

GENERAL INFORMATION

Capital: Banjul

Population: 2,64 million (2021)

GDP: USD 2,038 billion (2021)

LEGAL AND INSTITUTIONAL FRAMEWORK

PPP Law and other applicable texts

- The National Public Private Partnership Policy, 2015-2020 (NPPP)

Note: A draft PPP Act and an updated National PPP Policy were under discussion in 2022 but have not been adopted yet.

Other Applicable Sectoral Laws

- The Gambia Public Procurement Act, 2001 (GPPA)
- The Gambia Public Procurement Regulations, 2003 (GPPR)
- The Gambia Procurement Authority Act, 2014 (GPAA)
- The Gambia Public Procurement Authority Regulations, 2019 (GPPAR)

PPP Unit (NPPP)

Directorate of Public Private Partnership (PPP Unit)

Definition

The NPPP Act defines a public private partnership:

(Sect. 3 of NPPP)

A public-private partnership (PPP) is an agreement between a government and a private firm under which the firm delivers an asset, a service, or both in return for payments contingent to some extent on the long-term quality or other characteristics of outputs delivered. Agreements may include service contracts, management contracts, leasing, Concession, Build Operate Transfer (BOT), Build Operate Own (BOO), Design, Build, Operate (DBO), Design Build, Operate, Finance, privatization and cover widely varying activities, not just those in infrastructure sectors.

General Principles

(Sect. 5 of NPPP)

(Art. 47 of GPPA)

All PPP arrangements in the Gambia shall be guided by the following principles: “value for money”, public interest, balanced allocation of risks between the public and private sector, competitive procurement, economic and social standards, clearly specified output requirements, accountability and transparency (including stakeholder consultation).

Tendering and contracting procedures / Choice of the private partnership

- Competitive Bidding

A competitive bidding process shall be adopted in PPP Projects initiated by the concerned Ministries, Departments and Agencies

(Sect. 10 of NPPP)

(Sect. 10 NPPP)

(Art. 116-125 of GPPAR)

The GPPAR are also applicable to BOT and similar forms of infrastructure and services procurement. *(Art. 116-125 of GPPAR)*

Under the GPPAR a Procuring Organisation, having established a short list of bidders, may solicit proposals in one or in two stages. A two-stage request for proposals shall be used when it is not feasible for a Procuring Organisation to formulate project specifications or performance indicators and contractual terms in a manner sufficiently detailed and precise to permit final proposals to be formulated.

- Unsolicited proposals

The process for the development and procurement of unsolicited proposals is referred to in the NPPP *(Sect. 10 of NPPP)* and the GPPAR *(Art. 122-125)*.

Unsolicited proposals may be considered if the following conditions are satisfied: (i) the project must be consistent with national development priorities, (ii) the project must demonstrate genuine and substantial innovative aspects, (iii) the project must be subjected to a “value for money”, technical, financial and economic assessment, according to guidelines that will be developed and (iv) the project must be procured competitively *(Sect. 10 NPPP)*

Unsolicited proposals not involving proprietary concepts or technologies, if found admissible, should be mainstreamed into a competitive selection process. *(Art. 123-124 GPPAR)*

Project Evaluation

(Sect. 10 of NPPP)

The procuring authority submits a project brief to the Minister of Finance and Economic Affairs/PPP Unit that assesses the viability of the PPP project. If the project is found to be viable, a project development team is constituted and the procurement process to hire a Transaction Advisor is launched. The Transaction Advisor carries out a pre-feasibility study of the proposed PPP project, focusing on the rationale of the business case and on the clear specification of the project and the PPP. The Project Study Committee supervises the pre-feasibility study. The PPP Approval Committee must approve the decision to proceed to the full feasibility study stage.

The procuring authority (or the Transaction Advisor) undertakes a full feasibility study. The feasibility study must, among other things, cover: “value for money” assessment, assessment of affordability, proposed allocation of risks between the public and private sector, estimation of the required viability gap support and demonstration of the capacity of the procuring authority to procure and manage the

PPP project (*Section 10 PPP Policy*).

Negotiation and Signature of PPP Contracts
(Sect. 10 of NPPP) PPP contracts are only binding if they are signed by the competent Minister, CEO or Board Chairman of the procuring entity, and if all required approvals have been obtained (*Section 10 PPP Policy*).

Rights and Obligations of the public partner No provision in the Policy.

Rights and Obligations of the private partner No provision in the Policy.

Obligations of both public and private partners No provision in the Policy.

Applicable Law No provision in the Policy.

Dispute resolution Parties to a procurement contract may submit disputes arising under the procurement contract to settlement by negotiation, mediation, adjudication or arbitration as described in the General Provisions of the standard contract. (Art. 148 of GPPAR)

EXAMPLES OF PROJECTS STRUCTURED AS PPP

Power Greater Banjul PPP Project (33 MW)

Port Port of Banjul