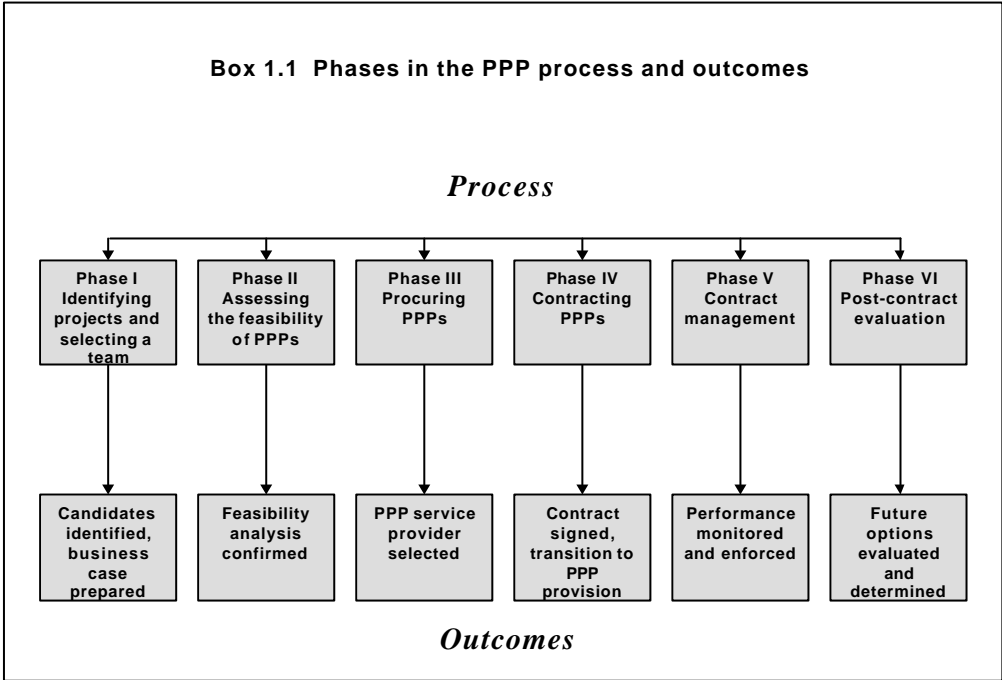
The *Guidelines* are neither exhaustive nor comprehensive, but are instead a first edition to support the implementation of the *Treasury Regulations*. They will be adapted where required, based on feedback from line departments. Users are therefore encouraged to work with the Treasury to ensure that the *Guidelines* remain relevant and appropriate.

The role of the PPP Unit

The national Treasury has set up a dedicated PPP Unit to support the implementation of the *Strategic Framework*. It will enforce compliance with the *Treasury Regulations* and assist departments in the preparation, procurement and implementation of PPPs. The Unit will provide technical and financial advice throughout the PPP project cycle, thereby complementing the information contained in these *Guidelines*. The Unit's project management, economic, legal and financial skills will enable staff to assist departments in project management, economic and financial analysis, negotiation and legal processes pertaining to PPPs.

Chapter outline

A PPP project life cycle revolves around the sequence of steps outlined in Box 1.1 below. Chapter 2 describes the “what” and “why” of PPPs – how they benefit public service delivery. Chapters 3 to 8 detail the requirements of the *Treasury Regulations* for each phase and guide departmental accounting officers in managing these. Chapter 9 provides options for dealing with unsolicited bids in the context of PPPs. Chapter 10 concludes the *Guidelines* with a short summary.



The basic “what” and “why” of public-private partnerships

Introduction

While several PPP arrangements have been implemented in South Africa, they remain a relatively new phenomenon. There is still some uncertainty as to what a PPP is, how and under what circumstances they should be implemented, and how responsibility and accountability for PPP arrangements should be determined. Moreover, some PPP arrangements have not yielded satisfactory outcomes for either the departments concerned or the public. Structuring the approach to PPPs requires standard definitions of key concepts and a set of rules that govern the preparation, procurement and implementation of these arrangements.

Major “do’s and don’ts” in the *Treasury Regulations*

The Treasury’s role is not to “second guess” or “micromanage” the decisions of departments. The primary responsibility for identifying, procuring and implementing PPP arrangements therefore rests with departments and accounting officers. Treasury approval is only required in those stages that affect expenditure control and the prudent use of state resources. Treasury criteria require that PPP arrangements must, among others:

- demonstrate *value for money*, for example by enabling departments to achieve more with the same resources or as much with fewer resources
- be *affordable*, i.e. fit within a department’s budgetary parameters
- be procured using *transparent and competitive processes*
- show evidence of substantial *risk transfer* from the department to the private party
- be implemented within a sound and suitable *project management* and administrative structure.

What is a public-private partnership?

PPPs have many possible variations and the lack of a clear definition has unfortunately confused the application of PPPs to date. The *Treasury Regulations* have therefore adopted a simple definition of PPPs, based on three essential elements:

1. A contractual arrangement whereby a private party performs a departmental function on behalf of a national or provincial department for a specified time.
2. Substantial risk transfer to the private party. Unless the private party assumes the risks and responsibilities of the arrangement, the transaction will be treated as departmental borrowing.
3. A schedule of outcome-based financial rewards, derived either from service tariffs or user charges, from a departmental or other budget, or from a combination of these sources. Contracts for the supply of goods or services are not PPPs and are subject to existing procurement legislation and regulations.

What is a “departmental function”?

The *Treasury Regulations* define a departmental function as:

- a service, task, assignment or other function that a department performs in the public interest or on behalf of the public service
- any part or component of, or in support of, such a service, task, assignment or other function
- excluding, however, a service, task, assignment or other function that is not of an ongoing nature.

Types of public-private partnership

The simplest form of PPP is a service contract, where a department typically awards a private party the right and obligation to perform a service, within well-defined specifications, for between one and three years. The government retains ownership and control of all facilities, capital assets and property. More complex PPP arrangements, such as concessions and build-operate-transfer (BOT) schemes, are characterised by the mobilisation of private finance on a limited recourse basis. Given the often substantial capital investment by the private party under such arrangements, the contracts tend to be long, frequently 25 years. Table 2.1 below lists the various types of PPP. This list excludes full privatisation, as the government’s privatisation initiative is coordinated by the Department of Public Enterprises in terms of the National Framework Agreement.

Table 2.1 Types of PPP contract

Type of contract	Duration	What the contractor usually receives	Nature of contractor performance	Examples
Service contract	Short-term (1–3 years)	A fee from the government for performing the service	A definitive, often technical type of service	Facility repairs and maintenance; laundry
Management contract	Medium-term (3–8 years)	A fee from the government for the service and a performance-based incentive	Manage the operation of a government service	Regional water supply management
Lease	Long-term (8–15 years)	All revenues, fees or charges from consumers for the provision of the service; the service provider pays the government rent for the facility	Manage, operate, repair and maintain (and maybe invest in) a municipal service to specified standards and outputs	Existing airport or port facilities
Build-operate-transfer	Long-term (15–25 years)	The government mostly pays the service provider on a unit basis	Construct and operate, to specified standards and outputs, the facilities necessary to provide the service	Building, construction and maintenance of regional schools, prisons or hospitals
Concession	Long-term (15–30 years)	All revenues from consumers for the provision of the service; the service provider pays a concession fee to the government and may assume existing debt	Manage, operate, repair, maintain and invest in public service infrastructure to specified standards and outputs	New airport or seaport facilities, toll road or bridge

While service delivery through a PPP changes the means of delivering services, it does not change a department’s accountability for ensuring that the services are delivered. The department’s focus shifts from providing the service to managing the service provider, i.e. becoming a contract manager rather than a resource manager.

Why use public-private partnerships?

The simplest forms of PPP have been part of South Africa’s procurement landscape for some time. More complex arrangements, in particular contracts of long duration involving private finance, are relatively new and have thus far produced mixed results. Correctly structured, however, they are a useful service delivery option from both an operational and a strategic perspective.

Operationally, the benefits of PPPs include efficiency gains; output focus; economies generated from integrating the design, building, financing and operation of assets; inventive use of assets; innovative financial structuring; managerial expertise; and better project identification. These benefits can result in better or more services for the same price, or in savings that can fund other services or more investment elsewhere.

Strategically, partnership contracts enhance accountability by clarifying responsibilities and focusing on the key deliverables of a service. A department’s managerial efficiency can benefit significantly from such a contract, as existing departmental financial, human and management resources can be refocused on strategic functions.

Using private finance rather than public finance does not mean that more expenditure can be afforded as, in the long run, the cost of borrowing in private finance deals will typically be higher than conventional government borrowing. PPPs are therefore not about gaining access to private capital. Since the government can normally borrow more cheaply, the gains from the private operator’s efficiency must exceed this difference in borrowing cost. The real benefit of PPPs is the value for money derived from the operational and strategic benefits mentioned above.

These benefits are not, however, inevitable, but are dependent on at least three conditions:

- An operational need for private sector skills to deliver a service
- An identifiable market of private sector bidders prepared to compete for the opportunity to finance and deliver a project
- The appropriate allocation of risk.

What is “value for money” in public-private partnerships?

The concept “value for money” is discussed in more detail in Chapter 4. The *Treasury Regulations* state that a PPP provides value for money if the net cost of private service provision is lower than the net cost of departmental provision of the same standard of service. In other words, value for money is achieved when the private sector can provide a given level of service at least as cheaply as the public sector.

What is “affordability” and who determines it?

Affordability relates to whether the payments required over the whole PPP project life can be accommodated in the budget of the relevant department, given its existing commitments. A particular PPP contract may offer such a high level of service that it is unaffordable, even though it provides value for money. Affordability and value for money are equally important. If a project is unaffordable, it undermines the government’s ability to deliver other services and should not be pursued, even if it is good value for money. For this reason, the relevant treasury plays the leading role in assessing the affordability of proposed PPP projects.

What is “risk transfer” and why is it important?

Chapter 6 of the *Guidelines* focuses on risk issues and risk transfer. In short, both the private sector partner and the government are concerned about risk transfer and management. Accounting

officers in government seek contracts that limit unanticipated liabilities and that clearly define the application of public sector guarantees or performance undertakings to enhance the viability of a project. Private parties, in turn, put time, technological expertise and money at risk and seek conditions that enable them to mitigate these risks effectively. When risk resides with the party best able to manage it, the resulting efficiency gains can be considerable. Where private finance is obtained without risk transfer, there are no efficiency gains to offset the higher cost of capital. Such deals are not true PPPs; they simply involve borrowing at a higher rate of interest. Therefore, a deal that does not involve adequate risk transfer should be treated as borrowing and recorded accordingly, as required by the relevant national and provincial government legislation.

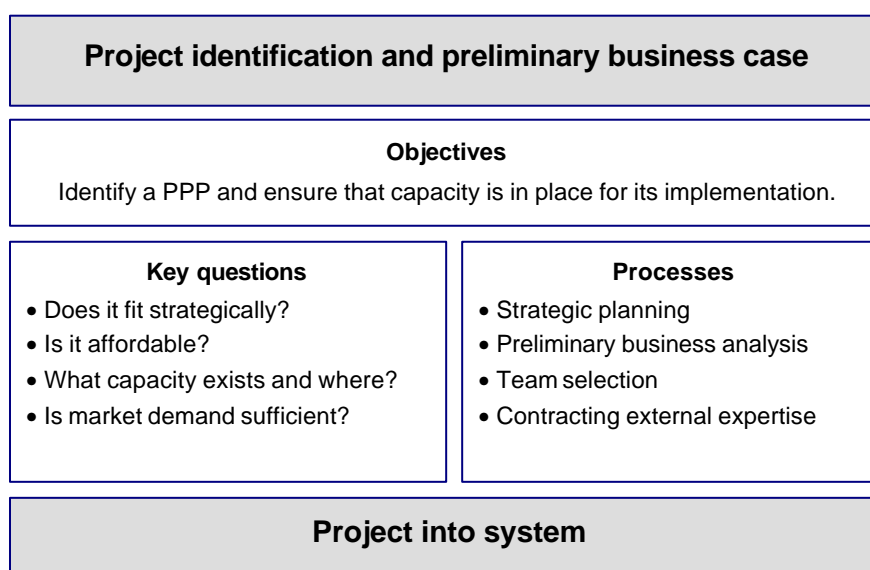
Do the *Treasury Regulations* apply to public-private partnerships in the local government sphere?

No. The *Regulations* apply only to PPPs in national and provincial departments. Local government PPPs are implemented according to the *Municipal Services Partnerships Policy* and related legislation prepared by the Ministry of Provincial and Local Government.

Conclusion

The *Treasury Regulations* support the prudent use of state resources by ensuring that accounting officers and other officials address key issues. These include application of the Public Finance Management Act, affordability, value for money and best practice. This chapter provided short definitions of these concepts; they are explored in more detail in the following chapters.

Starting off: identifying projects and selecting a team



Introduction

This chapter focuses on the issues departments should consider at the start of the PPP project cycle, including:

- identifying candidate PPP projects and their outcomes
- determining how a PPP may improve the cost-effectiveness of the department's operations.

Sound management of the PPP process is critical and departments should establish an effective management structure at the start of the process, as suggested below.

What the *Treasury Regulations* say

Because the *Treasury Regulations* focus on the financial dimensions of PPPs, they do not deal explicitly with the identification of a PPP project. This is left to line departments, who may consult the relevant treasury about fiscally relevant aspects of the project selection and business case development, but are not compelled to do so. Similarly, team selection falls largely outside the ambit of the *Regulations*, other than the requirement for accounting officers to implement appropriate arrangements for managing the project.

What this means in practice

PPPs allow departments to restructure and improve the cost-effectiveness of their operations, and can be both strategic and operational tools. A department should therefore consider the potential benefits it may expect from a PPP. Box 3.1 below lists several possible overall objectives that can steer the subsequent development and implementation of the project.

Box 3.1 Typical PPP objectives

- Achieving cost savings
- Focusing on strategic business functions
- Improving quality
- Gaining access to new skills
- Accessing new technology
- Achieving greater operational flexibility
- Improving operational accountability

PPPs are not a panacea for all the challenges that confront a department. They do not absolve accounting officers from their responsibility for ensuring satisfactory departmental service delivery. After examining the PPP option, a department may well decide not to proceed with a PPP for a particular function. However, even such an initial examination and comparison process can be of benefit and result in substantial savings, such as the following:

- Accounting officers may better understand the service delivery requirements of their departments.
- Focusing on the delivery of services, rather than on the more traditional governmental processes of procuring and managing staff and physical assets, may enhance cost awareness.

Planning for PPPs should be an integral part of the national and provincial development and budget planning processes. As such, PPPs should also be included in the Medium Term Expenditure Framework (MTEF), which requires national and provincial departments to plan for multi-year priorities (over three-year periods) both individually and in relation to the government's overall budgetary planning.

Planning reviews provide a good opportunity for dealing with PPPs. Because the PPP option is relatively new, departments may need to revisit existing strategic plans. Where the PPP option is favoured, appropriate strategic planning processes should be initiated both within the department and in consultation with other departments and stakeholders.

The *Treasury Regulations* do not lay down absolute rules for determining which projects can or cannot be considered for a PPP. Accounting officers and other senior officials in each department have to base this judgement on the individual strategic and business cases. However, the policy, planning and contract management functions of a department are usually not devolved to a PPP arrangement.

When identifying candidate PPP projects, departments should take the following steps:

1. Document and verify the *strategic and operational benefits* of a PPP, compared to the continuing performance of the function by the department. Typical strategic questions include the following:
 - What are the department's priority services and functions?
 - Is there a general public demand for the service?

- What are the expectations of stakeholders – the department, user groups and investors? (see Box 3.2)
 - How many current employees will be affected by the proposed PPP?
 - Are public controversies likely to make this project the target of any NGOs or political or social pressure groups, which would discourage private investors and force up costs?
 - Is there a pressing need to change the method of service delivery?
 - Which services and functions can be improved?
 - Will there be genuine risk transfer to the private sector?
 - Do existing facilities meet the required standards and who would be best suited to undertake expansions, upgrading and maintenance?
 - Which core functions or services should the government perform? Which others may appropriately be earmarked for some form of PPP?
 - Are PPPs a viable option relative to others?
 - Do private parties have the appropriate skills and investor interest to perform the functions and services considered for PPPs?
 - Are there strong indications that the project can provide value for money?
 - Is there an identifiable revenue stream that this project can capture?
 - Is political will sufficient for the project to move forward?
 - Is there sufficient organisational capacity to carry out the project?
 - What external assistance might be required?
2. Determine and quantify, as far as possible, the *expected outcomes* for the performance of the departmental function.
 3. Identify the *actions required* to steer the PPP through to expected start-up. This should include an indicative time frame. Getting started usually entails the following steps:
 - Plan the timing and scope of consultative processes with labour and other stakeholders.
 - Determine contractual matters: what type of PPP contracting arrangement is expected, e.g. a BOT, concession or management contract.
 - Indicate how the PPP is to be procured.
 - Indicate the major risks and how these are to be allocated between the department and the private party.
 4. Identify *candidate functions or services* and prepare a services profile and initial scope of proposed projects. Box 3.3 provides an example.

The project team

Starting early

Projects do not move forward without project champions and the core project team should be identified as soon as possible. The composition and membership of the team usually change over time as additional requirements emerge.

Developing the project strategy

Prospective project team members may initially work with the accounting officer to form an internal strategic planning task force or informal project identification committee. They will initially focus on assisting the accounting officer in analysing and refining the elements of the strategic plan, which will directly influence project identification and implementation. For the duration of the project, the project team will be responsible for day-to-day management – liaising

Box 3.2 Stakeholder consultation

Relevant stakeholders must be identified and engaged from the outset. These typically include potential users of the service, staff likely to be affected, residents of an area where construction is to take place and relevant government departments.

In dealing with a stakeholder, discussions should remain focused on issues pertinent to that specific stakeholder. For example, tariffs are more relevant to the users of the service than to labour representatives.

Discussions with affected staff are often complex and should focus on specific issues. Negotiations should ideally be structured around a clear agenda that addresses:

- potential job losses
- conditions of service
- parity
- grading
- benefits
- transfer and deployment.

Discussions about sectoral policy should be specifically excluded from discussions with labour.

Box 3.3 An example of a project profile and scope

Project name	:	Baru Container Terminal Development Project
Project agency	:	Southern Region Ports Authority Capital and Technology Centre No. 10 Thabo Road, Pretorburg 100844, South Africa
Contact	:	Mr Themba Sindane, Project Director
Phone	:	+27 99 632-4840
Fax	:	+27 99 632-4185
Project value (rand)	:	290 million

Objectives and scope

The objectives of the project are to expand the container-handling capacity of the port to about 5 million twenty-foot equivalent units by 2015. A private operator will develop the vacant land at and adjacent to the present Slip 0 into a container backup and stacking area. The project will be awarded as a 15-year concession. The concessionaire will develop the wharf, transit shed and container backup and stacking area and provide all container-handling equipment. At the end of the concession period, the incumbent can rebid for the project and will be given a margin of preference of 10 per cent. The project will save the port authority approximately R42 million in upgrading the port. It will also yield a concession fee to compensate the authority for the economic value of the land. A feasibility study will be commissioned in January 2001 to refine the initial business case and confirm the strategic value of the project. A full environmental impact study will be required as part of the feasibility study.

Procurement

The project will be procured using an international competitive bidding process from a shortlist of port operators and developers identified through a pre-qualification process.

Project development stage

The strategic assessment and preliminary business case will be developed by June 2000 and the final feasibility study by December 2001. Treasury approval to proceed with pre-qualification is expected by March 2002.

Accounting officer

Randhir S. Singh
General Manager
Southern Region Ports Authority
rsingh@mail.southports.org.za

with bidders, advisers, project board members, the press, users and trade unions while managing logistics and resources. In preparing for this, the newly constituted team should develop a practical strategy for project development. This strategy should consider the suitability and viability of various PPP implementation options, identify and analyse likely obstacles during different phases and develop measures to manage such obstacles. Departments can approach the Treasury's PPP Unit for technical advice in this regard.

Team and skills selection

The standard principles of project management apply when selecting staff and creating an effective team. As public managers are generally familiar with these principles, the *Guidelines* will not deal with them at length.

Important aspects are to:

- clearly assign specific responsibilities to each member
- delineate lines of accountability in the team and in relation to the department and other agencies
- define the results expected and indicate the rewards linked to the project.

Careful planning is required when selecting the mix of competencies and specifying the capacity-building and empowerment objectives for the team. Negotiation with bidders is fundamental to a PPP and the skills of the team should correspond to the probable composition of potential bidding consortia. Team composition will therefore vary from partnership to partnership. However, some skills are likely to be required in most PPPs, as listed in Box 3.4. Appropriate external advisers should be involved to supplement the skills of the internal team.

Box 3.4 Skills requirements

The skills generally required in PPP arrangements include the following:

- *Financial expertise* is typically required around the commercial structure of special purpose companies, the viability and quality of bidders' funding proposals, the financial aspects of bidder evaluation, and negotiation to financial close.
- *Legal expertise* is needed on procurement issues, legal structure, risk assessment and allocation, as well as contingent liabilities, commercial matters and service contract documentation.
- *Procurement advice* will be specific to PPPs, as these are often more complex and long term than most other procurements in the public sector.
- *Expertise* may also be bought in to assist with output specifications, definition of performance standards and design of reporting techniques.
- *Technical know-how* is needed to assess project design proposals, provide cost evaluation and develop user briefs and specifications of services.

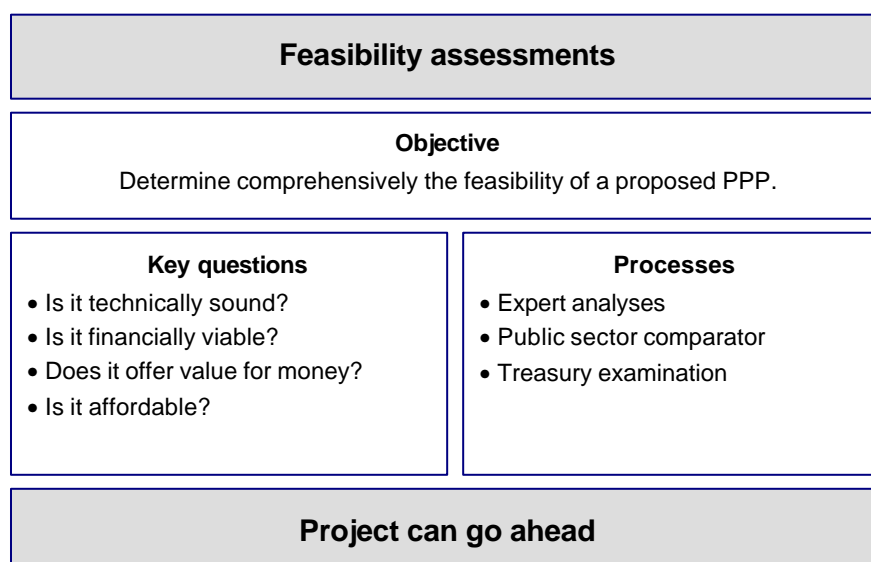
Training and skills development

Team composition raises the question of training and capacity building. While government departments will probably always require advice and support from external experts, some in-house skills should clearly be developed. To this end, Annexure I provides a schedule of PPP trainers in South Africa and abroad.

Conclusion

PPPs require systematic prioritisation and strategic planning from the early stages of the project's life cycle. In the public interest, service requirements should be clearly articulated and a strategic analysis and preliminary business case conducted to stipulate the department's expectations of and future actions on a proposed PPP. A core project team should be selected as soon as possible to direct PPP activities.

Assessing the feasibility of public-private partnership arrangements



Introduction

Once a department is satisfied that a candidate PPP has a sound strategic and preliminary business case, it needs to conduct a detailed feasibility study to:

- establish whether the project is in the public interest
- strengthen the strategic and business case for the project
- determine whether it is financially viable
- confirm that it complies with all relevant laws and regulations
- determine the factors that will make it attractive to private investors
- prepare a comprehensive assessment of its value for money.

During this phase, the relevant treasury should also assess the affordability of the project.

What the *Treasury Regulations* say

The *Treasury Regulations* require accounting officers to ensure that a feasibility analysis is conducted to assess whether a proposed PPP agreement will be in the best interest of both the department and the public.

To this end, the *Treasury Regulations* prescribe that a feasibility analysis must do the following:

- Specify the nature of the relevant departmental function and the extent to which a private party can perform this function through a PPP arrangement. Both legal and technical aspects of a potential project must be considered.

- Explain the strategic and operational benefits for the department of a private party's involvement, as well as any advantages or disadvantages to the public.
- Determine whether the expected results are compatible with the overall strategic objectives and plans of the department and government policy.
- Assess whether such an arrangement will provide value for money and be affordable for the department.
- Include any relevant data and the economic criteria used to justify these assessments.
- Explain the approach and methodology the department plans to follow to procure the services of a private partner.
- Explain the capacity of the department to enforce the arrangement and to monitor and regulate implementation and performance in terms of the arrangement.

When to do feasibility studies

Subject to satisfactory strategic analyses, the detailed feasibility analysis should begin as soon as possible. Departments should conduct the feasibility analysis in stages, determining the overall feasibility of the project before undertaking more detailed analysis. For example, it is crucial to ascertain early on that the project is affordable within the parameters of the budget. This will save considerable effort later on and reduce the risk to prospective private sector partners. The department must be committed to the proposed project to avoid wasting the time of private investors who invest significant resources in preparing bids. If a department is ill prepared and has to call off a project when new information comes to light, the bidders' extensive work becomes futile. For this reason, no bid document should be issued before the relevant treasury has signed off on the feasibility analysis.

Using the right skills

The technical, legal and financial aspects of PPPs require expertise that is seldom available in the public sector. Internationally, PPPs have often necessitated skills to be bought in to assist government departments. Good specialist advisers are worth the expense, especially on large-scale projects. They enable a department to master the process from the outset, resulting in savings in project implementation. The government team should ensure that it has access to specialised consultants, legal advisers, financial advisers and other specific technical assistance.

Specialist advisers are typically designated on a project-specific, as-needed basis and only after the decision to proceed with the project has been made. However, financial and legal advisers should probably be appointed during the development of a more detailed feasibility analysis (see Chapter 5). Financial advisers are likely to be effective when the project scope and output requirements are being defined, as services levels depend on affordability and budget allocations. Legal advisers may be required to assess potential risks, contingent liabilities and the legal framework for the project.

What to assess

A feasibility assessment has nine essential components:

- Identification of all stakeholders
- Assessment of current infrastructure and current practices and procedures
- Evaluation of the department's organisational structure with regard to the service to be assessed
- Determination of the total costs of providing the service
- Assessment of current revenues generated, if any, for providing the service

- Determination of source(s) of revenues utilised by the department to provide the service
- Determination of the short- to medium-term capital needs for providing the service and the ability of the department to obtain the necessary resources
- An analysis of relevant PPPs that might be employed to provide the same service
- A recommendation on the type of PPP to be employed, supported by a financial and institutional analysis

Feasibility studies for PPPs address technical aspects, value for money and affordability.

Technical issues

Technical issues include design, legal requirements, service levels, expected outcome, technology requirements and institutional arrangements. Analysis of such issues is necessary for specifying outputs and setting the standards for value-for-money and affordability assessments. The department is responsible for this work and relevant internal and external expertise can be mobilised as required.

Value for money

This fundamental element of the feasibility study must be done in consultation with the relevant treasury. Accounting officers must be familiar with the concept “value for money” and understand how it is determined. The technical nature of the analysis generally necessitates expert input and advice.

According to the *Treasury Regulations*, a PPP provides value for money if the net cost of private provision of the departmental function is lower than the net cost of departmental provision. In addition, the standard of service delivery must at least be equivalent to the standard achieved through departmental provision.

Best value for money can only be ascertained later, when the cost of public provision is compared with the bids received by private parties. However, it is essential to assess, during the feasibility analysis, what it would (or does) cost a department to provide the function being considered for a PPP. The *Treasury Regulations* thus require a public sector comparator (PSC) to be used as a benchmark for determining this hypothetical (or actual) cost, and hence value for money. As a PSC is complex to construct, the department will probably require external assistance to assess the relative costs and benefits of the project.

Because the PSC is an analytical tool, it cannot provide conclusive answers and is useful only when:

- standard public sector rules and regulations have been followed to accurately calculate the comparator
- sound and extensive cost accounting data have been used to ensure that all relevant costs are identified and measured, including all overhead costs, contingent costs and the net gain or loss in tax revenues.

Box 4.1 highlights the main elements of the use of a PSC.

Box 4.1 The public sector comparator

To compare whether private sector bids for the relevant services will offer value for money to the public sector, it is common practice to construct a public sector comparator (PSC). The PSC estimates the cost of providing an equivalent service in the public sector and is used to evaluate the prices offered to the public sector by the private sector.

The PSC process involves the following steps:

- Obtain the existing cost for the services as currently provided by the public entity, including:
 - capital costs, plus development costs (if any)
 - operating costs
 - salaries and staff complement
 - municipal charges
 - taxes and others.
- Adjust these costs for any variances to the levels of services that will be required from the private sector. The higher the levels of services required, the more the costs must increase.
- Add any increased marginal cost items for providing the additional services. These are hidden costs, such as insurance, legal fees, salary of the maintenance team, etc.
- If not already taken into account, add financing costs at terms and conditions that are acceptable for a public sector fund-raising.
- Add a bias adjustment to indicate any probable cost overruns in the public sector, non-quantifiable factors, risk transfers, economic benefits and social benefits related to sourcing the service from the private sector. The bias adjustment will vary depending on the project and has to be thoroughly analysed and debated with the relevant treasury.

The cash cost to the public sector for each year of the project should be discounted at the average weighted cost of public sector debt in real terms. The resultant net present value (NPV) number will later be compared to the bidders' NPV number calculated on the same basis. The lower the NPV, the cheaper it is for the public sector. If the bidders' NPV is less than the NPV calculated for the public sector, there is clearly value for money and the project should proceed.

Affordability

A PPP is affordable when the expected financial commitments can be accommodated within the department's existing budget and the relevant treasury's projections of the budget beyond the MTEF period. The treasury therefore determines the cash flow implications of the contractual obligations of the PPP. In broad terms, the treasury analyses the department's current budget and projected future budgets, as well as any implied budgetary precedent.

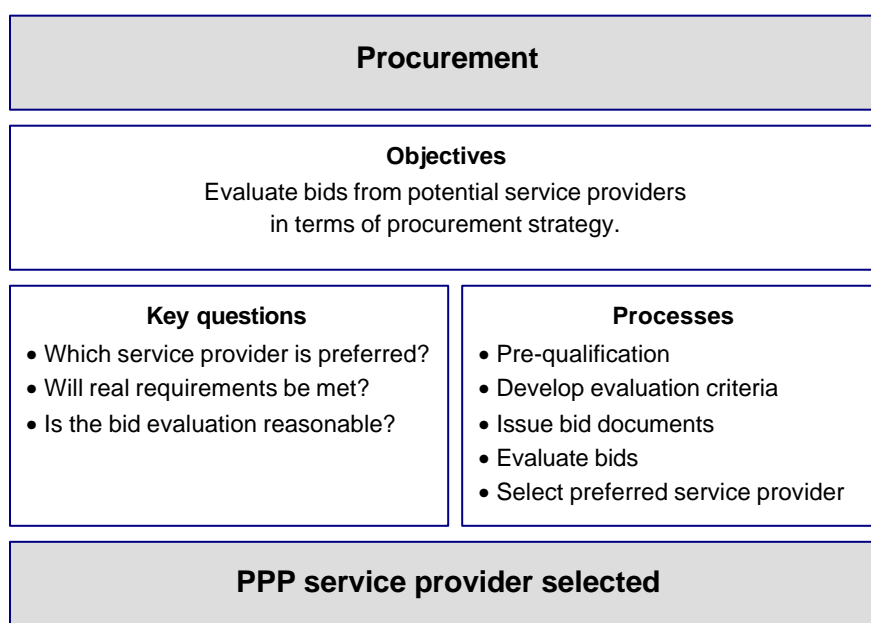
To develop sound PPPs and achieve fast treasury approvals and timely implementation, departments should develop an affordability perspective as soon as possible. A PPP will often require adjustments between the capital and recurrent budget of the department. The *Treasury Regulations* oblige accounting officers to review these implications with the relevant treasury and obtain its approval. Departments should discuss these aspects with the relevant treasury well before setting final budgets, and not only after tenders have been received. For this process, departments should identify:

- adjustments to recurrent expenditure, such as staffing, equipment rental, leases, technology licensing arrangements, repairs and maintenance
- adjustments to capital expenditure associated with replacement, expansion and/or technology upgrades
- any potential proceeds from the sale or transfer of state assets to the PPP arrangement
- the timing, structure and profile of receipts and payments under the PPP arrangement.

Conclusion

During this phase of the PPP project life cycle, the feasibility analysis allows the department to develop a more comprehensive feasibility analysis based on the preliminary business case. The need for and objectives of the project should be clearly established, value for money and affordability should be determined and implementation arrangements identified.

Procuring public-private partnerships



Introduction

After the relevant treasury has signed off on the value-for-money and affordability assessments, the department can begin to procure the services of a private party. This chapter examines the requirements and recommended practices for evaluating and selecting private parties for PPP arrangements.

What the *Treasury Regulations* say

The *Treasury Regulations* require a PPP to be procured in accordance with the department's procurement strategy. It must include competitive bidding, a pre-qualification selection process and selection criteria to ensure that the preferred bid offers best value for money. The *Regulations* allow preferences to be granted to persons disadvantaged by unfair discrimination, provided that these do not compromise value for money. They also allow incentives for rewarding genuine innovators in the case of unsolicited proposals.

Pre-qualification

The purpose of pre-qualification is to compile a shortlist of suitable firms with the experience and capacity to implement the project. Pre-qualification ensures that a manageable number of firms are invited to submit final bids. This is necessary, as bid costs for PPP projects are often substantial

and potential bidders are more likely to bid if they have a better prospect of winning. Pre-qualification also improves the quality of the bids, since bidders engage more intensively in the process.

Pre-qualification requires prospective bidders to demonstrate that they have:

- specific experience in the sector (e.g. toll road operation)
- successful performance on similar projects, with references from former clients
- relevant experience and performance in similar economic, demographic, geographical, topographical or climatic areas
- appropriate personnel and equipment capabilities
- financial capacity to carry out the project
- capacity and commitment to promote empowerment and affirmative action.

The pre-qualification criteria generally favour organisations that are recognised providers of similar services, with a dedicated staff and management. However, this should be balanced to foster effective and meaningful participation by empowerment firms and small, medium and microenterprises (SMMEs).

Once a viable project has been identified and suitable pre-qualification criteria have been developed, the department should seek expressions of interest through a request for qualification (RFQ). A wider solicitation process is more likely to attract interest from high-quality and experienced entities. Invitations for pre-qualification should be advertised in widely circulated newspapers, trade publications and periodicals and on the department's Internet site.

Box 5.1 shows a sample pre-qualification advertisement for a hypothetical toll road project.

Depending on the complexity of the project, the pre-qualification document should require some or all of the following disclosures:

- A signed pre-qualification submission form
- An executive summary
- The organisational structure and capability of the firm or consortium filing the submission
- The filer's technical capability
- The filer's financial capability, including proposed funding of the project
- The specific personnel selected to work on the project, together with examples of relevant experience and their CVs
- The legal capability of the filer
- The filer's experience with PPPs
- The filer's empowerment and affirmative action policy

Other matters that may be addressed include the filer's concept of how the submissions are to be adjudicated. All relevant documentation should be provided, including feasibility studies or pertinent in-house reports. A charge to defray the costs of preparing and conducting the pre-qualification is appropriate. A common means of ensuring that candidates provide appropriate information is to supply them with a questionnaire that guides their responses into a specific format. Questions must clearly reflect the criteria that the department wishes to apply. The PPP Unit will in due course develop such a format to assist departments.

Once clear and objective pre-qualification criteria have been developed, the pre-qualification process should be reasonably straightforward. Accounting officers should be satisfied that all the entities that have been shortlisted are capable of carrying out the project fully and operating the project facilities efficiently. Since unsuccessful candidates may require a debriefing, the department should ensure that it has a clear explanation and record of why these candidates were not selected.

Box 5.1 Outline advertisement inviting pre-qualification

REPUBLIC OF SOUTH AFRICA
DEPARTMENT OF TOLL ROAD OPERATIONS
INVITATION TO PARTIES INTERESTED IN PRE-QUALIFYING FOR
THE EASTLINE EXPRESSWAY CONCESSION

The Department of Toll Road Operations invites parties interested in pre-qualification for the development and operation of the 50 kilometre Eastline Expressway in Gauteng. The project will be offered on a concession basis, with the investor collecting all revenues but being responsible for all costs.

The successful bidder will be the one whose proposal offers the highest discounted present value of concession payments to the government and whose technical proposal is consistent with specified national technical and environmental standards for the construction and operation of toll roads. The Department undertakes annually to review the tolls and toll structure in the project area, and to make all adjustments necessary to provide the investor with a reasonable opportunity to earn an appropriate risk-adjusted return on investment. A feasibility study for the project was prepared on behalf of the government by Vandervaal and Sindane (Pty) Ltd of Cape Town. Bidding for the project will be conducted on a single-stage, single-envelope basis. Only those bidders who have been successfully pre-qualified will be permitted to bid.

The closing date for submission of pre-qualification documents is 17:00 on Friday, 30 October 2000. The documents should be submitted in the sealed box marked "Eastline Expressway Concession", on Level 3 of the Department's offices. Those submitting pre-qualification documents should obtain a receipt acknowledging the submission of the documents from the authorised staff.

The pre-qualification documents (R1 000 per set) or the pre-feasibility study (R3 000) may be obtained from:

Ms Caroline Moloji
Project Manager
Eastline Expressway Project
Department of Toll Road Operations
107 Jan Smuts Avenue, Roseburg, South Africa
Phone: +27 22 380-0000, Fax: +27 22 380-0001
E-mail: sdc@magicnet.gov.za

Developing bid documents

To support open and competitive bidding, participation and transparency in the bidding process, the bid documents or request for proposals (RFP) should clearly stipulate the bid requirements. The documents should establish the rules of bidding and follow the conventions of public sector procurement. A copy of the draft contract should be included to facilitate the early identification of key contract issues (see Annexure II). In procuring a PPP in particular, the points in Box 5.2 below should be observed.

An RFP that is incomplete is counter-productive and will lead to repeated requests for explanations and clarifications. As these bid documents form a part of the PPP contract, poorly written and ambiguous documents are likely to be a source of future disputes and claims against the department. It is critical that project specifications address the outputs to be delivered rather than the inputs, allowing scope for private sector innovation in the PPP arrangement.

A bidder's conference can be held to clarify the bidding procedures and project parameters, inform bidders of the availability of documents and project-related information, and allow them to inspect the project site. Bidders' conferences are normally held between 21 and 45 days after issuing the bid documents. During the bidders' conference, any modification of provisions or terminology in the bid documents should be in writing and be made available to all pre-qualified bidders.

Box 5.2 Some useful pointers for bidding documents

The invitation to bid should generally follow the normal procurement conditions in the public service. However, several aspects require particular attention in a PPP process. Instructions and initial correspondence to bidders should at least include the following:

- A full description of the project, including a clear statement of the objectives, scope and expected outcomes, the population to be served, stakeholder identification, minimum design and performance standards, environmental standards, existing service levels and tariffs, collection rates, departmental administration (as it relates to this project), intended service levels (though generally, not methods for achieving them) and an implementation schedule
- The structure of the bid (e.g. one-envelope or two-envelope bid)
- The bid submission procedures including, among others, the date, time and location of bid submission, bid security and the bid validity period, and the mode of bid transmission
- Bid opening procedures, procedures for announcing the preferred bidder, method and timing of protests, and procedures for adjudicating protests
- The proposed timing of the pre-bid conference
- The principles for setting and adjustment of tariffs, tolls, fees, charges and rentals
- The scope and extent of any public support or enhancement measures, financial and otherwise, to be provided by the department
- A table that indicates the risk allocation between the department, service provider and users
- The bid form and general and specific conditions that will apply to the contract
- A copy of the draft contract describing the nature of the proposed transaction (e.g. BOT, build and transfer, build-own-operate, concession and so on), including the duration of the contract
- A copy of the pre-feasibility study
- Pro forma performance guarantees
- Appendices, including any relevant economic, social, demographic and environmental data that may improve the quality of the bid documents, and/or references that may be useful to bidders, including references to relevant legislation and regulations (e.g. Water Services Act, competition law).

Submission and opening of bids

The authorised staff of the department should open the bids at the time, date and location specified in the RFP or specified by any extension of the deadline for submission of bids. Bidder representatives should be allowed to attend. The name and address of each bidder should be announced and recorded. Each bid received by the deadline should be examined to determine its responsiveness, i.e. verifying that it complies with the terms and conditions of the bid documents. Bids that contain arithmetic errors, or are not responsive, should be rejected.

Departments should prepare a comprehensive checklist to ensure that compliance with each requirement is verified. The results of the examination of bids should be comprehensively recorded in the bid proceedings. Where bids are not responsive to the RFP, the reasons for their non-responsiveness should be recorded. In addition, bids deemed to be non-responsive should be rejected and not be subject to any subsequent evaluation and comparative procedures.

Evaluating bids

The bid evaluation procedure often comprises two steps. Step 1, the technical examination, is to ensure that the bids address the full technical objectives and performance requirements. Step 2, the financial evaluation, is carried out only on those bids that are responsive and have passed the technical examination. Where two-envelope bidding is used, the financial proposals of unresponsive technical proposals will be returned, unopened, to the bidders.

The present value method of financial discounting is used to compare and evaluate the financial proposals. The discount rate to be applied in the evaluation will be advised by the relevant treasury, but will be the same as used in calculating the PSC. These steps are captured in Boxes 5.3 and 5.4 below.

Selecting the preferred bidder

A recommendation to award the contract is based on the match between the technical and financial criteria and the requirements of the specific type of PPP (e.g. management contract, concession, BOT). Generally, the contract should be awarded to the bidder whose bid is responsive, has satisfied the technical evaluation and whose financial proposal provides *best* value for money. In the case of a concession arrangement, for example, this means that the proposed schedule of payments to the contracting entity (i.e. the government) from the private party results in the *highest* discounted present value. In the case of a BOT arrangement, the proposed schedule of payments to the private party from a department results in the *lowest* discounted net present value.

Chapter 9 provides an example of how these criteria should be applied. However, if none of the bids satisfies the value-for-money test, all bids should be rejected. A second-ranked bidder should also be identified in case a satisfactory contract cannot be concluded with the first-ranked bidder.

Box 5.3 Technical examination of bids

The technical examination of bids should pay attention to the following issues:

- The technical proposal should be suitable for local needs – do not use a high-tech solution where a low-tech one will do; avoid overdesigned facilities; consider the capacity of the department to take over operation at the end of the PPP contract, etc.
- The proposed technology should be reliable, easy to maintain, with logistical arrangements for maintenance and support.
- The subcontracting plan should contain the number, nature and quality of subcontractors, and assurances by the prime contractor for ensuring subcontractor quality and performance.
- The empowerment, affirmative action and SMME plans should be substantive and credible.
- The scope and extent of training programmes for relevant staff should be outlined.
- The plan for utilisation, redeployment or redundancy of the existing labour force, including reorganisation of work patterns (e.g. job descriptions), should be proposed.
- The management plan should detail staffing, parent company support and local management.
- Arrangements should be made for the transfer or reversion of project facilities and staff to the government at the end of the contract period.

Box 5.4 Financial evaluation of bids

The financial evaluation should consider the following criteria:

- The financial flows used in the bid document should be consistent with the minimum technical design and performance standards and with specifications in the bid documents.
- The financial flows of all bids should be evaluated over the concession period specified in the bid documents. Bids that show cash flows for shorter or longer periods should be disqualified.
- The rand should be used as the currency of bid comparison.
- Bids should be carefully examined to ensure that reasonable provisions have been made for:
 - staffing positions and costs
 - operating and maintenance costs
 - adequate working capital
 - replacement and renewal of equipment during the evaluation period
 - licences, permits and payments with respect to technology licences
 - income and other taxes.
- The examination needs to ensure that the demand projections and growth rates underlying the analysis are reasonable and broadly consistent with the demand projections included in the feasibility study and/or bid documents. If included as part of the bid documents, these versions should prevail over the demand projections shown in the feasibility study.
- Tariff assumptions should be consistent with those in the bid documents.
- The implementation schedule of the project should be consistent with the cash flows.
- Financing arrangements, interest and amortisation of debt should be properly indicated and accounted for in the financial proposal.
- The project cost estimates should be complete and account for all construction and operation costs. Any gaps or uncertainties in the cost estimates are grounds for rejecting a bid.
- The financing plan should also be examined for completeness.

Concluding the evaluation and negotiating the contract

At the conclusion of the bid evaluation, the department should prepare a bid evaluation report that details the bid evaluation process and the ranking of the responsive and technically compliant bids. The report should also include:

- the bid proceedings
- the bid evaluation criteria
- a list of all pre-qualified bidders
- a list of all bids that were rejected and the reasons for rejection
- a list of all bids that were subjected to evaluation and the ranking of those bids
- the recommended successful bidder
- the proposed schedule for contract negotiations.

As discussed in the next chapter, the department may then invite the first-ranked bidder for contract negotiations. The invitation should indicate:

- the deadline for concluding the negotiations – an RFP would typically indicate that the bidder must maintain the validity of the bid for a definite period of time (i.e. 45 days), anticipating that contract negotiations will be concluded in that time
- that it reserves the right to begin negotiation with the second-ranked bidder if negotiations have not reached a satisfactory conclusion by the deadline.

The results of the bidding and contract award processes should be published by:

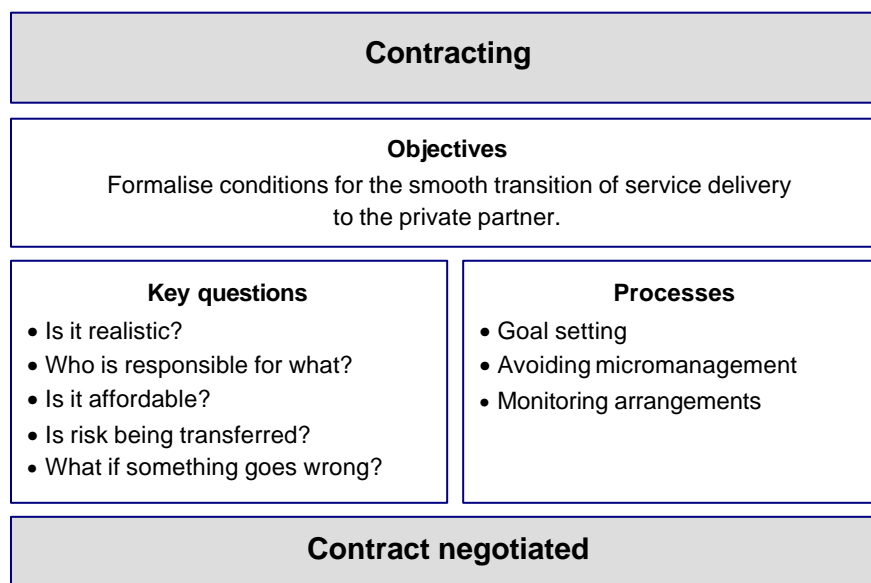
- notifying all bidders, in writing, of the results of the bid and contract award

- publishing the results of the bid and proposed contract award in widely circulated newspapers and on the Internet.

Conclusion

The outcome of the procurement process should be a proposal to award a contract to the bidder whose bid offers the best value for money and satisfies the specified safety, environmental and performance standards, as well as empowerment criteria.

Contracting public-private partnerships



Introduction

Once the preferred bidder has been selected, the contract can be finalised. This often entails complex negotiation about contract details. It is in the interest of all parties – the department, the prospective service provider and the end users – that these processes are specific and goal orientated. They should facilitate a smooth transition from departmental service delivery to service delivery through the PPP.

What the *Treasury Regulations* say

Before a department concludes a binding contract for a PPP arrangement, treasury approval must be obtained for “all budgetary commitments attendant to the agreement”. Accounting officers must ensure that the agreement accords with departmental and treasury assessments of value for money and affordability and with departmental procedures for enforcement of the agreement. This must include adherence to the procedures for monitoring and regulation of implementation and performance in terms of the contract.

Other requirements are that the risk burden on the department must be appropriate and that the financial commitments should be denominated in rand and not be affected by fluctuations in the value of the rand against other currencies.

Confirming that the arrangement is affordable and offers value for money

Unless the proposed PPP arrangement offers value for money and is affordable, it cannot proceed. Accounting officers should obtain confirmation from their officials and advisers that these core conditions have been met. The *Guidelines* will not deal with this in detail, but accounting officers should follow the suggestions in Chapter 5 and in the various boxes and annexures to confirm that the bidding process has achieved a value-for-money and affordable outcome.

Setting up suitable project implementation arrangements

Before awarding the PPP contract, departments should introduce suitable arrangements to ensure cost-effective implementation of the PPP. However, the temptation to micromanage the private party should be resisted, especially by departments with limited experience of PPP arrangements. Instead, the focus should be on monitoring whether the private party is achieving the outcomes specified in the contract. Key aspects of departmental monitoring and oversight are briefly discussed below.

Developing a realistic implementation plan

Realistic and effective implementation depends on the department setting achievable time frames and cost limits, practical design principles and services requirements, and effective management arrangements. Most of this should be addressed early on, but the finalisation of the contract creates a new opportunity to discuss key aspects with the service provider as new information might necessitate some changes. Nonetheless, by the time the team prepares to negotiate a contract, the major elements of their implementation strategy should be in place.

Negotiations with the private party

During this stage, negotiations should not be reopened over previously settled issues, particularly prices, costs and other fundamental aspects of the bid. Most commercial terms should therefore be clarified before the preferred bidder is selected.

The preparation for transition to private service delivery entails refining the conditions to support the project. A department may take the following steps to limit renegotiation of key conditions:

- *Check the realism of bids upfront* by considering time frames, economic and financial returns, costs, technical quality and so on. There are no definite rules for weighing up these factors; officials should have a clear sense of their priorities and the risks they are willing to take with preferred bidders. It may be tempting to interfere with the bidder's proposal, but the department should manage the tension between ensuring that a proposal is practical and engaging in detail negotiations.
- *Confirm bidders' commitment*: Bidding parties, including debt funders, should provide sufficient evidence of their commitment to the terms of the bid. Departments should not demand unconditional commitment; the commitment of debt financiers, for example, will mostly be subject to due diligence assessments after the preferred bidder has been selected. Departments should, as far as possible, enable bidding parties and their associates to commit themselves to the project.
- *Bridge affordability gaps*: As the commercial details become clearer during negotiations, upward pressure on price may emerge. This will force the department to reduce some costs to keep the project affordable, for instance by interrogating the bidders' pricing assumptions or by adjusting the risk allocation. While not substantially altering the rewards for private operators, departments should acknowledge that negotiations do require some flexibility, provided that

quality, value for money and affordability are not compromised. Only effective negotiation will ensure the right product at the right price.

Risk assessment and mitigation

Risk assessment, mitigation and allocation are important during all phases of project development, implementation and execution. Risk assessment and mitigation are therefore not confined to the transition phase, but this phase is significant as arrangements are finalised to effect the risk transfers and risk sharing underpinning the project. Box 6.1 outlines the typical risks in PPP arrangements.

Risk issues are critical to both the private sector partner and the government. The private operator puts time, technological know-how and money at risk, while the government may be subject to unanticipated liabilities or be expected to offer limited guarantees or performance undertakings to enhance the viability of a project. If risk resides with the party best able to manage it, efficiency gains could be substantial.

Accounting officers want a contract that identifies all risks and allocates these to the party best able to manage them, while still achieving value for money and affordability. Transactions that do not affect such risk transfer are best treated as borrowing and should be recorded accordingly in terms of the legislation governing national and provincial government borrowing.

Box 6.1 Key risks and contractual mitigation options

The major risks that contract negotiators on a PPP need to consider and mitigate include the following:

- *Design risk:* The private party is responsible for designing the goods and/or services to meet a specified level of service. Contractually, this typically means that the private party accepts the design risk and must pay all redesign costs if the facility does not meet the required performance standards.
- *Construction risk:* The private party is required to construct a facility according to performance specifications and a time schedule. In the contract, this is often dealt with by letting the private party bear all costs of meeting specifications and schedule requirements.
- *Operating risk:* The private party is allowed full control over operating costs, including staffing numbers and levels. Contractually, the private party is often made responsible for all operating costs and is expected to absorb all increases. The service provider bears all costs of meeting specifications and schedule requirements.
- *Demand risk:* The private party's revenues depend on the willingness and ability of users to purchase its services. Contractually, the private party is often expected to identify and satisfy the demand for the service.
- *Tariff risk:* The payments for the goods and/or tariffs for the services are set without an agreed formula or without regard to costs. This typically happens when a government agency or independent sector regulator sets the tariffs. Contractually, the private party often has to accept that tariffs may not be adjusted automatically and it assumes responsibility to balance its costs and revenues.
- *Collection risk:* The private party collects tariff revenues without any collection rate guarantee from the government. Contractually, the private party tends to bear all the risks for collecting revenues from users of the goods and/or services.
- *Credit risk:* The private party is solely responsible for paying its debt and the government makes no debt investment. The private party is generally responsible for its debt and debt service. However, this poses a risk to the government if services are suspended when a private party becomes insolvent. Contractual mechanisms must ensure uninterrupted service, even during insolvency.

It is advisable to set out key risks as early as possible. Including these in bidding documents and the draft contract will facilitate effective and informed negotiation.

Typical contract conditions

PPP projects do not use a standard contract, but typical contractual provisions include the following:

- *Outputs* are specified, such as the scope of the project, performance standards and duration.
- *Financial conditions* include an agreed methodology for tariff-setting and periodic tariff review, provisions for adjustment, and allocation of the responsibility for tariff collection. If services are not paid for by consumer tariffs, or the provider is not responsible for collecting tariffs, the government must pay for the services. The amount, terms and conditions of the government's payment must be outlined, along with the performance conditions for such payment.
- *Responsibility* for contractual obligations, such as construction, operation, repair and replacement of equipment and facilities, is allocated.
- *Public sector financial support* is outlined in terms of the amount, nature and conditions for the provision of any financial support, credit enhancement and limited guarantee or undertaking to be provided by the government. Such support should be the minimum required for project success, and should generally only be forthcoming during the initial stages when high levels of financial gearing are required to reduce the average weighted cost of capital.
- *Insolvency of the service provider* is a risk the government must provide for. The contract should stipulate how this will be dealt with and what the implications will be for rights and obligations.
- *Administrative conditions* typically include the allocation of responsibilities upon termination of the contract, including the return of facilities and equipment and the transfer of responsibility for service provision to a successor service provider. Other conditions include the identification of project milestones and events of default under the contract, the remedies available to either party in case of default, conditions for amendment and/or renegotiation of a contract, methods for resolving disputes and plans for unforeseen events or force majeure eventualities.

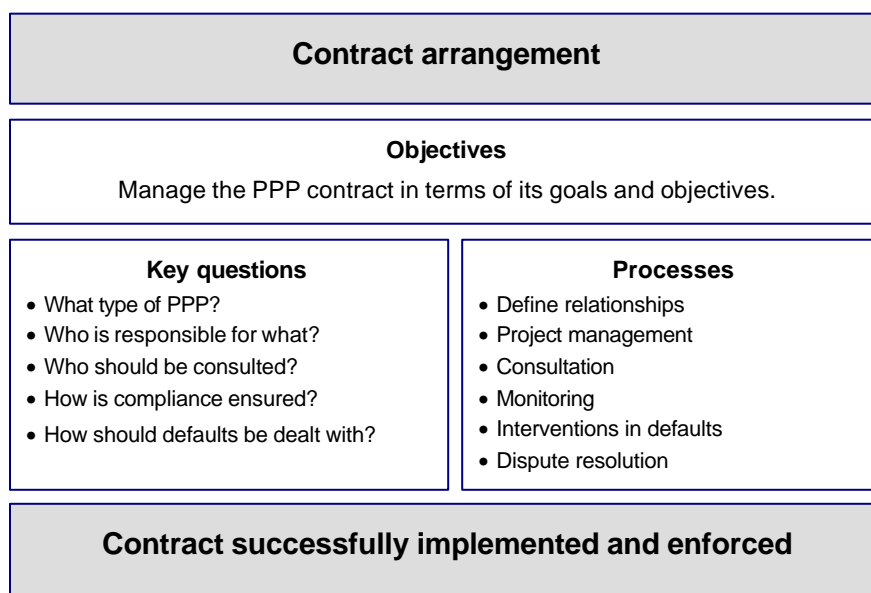
Box 6.2 A legal checklist

- Clear outputs and service conditions
- Duration
- Incentives for timely commencement and delivery
- Financial conditions (payment and pricing mechanisms, price variations, etc.)
- Responsibilities of signatories
- Subcontracting
- Change of control (i.e. dealing with equity changes on the part of the supplier)
- Public support
- Dealing with defaults, early termination, insolvencies, etc.
- Administration
- Indemnities, insurance, confidentiality, intellectual property rights

Conclusion

Finalising the contract and effecting a smooth transition from departmental service delivery to service delivery through the PPP is a very delicate phase of the partnership. It often entails complex negotiation about contract details. It is in the interest of all parties – the department, the prospective service provider and the end users – that these processes are specific and goal orientated and that they facilitate implementation according to conditions that both protect the various parties and serve the public good.

Contract management



Introduction

PPP arrangements require day-to-day management to ensure that they meet the required service delivery targets and operate as planned. The contract is the basis of a long-term operational and institutional relationship between the government department and the private service provider, and this relationship should start on a sound footing.

What the *Treasury Regulations* say

Regulation 10 deals with managing PPP contracts, and requires departments to establish mechanisms and procedures for:

- monitoring the implementation of, and performance in terms of, the agreement
- regulating the implementation of, and performance in terms of, the agreement
- liaising with the private party
- resolving disputes and differences with the private party
- overseeing the day-to-day management of the agreement.

Institutional arrangements for contract management

The scope and complexity of the institutional arrangements will vary according to the nature and requirements of the specific type of PPP transaction. Typically, the following issues require attention:

- *Defining institutional relationships:* The parties to a PPP contract are the department and a private party, often a project company created specifically for the project. The project company usually has legally defined relationships with other parties, including the project financiers and the various construction and operating companies in the project consortium. These companies frequently negotiate further contracts with subcontractors. A department generally does not become involved in these arrangements. Its main concern is the relationship with the project company and, where required, the primary partners in the company, such as financiers and contractors.
- *Department's project team:* Chapter 3 of these *Guidelines* focuses on the creation and operation of the project team. Accounting officers have to ensure that their departments can manage a PPP arrangement. For this purpose a project team is formed, headed by departmental staff and supported by external advisers.
- *Stakeholder and user consultation:* A primary challenge is to deal effectively with users of the service. Stakeholder representatives should be consulted throughout, from conception to post-contract evaluation. Departments should follow their normal procedures for informing the public and interacting effectively with interested parties. Specialist input, especially social and legal, may be required to ensure the best possible means for such consultation.

Monitoring performance

The contract must include provisions for monitoring and enforcement. As a minimum, these provisions should describe:

- the mechanisms for monitoring the contractor's performance with respect to the specified outputs
- how performance will be measured
- reports required from the contractor, the details in such reports and the intervals at which they must be submitted.

Once the contract becomes legally binding on the parties, the department must monitor the process, ensuring that both the contract and the relevant laws and regulations are enforced throughout the project period. Documents such as annual financial statements and technical and operational reports must be checked regularly to ensure that the private sector partners are in full compliance with the terms of the PPP.

The department should secure a sufficient budget for monitoring. If any training is required for effective execution of this monitoring function, this should be done before the project starting date. Alternatively, impartial outside specialists should be engaged to assist with the performance audit, evaluation and monitoring.

Ensuring compliance

A PPP delegates to a private party the right to carry out a designated function and to manage risks associated with the performance of that function. However, a department cannot delegate its fundamental responsibility and accountability for the function. Departments should therefore use contract management to ensure that their responsibilities are satisfactorily discharged.

When one of the parties to the contract fails to comply with its obligations, a default occurs. Departments must ensure that the PPP contract defines:

- the events that constitute a default, e.g. the failure of a PPP service provider to attain the contractually prescribed service quality standards by the specified date

- the remedies that may be exercised in the event of a default, e.g. penalties or specified liquidated damages to compensate the government for imputed costs or damages suffered as a result of unsatisfactory service delivery.

As the above implies, the definitions of defaults and remedies under a contract are closely linked to the specification of the performance standards. The contract must therefore:

- Distinguish between trivial non-compliance and the material or repeated non-compliance that constitutes default.
- Provide for clear and simple procedures for one party to notify the other of the alleged existence of a default. This should allow the other party to respond to the circumstances that led to the default within a specified and short period of time. For example, the contract may specify that the aggrieved party should issue to the non-complying party a letter that describes the default, the proposed remedial action and the time frame for carrying out the remedial action.
- Specify a schedule of remedies that are consistent with the nature and importance of the event of default and its impact on the procuring authority or the public. The contract should also specify the defaults that constitute grounds for termination of the contract.

Resolving disputes and other issues

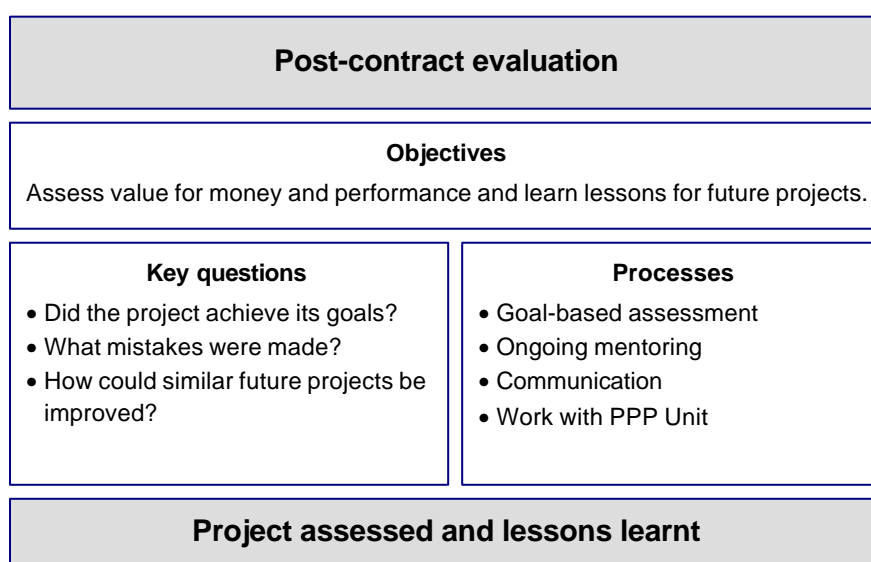
Procedures for resolving disputes between the parties should be clear, low-cost, timely and effective. This will reduce the risk of unresolved disputes affecting the quality, cost and availability of public services. Contracts should provide for:

- mechanisms to minimise the incidence of disputes (e.g. regular meetings can be instituted to raise disputes, propose solutions and monitor implementation)
- methods of dispute resolution aimed at minimising court litigation (e.g. conciliation, mediation or arbitration)
- safeguards to ensure the continuity of important services during a dispute, stipulating that both parties are to perform their respective obligations pending the resolution of the dispute.

Conclusion

Ensuring compliance requires effective monitoring, supported by institutional arrangements that draw on appropriate professional skills and that succeed in involving the key stakeholders.

Post-contract completion evaluation



Introduction

A PPP arrangement should be assessed after completion to determine whether it has provided value for money and to gain insights for future projects.

What the *Treasury Regulations* say

Although the *Treasury Regulations* do not deal explicitly with post-contract completion evaluation, they implicitly acknowledge the need for effective oversight and best practice. Evaluation is an integral part of such quality control and feedback.

Key aspects of a post-contract completion evaluation

The essential ingredients of a post-contract evaluation of a PPP include the following:

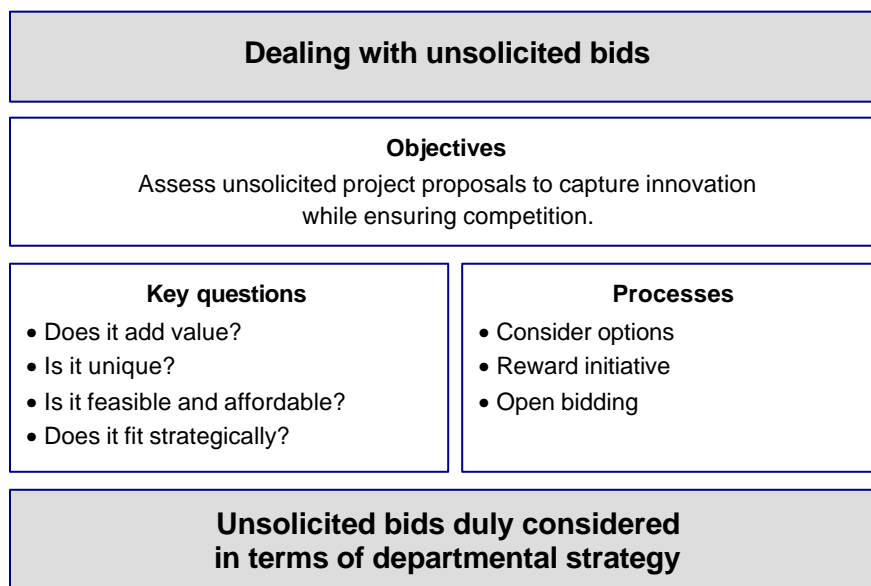
- *Clear objectives and output specifications:* If the original objectives and outputs were not clearly specified, it will be more difficult to evaluate the project objectively and effectively.
- *Strategic context:* In addition to project-specific objectives and criteria, a PPP must also be evaluated against the department's strategic goals – how it contributes, relative to other delivery mechanisms, to achieving these and overall sector goals.
- *Ongoing monitoring and communication:* During project implementation, the need for regular monitoring and accurate records must be impressed on the private parties. This will enable the contractor to correct problems, build on strengths and adapt to changing circumstances.

- *Well-defined benchmarks:* The evaluation should address the value-for-money considerations. Information from monitoring will enable accounting officers to compare the mode of delivery through a partnership with other partnership or delivery options.
- *Working with the national Treasury's PPP Unit:* The PPP Unit in the national Treasury has a technical support role, among others to assist departments in their evaluation processes.

Conclusion

Evaluation allows departments to review their achievements and derive lessons for the future. In the case of PPPs, it should reflect on the contribution of this mode of delivery relative to others. The strategic goals of the department, the specific project objectives and the technical considerations that guided project design are important starting points for such an evaluation. The outcome should provide lessons for future projects and, where required, assist in determining the future of the particular service or facility.

Dealing with unsolicited bids



Introduction

A contract for a PPP arrangement that has been derived from an unsolicited project proposal may only be awarded after it has complied with all the requirements of the *Treasury Regulations*. In particular, departments need to ensure that such proposals make strategic sense, offer value for money and are affordable. Moreover, such proposals must also be subject to open and competitive bidding before the department selects the service provider and enters into a legally binding commitment for the project.

Departments should only consider unsolicited proposals where these have genuine merit or valid intellectual property, based for example on:

- a comprehensive and relevant project feasibility study that has established a clear business case
- an innovative design
- an innovative approach to management
- a new and cost-effective method of service delivery
- a new and effective approach to bundling or unbundling services or to processes re-engineering.

What the *Treasury Regulations* say

Where an unsolicited proposal has valid intellectual property and the department decides to proceed with the project, the *Regulations* allow the department to reward the private protagonist of the proposal. However, the monetary reward should be appropriate and reasonable, with a fair recognition of the value of the private party's proposal and associated intellectual property. It

should not exceed the cost of developing the proposal. In addition, it must be fully disclosed to all parties in the invitation to bid (see Chapter 5 on the preparation of an invitation to bid).

Options for and approaches to the provision of preferences or rewards

If the above requirements are satisfied, the department may negotiate a reasonable recognition or reward with the private party that submitted the unsolicited proposal. The simplified case study in Box 9.1 below is used to illustrate practices for rewarding the value of an unsolicited proposal. It is based on a policy developed by the National Roads Agency.

Box 9.1 A simplified case study

A private party has prepared a comprehensive feasibility study for the development of a new container terminal at an existing seaport. The feasibility study has established the following:

- A sound and well-reasoned business case for the terminal
- The economic, environmental and financial viability of the project
- Feasible and cost-effective recommendations to minimise the use of scarce land at the port through an innovative method of container stacking and management
- The projected demand for the facilities, which will allow the private operator of the terminal to generate satisfactory financial returns and pay the government port owner a concession fee of R1,5 million plus R7,75 per twenty-foot container moved through the port
- Container traffic, which is expected to grow from 900 000 containers in the first year to 5000 000 containers by year 15 – an average of about 13 per cent a year
- Concession fees payable to the government port authority, which amount to R8,48 million in the first year, increasing to R42,0 million in year 15, after which the port will be turned over to the government port authority
- The costs involved: the private operator's project cost is estimated at R300 million and the audited cost of the proposer's feasibility study was R12 million

After reviewing the feasibility study in the above example, the government ports authority recognised that the unsolicited proposal has identified a sound business case, has merit and has saved it from having to organise, prepare and finance a similar study. Moreover, the authority has used this feasibility study to prepare the project's value-for-money assessment and it forms the basis of the relevant treasury's affordability assessment of the project.

The *Treasury Regulations* require that projects be subject to open tendering. The winning bidder will be the one whose promised schedule of concession payments to the authority has the highest net present value.

The port authority wants to reward the proposer, before the bidding starts, for the value of its feasibility study, and will examine each of the following preference schemes:

- *Option 1 – A preference during the bid evaluation process:* The authority can, before the start of the bidding process, provide the proposer with commercially reasonable preferences in the bid evaluation process, probably through a preference in the value of the final bid prices received from each bidder. In this case, the authority has decided to value the preference at R12 million, representing the value of the feasibility study.
- *Option 2 – Purchasing the intellectual property rights:* A department may negotiate with the proposer to purchase the intellectual property rights to the unsolicited proposal. The port authority in the example can pay the proposer an amount equivalent to the cost of the feasibility

study. The authority then owns the intellectual property rights to the proposal and feasibility study and can use it freely. Should the parties fail to agree on preferences or on the purchase price of the intellectual property rights, or should the department elect not to negotiate, it may offer the project for open, competitive bidding without preferences. However, it should then not violate the intellectual property rights of, or any confidentiality agreement with, the proposer.

In the seaport example, assume that the bid and tender documents were based on the unsolicited proposal's feasibility study. Assume also that three bids were received, including one from the originator of the unsolicited proposal. The technical and other aspects of each of the three bids were found to be acceptable, meaning that none of the bids was rejected on technical and administrative grounds, as outlined in Chapter 5. This means that the preferred bidder will be selected on the proposed schedule of payments to the government port authority. Table 9.1 below summarises the bidders' financial proposals and shows the net present value of the proposed payment schedules using a discount rate of 18 per cent.

Table 9.1 Bidder proposals

Financial proposals	Bidder 1 (Original proposer of the project)	Bidder 2	Bidder 3
Fixed annual concession fee	R1 500 000	R1 750 000	R900 000
Average fee payable per container	R7,75	R7,00	R8,70
Net present value	R74,4 million	R67,2 million	R79,5 million

As the table shows, the original proposer's financial offer is the same as the one in the feasibility study. Bidder 2's proposal promises a higher annual flat payment of R1,75 million but a lower fee of R7,00 per container. Bidder 3 proposes a lower annual flat payment of R900 000 but a higher payment of R8,75 per container. However, Bidder 3 has the highest discounted present value of payments to the port authority and has *prima facie* submitted the best bid.

Option 1

If the authority had selected Option 1, granting a preference equivalent to the value of the feasibility study, the results of the bidding process would be adjusted as illustrated in Table 9.2.

Table 9.2 Adjusted results, Option 1

Financial offer	Bidder 1	Bidder 2	Bidder 3
Net present value (R m)	74,4	67,2	79,5
Value of preference (R m)	12,0	0,0	0,0
Adjusted net present value after application of preference	86,4	67,2	79,5

After applying the preference, Bidder 1 has the highest net present value of payments to the port authority and is recommended to be awarded the contract.

Option 2

If the port authority had selected Option 2, namely purchasing the feasibility study from the original project proposer, the initial ranking of the bids would be retained. Bidder 3 would win in this case because of the higher net present value of R79,5 million (as against Bidder 1 at R74,4 million). In either of the options, the net cost to the port authority is the same.

Other matters

Unsolicited proposals pose various difficulties, necessitating open and transparent dealings that focus on value for money. While the *Treasury Regulations* allow the use of rewards and a preference for a genuinely innovative unsolicited proposal, most unsolicited proposals fail this test. Simply being the first party to propose a project on an unsolicited basis does not constitute sufficient grounds for any preference or reward. Genuine effort, reasoned analysis and a demonstrated appreciation of the requirements of the *Treasury Regulations* should be the minimum considerations before a department even entertains an unsolicited proposal, let alone provides any rewards or incentives.

Moreover, where a department provides a preference or reward for a valid unsolicited proposal, the cost of purchasing any intellectual property should be included as part of total project cost as set out in *Treasury Regulation* 6(2)(b). In other words, the cost of preferences and rewards becomes an integral part of the value-for-money and affordability assessment of the project.

Conclusion

Unsolicited proposals can add initiative to the activities of a department, and it is therefore in a department's interest to reward genuine innovation. In putting the proposal out for tender, however, government departments must ensure that the proposed project will really add value and that bidding is fair and competitive.

Conclusion

These *Guidelines* build on the *Treasury Regulations* that were prepared in terms of the Public Finance Management Act of 1999, and on the *Strategic Framework for Delivering Public Services through Public-Private Partnerships*. They are targeted at national and provincial government officials involved in PPPs in public service delivery and in infrastructure development. The *Guidelines* aim to ensure a structured approach to PPPs, by guiding departments in applying the *Treasury Regulations*. The chapters follow the general sequence of a PPP transaction.

The government supports PPPs only if they ensure better value for money in the use of public finances and secure effective and sustainable service delivery. This requires PPP projects that are affordable and extend services without jeopardising the government's fiscal position, thereby allowing the government to focus on other strategic needs. To assist departments in securing these outcomes, the *Guidelines* set out processes and key steps for each phase of the PPP life cycle. Critical success factors are addressed – dealing with unsolicited bids, specifying outputs to encourage private sector innovation, ensuring commercial interest, addressing the legal requirements, constituting the project team and setting timetables. A checklist for these criteria is presented in Box 10.1 below.

As noted, the *Guidelines* will be expanded on as the country gains more experience with PPPs. The new PPP Unit in the national Treasury will develop additional guidelines and incorporate comments and feedback from the users of this document.

Box 10.1 Criteria for assessing a PPP proposal: a checklist

1. Affordability

- Projected PPP service payments are identified.
- The project is affordable over the whole life of the contract, considering all existing and projected revenues.
- A sensitivity analysis on costs and revenues identifies a range of possible outcomes.
- The relevant treasury accepts the affordability analysis and impact on budgets.

2. Output specification

- Requirements are specified in terms of service outputs, rather than particular assets or solutions.
- A range of ongoing services is included in the requirement of the contract.
- The specification is pitched at a justifiable level of service, given the client and consumer profiles.

3. Risk allocation

- The risk analysis and allocation deal with all foreseeable risks.
- Risk allocation transfers the principal design, building, financing and operational risks.
- The accounting officer considers the allocation of risks associated with usage, residual values, technology, obsolescence, as well as with changes in legislation or regulation.

4. Bankability

- There is evidence of commercial interest.
- A certain income stream is available to meet contract payments.

5. Essential terms and conditions

- The proposal follows guidelines and precedents for commercial and legal terms.
- It caters for major risks.

6. Comparators

- The public sector comparator (PSC) is prepared, except under exceptional circumstances.
- The PSC is based on an options appraisal that identifies alternatives to the PPP, with the “best” alternative achieving the same outputs as the PPP specification.
- The PSC identifies the level of direct costs and risks.

7. Project team and advisers

- The team has project management experience and will undergo training where appropriate.
- It has an appropriate and affordable range of skills and experience.
- Advisers are willing to share lessons and approaches.
- Arrangements are in place for a periodic review of advisers' performance.

8. Timetable

- The timetable covers all phases and provides for stakeholder consultation.
- The stages of procurement are kept to a minimum, consistent with achieving value for money.

9. Statutory processes

- The statutory processes are addressed, including planning permission or public enquiry.

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ANNEXURE I

PPP TRAINING PRODUCTS

Introduction

A more detailed schedule of PPP training products in South Africa and internationally is available from the Department of Finance. Training products that focus specifically on PPPs are limited and hence, information on privatisation, alternative service delivery and community participation training was included where relevant. The schedule details the target market as defined by the training provider, the course title, the context of the course, logistical details, a summary of the curricula and a narrative assessment.

PPP training in South Africa

While training on the transformation of the government emerged in the early nineties, focused PPP training is fairly new. As with international developments, initial training efforts emerged from on-the-job learning and through the support of consultants to the government. This includes the support to pilot PPP projects provided by the Municipal Infrastructure Investment Unit (MIIU) in the Development Bank and the short information workshops facilitated by the National Business Initiative (NBI). Many of these were one-off programmes and are not captured in the schedule.

Among the first direct training interventions were specific donor-supported training products delivered by the Institute for Public-Private Partnerships (IP3). IP3 provided focused short programmes to the Departments of Constitutional Development (DCD) and Public Enterprises. IP3 is the largest international training institution that provides direct and focused training in PPP training products. In addition to generic training products offered in Washington DC, IP3 develops and delivers specialised in-house and in-country training products. In partnership with the DCD and three historically disadvantaged universities, IP3 is providing three PPP training courses to local government officials. In addition, with the support of USAID, IP3 has offered a PPP Train the Trainer course at the University of Pretoria.

The Local Government Programme of the School of Public Management at the University of the Witwatersrand developed the first formal certified course in PPPs. This was followed by the development of an executive course in PPPs. As a follow-on, the University of Potchefstroom has presented a short one-week PPP training programme.

PPP training products

As noted, training often lags the development of approaches, and the training products that focus directly on PPPs are limited mainly to intensive training courses and short training courses. Other forms of training are seldom publicised and are often specific to particular organisations. These include on-the-job-mentorship and placements and tool kits as specific training forms. Only a few of these programmes are formally examined and certified.

In addition to training products that focus directly on PPPs, other courses also address skills building for the management of PPPs. These are either courses on infrastructure management, sector programmes with substantial PPP information, or specialised programmes on particular functional aspects of PPP management. These mainly address contract development, monitoring and financial aspects of PPPs. Training programmes that focus on privatisation and community participation often address aspects of PPP knowledge and skills, and are included in the schedule.

- *Degree or higher diploma (long-term programme):* These are formalised higher qualifications offered by universities and other tertiary institutions. While a number of degree and higher diploma programmes have a PPP orientation, only two programmes make direct reference to PPPs. In both cases, the respective Master's Programmes have electives that focus on PPPs.

The University of Toronto in Canada and the University of the Witwatersrand's School of Public and Development Management have PPP electives on their local government Master's programme.

- *Intensive training course:* These courses are generally skills and competence oriented, range from ten days to one month, and could be formally certified. The Graduate School of Public and Development Management at the University of the Witwatersrand presented the first intensive generic PPP training course in South Africa. IP3 presents similar intensive courses in Washington. In addition, the Kennedy School of Government at Harvard offers an intensive course on Municipal Infrastructure Management that focuses on PPPs. Other courses focus on particular sectors (environment, water and infrastructure) and/or particular functional areas (finance, contracts). These include courses offered by IP3 in Washington, the Kennedy School of Government in Boston and the Universities of Florida and Birmingham.
- *Short training courses/workshops:* These focused skills-oriented courses or workshops range between two and five days. IP3 has taken a lead in the development and delivery of such courses. However, some consultancy companies are offering such short courses as part of their overall support to the government on PPP projects. Deloitte and Touche has a unit dealing with PPPs. In the United Kingdom, short PPP courses are presented by Price Waterhouse Coopers in contract to the government. Many of these courses are tailored to particular departments and are yet to be formalised.
- *Information workshops:* These workshops are directed at disseminating information on PPPs as a concept and approach, and are generally presented by in-house and external PPP advocacy units (such as the short programmes of the NBI). As they are context specific, these workshops are easily generated and developed through the utilisation of existing capacity in the government.
- *On-the-job (placement and mentorship):* These are seldom publicised, but are often highly effective. Mentorships normally involve consultancy support to officials responsible for PPP projects. Some consultancy interventions provide for specific PPP frameworks to be utilised on future PPP projects, as well as skills transfer and mentorship. Placements can be effective but are seldom publicised as specific training products.
- *Tool kits:* As tool kits can be distributed with relative ease, they are a popular form of training and capacity development. They include manuals, generic contracts, software, etc. The United Kingdom and Canada both have a web site with PPP guidelines and tools. However, because tool kits are context specific, they have to be developed in-country and at times within particular departments. The PPP manual of the NBI is one example of a PPP tool kit. Extensive tool kits, which include generic contracts for PPPs, are used in Canada and the United Kingdom. The World Bank has a PPP tool kit on the water sector.

Few of the intensive training courses build specialist PPP skills and the range of short training courses and tool kits is limited. In the short run, tool kits and on-the-job training are the most effective means of skills development. As on-the-job training is rarely recognised and is often limited to individuals involved in PPPs, intensive training courses remain important, especially where the demand for skills is high.

Currently, products with similar curriculum sets and objectives are provided over different periods of time and by a range of individuals. As the National Qualification Framework evolves, the value of particular training products will be determined through a quality assessment process. In the absence of such a framework, the interactive contact time, learning methodologies, the skills of the instructors and the reputation of the institution can serve as the framework for evaluating these courses. A particular aspect to be developed is the use of local case studies.

Training providers

Given the international shift from government training institutions to external training providers, none of the PPP training providers was located in the government. In the main, universities, NGOs and training units within larger consultant companies provide training. Internationally, the following training providers are key players in the provision of PPP training:

- Institute for Public-Private Partnerships (IP3)
- John F Kennedy School of Government, Harvard University
- International Management Development Institute (IMDI), University of Pittsburgh
- Economic Development Institute of the World Bank
- International Law Institute
- International Training Centre of the International Labour Office (ILO)
- Public Utility Research Centre, University of Florida
- School of Public Policy, University of Birmingham
- Civil Service College (UK)

In South Africa, IP3 is a dominant actor in PPP training, delivering short generic products in conjunction with local universities. These mainly focus on local government. IP3 has offered specialist short workshops to particular departments. As noted, the School of Public and Development Management at the University of the Witwatersrand offers an intensive, certified PPP programme. In addition, the NBI offers short information/training workshops. With its direct on-the-job support activities, the MIIU in the Development Bank also plays an important training role. The South African Management Development Institute (Samdi), the government training institute, has not yet been involved in PPP training. The Joint Universities Public Management Trust (Jupmet) and similar consortiums are likely to be effective channels for facilitating the increased involvement of universities as PPP training providers.

The limited range of PPP training providers in South Africa is likely to change as the momentum for PPP increases and the demands for training grow. International training providers are likely to play a key role in PPP training and support.

Conclusion

The limited range of PPP training providers and products reflects the time lag between the development of the concept and the provision of training. The curriculum and content areas of PPP training products are varied and often reflect specific contextually relevant areas. Most of the current PPP programmes also tend to focus on local government and infrastructure, without much attention being afforded to other potential PPPs. It is therefore essential to have interaction on specific needs and how these can be accommodated within current training products.

While there is short-term capacity to provide PPP training, interaction with local training providers and a partnership with international training providers would facilitate sustainable capacity among training providers.

Guidelines for Public-Private Partnerships

	Training product	Institution	Sector	Degree/ diploma	Intensive training course	Information workshop	Short training course	On-the-job placement	On-the-job mentorship	Tool kits
1	Public-private partnerships	Potchefstroom University for Higher Christian Education	General/local government				*			
2	Public-private partnerships	School of Public and Development Management, University of the Witwatersrand	General/local government		*					
3	Public-private partnerships	School of Public and Development Management, University of the Witwatersrand	General/local government				*			
4	Public-private partnerships	National Business Initiative (NBI)	General			*				
5	Implementing BOO and BOT infrastructure projects	Institute for Public-Private Partnerships (IP3)	Infrastructure		*					
6	Infrastructure investments and financial analysis	Institute for Public-Private Partnerships (IP3) in collaboration with Hood College (USA)	Infrastructure		*					

	Training product	Institution	Sector	Degree/ diploma	Intensive training course	Information workshop	Short training course	On-the-job placement	On-the-job mentorship	Tool kits
7	The project life cycle: ensuring quality procurement and management of infrastructure services and investments	Institute for Public-Private Partnerships (IP3)	Infrastructure		*					
8	Public-private partnerships	Institute for Public-Private Partnerships (IP3)	Infrastructure				*			
9	Public-private partnerships	Institute for Public-Private Partnerships (IP3)	Infrastructure				*			
10	Public-private partnerships	Institute for Public-Private Partnerships (IP3)	Infrastructure				*			
11	Public-private partnerships	Institute for Public-Private Partnerships (IP3)	General/local government				*			
12	Municipal services partnership	Institute for Public-Private Partnerships (IP3)	General/local government		*					

	Training product	Institution	Sector	Degree/ diploma	Intensive training course	Information workshop	Short training course	On-the-job placement	On-the-job mentorship	Tool kits
13	Municipal services partnership	University of Durban-Westville (partnership with IP3)	General/local government		*					
14	Municipal services partnership	University of Fort Hare (partnership with IP3)	General/local government		*					
15	Municipal services partnership	University of the Western Cape (partnership with IP3)	General/local government		*					
16	Private finance initiative	Price Waterhouse Coopers	General				*			
17	Private finance initiative	Price Waterhouse Coopers	General				*			
18	Private finance initiative	Price Waterhouse Coopers	General				*			

	Training product	Institution	Sector	Degree/ diploma	Intensive training course	Information workshop	Short training course	On-the-job placement	On-the-job mentorship	Tool kits
19	Infrastructure in a market economy	John F Kennedy School of Government, Harvard University	Infrastructure		*					
20	Privatisation, regulatory reform and corporate governance	John F Kennedy School of Government, Harvard University	General		*					
21	Productive partnerships in local governance	International Management Development Institute (IMDI), University of Pittsburgh	General/local government		*					
22	Building knowledge expertise in infrastructure finance	Economic Development Institute (EDI) of the World Bank	Infrastructure				*			
23	Private and public sector collaboration for pollution management in Latin America (via www)	Economic Development Institute (EDI) of the World Bank	Pollution				*			

	Training product	Institution	Sector	Degree/ diploma	Intensive training course	Information workshop	Short training course	On-the-job placement	On-the-job mentorship	Tool kits
24	Regulation of privatised transport services	Regulatory Reform and Private Enterprise Division (EDIRP), Economic Development Institute (EDI) of the World Bank	Transport				*			
25	Building knowledge and expertise in infrastructure finance	Regulatory Reform and Private Enterprise Division (EDIRP), Economic Development Institute (EDI) of the World Bank	Infrastructure				*			
26	Global reform and privatisation of public enterprises	Regulatory Reform and Private Enterprise Division (EDIRP), Economic Development Institute (EDI) of the World Bank	Public enterprises				*			
27	What a private sector participation arrangement should cover	World Bank	Water							*

	Training product	Institution	Sector	Degree/ diploma	Intensive training course	Information workshop	Short training course	On-the-job placement	On-the-job mentorship	Tool kits
28	Designing and implementing an option for private sector participation (water and sanitation)	World Bank	Water							*
29	Selecting an option for private sector participation	World Bank	Water							*
30	Private finance of infrastructure	International Law Institute (ILI)	Infrastructure				*			
31	Public enterprises: restructuring and privatisation	International Law Institute (ILI)	Public enterprises				*			
32	Private finance of infrastructure	International Law Institute (ILI)	Infrastructure				*			
33	Negotiating and structuring BOO and BOT projects	International Law Institute (ILI)	Infrastructure				*			

	Training product	Institution	Sector	Degree/ diploma	Intensive training course	Information workshop	Short training course	On-the-job placement	On-the-job mentorship	Tool kits
34	Infrastructure finance: BOO and BOT projects	International Law Institute (ILI)	Infrastructure		*					
35	Legal issues in privatisation	International Law Institute (ILI)	General/ privatisation		*					
36	International project procurement and contact negotiation	International Law Institute (ILI)	General		*					
37	Public sector reform programme: improving performance through competition	Ciptanet International	General				*			
38	Private sector development and privatisation	International Training Centre of the ILO	General				*			
39	Procurement management in the public sector (goods/ works/services)	International Training Centre of the ILO	General		*					

	Training product	Institution	Sector	Degree/ diploma	Intensive training course	Information workshop	Short training course	On-the-job placement	On-the-job mentorship	Tool kits
40	Works procurement management	International Training Centre of the ILO	Public works				*			
41	Utility regulations and strategy	Public Utility Research Centre, University of Florida	Utilities		*					
42	Planning for public-private partnerships	Shaw Pittman	General						*	
43	Governance partnerships and poverty	School of Public Policy, University of Birmingham	General		*					
44	Managing contracting and public and private partnerships	School of Public Policy, University of Birmingham	General		*					
45	Private finance initiative	Civil Service College (UK)	General				*			

	Training product	Institution	Sector	Degree/ diploma	Intensive training course	Information workshop	Short training course	On-the-job placement	On-the-job mentorship	Tool kits
46	Project, facilities and services management	Civil Service College (UK)	Construction				*			
47	Management of projects	Crown Agents	General		*					
48	Advanced contract management (Part I: Tender design, evaluation and negotiation)	Crown Agents	General		*					
49	Advanced contract management	Crown Agents	General		*					
50	Community management urban services	Water, Engineering and Development Centre (WEDC), Institute of Development Engineering, Loughborough University	Water		*					

	Training product	Institution	Sector	Degree/ diploma	Intensive training course	Information workshop	Short training course	On-the-job placement	On-the-job mentorship	Tool kits
51	Community water supply and sanitation	Water, Engineering and Development Centre (WEDC), Institute of Development Engineering, Loughborough University	Water and sanitation		*					
52	Privatisation and regulatory policy	Institute for Development Policy and Management, University of Manchester	General		*					
53	Deteriorating urban environment in developing countries	United Nations Development Programme and Yale University	Environment		*					
54	Deteriorating urban environment in developing countries	United Nations Development Programme and Yale University	Environment					*		
55	Sources of investment capital and privatisation	Prospects International	General				*			

	Training product	Institution	Sector	Degree/ diploma	Intensive training course	Information workshop	Short training course	On-the-job placement	On-the-job mentorship	Tool kits
56	Project analysis and management	United Nations African Institute for Economic Development and Planning	General		*					
57	Enterprise restructuring and development	Joint Vienna Institute	Public enterprises		*					
58	Enterprise privatisation and restructuring	Central and Eastern European Privatisation Network	Public enterprises				*			

Institutions

Organisation	Country	Type	Parent	Address	Telephone	Fax	E-mail	Web site	Contact
Centro de Estudios Economicos de Regulacio	Argentina	University	UADE	Instituto de Economia, UADE, Buenos Aires				www.uade.edu.ar	Martin Rodriguez
Competitive Tendering and Contracting Research Centre	Australia	University	University of Sydney						
Institute of Transport Studies	Australia	University	University of Sydney						
Centre for Applied Economics	Chile	University	University of Chile	Department of Industrial Engineering				www-decon.facea.uchile.cl/academic/areas.htm	Engel, Fischer & Galetovic
Fachhochschule für Wirtschaft Berlin	Germany	University	Berlin	Badensche Strasse 50-51, D 10825 Berlin	+49-30-8678264	+49-30-8678270	jmueller@fhw-berlin.de		Jurgen Mueller
Department of Applied Social Studies	Hong Kong	University	Hong Kong Polytechnic University	Hung Hom, Kowloon	+852-2766-5730	+852-2773-6558	ssandy@polyu.edu.hk		Andy Fong Yik Lam
School of Business	Hong Kong	University	Hong Kong Baptist University	Kowloon Tong	+852-2339-7548	+852-2339-5580	sktsang@hkbu.edu.hk		Tsang Shu-ki
Mona Institute of Business	Jamaica	University	University of the West Indies	Mona, Kingston 7, Jamaica, W.I	+1-809-927-2775	+1-809-977-4622			Cezley Sampson
African Economic Research Consortium	Kenya	Centre		8th Floor, International House, PO Box 62882, Nairobi	+254-2-228057	+254-2-219308	aerced@form-net.com	www.kenyaweb.com/aerc/	
Centro de Investigacion y Docencia Economicas	Mexico	Centre		3655, Carretera Mexico-Toluca, Mexico City, 01210				www.cide.mx	Juan Rosellon
Institute for the Study of Competition and Regulation	New Zealand	University	Victoria University, Wellington	PO Box 600, Victoria University, Wellington, NZ	+64-4-462-5562	+64-4-462-5566	contact@iscr.org.nz	www.iscr.org.nz/welcome.html	
Energy and Development Research Centre	South Africa	University	University of Cape Town	Private Bag, Rondebosch, 7701	+27-21-650-3230	+27-21-650-2830	energy@energtic.uct.ac.za	phantom.eri.uct.ac.za/	

Guidelines for Public-Private Partnerships

Organisation	Country	Type	Parent	Address	Telephone	Fax	E-mail	Web site	Contact
Institute of Energy Studies	South Africa	University	Rand Afrikaans University	PO Box 524, Auckland Park, 2006	+27-11-489-2071	+27-11-489-3039	kk@eb.rau.ac.za	www.rau.ac.za/english/academic/economic/	K.D. Kotze
Institute of Government	South Africa	University	University of Fort Hare	PO Box 1153, King Williams Town, 1153	+27-4063-92445	+27-4063-92447	cris@fhig.co.za		C. Mosilili
National Business Initiative (NBI)	South Africa	Centre		PO Box 294, Auckland Park, 2006	+27-11-482-5100	+27-11-482-5507	info@nbi.org.za	www.nbi.org.za	
Potchefstroom University for Higher Christian Education	South Africa	University	Potchefstroom University	Private Bag X60001, Potchefstroom, 2531					
School of Government	South Africa	University	University of the Western Cape	Private Bag X17, Bellville, 7535	+27-21-959-3190	+27-11-484-2729	ehamza@ems.uwc.ac.za		E. Hamza
School of Public and Development Management	South Africa	University	University of the Witwatersrand	PO Box 601, Wits, 2050	+27-11-488-5700	+27-21-959-2209	gotzg@zeus.mgmt.wits.ac.za		
School of Public Policy and Development Management	South Africa	University	University of Durban-Westville	Postnet, Suite 267, Musgrave, 4062	+27-31-204-4577	+27-31-204-4138	tressellan@dbn.lia.net		T. Nayager
Transport Economics	South Africa	University	Rand Afrikaans University	PO Box 524, Auckland Park, 2006	+27-11-489-2464	+27-11-489-2029	jw@eb.rau.ac.za	www.rau.ac.za/english/academic/economic/index.htm	J. Walters
Dpto. de Analisis Economico Aplicado	Spain	University	Las Palmas de Gran Canaria	Campus de Tafira, 35017	+34-928-451800	+34-928-458183	lourdes@empresariales.ulpgc.es		Lourdes Castellano
ILO International Training Centre	Switzerland	Centre	International Labour Organisation					www.ilo.org	
Eastern and Southern African Management Institute	Tanzania	Centre		Arusha, Tanzania				n/a	
Faculty of Economics	Thailand	University	Thammasat University	Bangkok 10200, Thailand	+66-2-221-6111 x2409	+66-2-224-9428	praipol@ipied.tu.ac.th		Praipol Koomsup
Air Transport Management Group	UK	University	Cranfield	Building 115, Cranfield, Bedfordshire, MK43 0AL	+44-1234-754236	+44-1234-752207		www.cranfield.ac.uk/coa/tech-atm/atm-1.htm	Frances Creckenden
Centre for Energy, Petroleum and Mineral Law and Research	UK	University	University of Dundee	Dundee, DD1 4HN	+44-1382-344300	+44-1382-322578	a.zamora@dundee.ac.uk		Armando Zamora

Organisation	Country	Type	Parent	Address	Telephone	Fax	E-mail	Web site	Contact
Centre for Management under Regulation	UK	University	Warwick Business School	University of Warwick, Coventry, CV4 7AL	+44-1203-524506	+44-1203-524965	catherine.waddams@warwick.ac.uk	www.wbs.warwick.ac.uk/cmur/	Catherine Waddams
Centre for Market and Public Organisation	UK	University	Bristol University	Mary Paley Building, 12 Priory Road, Bristol, BS8 LTN	+44-227-954-6943	+44-117-954-6997	cmpo-office@bristol.ac.uk	www.bris.ac.uk/depts/cmpo/	Paul Grout
Centre for Research into Economics and Finance in Southern Africa	UK	University	London School of Economics	Houghton Street, London, WC2A 2AE	+44-171-955-7280	+44-171-460-1769	crefsa@lse.ac.uk		Jonathan Leape
Centre for the Study of African Economies	UK	University	Oxford University	St Cross Building, Manor Road, Oxford, OX1 3UL	+44-1865-271084	+44-1865-271094	csae.enquiries@economics.ox.ac.uk	info.ox.ac.uk/~csaeinfo/	
Centre for the Study of Regulated Industries	UK	University	University of Bath	School of Management, Bath, BA2 7AY	+44-1225-826714	+44-1225-826473	mnsppv@management.bath.ac.uk	www.bath.ac.uk/departments/management/crithm	Peter Vass
Civil Service College (UK)	UK	College							
Crown Agents	UK	University		St Nicholas Road, Surrey SM1 1EL	+44-181-6433311	+44-1817-700479	hrd@crowagents.co.uk	www.crownagents.com	
Department of Applied Economics	UK	University	Cambridge University					www.econ.cam.ac.uk/dae/regulate/regulate.htm	David Newberry
Department of Economics	UK	University	City University	Northampton Square, London, EC1V 0HB	+44-171-477-8503	+44-171-477-8580	j.pitt-jones@city.ac.uk	www.city.ac.uk/economics/mscreg.html	Jean Pitt-Jones
Department of Economics	UK	University	Brunel University						Martin Cave
European Regulatory Research Institute	UK	University	Queen Mary and Westfield College						
Institute for Development Policy and Management	UK	University	University of Manchester	Crawford House, Precinct Centre, M13 9GH	+44-1612-752800	+44-1612-738829	ipdm@man.ac.uk		
Institute for Transport Studies	UK	University	Leeds University				m.c.bell@its.leeds.ac.uk	www.its.leeds.ac.uk	Margaret C. Bell

Guidelines for Public-Private Partnerships

Organisation	Country	Type	Parent	Address	Telephone	Fax	E-mail	Web site	Contact
London School of Economics	UK	University		Houghton Street, London, WC2A 2AE				www.lse.ac.uk/graduate/programmes/328.htm	
Oxford Institute for Energy Studies	UK	Centre		57 Woodstock Road, Oxford, OX2 6FA	+44-1865-311377	+44-1865-310527	energy@sable.ox.ac.uk	associnst.ox.ac.uk/energy/about.html	Richard Hepworth
Regulatory Policy Research Centre	UK	University	Hertford College	Oxford					
School of Public Policy	UK	University	University of Birmingham	Edgbaston, Birmingham, B152TT	+44-1214-144969	+44-1214-144989	y.swaquin@bham.ac.uk	www.bham.ac.uk/intdev/	Y. Swain
Science and Technology Policy Research	UK	University	University of Sussex at Brighton	Mantell Building, Falmer, Brighton, East Sussex, BN1 9RF	+44-1273-686758	+44-1273-685865		www.sussex.ac.uk/spru/	
Regulatory Policy Institute	UK	Centre		31/33 Westgate, Oxford, OX1 1NZ	+44-1865-792858	+44-1865-241885	george.yarrow@rpieurope.org	www.rpieurope.org	George Yarrow
Water, Engineering and Development Centre (WEDC)	UK	University	Loughborough University	Leicestershire, LE11 3TU	+44-1509-222885	+44-1509-211079	wedc@iboro.ac.uk	info.iboro.ac.uk/departments/cv/wedc	
Harvard Institute for International Development	USA	University	Harvard University	14 Story Street, Cambridge, MA 02138, USA	+1-617-495-3482	+1-617-495-9786	pep@hiid.harvard.edu	www.hiid.harvard.edu/about/index.html	
International Management Development Institute (IMDI), University of Pittsburgh	USA	University	University of Pittsburgh						
Institute for Public-Private Partnerships	USA	Centre						www.ip3.org	
Institute of Public Utilities and Network Industries	USA	University	Michigan State University	410 Eppley Center, East Lansing, MI 48824-1121	+1-517-355-1876	+1-517-355-1854	graym@pilot.msu.edu	www.bus.msu.edu/ipu/frmain.htm	
International Law Institute	USA	Centre			+1-202-483-3036	+1-202-483-3029		www.ili.org	
John F Kennedy School of Government	USA	University	Harvard University	14 Story Street, Cambridge, MA 02138, USA	+1-617-495-0484	+1-617-495-0485		www.ksg.harvard.edu	Kathy Eckroad
National Regulatory Research Institute	USA	University	Ohio State University					www.nrri.ohio-state.edu/about.htm	
Public Utility Research Centre	USA	University	University of Florida	Gainesville, FL 32611-7142	+1-352-392-6148	+1-352-392-7796	purcecon@dale.cba.ufl.edu	www.cba.ufl.edu/eco/purc	Sanford Berg

Organisation	Country	Type	Parent	Address	Telephone	Fax	E-mail	Web site	Contact
Texas Water Resources Institute	USA	University	Texas A&M University System	College Station, Texas 77843-2118	+1-409-845-1851	+1-409-845-8554	twri@tamu.edu	www.twri.tamu.edu/	

ANNEXURE II

DRAFT REQUEST FOR PROPOSALS

(Name of department)

REQUEST FOR PROPOSALS

FOR

ZEERUST TOLL ROAD

**DESIGN,
CONSTRUCTION
AND OPERATIONS**

PROPOSAL NUMBER _____

ISSUED ON _____

(Name of department)

REQUEST FOR PROPOSALS

Zeerust Toll Road design, permitting, construction and operation

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1. CONDITIONS OF PROPOSALS AND INSTRUCTIONS TO PROPOSERS

1.1 GENERAL

Proposals from (*pre-qualified*) Proposers are invited by the (*name of department*), hereinafter referred to as the Owner, for the design, construction and operation of the (*new, existing*) Zeerust Toll Road. The selected Contractor shall perform the services as defined in the Proposal Documents and Operating Plan.

All interested Proposers shall complete and submit two (2) copies of the attached Proposal Form and related documents to: (*name and address of department*), prior to (*X:00*) p.m. local time, on the ___ day of _____ 1999, at which time the Proposals will be publicly opened and recorded.

Proposal documents shall be enclosed in a plain sealed envelope clearly marked:

PROPOSAL NO. _____ ZEERUST DESIGN, CONSTRUCTION AND OPERATION

All mailed Proposals should be sent by registered post to ensure delivery. Telephone, telegraph, telex or facsimile Proposals will not be accepted.

All Proposals shall provide a detailed statement of qualifications, including a list of references. Particular emphasis will be put on experience in solid waste handling, heavy equipment operation, earth moving/excavation, and in securing all required financing for the design, construction and operation of a toll road.

Each Proposal must be accompanied by a Proposal Security, in favour of the (*name of department*), issued by an approved Insurance Company or Bank in the amount of (*XX*) per cent of the Base Proposal Price.

The Owner may conduct personal interviews with selected Proposers. The Owner expects that Proposers selected for interviews will make key personnel proposed to work on this project available for such interviews.

1.2 PROPOSAL PERIOD

The Proposals shall remain valid for ninety (90) days from the final date for submission of Proposals.

The Owner shall notify the accepted Proposer (if any) of such acceptance by letter written within the ninety (90) day Proposal Period or such extension of the Proposal Period as mutually agreed to by the Owner and Proposers, and said Proposer shall execute the formal Contract within thirty (30) days of said acceptance letter.

The Owner shall not be bound to accept the lowest or any Proposal or to assign any reason for its acceptance or rejection of any Proposal and in no case shall any Proposer be paid for any expense incurred in the preparation of a Proposal.

1.3 PRE-PROPOSAL MEETING

A Pre-Proposal meeting will be held at (*X:00*) a.m. on _____ at (*location of meeting*) for the purpose of reviewing the Proposal Documents and answering any questions from Proposers regarding the Scope of Work or any other aspect of the proposed work. (*A tour of the proposed site may be arranged at that time.*) Minutes of the Pre-Proposal meeting reflecting any questions posed by Proposers and the answers thereto will be provided to all attendees. Attendance

at the Pre-Proposal meeting is mandatory, and a precondition to the consideration of any proposal. A Certificate of Attendance will be provided to each attendee at the Pre-Proposal meeting, which certificate must be attached as Appendix “K” to any proposal filed in response to this RFP.

1.4 REPRESENTATION OR INTERPRETATION OF DOCUMENTS

Representation or interpretation of Proposal Documents shall be done in writing by the Owner’s representative. If during the Proposal Period, subsequent to the Pre-Proposal Meeting, the Owner makes any interpretation, clarification or change in the Proposal Documents, the Owner will issue a letter to all Proposers explaining the interpretation, clarification or change. The Proposer shall acknowledge the receipt of such letter or letters in its submitted Proposal. Proposers may submit questions or requests for interpretation of Proposal Documents, in writing, up to _____ days from the date of submittal of the Proposal. Copies of all questions or requests for interpretation so received will be provided to all attendees at the Pre-Proposal meeting, together with the answer(s) and interpretation(s) rendered by the Owner’s representative.

1.5 REQUIRED PROPOSAL INFORMATION

Each Proposal shall contain the following information:

1. Proposer’s Company name, address, telephone number, and contact individual
2. Completed Proposal Form(s) – Appendix A
3. Proposal Surety – Appendix E
4. Statement of qualifications and list of references
5. Description of proposed equipment
6. Implementation Schedule
7. Subcontractor Declaration – Appendix B
8. Form of Intent for Performance Bond – Appendix E
9. Certificate of Attendance, Pre-Proposal Meeting – Appendix K

1.6 SIGNATORY REQUIREMENTS

Each Proposal shall be accompanied by an original cover letter committing the Proposer, if selected, to carrying out the proposed work at the Proposal prices. These prices shall be valid for ninety (90) days from the date of the Proposal. The cover letter must further state that all information submitted in support of the Proposal is accurate. The cover letter must contain the signature of a person authorised to commit the firm(s) to a Contract. All forms requiring signatures shall be signed by the same individuals signing the cover letter.

1.7 PROOF OF GENERAL LIABILITY INSURANCE

The selected Contractor will be required to obtain liability insurance reflecting the limits and conditions stated in Appendix C. Proof of insurance in the form of a Certificate of Insurance from a liability insurance firm, authorised to issue liability insurance in the Republic of South Africa, will be required within thirty (30) days of the notice of acceptance and prior to Contract signing, whichever is less.

1.8 PERFORMANCE BOND REQUIREMENTS

A Performance Bond, in the initial amount of (XX) per cent of the Base Proposal Price, shall be required of the successful Proposer, executed by a surety company duly authorised to do business in the Republic of South Africa, within thirty (30) days after the date of notification to the selected Contractor by the Owner and his acceptance of the Proposal and, in any event, prior to Contract signing.

The Performance Bond shall be executed for the first year of the Contract and shall be a condition precedent to the execution of the Contract and any renewal thereof. A Performance Bond shall be renewed annually for the work performed in each successive year of the Contract Term, adjusted accordingly. The Performance Bond shall be in the amount of (XX) per cent of the yearly total sum of the Contract in each year of the Contract Term.

1.9 PROPOSER RESPONSIBILITIES

All Proposers submitting Proposals for the proposed work are cautioned to review the Conceptual Design included in Appendix H and the Confirmation of Feasibility Permit in Appendix I and examine carefully the site and all conditions affecting the design, construction and operation of the toll road and to acquaint themselves with the quantity and character of the materials to be handled under the proposed work.

Submission of a Proposal shall be deemed conclusive evidence that the Proposer is fully acquainted with and shall be fully responsible for any restrictions, constraints or any physical difficulties within the site and the quality and character of the materials, including the solid waste, to be handled under the proposed work, as of the date of Proposal submittal.

2. BACKGROUND

2.1 GENERAL

(Insert any background information leading up to the issuance of the Request for Proposals.)

2.2 TRAFFIC FLOWS

(Insert in this section the results of any feasibility studies, which have estimated or determined the traffic flows expected. If there are seasonal fluctuations they should be defined here. If there is the potential for any risks, this should be noted here. This section must establish an annual estimate, the Base Annual Traffic Flow, which will be used to determine the annual Base Proposal Price for comparing proposals and determining the performance security, which is a percentage of the annual contract amount. If a monthly price basis is used, it is common practice to include unit price adjustments should the annual flows be (XX) per cent more or less than the Base Annual Flows. These add-on and deduct prices are intended to represent variable expenses incurred or not incurred by the contractor.)

3. SCOPE OF SERVICES

3.1 GENERAL

(Include in this section a general description of the scope of work to be performed under the capital improvements and the operations.)

3.2 CONTRACTOR RESPONSIBILITIES

3.2.1 TOLL ROAD DESIGN

The Contractor shall be responsible for the final design, permitting and construction of the toll road. The Contractor shall complete the Final Design of the toll road within ninety (90) days of notice to proceed by the Owner. The Final Design shall be in accordance with Department of Transport's *Minimum Requirements For Main Road Construction*. As part of the preliminary permitting process, the Owner has completed a Conceptual Design of the site, included in Appendix H. The Contractor will be totally responsible for the design, construction and operation of the toll road and is not bound to accept the Conceptual Design in whole or in part. If, however, the Contractor deviates significantly from the Conceptual Design, the Contractor shall document all such deviations in his design report and state the reasons for such deviations.

As a minimum, the Final Design shall include the following components:

1. *Topographic Mapping*: The design shall be based on topographic mapping having a minimum of ...
2. *Construction Plan*: The final toll road design shall include a construction plan showing detailed steps to be taken in the course of construction (*add any detailed planning requirements here*), including management of environmental impacts.
3. *Construction Phasing*: The Final Design shall include a design plan showing the construction phases of the road. The plan shall include the initial construction phase and all subsequent phases.
4. *Initial Construction Phase*: The initial construction phase (3- to 5-year capacity) shall be in accordance with the construction phasing plan. The initial phase shall include (*add requirements*).
5. *Infrastructure Requirements*: The Final Design shall include the following infrastructure improvements:
 - Access roads shall be constructed to standard engineering design values. They shall have a minimum width of six (6) metres and extend from the main paved highway to connecting roads.
 - In similar vein as the reference to access roads, add other key requirements, including provision for a maintenance facility and basic operating requirements.
6. *Construction Schedule*: The Final Design shall include a time schedule for construction of the toll road.
7. *Design Submission and Review*: The Contractor shall submit the final toll road design within ninety (90) days of notice to proceed. The Contractor shall not start construction of the toll road until the design has been approved by the Owner and all applicable permits have been obtained. The Owner shall review the design within thirty (30) days. The Owner may either approve the Final Design, as submitted, or request changes in accordance with the above specifications. If changes are requested, the Contractor shall revise and resubmit the Final Design within thirty (30) days.

3.2.2 PERMITTING

The Owner has performed preliminary investigations of the proposed site and has obtained a Confirmation of Feasibility Permit from the Department of Transport (DOT), which confirms that the basic characteristics of the physical site are favourable for the construction and operation of the proposed toll road. The Contractor shall be responsible for obtaining the final departmental Operating Permit on behalf of the Owner. The Owner shall be the Permit Holder and the Contractor shall be the Responsible Person as defined in Section 1.8 of the DOT's *Minimum*

Requirements. In this context, “permitting” shall include all work required to obtain the permit, including environmental assessments and public participation not included in the Confirmation of Feasibility Permit. The Contractor shall review the permitting process, and meet with the DOT to assess the existing permit status and include with his Proposal an outline of all additional work necessary to obtain the Final Operating Permit.

If the Final Operating Permit is not obtained within ninety (90) days from the approval of the Final Design, the Owner shall evaluate the reasons why the permit was not issued and initiate one or more of the following options:

- Grant a conditional extension of time for obtaining the Final Operating Permit.
- Terminate the Contract and reimburse the Contractor for his expenses incurred to date for the Final Design.
- In the event of Contractor negligence in the failure to obtain the Final Operating Permit, the Owner may terminate the Contract without reimbursement for the Final Design.
- Negotiate an increase in the Contract prices where the permit delay was due to circumstances beyond his control and the Contractor can document the reasons for the price increase.

3.2.3 CONSTRUCTION

After approval of the Final Design by the Owner and receipt of all required permits, the Contractor shall begin construction of infrastructure improvements and the initial construction phase. Upon authorisation to proceed with construction, the Contractor shall complete construction of the first phase within (XXX) days.

3.2.4 TOLL ROAD OPERATIONS

The work to be performed under this section of the Contract shall include the provision of all labour equipment, supplies and related items to operate the new toll road, in accordance with the Operations Plan, included as Appendix J to this document.

3.3 OWNER’S RESPONSIBILITIES

3.3.1 GENERAL

The Owner shall cooperate with the Contractor during the design, permitting, construction and operating of the new toll road, providing access to all necessary documents and facilities. The Owner shall be informed of all relevant meetings with regulatory officials and shall attend meetings where the Owner’s input is required.

3.3.2 TIMELY REVIEWS

The Owner agrees to review designs, regulatory submissions, periodic reports and monthly invoices in a timely manner.

4. PROPOSAL PRICE FORMAT

4.1 GENERAL

(Under this section, the format for submitting proposal prices is presented. There are several basic alternatives and combinations of design/construction and operations pricing. For the purposes of this model document we will assume two alternatives.)

Alternative I assumes that the Contract will be a lump sum payment for the design/build and a monthly fixed fee for toll road operations. Since most of the Contractor’s fixed costs will occur in

the construction phase, this alternative can have a shorter Contract Term of 3 to 5 years. This alternative will include adjustments for traffic flows over and under the Base Monthly Flows. Rather than included under one contract, as presented in this model, this alternative could be structured as two separate contracts, one lump sum contract for design, permitting, financing and construction, and a second monthly price contract for operation.

Alternative II assumes that all costs, including design, construction and operation are paid through a unit price. Since the Contractor must capitalise costs over the Contract Term, the term must be longer, 10 to 15 years, to avoid very high unit prices.

4.2 ALTERNATIVE I

Under Alternative I, Item IA, the Contractor shall be paid a lump sum amount for toll road design, permitting and construction. Upon completion of the work, the Contractor shall request a final Owner inspection of the work for compliance with the Contract plans and specifications. If the work is approved by the Owner, a Certificate of Completion will be issued by the Owner. Payment will be due and payable sixty (60) days after the Certificate of Completion is issued by the Owner.

Under Alternative I, Item 1B, the Contractor will be paid a lump sum per month for supplying all labour, materials, equipment and all other items required for the operation of the proposed toll road. This lump sum price per month is based on a Base Monthly Flow of (XX, XXX) units, plus or minus (XX) per cent. The lump sum price bid for this item times twelve (12), plus Item 1A will constitute the Base Proposal Price. The Contract Term under Alternative I will be five (5) years.

Under Item 1C, the Contractor will be paid an add-on amount in addition to Item 1B for each unit using the toll road, within any month which exceeds the Base Monthly Flows by more than (XX) per cent. This item is intended to compensate the Contractor for variable expenses actually incurred by the contracting process such traffic flows, which exceed the estimated or expected amount by an agreed-upon percentage.

Under Item 1D, an amount will be deducted from the monthly lump sum for each unit in any month, which is less than Base Monthly Flows by more than (XX) per cent. This item is intended to reduce payment to the Contractor representing actual reduction in variable costs due to flows below the estimated amount.

4.3 ALTERNATIVE II

Under Alternative II, the Contractor will be paid a unit price per unit that utilises the road. The price per unit shall include all the Contractor's costs for design, permitting, construction and operation of the toll road. The Contract Term under Alternative II will be 25 years. At the conclusion of the 25-year term, the ownership of all fixed and mobile assets will rest with the Owner.

4.4 PRICE FLUCTUATION CLAUSE

(This section may be revised to suit departmental policy.)

Due to the length of the operations portion of this Contract, the Contractor shall be entitled to an adjustment of the Proposal Price due to fluctuations in the cost of any material or labour cost as a result of increased customs duty, tax, currency exchange rates, minimum labour rates or any other governmental action affecting Contract prices which are beyond the reasonable control of the Contractor. Price fluctuations due to inflation will be considered on each yearly anniversary date of the Contract signing. At least sixty (60) days prior to the Contract anniversary date, the Contractor shall submit to the Owner his request for an increase in the Proposal Price due to inflation, to be

effective during the next year of the Contract. All requests for inflation increases must be supported by an accepted national price index or other valid documentation.

4.5 UNCONTROLLABLE EVENTS

If the Contractor is unable to perform his responsibility under the conditions of the Contract due to circumstances beyond his control, which results in increased cost to the Contractor for overtime or work on weekends, or other increased costs, the Contractor shall be reimbursed for said additional cost. If the Contractor experiences an unforeseen and uncontrollable circumstance he shall give immediate notice to the Owner, prior to incurring any additional cost, who shall review the notice and direct the Contractor accordingly.

5. SUBCONTRACTORS

The Contractor may utilise the services of one or more subcontractors to perform the work described in this document, up to 49 per cent of the total work. All subcontractors to be used for this work must be declared using the format presented in Appendix B.

6. PERSONNEL

6.1 COMPETENT LABOUR

The Contractor shall use all diligence in arranging for sufficient and competent labour at all times during the term of this Contract. Competent supervisory and managerial staff shall be employed to oversee the toll road operations and to ensure that the services are performed as provided in the Operating Plan.

6.2 EMPLOYEE TRAINING

The Contractor shall provide all hired staff with the appropriate training in the use of all equipment, safety gear and uniforms. Training shall include *(add any specifics that the department may require)*.

6.3 EMPLOYEE APPEARANCE

The Contractor personnel shall be representing the Owner and the proposed programme. As such, they shall be neatly dressed, well groomed, courteous, and knowledgeable about toll road operations.

6.4 CONDUCT OF CONTRACTOR'S EMPLOYEES

The Contractor shall comply with existing local labour laws, regulations and labour standards. The Contractor shall formulate and enforce an adequate safety programme with respect to all work under this Contract, whether performed by the Contractor or subcontractors. The Contractor has the Owner's assurance of cooperation where the implementation of these safety measures requires joint cooperation.

All Contractor and subcontractor employees shall at all times conduct themselves within the laws of the Republic of South Africa.

7. CONDITIONS OF CONTRACT

7.1 ARBITRATION DURING CONSTRUCTION PHASE

(To be provided by Owner.)

7.2 ARBITRATION DURING OPERATION PHASE

If any dispute or difference of any kind shall arise between the Owner and the Contractor in connection with or arising out of the Contract or performance of the specified services, it shall in the first place be fully documented in writing and negotiated amongst the two parties. If these negotiations do not produce a settlement within thirty (30) days from the date of written notice of a dispute or difference by either party, the matter shall be referred to arbitration. An arbitrator will be selected from a list of candidates agreeable to both parties. The matter may be referred to arbitration prior to expiration of thirty (30) days upon mutual consent of both parties.

If the dispute or difference involves payments to the Contractor, only that portion of the payment which is in dispute shall be withheld during the arbitration period and all other payments due to the Contractor shall be paid as stipulated under the payment provisions of this document. Submission of a dispute or difference to arbitration shall not relieve the Contractor from his obligations to perform the services as specified herein.

The said arbitrator(s) shall have full power to open up, review and revise any decision, opinion, direction or valuation of either party, and neither party shall be limited in the proceedings before the arbitrator to the evidence or arguments for the purpose of obtaining a decision. The decision of the arbitrator shall be binding upon both parties.

7.3 TERMINATION DURING CONSTRUCTION

(To be provided by Owner.)

7.4 TERMINATION DURING OPERATION

7.4.1 BY OWNER FOR CAUSE

If at any time during the Contract Term, the Contractor is deemed by law unable to pay his debts or enters into voluntary or involuntary bankruptcy, liquidation or dissolution, or without reasonable excuse has failed to perform the services required under the Contract, after due notice and reasonable time to correct the area of non-performance, the Owner may issue a written termination notice, terminating the Contract.

The termination notice shall set forth the conditions of termination, including the time of termination and the disposition of equipment. The Owner shall have the option of purchasing the Contractor's equipment based on the fair market values as determined by a third party appraiser agreed to by both parties. The time of termination may be a period of up to ninety (90) days to allow the Owner to arrange for another contractor to perform the services. The Contractor shall continue to provide services during the termination period and be paid as stipulated herein.

7.4.2 BY CONTRACTOR FOR CAUSE

If at any time during the Contract Term, the Owner is unable to make payments to the Contractor or otherwise is unable to perform its obligations under the Contract without cause, after written notice and reasonable time to correct said area of non-performance, the Contractor may upon fourteen (14) days' written notice terminate the Contract. Upon termination, the Contractor shall be paid all sums that are payable to him for providing services under the Contract, plus damages suffered by the Contractor due to the premature termination of the Contract.

7.4.3 BY OWNER FOR CONVENIENCE

If at any time before the completion of the Contract Term it shall be found by the Owner that, for reasons beyond the control of the parties, it is impossible or against the interest of the Owner to continue the Contract, the Owner at any time, by ninety (90) days' written notice to the Contractor, may discontinue work and terminate the Contract in whole or in part. Upon service of such notice of termination the Contractor shall discontinue to work in such manner, sequence and at such times as the Owner may direct, continuing and doing after said notice only such work and only until such time or times as the Owner may direct. The Contractor shall have no claim for damages for such discontinuance or termination of the Contract, but the Contractor shall receive compensation for reasonable expenses incurred in good faith for the performance of the Contract and for reasonable expenses associated with termination of the Contract and remaining capital debt. The Owner will determine the reasonableness of such expenses. The Contractor shall have no claim for anticipated profits on the work thus terminated, nor any claim, except for the work actually performed at the time of complete discontinuance, and his outstanding debt for capital financing.

7.5 INDEMNIFICATIONS

The Contractor shall indemnify, protect and save harmless the Owner against all losses and claims for death of or injury to any person, or loss or damage to any property, which may arise out of or in the consequence of the Contractor's performance under this Contract, except those that are due to wilful or negligent acts, or omissions by the Owner.

The Owner shall indemnify, protect and save harmless the Contractor against all losses and claims for death of or personal injury to any person, or loss or damage to any property which may arise out of or in the consequence of the Owner's obligations under this Contract, except those that are due to the wilful or negligent acts or omissions of the Contractor.

7.6 OWNER'S REPRESENTATION

The Owner's authorised representative shall be the Director-General who may, in whole or in part, delegate such authority to one or more persons appointed to carry out such duties and exercise such authority as may be delegated by the Director-General. The Owner will inform the Contractor, on or before Contract signing, of the identity of the Owner's representatives and will outline their duties and authority to represent the Owner during the term of the Contract.

7.7 CONTRACTOR'S REPRESENTATION

The Contractor shall designate a representative, in writing, empowering said representative to bind the Contractor with regard to all matters involving the implementation of the Contract. The delegation authority of the Contractor's Representative, if any, shall also be specified.

7.8 NOTICES

All notices, including payment requests, disputes and other correspondence given to the Owner shall be sent by post, facsimile or delivered in person addressed to the Owner's Representative. All notices or instructions given to the Contractor by the Owner under the terms of the Contract, shall be sent by post or facsimile to or left at the Contractor's principal place of business or other such address as the Contractor shall nominate for that purpose. (Usually these details are specified. Since this is an RFP, it should be stated that the details will be set forth in the Contract. Cable and telex are no longer in wide usage.)

7.9 ACCESS TO CONTRACTOR'S FACILITIES AND RECORDS

Upon reasonable notification, the Owner shall have access to the Contractor's offices, maintenance depot, other facilities and records for the purpose of determining the Contractor's compliance with the Contract conditions.

APPENDIX A

(Name of department)

FORM OF PROPOSAL: TOLL ROAD CONSTRUCTION AND OPERATION

Director-General

(Name of department)

1. Having examined the written Scope of Services, the Appendices and the locations of the toll road construction and toll road operations to be performed under the Toll Road Construction and Operation Proposal, we offer to undertake the design construction and operation of the toll road and perform the Services in conformity with the Scope of Work and Appendices for the following Costs:

(Proposer shall enter Proposal Prices for all items in Alternatives I and II.)

ALTERNATIVE I

ITEM IA – NEW TOLL ROAD CONSTRUCTION: For supplying all labour, equipment and supplies for the design, permitting and construction of the new toll road, as defined in Sections for the lump sum price of:

_____ (R _____)

(Rand in words)

(Lump sum)

ITEM IB – TOLL ROAD OPERATION: For supplying all labour, equipment and supplies for the operation of the toll road in accordance with Item and the toll road Operations Plan in Appendix J for the price per month of:

_____ (R _____)

(Rand per month in words)

(Per month)

ITEM IC – ADD-ON PRICE: For supplying all labour, equipment and supplies for the operation of the toll road in accordance with Item 3.2.4 and the Toll Road Operations Plan in Appendix J for each unit of traffic handled in any month which is greater than the Base Monthly Flow by more than (XX) per cent, an add-on price per unit of:

_____ (R _____)

(Rand per unit in words)

(Per unit)

ITEM ID – DEDUCT PRICE: For each unit of traffic processed in any month which is less than the Base Monthly Flows by more than (XX) per cent, a deduct price per unit of:

_____ (R _____)
 (Rand per unit in words) (Per unit)

BASE PROPOSAL PRICE – ALTERNATIVE I

ITEM IA R _____

ITEM IB (R _____) × 12 months R _____
 (per month)

BASE PROPOSAL PRICE R _____

ALTERNATIVE II

ITEM IIA – TOLL ROAD DESIGN, PERMITTING, CONSTRUCTION AND OPERATION: For supplying all labour, equipment and supplies for the design, permitting, construction and operation of the toll road in accordance with Items and the Operations Plan in Appendix J for the unit price of:

_____ (R _____)
 (Rand per unit in words) (Per unit)

BASE PROPOSAL PRICE – ALTERNATIVE II

ITEM IIA (_____) × (_____ times p.a.) = R _____
 (Rand per unit) (Base Annual Flows)

2. We acknowledge that this appendix, as well as Appendices B through K, form part of this Proposal.
3. We undertake if our Proposal is accepted, to commence work in accordance with the Scope of Work and the Implementation Schedule.
4. If our Proposal is accepted, we will within thirty (30) days execute the formal Contract Agreement, obtain final commitment letters with regard to the financing, and obtain the guarantee of a Bank or an acceptable Insurance Company (subject to your approval) to be jointly and severally bound to the (name of department) in the sum of (XX) per cent of the Proposal Cost for due performance of the Contract under the terms of a Performance Security in the form appended hereto. (Note: This clause would only be applicable if the contract includes provisions for the financing; our model contract above does not.)
5. We agree to abide by this Proposal for the period of ninety (90) days from the date fixed for receiving the same and it shall remain binding upon us and may be accepted at any time before the expiration of that period, or such other extended period that may be agreed between ourselves and the (name of department).

6. Unless and until a formal Agreement is prepared and executed, this Proposal with our written acceptance shall constitute a binding Contract between us, and shall be deemed for all purposes to be the Contract Agreement.
7. We understand that you are not bound to accept the lowest or any Proposal you may receive, that you may not give any reason for not accepting any Proposal, and that you will not defray any expenses incurred by us in preparing and submitting this Proposal.

DATED this _____ day of _____ 19_____

SIGNATURE: _____

(Name of Signatory Printed):

In the Capacity of: _____

Duly authorised to sign Proposals for and on behalf of: _____

ADDRESS: _____

SIGNATURE OF WITNESS: _____

ADDRESS: _____

APPENDIX B

SUBCONTRACTOR DECLARATION

If the Proposer wishes to subcontract any portion of the work described in the Scope of Work under any heading, he shall be free to do so but must give full details of the subcontractors he intends to employ for each portion of the work. The Contractor shall be responsible for ensuring that each subcontractor maintains insurance as defined in Appendix C or that all subcontractors are covered under the prime Contractor's insurance policy.

Failure to declare subcontractor information may invalidate the Proposal.

1. Portion of the work: _____

i. Subcontractor: _____

Address: _____

ii. Experience in similar work: _____

2. Portion of the work: _____

i. Subcontractor: _____

Address: _____

ii. Experience in similar work: _____

Signature: _____ Date: _____

Name of Signatory: _____

In the Capacity of: _____

Duly Authorised on behalf of: _____

APPENDIX C

FORM OF INSURANCE

The selected Proposer shall be required to obtain general liability insurance as a condition of Contract signing within thirty (30) days of notice of award. All subcontractors shall carry insurance to the limits stated below or be covered under the prime contractor insurance. The selected Proposer shall provide an Insurance Certificate at Contract signing as proof of insurance coverage for the following amounts:

- For liability for bodily injury, including accidental death, RX XXX XXX on account of any one occurrence, and RX XXX XXX aggregate limit.
- For liability for property damage, RX XXX XXX on account of any one occurrence and RX XXX XXX aggregate limit.

The Contractor shall also be required to secure the following insurance:

1. Motor vehicle insurance on equipment and vehicles, owned or leased
2. Workmen’s Compensation Insurance

APPENDIX D

SITE MAP

APPENDIX E

FORM OF BONDS

(The Owner may include separate bond forms for the construction and operation phases where applicable.)

We the undersigned _____

of _____

and _____

of _____

do hereby bind ourselves as sureties *in solidum* and co-principal debtors for the due performance of the Contract by the Contractor named therein, and for all losses, damages and expenses that may be suffered or incurred by the Owner as a result of non-performance of the Contract by the Contractor, renouncing all benefits from the legal exceptions *ordinis seu excussionis et divisionis* "No value received" and all other exceptions which might or could be pleaded against the validity of this guarantee, with the meaning and effect of which exceptions we declare ourselves to be fully acquainted; provided that the liability of the undersigned under this guarantee is limited to and shall not exceed:

_____ (R _____)

(Rand in words)

and will lapse thirty (30) days after the conclusion of the Contract Term, unless the Sureties are advised in writing by the Owner before the expiration of said thirty days of their intention to institute claims and particulars thereof, in which event this guarantee shall remain in force until all such claims are paid or settled.

FOR AND ON BEHALF OF THE SURETIES:

AT _____ on this _____ day of _____ 19 _____

AS WITNESS:

1. _____ 2. _____

ADDRESS:

APPENDIX F

DESIGN AND BUILD AGREEMENT

APPENDIX G

ARTICLES OF AGREEMENT FOR TOLL ROAD OPERATIONS MADE AND ENTERED INTO BY AND BETWEEN:

(Name of department)

(hereinafter called the Owner)

of the one part and _____

(hereinafter called the Contractor)

WHEREAS the Owner is desirous to provide private toll road operation of the Zeerust Toll Road; in accordance with that certain Tender Document entitled “Request for Proposals for _____” issued by Owner on or about _____ 1999;

AND has caused documents describing the toll road operation to be prepared;

AND WHEREAS the said documents entitled, “Toll Road Operating Plan” and “Tender for Toll Road Operation”;

AND WHEREAS the Contractor has executed by signature the Tender Documents and entered Proposal costs to perform the described services on the Form of Proposal;

NOW IT IS HEREBY AGREED AS FOLLOWS:

1. For the consideration as set forth by the Contractor in the Form of Proposal, Appendix A, the Contractor will upon and subject to the Conditions annexed hereto, execute and perform the services in accordance with the above referenced documents.
2. The Owner will pay the Contractor the sum of payments as provided in the Form of Proposal, in accordance with the payment provisions included in the Proposal documents, hereinafter referred to as the Contract Sum.
3. The Term of this Agreement shall be for a period of (*years in words*) (X) years, with adjustment and escalation of the Contract Sum as stipulated in the Proposal Documents.
4. This Agreement may be extended beyond the initial (*years in words*) (X) year term at the Owner’s option subject to negotiation of the Contract Sum, satisfactory performance by the Contractor and availability of funds.
5. This Agreement may be terminated by the Owner, without notice, for cause as a result of non-performance of this Agreement or non-compliance with local or national regulations. In the event of termination for cause, the Contractor shall reimburse the Owner for any reasonable increased costs incurred in arranging for alternate operations services.
6. This Agreement and its performance shall be construed and governed in accordance with the Laws, Acts and Regulations of the Republic of South Africa.

This Agreement represents the entire Agreement of the parties hereto and supersedes all prior negotiations, representations or agreements either written or oral. This Agreement may be amended only in writing signed by both the Owner and the Contractor. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

SIGNED BY THE CONTRACTOR: _____

ADDRESS: _____

on this the _____ day of _____ 19_____

at _____ in the presence of the undersigned witnesses.

AS WITNESS:

1. _____ ADDRESS: _____

2. _____ ADDRESS: _____

SIGNED BY THE OWNER: _____

on this the _____ day of _____ 19_____

at _____ in the presence of the undersigned witnesses.

AS WITNESS:

1. _____ ADDRESS: _____

2. _____ ADDRESS: _____

APPENDIX H

CONCEPTUAL DESIGN DRAWINGS

APPENDIX I

CONFIRMATION OF FEASIBILITY PERMIT

APPENDIX J

TOLL ROAD OPERATIONS PLAN

APPENDIX K

CERTIFICATE OF ATTENDANCE, PRE-PROPOSAL MEETING

(To be attached by Proposer.)