Promotion of SME Participation in PPP Laws and Regulation

Full Description

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


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


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”.

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)

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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Examples of Policies of International Contractors Promoting SMEs
Examples of Policies that Incorporate Existing Operators into New PPPs
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Small Scale Water Projects - Rural and Peri-Urban
How to foster a more inclusive environment for SMEs in PPPs?