

GENERAL INFORMATION

Capital: Lilongwe	Population: 17,215,232 (2015)	GDP (USD): 64,404 Million (2015)
--------------------------	---	--

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)

Tendering and contracting procedures/ Choice of the private partnership

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

- Pre-selection of bidders (art. 27)
- Unsolicited Bids (art. 31(1), (2) and (3))

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

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

EXAMPLES OF PROJECTS STRUCTURED AS PPP

Railway Railway Network/Concessions (including the Nacala Railway)

Tourism Liwonde and Nkhotakota National Parks Project