

## GENERAL INFORMATION

**Capital:** Luanda

**Population:** 34,5 Million (2021)

**GDP (USD):** 67,4 Billion (2021)

## LEGAL AND INSTITUTIONAL FRAMEWORK

### PPP Law and other applicable texts

- Law No. 11/2019, of 14 May, approves the Public-Private Partnerships (“PPP Law”)
- Presidential Decree No. 316/19 of 28 October, which approves the Regulation of PPP Law No. 11/2019, of 14 May (“PPP Regulation”)
- Presidential Decree No. 111/21 of 29 April, which amends the Presidential Decree No. 316/19 of 28 October – PPP Regulation
- Executive Decree No. 229/20 of 2 September approving the by-laws and regulations of the Office for Public-Private Partnerships (“PPP Unit Decree”)
- Law No. 41/20, of 23 December, which approves the Law of Public Contracts (“PC Law”)
- Presidential Decree 75/19 of 11 March, which approves the Angolan Public Procurement Strategic Plan 2018-2022

### Other applicable sectoral laws

- Law No. 10/21 of 22 April, which amends the Law No. 10/18 of 26 June - Private Investment Law
- Law No 27/15 of 14 December, which amends the Law No. 14 - A/96 of 31 May, General Electricity Law
- Law No. 25/21 of 18 October, on the Delimitation of Economic Activities
- Decree No. 10/12 of 5 January, on the Rules of Procedure of the Public-Private Partnership Technical Support Office
- Presidential Decree No. 117/20 of 22 April, enacted the General Regulation on Environmental Impact Assessment and the Environmental Licensing Procedure
- Law 8/22 of 14 April approving the Tax Benefits Code.

### PPP Unit

(Articles 3, 5, 8 PPP Regulation and Article 2 PPP

- The Governing Body for Public-Private Partnerships (*Órgão de Governança das PPPs*, “OGP”), is the public entity responsible for the decision-making process regarding the implementation of

## Unit Decree)

PPPs.

- The OGP is composed by the Minister of Economy and Planning (Coordinator), the Minister of Finance and the Minister responsible for the respective Area of the Partnership Project.
- The OGP has a Technical Committee to support in the performance of its functions named the “Technical Committee for Public-Private Partnerships (*Comissão Técnica de Apoio*).”
- For each project, a dedicated team will be appointed to conduct the preliminary work necessary for the PPP to be launched.
- There is also an Office for Public-Private Partnerships (*Gabinete para as Parcerias Público-Privadas*, “PPP Unit”), which is a dedicated service under the Ministry of Finance responsible for the coordination and management of PPPs in Angola.

## Definition

### (Article 3 PPP Law)

- The PPP Law defines public-private partnerships as a contract or a set of contractual arrangements under which private entities, designated by the private partners, are obliged towards the public partner, on a long-term basis, to ensure the development of an activity that satisfies a collective need, and in respect of which the financing and the responsibility for investment and exploitation rest, in whole or in part, with the private partner.
- A Public-Private Partnership is also understood as the constitution of a special purpose company, whose shares are held by the public and private partners, for the implementation of public service to satisfy a collective need.

## General Principles

### (Article 4 PPP Law)

- In the legal framework of PPPs, the following principles must be observed: (i) efficiency; (ii) respect for the interests and rights of the recipients of services and private entities entrusted with their execution; (iii) budgetary responsibility; (iv) transparency; (v) risk sharing; and (vi) financial sustainability.

## Tendering and Contracting procedures/Choice of the private partnership

### (Article 14 PPP Law and Article 22 PC Law)

- The choice of procedure for the formation of the Public-Private Partnership Contract must comply with the regime provided for in the PC Law.
- The PC Law establishes the following procedures: (i) public tender; (ii) limited tender with pre-qualification; (iii) limited tender by invitation; (iv) simplified contracting; (v) dynamic electronic procedure; and (vi) emergency contracting procedure (Art.22 (1) PC Law). In any of the above procedures, public contracting entities may choose to include a tender negotiation phase (Art. 22 (2) PC Law)
- With the exception of Dynamic Electronic and Emergency

Contracting Procedures, the other procedures may include an Electronic Auction phase, if technically feasible (Art. 22(3) PC Law)

- No provision regarding Unsolicited Proposals.
- Before any PPP is launched, it is compulsory to obtain the required authorisations and administrative licences, such as those relating to the environment and urban planning, economic-financial support studies, and environmental impact licence when required by law.
- The Public-Private Partnership process starts with the pre-feasibility study and project preparation which can be initiated by the Minister responsible for the respective area of the project or by a private entity.

## Project Evaluation

(Article 11 PPP Law and Articles 7 PPP Regulation)

## Negotiation and Signature of PPP Contracts

(Articles 15 PPP Law and Article 3 PPP Law Regulation)

## Rights and Obligations of the public partner

(Article 10(a), and 16(2) PPP Law)

## Rights and Obligations of the private partner

(Articles 1(b) and 12 (1c) PPP Law)

## Obligations of both public and private partners

(Article 12 PPP Law)

## Applicable Law/Dispute Resolution

(Article 20 PPP Law)

- The PPP Unit has a role to play in negotiating with the private partner, but there is no provision for this role for the negotiation or renegotiation of the PPP contract.
- No specific provision in the law regarding the signature.

- The public partner is responsible for monitoring, evaluating, and controlling the implementation of the object of the partnership, to ensure that the objectives of public interest are achieved.
- The public partner can terminate, at any time, the constitution of the partnership without any compensation, when it does not correspond to the objectives of public interest or if only one candidate partner is available.

- The private partner is responsible for the financing, in whole or in part, as well as the exercise and management of the contracting activity, in cases where there is no immediate transfer to the public partner of the built infrastructure.
- The private partner must contract insurance to transfer the risks inherent in the partnership.

- Risk sharing between public and private partners duly identified in the contract.

- Disputes arising from the relationships established under the scope of public-private partnerships can be submitted to Alternative Dispute Resolution (ADR) mechanisms, namely negotiation, mediation, conciliation, and arbitration in accordance with the Law in force - Voluntary Arbitration Law (*Lei Sobre a*

*Arbitragem Voluntária)*

- It further describes that, if an arbitration tribunal needs to be established in connection with a partnership, the public authority representing the public partner is obliged to inform the Ministry of Economy and the ministry responsible for the relevant sector.

## EXAMPLES OF PROJECTS STRUCTURED AS PPP

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<b>Electricity</b>	Luapasso Mini Hydropower Plant; Malanje Ethanol Plant
<b>Ports</b>	Luanda Container Terminal

Note: All the above were developed prior to the enactment of the PPP Law.