

## GENERAL INFORMATION

<b>Capital:</b> Lilongwe	<b>Population:</b> 20,308,502 (2021)	<b>GDP (USD):</b> 7,766 billion (2019)
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## LEGAL AND INSTITUTIONAL FRAMEWORK

### PPP Law

- The Public-Private Partnership Bill, 2010 that came into force in 2013
- The Public-Private Partnership Policy Framework, 2011

### Other Applicable Sectoral Law

- The Public Enterprises Act, 1996

### PPP Unit

- The Public Private Partnership Commission (PPPC)

### Definition

#### (Art. 2 of PPP Bill, 2010)

A “public-private partnership” means a form of cooperation in which a Contracting Authority partners with a private sector partner to build, expand, improve, or develop infrastructure or service in which the Contracting Authority and private sector partner contribute one or more of know-how, financial support, facilities, logistical support, operational management, investment or other input required for the successful deployment of a product or service, and for which the Contracting Authority and the private sector partner is compensated in accordance with a pre-agreed plan, typically in relation to the risk assumed and the value of the result to be achieved (Art. 2 Definitions – Part I Preliminary of PPP Bill)

### General Principles

#### (Art. 3 of PPP Bill, 2010)

- Improve the delivery of public infrastructure and services in Malawi;
- Assist in achieving better value for public expenditure by the Government;
- Promote private sector investment in infrastructure and services;
- Encourage participation by resource owners in public-private partnerships and provide assurance;
- for private interests in those partnerships;
- Encourage competitive and efficient markets for the provision of infrastructure and services;

- Promote infrastructure development and service delivery through public-private partnerships;
- Realize value for money in relation to delivery of public services through public private partnerships;
- Increase competition and reduce monopoly in the economy (Objectives, art. 3, Part II of PPP Bill)
- Pre-selection of bidders (art. 27)
- Unsolicited Bids (art. 31(1), (2) and (3))

## **Tendering and contracting procedures/ Choice of the private partnership**

**(Art. 27 and 31 of PPP Bill, 2010)**

## **Project Evaluation**

**(Art. 26 of PPP Bill, 2010)**

Feasibility/Evaluation criteria conducted by the PPPC (art. 26)

## **Negotiation and Signature of PPP Contracts**

**(Art. 29 (1), (2), (3) and (4) of PPP Bill, 2010)**

The PPP contract may be concluded solely on the basis of a decision by the Commission (PPPC) and the consent obtained from the Minister of Finance to the final draft contract (art. 29 (1))

## **Rights and Obligations of the public partner**

**(Art. 21 of PPP Bill, 2010)**

Right to transfer an interest or a part of share of the Contracting Authority in an infrastructure facility (art. 21(f))

## **Rights and Obligations of the private partner**

**(Art. 35 of PPP Bill, 2010)**

Obligation of transparency by the shareholders toward the PPPC (art. 35 of PPP Bill)

## **Obligations of both public and private partners**

No provision in the Bill.

## **Applicable Law/ Dispute resolution**

**(Art. 22 and 65 of PPP Bill, 2010)**

Any dispute shall be settled through negotiation, mediation, or, by arbitration in accordance with the Arbitration Act (art. 65 of PPP Bill)

## **EXAMPLES OF PROJECTS STRUCTURED AS PPP**

### **Railway**

Railway Network/Concessions (including the Nacala Railway)

### **Tourism**

Liwonde and Nkhotakota National Parks Project