

GENERAL INFORMATION

Capital: Port-Louis

Population: 1,271,638 (2020)

GDP: USD 14.05 billion (2019)

LEGAL AND INSTITUTIONAL FRAMEWORK

PPP Law

- The Public-Private Partnership Act, 2004 (PPPA)
- The Build Operate Transfer Projects Bill, 2016 (BOTPB)
- The Public-Private Partnership Policy Statement, 2003 (PPPS)
- The Public Procurement Act (2006) and its PPP Regulations (2008) (PPA and PPPR)
- The Public-Private Partnerships Guidance Manual

Other Applicable Sectoral Laws

- Energy Act, 2011 and its Regulations
- Mauritius Renewable Energy Agency Act, 2015 (MARENA)

PPP Unit

PPP Unit (PPPU) established in the Ministry of Economic Development, Financial Services and Corporate Affairs, in collaboration with the Central Tender Board.

Definition

(Sect. 2, PPPA)

Note: *The PPP Act will not apply to projects including a construction phase. The BOT Act will then apply.*

“A Public-Private Partnership Agreement means an agreement between a contracting authority and a private party, approved in terms of this Act, in terms of which: a) the private party undertakes to perform a contracting authority’s function on behalf of the contracting authority for a specified period; b) the private party receives a benefit for performing the function by way of (i) compensation from a revenue fund, (ii) charges or fees collected by the private party from users or customers of a service provided by it or, (iii) a combination of compensation and charges and fees; c) the private party is liable for the risks arising from the performance of its function; d) state facilities, equipment or other state resources may be transferred or made available to the private party”

General Principles

(Art. 6, PPPPS)

Principles of due diligence, competitive and transparent procurement.

Tendering and contracting procedures / Choice of the private partnership

(Art. 8 and 9, PPPA)

(Art. 2, PPPA)

The procurement process involves the following stages:

- Pre-selection of bidders.
- Invitation to bid.

A "request for proposal" means as the specific terms of the project requirements, the procedures for submission of bids, the criteria for the evaluation of bids and includes a model agreement.

Project Evaluation (Art. 4.2, PPPA) (Art. 5, PPPA)	<p>The evaluation process involves from the contracting authority to prepare a request for proposal on the approval of the feasibility study and, where the terms of the model agreement impact on public finance, seek the approval of the Committee.</p> <p>The feasibility study shall demonstrate comparative advantage for strategic and operational benefits, as well as affordability and value for money.</p>
Negotiation and Signature of PPP Contracts (Art. 40(2), PPPA) (Art. 8, PPR)	<p>No negotiation between a public body and a selected bidder or other bidders except in such special circumstances as may be prescribed. Negotiations may be carried out with a bidder or supplier where: (a) the lowest evaluated substantially responsive bid is substantially above the updated estimated costs and a re-bid exercise is considered not practical; (b) direct procurement from a single source is resorted to; or (c) emergency procurement under section 21 of the PPA is resorted to.</p> <p>No contracting authority shall award a project or sign an agreement unless (a) the award of the project has been approved by the Central Tender Board; and (b) the agreement has been approved by Cabinet (<i>Art. 11, PPPA</i>).</p>
Rights and Obligations of the public partner	No provision in the PPP Act.
Rights and Obligations of the private partner	No provision in the PPP Act.
Obligations of both public and private partners	No provision in the PPP Act.
Applicable Law (Art. 6.3, PPPA)	Every PPP agreement shall be governed by and construed in accordance with the laws of Mauritius.
Dispute resolution (Sect. 67, PPPR) (Art. 8.5.30, PPP Manual)	The parties to a procurement contract may agree in the procurement contract, or by a separate agreement, to submit any dispute arising out under the procurement contract for settlement by arbitration. The PPP Guidance Manual provides that dispute resolution shall be specified in the PPP agreement.

EXAMPLES OF PROJECTS STRUCTURED AS PPP

Power	St Aubin Power Project
Port	Deep River Beau Champ Port of Mauritius