

GENERAL INFORMATION

Capital: Maseru

Population: 2.281 million (2021)

GDP (USD): 2,496 billion (2021)

LEGAL AND INSTITUTIONAL FRAMEWORK

PPP Law

- No dedicated PPP Law
- Public Private Partnership Policy, 2017 (PPP Policy, 2017)

Other Applicable Sectoral Law

- Public Procurement Regulations, 2007 (PPR)
- Public Procurement Amendment Regulations, 2018 (PPAR)

PPP Unit

- No PPP Unit; PPPs are governed by the Ministry of Finance in collaboration with relevant line Ministries
- Procurement Policy and Advice Division (PPAD) is responsible of the public procurement system and policy.

Definition

(Art 3 of PPP Policy, 2017)

- A PPP is defined as a contractual arrangement between a Procurement Unit and Private Partner whereby the private investor and/or operator designs, finances, constructs, operates, maintains and/ or rehabilitates a public asset or service in whole or in part and in accordance with pre-defined output specifications on behalf of the Procuring Unit. The arrangement involves risk sharing between both parties. The Private Partner receives benefits/financial remuneration for the provision of assets or services according to pre-agreed terms by way of tariffs, user charges or government-based payments or a combination thereof. PPP arrangements can take the form of short-term (1-3 year) management or service contracts or can be longer-term (7-35 years) agreements such as leases or concessions.

General Principles**(Art. 6 of PPR, 2007)****(Art.8 of PPP Policy, 2017)**

- PPAD is responsible for the development of the public procurement system by securing legality, accountability, efficiency, transparency and overall value for money in the implementation of public procurement and by stimulating a competitive environment with equality of treatment among bidders in the public procurement process, whilst taking due regard of the Government's policy and aims in respect of local preference schemes.

The Government of Lesotho is committed to probity and transparency with regard to all aspects of the PPP program. Probity management is the set of responsibilities and practices designed to promote the development and implementation of PPPs through a fair process, in which no person achieves personal advantage or disadvantage through involvement in the process.

Tendering and contracting procedures/ Choice of the public private partnership**(Art. 7 PPP Policy, 2017)****(PPR, as amended and completed by PPAR)**

A transparent, accountable, non-discriminatory, competitive and timely procurement process is to be followed so as to encourage maximum participation by the private sector and to generate public confidence in the procedure. This stage includes drafting the PPP Agreement, drafting Expression of Interest documents (EoI), drafting the Request for Qualifications (RfQ) and Request for Proposals (RfP), developing criteria for selection of bidders at various stages of the procurement process, consulting with bidders, issuing the RfP, evaluating bids and recommending an award.

- Subject to thresholds as set out in Schedule 1 of PPAR.
- Open tendering (Art. 19 PPR) with a two-stage open tendering process (Art. 20 PPR). Exceptional procurement procedures as described under Part V of the PPR and Art 6 of the PPAR.

Project Evaluation**(Art. 6 of PPP Policy, 2017)**

The Ministry of Finance holds ultimate authority for the approval of PPP projects tenders from across each of the final four approval stages: feasibility study stage; request for proposals stage; appointment of preferred bidder stage and contract execution stage.

Negotiation and Signature of PPP Contracts (Art. 7 of PPP Policy, 2017)	Authority to provide approval to sign the negotiated PPP Agreement resides with the Ministry of Finance. The negotiated PPP Agreement is signed into by the Chief Accounting Officer of the relevant Procurement Unit.
Rights and Obligations of the public partner	No provision in the Regulations and the Policy.
Rights and Obligations of the private partner	No provision in the Regulations and the Policy.
Obligations of both public and private partners	No provision in the Regulations and the Policy.
Applicable Law/ Dispute resolution	No provision in the Regulations and Policy

EXAMPLES OF PROJECTS STRUCTURED AS PPP

Power	Lesotho Electricity Corporation (LEC)
ICT	Econet Telecom Lesotho