

GENERAL INFORMATION

Capital: Banjul	Population: 2,2 million (2020)	GDP: USD 1,633 billion (2018)
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LEGAL AND INSTITUTIONAL FRAMEWORK

PPP Law and other applicable texts

- The National Public Private Partnership Policy, 2015-2020 (NPPP)

Note: A draft PPP Act to provide for the establishment of the principles and procedures in relation to private sector participation in infrastructure development and operation was under discussion in 2019 but has not been adopted yet.

Other Applicable Sectoral Laws

- The Gambia Public Procurement Act, 2001 (GPPA)
- The Gambia Public Procurement Regulations, 2003 (GPPR)
- The Gambia Procurement Authority Act, 2014 (GPAA)

PPP Unit (NPPP)

Directorate of Public Private Partnership (PPP Unit)

Definition

(Sect. 3 of NPPP)

The NPPP Act defines the public private partnership:

A public-private partnership (PPP) is an agreement between a government and a private firm under which the firm delivers an asset, a service, or both in return for payments contingent to some extent on the long-term quality or other characteristics of outputs delivered. Agreements may include service contract, management contracts, leasing, Concession, Build Operate Transfer (BOT), Build Operate Own (BOO), Design, Build, Operate (DBO), Design Build, Operate, Finance, privatization and cover widely varying activities, not just those in infrastructure sectors.

General Principles

(Sect. 5 of NPPP)

(Art. 47 of GPPA)

All PPP arrangements in the Gambia shall be guided by the following principles: “value for money”, public interest, balanced allocation of risks between the public and private sector, competitive procurement, economic and social standards, clearly specified output requirements, accountability and transparency (including stakeholder consultation).

Tendering and contracting procedures / Choice of the private partnership

- Competitive Bidding

[Subject to certain thresholds], Competitive bidding process shall be adopted in PPP Projects initiated by the concerned Ministries

(Sect. 10 of NPPP)

(Art. 108-117 of GPPR)

Departments and Agencies (MDA). The procuring authority submits the report of the evaluation of the bids for review by the authorities responsible for final approval (*Section 10 PPP Policy*). The GPPR provisions are also applicable to BOT and infrastructures services procurement (Art. 108-113 of GPPR).

- Unsolicited proposals

Unsolicited proposals may be considered if the following conditions are satisfied: (i) the project must be consistent with national development priorities, (ii) demonstrate genuine and substantial innovative aspects, (iii) subjected to a “value for money”, technical, financial and economic assessment, according to guidelines that will be developed and (iv) be procured competitively.

The process for the development and procurement of unsolicited proposals procurement is referring to the Policy and Regulations (*Sect. 10 of NPPP and Art. 114-117 of GPPR*).

Project Evaluation

(Sect. 10 of NPPP)

The procuring authority submits a project brief to the Minister of Finance and Economic Affairs/PPP Unit that assess the viability of the PPP project. A project development team is constituted and launch the procurement process to hire a Transaction Advisor. The Transaction Advisor carries out a pre-feasibility study of the proposed PPP project, focussing on the rationale of the business case and on the clear specification of the project and the PPP. The Project Study Committee supervises the pre-feasibility study. The PPP Approval Committee must approve the decision to proceed to the full feasibility study stage.

The procuring authority (or the Transaction Advisor) undertakes a full feasibility study. The feasibility study must among other cover: “value for money” assessment, assessment of affordability, proposed allocation of risks between the public and private sector, estimation of the required viability gap support, demonstration of the capacity of the procuring authority to procure and manage the PPP project (*Section 10 PPP Policy*).

Negotiation and Signature of PPP Contracts

(Sect. 10 of NPPP)

PPP contracts are only binding only if they are signed by the competent Minister, CEO or Board Chairman of the procuring entity, and if all required approvals have been obtained (*Section 10 PPP Policy*).

Rights and Obligations of the public partner

No provision in the Policy.

Rights and Obligations of the private partner No provision in the Policy.
No provision in the Policy.

Obligations of both public and private partners No provision in the Policy.

Applicable Law No provision in the Policy.

Dispute resolution Parties to a procurement contract shall submit dispute arising under procurement contract to settlement by arbitration (as described in the General Provisions of the standard contract). (Art. 141 of GPPR)

EXAMPLES OF PROJECTS STRUCTURED AS PPP

Power	Greater Banjul PPP Project (33 MW)
Port	Port of Banjul