

## GENERAL INFORMATION

<b>Capital:</b> Kampala	<b>Population:</b> 45,85 million (2021)	<b>GDP (USD):</b> 40,53 billion (2021)
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## LEGAL AND INSTITUTIONAL FRAMEWORK

- PPP Law**
- The Public Private Partnerships Act, 2015 (PPP Act)
  - The Public Private Partnerships Regulations 2019, (PPP Regulations)
  - The Public Private Partnerships (Meetings of the Committee) Regulations, 2019
  - The Public Private Partnerships Framework Policy, 2010 (PPFP)

- Other Applicable Sectoral Laws**
- The Public Procurement and Disposal of Public Assets Act, 2003

**PPP Unit** PPP Unit (PPPU) at the Ministry of Finance, Planning and Economic Development (MFPED), which serves as secretariat and technical arm of the PPP Committee.

**Definition (Art. 4 of PPP Act, 2015)**

“Public-private partnership” means a commercial transaction between a contracting authority and a private party where the private party performs a function of the contracting authority on behalf of the contracting authority, for a specified period, and

- a) Acquires the use of the property, equipment or other resource of the contracting authority for the purposes of executing the agreement;
- b) Assumes substantial financial, technical and operational risks in connection with the performance or the function or use of the property; or
- c) Receives a benefit for performing the function through payment by the contracting authority or fees collected by the private party from the users of the infrastructure or service, or both (art. 4)

**General Principles (Art. 3 of PPP Act, 2015)**

Principles of value for money; transparency; protection and respect of the rights and interest of users; accountability of the contracting authority; promotion of the participation of Ugandans as private

parties in PPP; ensuring the terms of service of employees affected by a project are in accordance with the relevant laws; protection of the intellectual property of bidders; stimulating growth and development through harnessing private sector innovation and efficiency; providing policy stability and developing institutional capacities (art. 3)

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

**(Art 31-36 of PPP Act, 2015)**

**(Reg. 3-26 PPP Regulations, 2019)**

The procurement of a private party shall be made using the open bidding method. The restricted bidding and direct procurement methods shall only be used where it is not possible to use the open bidding method. (reg. 3)

- Open bidding with pre-qualification (art. 31 and reg. 4)
- Restricted bidding (art. 32)
- Direct procurement (art. 33)
- Unsolicited proposals are accepted under some conditions (art. 34)
- Competitive dialogue (art. 35)
- Negotiated procedure (art. 36)

## **Project Evaluation**

**(Art. 21 and 22 of PPP Act, 2015)**

- Preliminary cost-benefit analysis of the project (art. 21) and feasibility study (art. 22)

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

**(Art. 26, of PPP Act, 2015)**

- No provision regarding the PPP contract negotiation.
- The Cabinet shall prescribe the value of an agreement for which approval of Cabinet is required before an agreement is signed by an Accounting Officer. (art. 26(7))

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

**(Art. 12 and 20 of PPP Act, 2015)**

- A contracting authority shall identify, appraise, develop, procure and monitor a PPP in accordance with this Act. (art. 12 (1))
- A contracting authority may participate in the financing of a project. (art. 12 (2))
- A contracting authority (or Government) may not borrow, guarantee or raise a loan for a PPP, except as otherwise provided by Article 159 of the Constitution. (art. 12(3))
- The right to participate in the implementation of a PPP as long as the form of participation is clearly defined in the invitation to tender. (art. 12 (4))
- Right to approve a share transfer of the special purpose company (art. 20 (2))

## **Rights and Obligations of the**

- Special purpose company to be established under the laws of

<p><b>private partner</b> <b>(Art. 20 of PPP Act, 2015)</b></p>	<p>Uganda. (art. 20(1))</p> <ul style="list-style-type: none"> <li>- Written approval of Minister (and the Minister responsible for the contracting authority) to be obtained prior to any transfer of shares of a special purpose company (art. 20 (2))</li> <li>- Responsibility for the financing required for the proper performance of its obligations (art. 20 (3))</li> <li>- Evidence of technical and financial capacity (art. 20 (4) and (5))</li> <li>- Right to obtain any permit required for the PPP project (art. 20 (6))</li> </ul>
<p><b>Applicable Law / Dispute Resolution</b> <b>(Art. 26 and 49 of PPP Act, 2015)</b></p>	<p>The agreement entered into by the contracting authority under this act shall be subject to the provisions of the Laws of Uganda. (art. 26(7))</p> <p>Mechanisms agreed upon by the parties in the PPP agreement or in accordance with the Arbitration and Conciliation Act (art. 49 (1))</p>

## EXAMPLES OF PROJECTS STRUCTURED AS PPP

<p><b>Power</b></p>	<p>Bujagali Hydro Project IPP</p> <p>Namanve Power Plant PPP</p>
<p><b>Infrastructure (Rail)</b></p>	<p>The Kenya-Uganda Railway Line</p>