



Public-Private Partnerships (PPP) for Swaziland

Conference and Training Workshop, 16 – 20 July 2012, Mbabane Swaziland



Proceedings



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About the organisers



The Swaziland Investment Promotion Authority (SIPA) was created through an Act of Parliament, the Swaziland Investment Promotion Act 1998 and was formally launched in April of the same year. SIPA is a Category A Public Enterprise and is wholly funded by the Government of Swaziland, with initial assistance from the European Union.



Swaziland's Ministry of Finance is in charge of Government procurement and hence is the custodian of the PPP Policy. The previous work done in assisting Swaziland, which culminated in a draft PPP Policy and draft guidelines are currently being worked on by the Ministry, with a view to submitting them to Cabinet, hence the workshop will help inform the draft to Cabinet. The Ministry is also an active member of the SADC PPP Network, the Swaziland chapter of which was launched during the workshop.



The COMESA Regional Investment Agency (RIA), launched in June 2006, aims to make the COMESA region a viable, attractive destination for regional and international investors. In the long term, RIA's vision is to present the COMESA region as a fully integrated, internationally, competitive regional economic community.



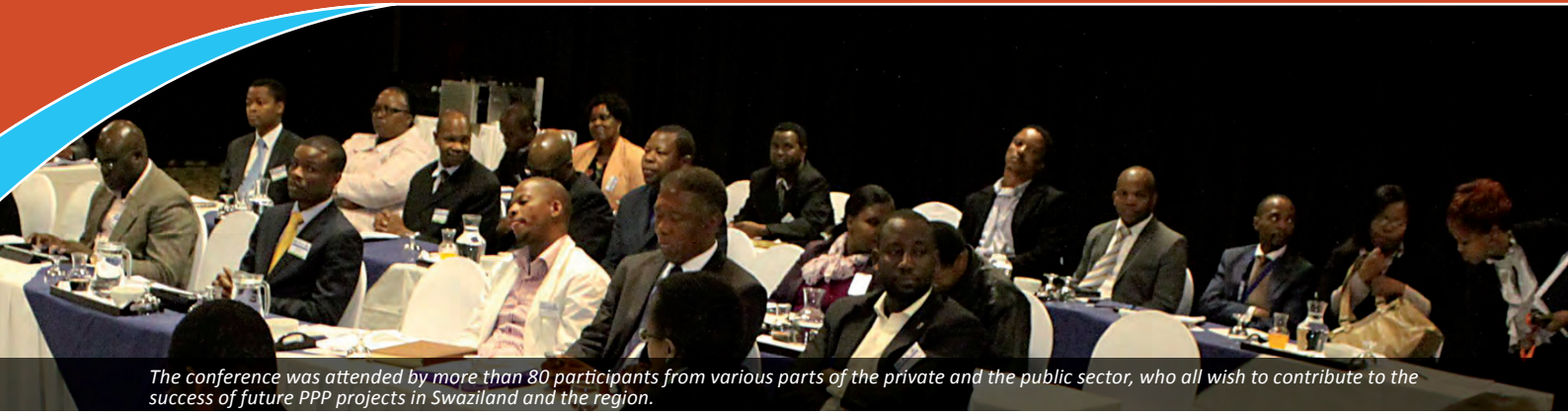
The ACP Business Climate facility (BizClim) is a programme of the ACP Secretariat financed by the European Union under the 10th European Development Fund (EDF). It aims at fostering a business-enabling environment in ACP countries and regions by improving legislation, institutional frameworks and financial measures relating to the enabling environment of the private sector.



BKP Development Research & Consulting GmbH is an economic research and consulting firm based in Munich (Germany) with associates in Ethiopia, Ghana and the Netherlands. Since establishment, BKP Development has completed more than 40 projects, research and lecturing assignments for governments, institutions and academia worldwide. BKP Development specialises in International trade and regional integration; Investment promotion (incl. investment climate assessments, competitiveness studies, etc.); and Private sector development (incl. competition policy, PPP, etc.).

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The conference was attended by more than 80 participants from various parts of the private and the public sector, who all wish to contribute to the success of future PPP projects in Swaziland and the region.

Introduction

4 The Government of Swaziland, through the Ministry of Finance and the Swaziland Investment Promotion Authority (SIPA) and with the support of the ACP Business Climate Facility (BizClim) organised a one-week event on Public-Private Partnerships (PPP), consisting of a one-day conference and a four-day intensive training programme, from July 16 to 20, 2012.

The conference aimed at raising awareness of a wide range of stakeholders about the current situation of PPPs and about opportunities and potential future developments in Swaziland. It also served as a platform for the launch of the SADC PPP Network in Swaziland.

The purpose of the training programme was to strengthen the capacity of Swaziland Government and SIPA, as well as that of relevant ministries and government agencies of other African countries, for the formulation, development and management of PPP projects. The workshop should also help Swaziland in developing its own PPP model and procedures by providing practical tools and taking best practices from other countries as a model.

The event was attended by more than 80 participants, both representatives of relevant ministries/institutions and companies in Swaziland and experts from the COMESA region, who provided regional experiences.

For more information, including workshop presentations and reading materials, please visit the workshop website:

<http://www.swaziland-ppp.org>



Zizwe Vilane



Amadou Traoré



David Wright

Day 1 // Conference on PPP

Opening Statements

In his opening speech **Zizwe Vilane**, the acting CEO of the Swaziland Investment Promotion Agency, stated that it was the right moment to launch PPP projects in Swaziland. On the one hand, the government had limited resources to finance infrastructure. At the same time, various recent developments – such as the Piggs Peak Hotel, the Tolling Project, the construction of Fuel Reserves, Sikhuphe Airport, the IT and Bio Technology Parks – needed private sector involvement. He was convinced that the workshop would help to prepare Swaziland for the realization of PPPs.

Amadou Traoré, Chargé d’Affaires of the EU Delegation in Swaziland, highlighted that the European Union was the largest donor in the world but that official development aid could not meet all the development challenges, no matter how important they were. A vibrant private sector capable of being the engine of economic growth is therefore necessary.

As the private sector can only thrive if it has the right environment the EU promotes policies at national and regional levels to strengthen enterprise competitiveness, supports good governance and the implementation of fiscal and custom reforms, trade facilitation measures, and encourages PPPs. The EU seeks to tap the private sector’s vast resources, expertise and know-how to develop infrastructure networks in Africa by promoting PPPs based on the use of subsidies to leverage private financing.

Finally, the EU representatives issued a word of caution. While PPPs were a good tool for the public sector to finance measures that were otherwise not feasible, and while the training programme would certainly help how to plan and conduct successful PPPs in Swaziland, one should not forget that PPPs are by no means a panacea that alone can overcome a country’s challenges.

Introduction to PPP

PPP expert David Wright gave a general introduction on the PPP concept.

As the term PPP suggests, a successful *partnership* between the private and public sector is the crucial part of PPP project. It is a contractual arrangement to deliver a service (not necessarily an asset).

People often consider that the financing is the magic part of PPP projects. High ranked public officials believe that PPPs can deliver government services at no cost. However, it is important to understand that such PPP projects are rarely possible and only under very specific circumstances. Usually, the government is financially involved.

Key aspects that have to be considered while planning PPPs are ‘affordability’ and ‘capacity to accept risks’. The country needs to be able to repay the investment or else it will not attract the private sector.

Also, the roles of the public and private sectors in a PPP need to be clarified: The public sector has to define what it wants the private sector to do. The private sector then defines how it should be realized.

There are several categories of countries if classified according to their use of PPP. Many countries still do not have such projects at all. Some have extensive experience. Yet others have a few PPPs which are plagued with problems, such as lack of transparency



Sizakele Dlamini



Johan Kruger

6 in the procurement process, corruption and nepotism. On such a basis a country can never attract much private investment! In designing its own PPP policy and processes, Swaziland needs to be careful not to repeat the mistakes of some other countries.

For more information on the SADC PPP Network, please visit the following website:
www.sadcpppnetwork.org

Launch of SADC PPP Network

Sizakele Dlamini, Ministry of Finance Director Corporate Services and Supply Chain, presented the current status and the prospects of the recently launched SADC PPP Network.

The SADC governments have realised that there is an infrastructure financing gap across all SADC countries and that PPPs could help mobilising financial resources for infrastructure investment. In response, they have launched a PPP network in order to strengthen the capacity of the public sector to engage in PPP projects through different trainings, working groups and the sharing of information and experiences (on an electronic platform).

The network is open to all PPP practitioners from the SADC region. It is composed of a Steering Committee comprising a representative (and alternate) from each SADC Member State for programmatic and technical guidance, a Secretariat placed within the SADC Development Finance Resource Centre (DFRC), and an Advisory Committee comprising financial and technical partners to advice on funding and programmes.

Swaziland's PPP Experience

PPP expert Johan Kruger addressed the elaboration process and the content of Swaziland's draft PPP policy. In 2008 the Government of the Kingdom of Swaziland applied to BizClim for assistance to formulate a PPP policy. The objective was to develop a comprehensive, clearly articulated and pro-poor PPP policy accompanied by a framework in the form of an operational manual to assist in structuring win-win PPP deals.

The following steps were fixed for the development of the policy:

1. Interviews of stakeholders (ministries, labour and private sector);
2. Preparation of a Situation Report, followed by a consultation of stakeholders;
3. Preparation of a draft Policy Framework, again followed by a consultation of stakeholders;
4. Approval of the final PPP Policy by Government;
5. Preparation of an Operational Manual.

The responsibilities were attributed to different ministries. A Public Enterprises Unit and Tender Board has been installed in the Ministry of Finance, while the Ministry of Economic Planning and Development is responsible for the coordination and management of Government's capital programme. Line Ministries (Public Works, Health etc.) are in charge of identifying, designing and implementing the projects.

Initially, the concept of PPP did not meet with uniform approval in Swaziland. On the political level there were very high expectations, coupled however with concerns that officials' expertise to handle PPP projects was not sufficient. At the same time, some private sector stakeholders were concerned about the possible dominance of foreign companies. Labour feared negative conse-

quences for workers, and parts of the financial sector did not see enough opportunities for PPP in Swaziland.

Despite these concerns, there have been several small successful PPP projects. The most common problems were the lack of common understanding and coordination, insufficient planning capacity and structuring support, lack of capital and business training for outsourced employees, limited possibilities for local participation, lack of competition (natural monopoly) and of political commitment to set cost recovery tariffs.

To avoid these difficulties in future, regulations should be formulated. Line departments need to operate within the policy guidelines, followed by a due process that will include the project in the public entity's budget according to normal planning and budgetary guidelines and the completion of a proper feasibility study. It was also recommended that Swaziland create a PPP technical assistance unit and a secretariat, regulate the approval process and delegations allow the use of transaction advisors, provide appropriate training, mandate the auditor general to monitor projects on a random to ensure the application of the value for money principle, create opportunities for the local private sector and stipulate requirements for the involvement of local firms and private individuals.

It is very important that the first pilot projects are successful as they lay the basis for further projects. They should have the strong support from all stakeholders and viable income streams and must not result in job losses or the necessity for substantial changes in conditions of service.

PPPs require hard and consistent effort and cooperation between ministries but there are tremendous opportunities in the Kingdom.

The Context for PPP in Swaziland

Workshop Facilitator Kimon Paxinos informed about the economic and political context of PPPs in Swaziland.

He stated that Swaziland faces several challenges that have an impact on potential PPP projects. First, the high HIV incidence rate of 26% and the feminisation of the disease lead to a breakdown of social service delivery and economic productivity. Second, only limited markets can afford a tariff as 69% of the population live below the poverty line. Third, economic performance and human development have stagnated since the 1990s. Although a middle class has developed, the poorest third of the population has become even poorer over the past ten years. Also, gender inequality reduces the probability of PPPs.

The close linkage of Swaziland's economy to South Africa (60% of exports/80% of imports), the monopolised telecommunication system and heavy regulation make Swaziland's economy vulnerable. Also, the overvalued exchange rate hampers exports.

The political system of Swaziland is a combination of a Westminster type constitution and traditional monarchy. The Constitution fixes the separation of powers between the King and the State but in practice, powers are not always clearly assigned. The same applies to the relations between the highly devolved tinkhundla and central government.

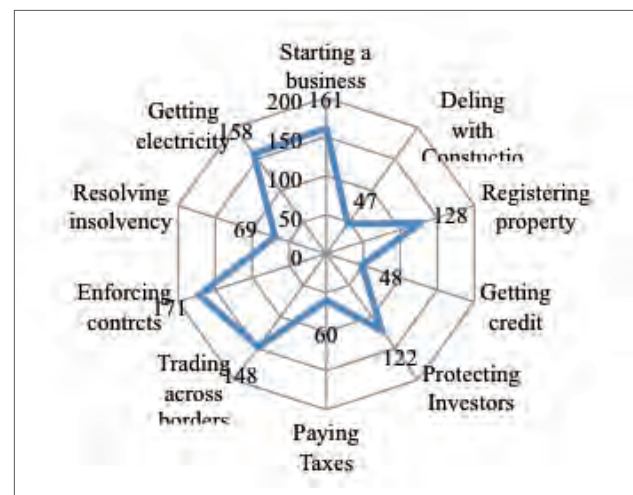


Kimon Paxinos, Workshop Facilitator seated on the right

There is a clear need for private sector investment to support growth, and although the current business environment has been evaluated as relatively weak (graph 1) the perspectives seem to be good. The Government has introduced public sector reforms.

Swaziland can use PPPs to diversify the economy. However, effective PPP implementation is critical to investment, job creation and economic diversification of Swaziland.

Graph 1: Swaziland's Doing Business Indicators, 2012 (Swaziland's rank out of 183 economies)



Source: www.doingbusiness.org



PPP in Swaziland – a Private Sector Perspective

Finally **Zodwa Mabuza**, the CEO of the Federation of Swaziland Employers and Chamber of Commerce, gave a private sector perspective on the issue of Public Private Partnerships in Swaziland.

A PPP is a clear agreement of public infrastructure or public services delivery based on shared objectives but different goals. Both parties want enhanced delivery of infrastructure or services, but the public sector wants to leverage skills and resources of the private sector without shouldering all the risk while the private sector wants to contribute to enhanced service delivery via long term profitable contracts. A successful PPP needs a good working relationship and trust between the public and private sectors for the identification of mutually beneficial projects, specialised and independent professionals to evaluate projects and draw up contracts, a transparent and accountable procurement and tendering process and strong commercial courts for enforcement of contracts.

In Swaziland, PPPs could close the infrastructure and service delivery gap. The private sector would become the driver for economic growth (instead of the Government that currently contributes 40% to Swaziland's GDP). Also, financial institutions would be required to invest more of their assets locally.

Possible fields for PPPs are

- Agriculture (e.g. irrigation systems for government owned farms);
- Energy (e.g. electricity generation with independent power producers, renewable energy projects);
- Health (e.g. construction of hospital laboratories, joint procurement of latest technologies / equipment); and
- Construction (e.g. specialised factory shells).

But several problems compromise the success of PPP projects in Swaziland: The lack of transparency and accountability in procurement and tendering fosters corruption. The political and economic uncertainty makes planning for projects difficult and reduces their attractiveness. And finally, PPPs fail to be launched as there is limited trust between Government and the private sector.

According to the private sector, the Ministry of Finance should hold thorough consultations on the PPP Policy Framework. A Procurement Bill needs to be passed into an Act so that it is binding to actors. Independent and well-capacitated commercial courts and an effective Anti-Corruption Commission should be established. Further capacity building, in addition to the current training programme, for both public and private sector personnel on PPPs is urgently needed.

A few positive steps have already been taken: a draft PPP policy framework has been developed, a SADC PPP network has been launched, reforms to the procurement process have been initiated via the Public Procurement Bill of 2009, and an Investor Roadmap has been developed to introduce strong commercial courts and investor protection measures.

The perspectives are also promising: The current fiscal position of Government and the plans for infrastructure development in the SADC region present an opportunity for PPPs. The Guidelines will serve as a base to formulate an effective PPP policy, and several PPPs that have taken place without a framework indicate at least some level of trust between government and the private sector.

Day 2 – 5 // Training Programme on PPP

The training programme took place during the remaining four days. The workshop methodology consisted of a mixture of lectures and, mostly, working groups.

PPP concepts and the different steps of realising PPP project were introduced and explained by the trainers, who also provided illustrations and case studies from various countries. Participants from other African countries presented success and failure cases from their own countries.

After the presentations, all participants had the opportunity to ask questions and to discuss different examples.

During working group sessions the participants got the possibility to apply their knowledge to the situation in Swaziland. They had to measure good practice against existing practice in Swaziland. They worked on specific topics to work out individual policy suggestions, recommendations, action and implementation plans. After each working session each group would present their result in the plenary and compare it with the others. The syndicate work took the form of action research and lead to participants understanding and being able to continue their learning on-the-job through a process called action learning. Each time the participants also discussed the form and the content of the presentation in order to improve their communication and presentations skills.

The participants came mainly from the public sector but there were also representatives of private companies who could explain their interests, objectives and concerns to the public officials. The sharing of experiences and information was very fruitful.

“One realised that colleagues from Ethiopia and Zambia also faced similar challenges regarding the effective use of PPPs.”

Lungile Dlamini, Municipal Council of Manzini

Also, the regional exchange of experience was considered to be very helpful for both the Swazi and regional participants. By applying fresh perspectives to the analysis of the situation in Swaziland, interesting approaches were developed to solve current problems.

In the following, the content of the training workshop, the results of the question and answer sessions, debates and discussions and the syndicate group work are summarised.



The training programme was attended by approx. 50 participants from various parts of the private and the public sector.

PPP Project Life Cycle

The PPP project life cycle consists of four stages:

1. **Project identification:** A project needs to be identified, selected and defined. A description of what the public wants to procure – the output specifications – is essential. Then, PPP options are assessed and an appropriate one chosen based on the following criteria: affordability, risk allocation, accounting treatment, “bankability”, and value for money.
2. **Detailed preparation:** A project and an advisory team are formed and a plan/timetable is worked out. Then, further studies, a detailed PPP design, a procurement method, bid evaluation criteria and draft PPP contract have to be prepared.
3. **Procurement:** The bidding process includes a notice to advertise the project, a pre-qualification procedure to select a shortlist, interaction with bidders and selection of a preferred bidder. Afterward the parties sign the final PPP contract, financing agreements are completed and financial close is reached.
4. **Project Implementation:** PPP management includes administration and management responsibilities, monitoring service outputs, changes to the PPP contract, dispute resolution, PPP contract termination. Ex post evaluation: institutional framework, analytical framework.

Selecting the Right Projects for Swaziland

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Some key aspects have to be considered when selecting PPP projects for Swaziland:

- **Scale of the project:** Projects need to be of sufficient scale to justify the use of the PPP approach and to attract market interest. Current guidance is that projects involving private finance need to be of a scale of at least USD 20 million to be viable. But the government may bundle a number of smaller projects together in order to reach an appropriate scale.
- **Significant service or operational requirements:** Projects that combine design, build, operate, maintain and finance to reduce interface risk by having one party responsible for all aspects of the project make good PPPs. PPP projects with significant ‘upfront’ construction costs and minimal whole-life operating and maintenance costs are unlikely to deliver added value.
- **User charges/third party income:** If acceptable, the charges to the public for use of the asset or services provided under the PPP arrangement can form part of the income stream. If realistic, an extra income can be generated outside of the core income source.
- **Existence of a competitive market:** Market consultation may be needed to identify or clarify suitable options or solutions, determine the bankability of and the market interest in the proposed project. Risks that will be transferred and the private sector’s willingness to accept them should be evaluated.

- Stability of future demand: PPP contracts are long-term, typically 25 to 30 years. The private sector must develop an integrated long-term solution but the public sector must also consider and prepare for changes to the PPP structure if circumstances change. PPPs are not a suitable solution if the demand is likely to be unstable.
- Expression of demand in output terms (=end result of the project without specifying the means). PPPs benefit from private sector innovation in how they choose to deliver the service. Essential items expressed in input terms should be kept to a minimum.
- Measurement of performance in output terms: A PPP payment mechanism is successful if performance outputs are clearly defined, unambiguous, measurable and enforceable. It consists of a single unitary charge for the service and deductions for substandard performance. No payments should be made until the service is available. Concession projects allow the private partner to levy a charge on users of the asset/service. Performance failure should lead to levying of a financial penalty.
- Opportunity for significant risk allocation to the private sector for significant number of risks (design, construction, operating, obsolescence, upgrade, financial, environmental, residual, value).
- Capacity of the public sector: PPPs require skill sets that are not readily available in the public sector. External advisers should advise, but not take responsibility.

Syndicate Group Work on PPP Constraints in Swaziland

Working groups identified various constraints that PPP actors face in Swaziland:

- **Human Capital Issues** // The expertise needed for PPP is still lacking. Swazi public officials are not able to correctly select PPP projects and to determine affordability and value for money. The monitoring and evaluation procedures as well as the professional documentation/ administration processes in public sector do not have the needed level. And even if officials get the necessary training and experience the problem of brain drain towards the private sector is not solved.
- **Legal framework** // There is still no clear policy concerning the PPP implementation and the business case approval does not work at all. Also, the weak enforcement of property rights makes investors vulnerable.
- **Macro-environment** // Swaziland's small economy gives only few true opportunities. Unchecked corruption and institutional incapacity may ruin PPP viability. Though previewed a National implementation strategy and the devolution of power are still not realized. Moreover data to inform project development and planning pragmatism is missing. Finally a constant concern is the affordability of the projects.
- **Perceptions** // A mind shift is needed to put infrastructure into private hands. Current communication and coordination are not successful. Many participants did not know the governments' national plan, different plans and strategies are not adjusted. All relevant parties need to acquire accurate knowledge about PPP that will replace the current, often wrong ideas about PPPs.

Risk Allocation

Many participants realised for the first time that PPP projects contain considerable risks that need to be addressed during the planning.

“I learned to appreciate [that] as much as we need PPPs there are risks involved and the public and the private sector must be prepared to share [them]”

Siphiwe Sibandze, Economist at the Ministry of Planning and Development

Specific risks have to be treated differently: Costs which have already been incurred or are irrecoverably committed should be ignored in an appraisal. Wider economic benefits, such as tax flowbacks to the exchequer should not normally be counted as economic benefits or costs.

All projects are subject to uncertainty and risk. The identification of strategic risks will allow assessing high level threats in order to develop responses. The Business Case should contain a draft catalogue of identifiable risks associated with the project including assessments of likely impact, cost consequences and mitigating strategies.

The expected value is the weighted average of dollar value impacts. It can be allocated to the government, the private sector, or be shared.

The appraisal of options will be affected by uncertainty that should be dealt with through sensitivity analysis, i.e. by identifying main variables and uncertainties, assessing the potential range of feasible outcomes, and building them into the evaluation of options. The best option will be the most flexible one which continues to deliver the outputs and gives value for money. Where small variations change the results of the appraisal, the risks are likely to be significant.

Risk management action should be focused on the most sensitive factors and assumptions. Any significant differences in the capacity of the short-listed options to respond to risk should be brought out in the Business Case.

Syndicate Group Work on Output Specification and Risk Calculation

The working groups developed concrete project plans and assessed their outputs and risks.

Work Group 1 // Manzini Shopping Complex (Regional Office) designed, built and operated through a PPP.

A large new shopping complex could be built at Swaziland's economic centre Manzini.

Output specifications:

1. Variety of shops (50 shops: 10–200m², 20–100 m², 20–50 m²; Ventilation (natural and artificial, lightening),
2. Top Desk office space (Challenge of space for business in Manzini: landscape in Manzini, extra income stream, improve appearance of the city (beauty), tourism attraction)
3. Parking: 200 places, Security: (armed) guards, gates, CCTV (1 cameras / 30 meters)
4. Recreation facility
5. Sanitation (number, hot / cold water, etc.)
6. Power (electricity): outlet / shop, kw / shop, meter / shop, Back-up Generator (size)
7. Water: water points, 24 hrs running, water pressure, metres / shop
8. Fire protection system

RISKS

Type	Allocation	Probability	Impact
Design Faulty design, collapse structure, external shocks (like natural calamities)	Private – 80%	Low (10 %)	High (redesign, cost, time)
Construction Substandard material	Private – 100%	60%	Medium (loss of tenants, high maintenance cost)
Operating	Private 100%	Low (5 %)	High
Strategic	Public – 100%	50 % Address (mitigate) the risk	High

Work Group 2 // Projects in the field of poverty reduction designed, built, maintained and operated through PPPs

Several projects under the broad subject of poverty reduction and economic growth in rural communities were discussed before the group focused two project types, i.e. housing and irrigation/dams. However, as the level of abstraction of these projects was still too high, the group resorted to the National Development Plan, which provides clear output specifications. The selected project should be rather specific as this makes it easier to define outputs.

Outputs specifications 1:

- X people number of people employed
- Increase area under production by X
- Increase households living above \$2/day by X
- City recreation facility
- Number of schools and tertiary institutions
- Economic output (specific number of households)
- Outputs 2 specifications for housing projects:
- Roads, Power, Water adequately provided;
- Security
- Accessibility (everybody has an equal chance to get a house)
- Affordability
- Number of houses
- Transfer of title
- Maintained for x years

DESIGN, BUILD, MAINTAIN AND OPERATE DAM + IRRIGATION SYSTEM

Risk type	Allocation	Probability	Impact
Design Flooding Cracks Earthquakes Positioning Irrigation system design	Private	Low Medium Very low Low Low	High Low High High Medium
Construction Construction Cost	Private		High
Machines Expertise Availability of material Quality	Private	Medium Low Low Low	Medium High Low High
Operational Drought Management	Shared (Droughts occur very rarely, it would be unfair to allocate it only to the private sector)	Medium Low	High Medium
Demand risk	Shared (The public sector has to help in the promotion/marketing)	Low	High

Work Group 3 // Health sector project “Renal Unit”

The Government wishes to build renal units in all major hospitals but faces the problem that the cost per patient is very high. The group had to be careful not to make typical mistakes of economic models. The number of successfully treated patients has to be defined more precisely for the output specifications as there might be just less ill people than expected. Also they had to explain their measurement indices, for example when evaluating the success of training programmes.

Output specifications:

- Number of patients treated per day at international standards
- Ambiance of the room of international standard
- Temperature, humidity, etc
- Capacity building for the key staff (Development of a capacity building index – we believe that it should be easy to measure)

RISKS

Type	Allocation	Probability	Impact
Design Design deficiency risk. failure to meet structural specifications	Private sector	50%	High
Construction risk Delay Latent defects	Private Private	10% 10%	Low Low
Management Risk Staff crisis Third party liability	Shared Shared	60% 5%	High Low
Operational Equipment failure Quality of reagents	Private Privater	10% 5%	Low Very low

Discussion on Payment Mechanisms/ Contract Management

A PPP is a contract between the public sector and the private sector. But at the same time the special purpose company will have its own contracts with service providers (the so-called back-to-back contracts). There must be a substantially complete contract certified by the special purpose company.

The steps to be taken in case of failure and a timeline for reaction need to be clearly defined. They depend on the severity of the failure (emergencies like health and safety issues, medium or low importance). The penalty consists either of performance points or amount of money. It is very important to install mechanisms that allow monitoring the proper implementation of the project. In a hospital this could be for example a health desk (telephone that people can ring in case of failure). But it is also important that the people who operate the project are properly instructed. There was for example a PPP school building with doors that opened so that it was freezing. Though this was very disturbing during two years nothing changed. Nobody in the school had a copy of the contract, nobody knew that there was phone to call. So it is very important to provide a document that says: "if this happens, do that". The fault was very expensive, hence as soon as the public sector started to operate the payment mechanism pro-

"The procurement process has been a great lesson for me. I feel the procurement process principles can be implemented even on the conventional projects."

Vusi Matsebuka, CEO Ezulwini Town Council

perly, the company reacted immediately and removed the defect.

Key Issues for Swaziland during the Procurement phase

The issue of procurement was one of the most useful for the participants.

The South African Guidelines can be used as model for the procurement in Swaziland; however, as they are very comprehensive and detailed, they need to be adjusted for use in Swaziland.

The main steps in the procurement phase are as follows:

- Step 1: Prepare the draft Request for Proposals (RFP)
- Step 2: Evaluation Co-ordination Committee
- Step 3: Project Evaluation Committee
- Step 4: Clarification
- Step 5: Evaluate bids
- Step 6: Choose preferred and reserve bidder

The bidding process is not complicated and does not take much time if the preparation is done properly.

Preparation for procurement

The Ministry, Department or Agency prepares the draft RFP, based on the feasibility study. It must be submitted to the approval body before being issued to pre-qualified bidders. Prequalified bidders should participate in the preparation of the RFP if the project is large, complex or innovative.

1. General information about the project and its context, e.g. the processes/timing, governing legislations/regulations, has to be provided to bidders. Desired outcomes, possible structure, core assets, quality management system have to be fixed carefully.
2. Essential minimum requirements: financial, legal, technical and some additional mandatory requirements (e.g., tax clearance certificates). Bids which do not meet the requirement should be rejected. However, requirements must not stifle innovation or be so onerous that otherwise solid bids are eliminated, especially if the PPP project is small.

3. Service specifications: There are several ways to specify the PPP services and facilities. Services and facilities specifications are generally expressed as outputs. There are also specific outputs not directly related to the overall service (for example, a clinic to be constructed on the hospital grounds which is to be operated by another party). Input specifications should be kept to a minimum as they may affect operational efficiency or impact excessively on the design of the facility. Where the assets revert to the Government entity they must be in a specified condition, which dictates replacement and maintenance cycles as well as financial assumptions such as residual value and depreciation (conditions-of-asset-specifications)
4. Standard specifications: The RFP must apply objective standards which are measurable and consistent with best practice.
5. Payment mechanism and penalty regime: There must be a unitary payment arrangement including a single, indivisible unitary payment for full availability and performance of the services, an appropriate indexation, a mechanism for penalising partial or complete failure of the availability and performance of the service (by means of penalty deductions, a mechanism for dealing with changes to service requirements.
6. Legal requirements and draft PPP agreement: These are all the key commercial and performance requirements necessary to sign off that the consortium has the legal status and capacity to fulfil the requirements of the PPP agreement, including shareholding agreements, corporate governance requirements and full disclosure of the consortium makeup. The RFP must include a draft PPP agreement that allows for highly structured bidder input.
7. Commitments required from bidders are a crucial part of RFP (security requirements, liquidated damages, contents of the financial models).
8. Evaluation criteria: Broad categories of evaluation, but in sufficient detail to focus bidders' attention on the value-for-money areas.
9. Bid formalities

Choosing the Preferred Bidder

It would be too costly to make all bidders draft a complete design etc. So there will always be some outstanding issues with the chosen bidder, for example, finalising design, obtaining full planning clearance, etc.

Syndicate group work on Case study 1 (Swaziland PPP Implementation Guidelines, p. 27)

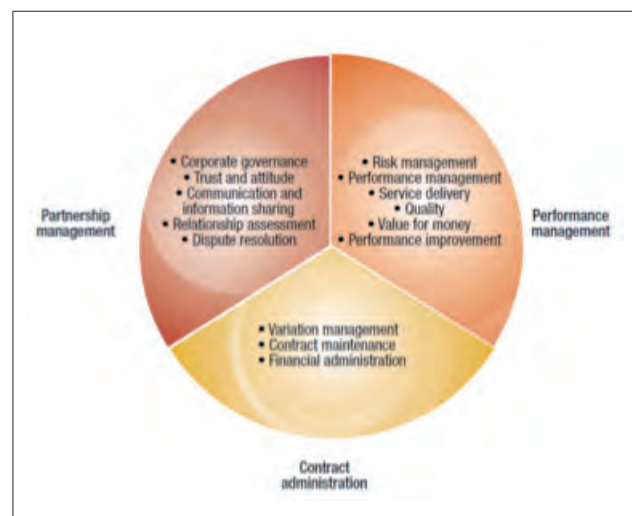
1. Questions // Will it be preferable for government to pay monthly or annually? What option will the bidder prefer? If you chose monthly, will it offer any discount?
The government prefers to pay annually as it has an annual budget and it has less administrative costs. The fiscal position might not be known and may be variable, so monthly payment takes away money from other government obligations. For the bidder, monthly payments are usually preferable because of the cash flow (payment obligations to banks/employees, opportunity to reinvest, reduced risk of inflation, etc.). In summary, a monthly payment structure is usually preferred. But in this case the private sector should offer a discount as it has several advantages.
2. How will cost escalation be handled? Is it simply an index-linked formula, or will the cost of buildings be recovered as fixed annuity, while operations are index-linked? How will the maintenance cost be handled – on actual cost basis?
The fixed annuity method should be applied for building costs and the variable method that is based on price index for maintenance and operation.

Contract Management beyond Financial Close

Critical success factors // All parties have to ensure a satisfactory service delivery for public and private parties. The expected benefits, value for money and innovation need to be realised. A good relationship, knowledge management and succession planning and a low level dispute resolution are crucial. The public sector must be aware of the contractual obligations and have the resources and expertise to honour them.

A lot can go wrong. The public sector must be careful not to lose control and to take decisions at the right time. If new and existing processes do not integrate or people fail to understand the obligations the project will fail. Often there are time limits, intended benefits and improved value for money and performance opportunities are not realised.

PPP Partnership Management // Corporate governance refers to structures, systems, policies and other mechanisms of accountability in an organisation. Trust and attitudes cannot be mandated but positive efforts are needed. Successful communication and information sharing, regular relationship assessment and dispute resolution are crucial.



Syndicate group work on Case study 2 (Swaziland PPP Implementation Guidelines, p. 50)

1. PPP Agreement Administration: contract variation to include steel / cement / etc.
2. PPP Agreement Maintenance: period maintenance (when, which time intervals etc)
3. Financial Administration: payments, handling of late payments.

Review of the Training Workshop // Evaluation and Action Planning

Evaluation of the Training Method

A PPP project is a long-term arrangement that is based on trust and knowledge of each other. This is why much of the workshop consisted of syndicate work. The participants had to work as a team to find a solution as efficiently and effectively as possible being at the same time under pressure.

The workshop was very “condensed”: At least ten days’ work was done in four days (a whole PPP cycle). Thus, participants were not expected to remember all the details, but the materials provided – on the website and in the reader – will help them to remember and to deepen their knowledge about PPP.

The method used during the workshop, ‘action learning’ (learning by doing) required that participants themselves solved the problems entailed in the PPP cycle; the trainers’ role was to facilitate the group process and guide them in the right direction.

The action learning method was much appreciated by the participants.

“I have been able to learn a lot from my colleagues. The group discussions and plenary presentations were an eye-opener – many ideas were shared.”

Thobile Dlamini, Ministry of Natural Resources and Energy

Summary of PPP Critical Success Factors identified

Finally, the participants summarised the critical success factors for a PPP project in Swaziland which they had identified during the workshop:

- Existence of a PPP framework;
- Capacity of private and public sector (increasing everybody’s knowledge by explaining to each other);
- Communication (finding relevant people, organising a forum, inviting the press);
- Everybody has to change their behaviour (e.g. to pay their bills on time and to arrive at meetings in good time);
- Political will (at least one powerful minister who drives the agenda). Senior officials should work in the project. It is now the participants’ (who are all in leading positions) responsibility to inform their colleagues and superiors to promote PPPs;
- Strategy (exists already) but the implementation plan has finally to be introduced;
- Availability of investment finance: At present, long term credits are hardly available. Therefore, a refinancing system should be applied for PPP projects in Swaziland, as it is easier to obtain long-term financing when a project has already been successfully initiated.

PPP Projects Identified

Participants identified the following potential PPP projects:

- Health: renal units, hospitals/clinics;
- Water and Sanitation: Mondro dam, Nondvo dam, Ethemba dam;
- Irrigation: commercial farming, agro processing;
- Transport: toll gates, road building and maintenance, Skuphe airport;
- Housing: UNISWA, general/social housing, teachers/police/ nurses flats;
- Government buildings;
- Tertiary education;
- Municipal: solid Waste management, street lighting, Mkozi township;
- Energy generation: thermal power generation;
- Factory shells;
- Skuphe fuel farm;
- Prisons;
- Manzini shopping centre.

Learning Effect and the Way Forward

Depending on their background participants have learnt different aspects from the workshop. They have especially understood the concept of PPPs in general as well as the key aspects that are needed for successful project identification and implementation. In addition, more general skills were acquired that can be applied to participants' work in general, e.g. the preparation of business cases and presentation methods. All participants felt that they had learnt a lot from each other (especially the private sector from the public one and vice versa) and that the opportunity for networking, sharing experiences should be maintained through a permanent PPP forum.

All participants are motivated to start PPP projects but at the same time conscious that further experience and studying of different documents is required. The participants from other African countries realised that problems tend to be similar across the region. The organisation of similar workshops in the region was therefore considered useful, as well as the sharing of expertise through multilateral networking and forums like the SADC PPP Network.

Closure of the training

The workshop was closed by Titus Khumalo, Under Secretary of the Ministry of Commerce, Industry and Trade. He was convinced that the PPP route will leverage government's resources to effectively and efficiently achieve the goal of infrastructure development and provision of services.

Throughout the workshop there was commitment from senior policy makers and would-be PPP managers together with those who represent private sector investment interests, and who are or will be directly involved in structuring and advising on PPP infrastructure projects.

The workshop has been crucial in overcoming existing 'gaps' in institutionalising PPPs. The workshop forum and the group sessions have helped to pragmatically assess Swaziland's situation and to identify those priority actions that will improve its readiness for PPPs. The PPP Policy will soon be submitted to Cabinet, its finalisation and promulgation is of paramount importance to guide Swaziland's PPP administration. All workshop participants are now asked to take further reflections on the subject of PPPs and possibly to identify a list of potential projects within their setting which can need joint partnership between the public and the private sectors.

The workshop has been successful in creating awareness of the PPP process and created a basic understanding of the process and critical dimensions of how to identify, initiate and implement PPP projects. Many of the participants had only a very rough idea of what PPP means, not always based on real facts.

"[During the workshop] I learnt that PPPs are different from outsourcing."

*Constance Mazina, Acting Director Health Sector,
Municipal Council Mbabane*

One of the reasons for the success was the composition of the workshop group. The participants had very different backgrounds and could not only learn from each other but also do networking for future PPP projects. The private and the public sector could establish the necessary contacts in the other sector.

"I have been able "to identify organisations which could provide technical support for initiating PPPs in Swaziland"

Sibusiso Mbingo, Managing Director Micro Projects

But also within the public sector it is useful to get to know colleagues from other ministries and institutions.

These bonds will remain and facilitate the implementa-

"Group discussions led to a clear understanding of the PPP projects, how to handle and monitor them. I have met a lot of representatives of different departments and so was able to learn about their roles in PPP."

Sincedile Dlamini, Principal Procurement Officer in the Ministry of Health

tion of different kind of projects even after the end of the workshop.

Also the working method forced the participants to



There are “prospects for consultation beyond the workshop”

Dr. Salobona Simetane, University of Swaziland

work out on their own solutions for Swaziland, instead of getting presented completely prepared project ideas. As David Wright said, the participants of the workshop are the experts on Swaziland and they know best how to initiate, design and implement PPP project once they really understand the concept, its advantages and difficulties.

However, the detailed skills required for the operation of PPPs cannot be imparted in the course of a week and steps will have to be taken to reinforce the learning that has taken place and assist with the more detailed work.

“We have been given practical tools through the guidelines to be followed in a PPP, [but] we lack examples on how to effectively apply PPPs.”

Simphiwe Malaza, acting city planner at the Municipal Council of Manzini

The workshop group requested continued interaction and training and it was recommended that a Swaziland PPP forum as a chapter of the SADC PPP Network be created.

The effectiveness of the workshop will now depend on how successfully the participants will be able to promote what they have learnt. Without real political support, a PPP project cannot be implemented. As Sibusiso Mbingo, the managing director of Micro Projects most participants felt that “there is a true need of an implementation plan!”

Implementing PPPs is often also part of a continuous learning process and steps are suggested to attempt to ensure that the momentum inherent in the group that attended the workshop is maintained, developed and nurtured by regular get together and regular talks on specific subjects by practitioners. It is foreseen that similar workshops in other SADC and COMESA countries or grouped regions could engender the same enthusiasm as this workshop.

