

GENERAL INFORMATION

Capital: Accra

Population: 32,83 million (2021)

GDP: USD 77, 59 billion (2021)

LEGAL AND INSTITUTIONAL FRAMEWORK

PPP Law and other applicable texts

- The National Policy on Public Private Partnerships (PPP), June 2011 (NPPP)
- The Public Private Partnership Act, 2020 (Act 1039)

Other Applicable Sectoral Laws

- The Ghana Investment Promotion Centre Act, 2013 (Act 865)
- The Renewable Energy Act, 2011 (Act 832) (the “Renewable Energy Act”) – as Amended in 2020
- The Public Procurement Act 663, 2003, as Amended in 2016.

PPP Unit

Public Private Partnership Committee (Act 1039, Section 19)

Definition

(Act 1039, Section 88)

The Public Private Partnership Act, 2020 defines a public private partnership as:

“a form of contractual arrangement or concession between a contracting authority and a private party for the provision of public infrastructure or public services traditionally provided by the public sector, as a result of which the private party performs part or all of the infrastructure or service delivery functions of Government, and assumes the defined risks over a significant period of time.”
(Section 88)

General Principles

(Act 1039, Sections (3 – 11))

Partnership arrangements should safeguard the interests of the general public, interested persons and employees and adopt the highest standards of environmental, climate and social safeguards; risks associated with partnership arrangements should be allocated to the party best able to control and manage the risk in question; budgetary commitments should be affordable and sustainable; procurement processes fair and transparent; project stakeholders should be consulted at each stage of the PPP process; PPP projects should facilitate the use of local content and technology transfer and should provide value for money.

Tendering and contracting procedures / Choice of the private partnership

(Act 1039, Section 38)

(Act 1039, Section 54 - 55)

- Competitive Bidding (*Section 38*)

The procurement process shall be a two-stage national or international competitive process comprising (a) the qualification stage and (b) the proposal stage. (*Section 38 (4)*).

- Unsolicited Proposals (*Section 54 to Section 55*).

A contracting authority shall consider and proceed with an unsolicited proposal or, a private sector led proposal, if the project is not in the Medium Term Development Plan of the contracting authority and has not already been considered by the contracting authority for implementation as part of the PPP pipeline of projects of the contracting authority. A contracting authority may conduct an open bidding process to enable other interested parties, other than the original proponent of the unsolicited proposal, to make a technical and financial bid in accordance with the PPP solicitation process.

Project Evaluation

(Act 1039, Sections 36-53)

Project evaluation has the following two stages:

Preparation stage involving preparation by the contracting authority of a project concept note, a pre-feasibility report and a feasibility study (*Sections 36-37*); and

Procurement stage involving different evaluations at each stage of the project procurement process (*Sections 38-53*).

Negotiation and Signature of PPP Contracts

(Act 1039, Sections 49 and 59)

Negotiations take place with the successful bidder on the technical and financial terms of the project agreement. Upon completion of negotiations, the negotiation team shall submit to the contracting authority concerned a report specifying the negotiated terms and recommendations of the negotiation team.

- Execution of Contract (*Section 59*)

The Head of a contracting authority shall execute a partnership agreement on behalf of that contracting authority in respect of a partnership arrangement.

Rights and Obligations of the public partner

(Act 1039, Sections 3 - 11)

Obligation to effect the General Principles explicated in *Sections 3 – 11*.

Rights and Obligations of the private partner	Obligations related to risk sharing (<i>Section 5</i>); to use local content and transfer of technology (<i>Section 10</i>); acquisition of rights related to project site (<i>Section 64</i>) and easements (<i>Section 65</i>),
Obligations of both public and private partners	No specific provision in the PPP Act.
Applicable Law (Act 1039, Section 62)	The law of Ghana (<i>Section 62</i>)
Dispute resolution (Act 1039, Section 72)	A dispute between a contracting authority and a private party arising from a partnership agreement shall be settled in accordance with the dispute settlement mechanism agreed by the parties in the partnership agreement or, by default, in accordance with the Alternative Dispute Resolution Act, 2010 (Act 798).

EXAMPLES OF PROJECTS STRUCTURED AS PPP

Water	Accra seawater desalination Plant
Transport	Accra-Takoradi Highway Dualisation
Social	Accra Sports Stadium Rehabilitation Project