

GENERAL INFORMATION

Capital: Maseru	Population: 2 million (2020)	GDP (USD): 2,739 billion (2018)
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LEGAL AND INSTITUTIONAL FRAMEWORK

PPP Law

- No dedicated PPP Law
- Public Procurement Policy, 2018 (Policy, 2018)

Other Applicable Sectoral Law

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

PPP Unit

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

Definition

(SADC3P and XSAxis Consulting Draft PPP Policy, January 2014, and Castalia Strategic Advisers, Confidential Draft Lesotho Public-Private Partnerships Policy, Report to the International Finance Corporation, September 2013)

No provision related to PPP or Concession in the PPR

“PPP involves a contractual arrangement between a Public Partner/Procuring Unit and Private Partner for a significant period of time whereby the latter designs, finances, constructs, operates, maintains, rehabilitates a public asset or service in whole or in part in accordance with predefined output specifications on behalf of the Public Partner/Procuring Unit. The arrangement involves risk sharing between both parties. The Private Partner receives benefits /financial remuneration for provision of assets or services according to pre-agreed terms either by way of tariffs, user charges or government based payments or combination thereof”

General Principles
(Art. 6 of PPR, 2007)
(Art.8 of Policy 2018)

- Development of the public procurement system by securing legality, accountability, efficiency, transparency and overall value for money in the implementation of public procurement
- Stimulation of a competitive and fairness environment with equality of treatment among bidders in the public procurement process Take due regard of the Government's policy and aims in respect of local preference schemes

Tendering and contracting procedures/ Choice of the private partnership
(PPR, as amended and completed by PPAR)

- Subject to thresholds as set out in schedule 1 of PPAR, 2018
- Procurement procedure (art. 7 PPAR, 2018)
- Open tendering (art. 19 PPR, art 31A PPAR, 2018) with a two-stage open tendering process (art. 20 PPR), Exceptional procurements (art. 8 PPAR, 2018):
- Limited Tendering (art. 34 PPAR, 2018)

Project Evaluation
(PPP country Paper 2013 by SADC)

Feasibility study (including technical feasibility, financial viability analysis, and environmental and social viability)

Negotiation and Signature of PPP Contracts

No provision in the Regulations and the Policy

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

The Procurement Tribunal shall be charged with the responsibility to hear appeals against decisions made by the Procuring Entity. The dispute between the parties shall not be taken to the courts of law unless it has been heard first by the procurement entity and (art 11- e) Policy, 2018)

EXAMPLES OF PROJECTS STRUCTURED AS PPP

Power

Lesotho Electricity Corporation (LEC)

ICT

Econet Telecom Lesotho