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Promotion of SME Participation in PPP Laws and Regulation

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?Below are sample legislation promoting the involvement of SMEs in PPP legal frameworks:

For more examples, go to [Laws and Regulations on Inclusion of SMEs in PPPs](#) or download the summary of sample provisions [here](#).

Argentina

Reference: [Regulation for the Promotion of the Private Participation in Infrastructure Development - Decree 676/2001](#) (in Spanish)

This law specifies the role of SMEs at both the procurement stage and the implementation stage. At the procurement stage, SMEs can bid alone or through association with other bidders. At the implementation stage, if the project is awarded to a non-SME, the private partner has to subcontract at least 20% of the construction value of the contract to SMEs.

Australia

Reference: [National Public Private Partnership Guidelines Volume 2: Practitioners' Guide](#)

These Guidelines form part of a group of national guidelines prepared by the Australian Government in order to develop PPP projects under specific directives. Specially, the Practitioners' Guide is intended to help the Government to uniformly implement PPP projects.

The Guidelines' section 13 - Bid Evaluation states that when evaluating the experience of those who expressed interest in a project, the Evaluator should not be "narrowly defined nor over-weighted to the extent that it is a barrier to the development of smaller firms, unnecessarily reducing competition."

European Union

Reference: [Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts](#)

This EU directive on the award of concession contracts promotes the leveling of a playing field for SMEs to ensure that they are able to equally participate in the EU market on business opportunities. For example, Article 1 sets out the need to support SMEs as a rationale for this directive, and Article 63 notes that bidding criteria must permit subcontracting to encourage the participation of SMEs in the project.

Ghana

Reference: [National Policy on Public Private Partnerships](#)

This National Policy establishes "Local Content and Technology Transfer" as one of the guiding principles for the development and implementation of PPPs. The text says: "III. Guiding Principles for PPPs (...) 12. All PPP arrangements in Ghana shall be guided by the following principles: (...) Local content & technology transfer: PPP projects shall be structured to encourage the maximum use of local content and technology transfer. As much as possible, the PPP arrangement shall facilitate the promotion of local industries and the private sector in Ghana."

Reference: [Ghana Public-Private Partnership Bill](#)

One of the main objectives of this bill on public-private partnerships is to encourage and promote local content in PPP projects (Section 1 – Objectives). Likewise, just as the Ghanaian National PPP Policy, the Bill includes local content and technology as a guiding principle. It also mandates how it should be implemented. For example, a PPP project may require a private sector PPP proponent to submit a Local Content Plan to the Contracting Entity in response to any Request for Proposals, and show how the project may promote local industries and the private sector in Ghana and the objectives of improving the local context of PPP projects (Section 3 – Guiding Principles To Be Observed - 5).

Furthermore, on Section 122, the Bill indicates that the Minister may prescribe the requirements for local content in PPP arrangement and such prescriptions may cover: "(a) Scope of local employment; (b) Technology upgrade and transfer; (c) Skill upgrade and transfer; (d) Intellectual property transfer".

The [Public Private Partnership Act, 2020 \(Act 1039\)](#) replaces the previous 2011 Bill.

Malawi

Reference: [Public Private Partnership Policy Framework](#)

The Malawian PPP framework provides for indigenous participation in PPP projects by establishing that they should be structured in such a way that encourage the maximum use of local content and technology transfer. "As much as possible, the PPP arrangement should facilitate the promotion and linkages with local industries and the private sector in Malawi." (Section 7.2.7)

The [Public Private Partnership Act, 2022 \(23\)](#) replaces the previous Act.

Mexico

Reference: [Law of Investment Projects and Service Provision of Jalisco State and its municipalities](#)

This law governs the public-private partnerships in infrastructure in Jalisco State, Mexico. The law indicates that in the evaluation of the bids, it may be possible to grant extra points to the bidder that foresees subcontracting SMEs for service provision.

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- [Bidding Documents and Contractual Provisions regarding inclusion of SMEs in PPPs](#)
- [Examples of Policies of International Contractors Promoting SMEs](#)
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