

## BREAKING FREE FROM THE SHACKLES OF LOW GROWTH

### Can South Africa's PPP Framework Be the Key to Unlocking Prosperity?

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The history of South Africa's Public Private Partnership (PPP) framework has been marked by a series of challenges, highlighting the need for the government to reflect and take heed of these shortcomings. Failure to do so may condemn the nation to a prolonged period of stagnant growth, thus necessitating urgent action to break free from this cycle.

Fortunately, the Renewable Energy IPP Procurement Programme (REIPPPP) framework has managed to overcome the limitations of the previous framework, laying the ground for a better way of establishing and implementing projects that unlock the economy's full potential and contribute to inclusive growth.

### What are PPPs, and why are they so crucial for economic growth?

A PPP refers to a collaborative arrangement or agreement between government bodies or the state and private entities to jointly execute a project or deliver a service that is traditionally within the domain of the public sector (e.g., a toll-road concession). This collaboration entails the public and private sectors sharing resources, risks, responsibilities, and rewards.

Governments have used PPPs all over the world. The first PPP goes back as far as the Roman Empire, which first employed the basic framework to create a network of postal stations<sup>1</sup> to serve the empire's expansion under its brigade more than 2 000 ago. Although much has changed since the Middle Ages, the basic concept of a partnership between the public and private sectors to fund, plan, build, and run projects remains a critical tool to promote investment and boost economic growth. Ultimately, however, the success of PPPs rests on government's ability to successfully manage the partnerships and protect the public interest.

### What are the factors that determine a successful PPP framework?

There are numerous well-defined international guidelines<sup>2</sup> that aid in determining the soundness of a given PPP framework. These include:

- Assessing whether the legal and regulatory structure put in place to oversee PPPs is clear, open, and predictable.
- Ensuring there's a level playing field for public and private sector partners.

- Building in guarantees for PPPs to meet environmental, social, and governance requirements.
- Putting a strong regulatory framework in place that prevents conflicts of interest and corruption.
- Evaluating the government's institutional capability to play a meaningful role in PPPs, including whether it has skilled legal, financial, and technical professionals with the necessary understanding to handle PPP projects.
- Ensuring the government has the financial means to cover their share of the project expenditures and any required guarantees or subsidies to attract private sector participation.
- Where necessary, drawing on Development Finance Institutions to provide credit enhancement for the senior lenders through a first loss debt tranche.

**Image 1:** N3 toll concession between Johannesburg and Durban



A government's political will and dedication to PPPs are also vital to its success in this sector. To achieve this, government needs to:

- Articulate a clear vision and plan for PPPs that aligns with its overall development objectives and priorities.
- Create an enabling environment that encourages the development of PPP projects by promoting private sector participation.

- Set clear laws and processes.
- Offer incentives to private sector partners.

Lastly, stakeholder participation<sup>3</sup> is an important determinant in assuring a government's capacity to participate meaningfully in PPPs. Government needs to guarantee that PPPs are transparent, responsible, and responsive to the demands of all stakeholders by effectively engaging with stakeholders, including civil society, the private sector, and impacted communities. Government also needs to provide the stakeholder engagement mechanisms to safeguard the public interest during the PPP process, such as consultation and feedback channels.

## How does South Africa's PPP framework stack up?

Now that we have a basic framework for formulating, constructing, and operating successful PPPs, does South Africa's framework meet these requirements? Our PPP framework has been in place since the late 1990s and has been used to implement various infrastructure projects. However, several deficiencies in the current PPP framework have been identified.

These deficiencies include:

- A lack of regulatory clarity resulting in inconsistent development and implementation of PPP projects.
- A shortage of skilled experts in the PPP space leading to difficulty in successfully designing, constructing, and managing PPP projects.
- Stakeholder engagement is limited, which can lead to key stakeholders opposing PPP initiatives.
- Political and economic uncertainty has failed to create an enabling environment for these projects to thrive.

## Why has the REIPPPP been more successful?

In contrast, the REIPPPP is a great example of how these partnerships should be established and operated, and it offers many learnings for other PPPs that have not been as successful.

The REIPPPP was launched in 2011. It revisited previous PPP processes to improve on the outdated and ineffective components of those partnerships and built in the technical, financial, and legal aspects specific to a developing renewable energy space.

**Image 2:** Bokpoort Solar CSP Plant in the Northern Cape



Source: ACWA Power

The initiative has been highly successful in attracting private sector investment, creating jobs, and increasing renewable energy capacity in the country. The PPP framework used in the REIPPPP is based on international best practices and includes clear guidelines for project selection, bidding, contract negotiation, and risk allocation. Since its launch, the REIPPPP has attracted over R209 billion of private sector investment, which has resulted in the construction of 117 (as of 2021) renewable energy projects across South Africa.

The following features have contributed to the success of REIPPPs:

- The bidding process has been straightforward and open to all.
- Policy frameworks have been clear and consistent, which has created a stable investment climate.
- Social and economic growth have been centralised.
- A high value has been placed on sustainability.
- They have built up a proven track record of success.

**Table 1:** Comparison between PPP frameworks

Key criteria	South Africa's PPP Framework	REIPPPP Framework
Regulatory clarity	Lacks clarity	Based on international best practices
Skilled experts	Shortage of experts	Success in respect of the IPP Office
Stakeholder engagement	Limited engagement	Strong engagement across all impacted parties
Political and economic uncertainty	Creates challenges	Clear and consistent policy frameworks
Project selection	Inconsistent	Clear guidelines for project selection
Bidding process	Inconsistent	Straightforward and open bidding process
Contract negotiation	Inconsistent	Clear guidelines for contract negotiation
Risk allocation	Inconsistent	Clear guidelines for risk allocation
Sustainability	Inconsistent	Places high value on sustainability
Success record	Inconsistent	Proven track record of success

## Why have these successes not been incorporated into other PPPs?

One should then ask, why have these lessons not been applied across the general PPP framework? Is it perhaps related to the political and institutional challenges that exist in South Africa?

The country has a complex governance structure with multiple levels of government and numerous regulatory bodies. The lack of coordination and cooperation between these entities has made introducing and implementing reforms in the PPP framework difficult.

## How are these deficiencies being addressed?

During the latter half of 2022<sup>4</sup>, National Treasury underwent a detailed review process that identified several issues with the current infrastructure policy framework for public investments in PPPs meant to deliver on strategic infrastructure projects, including a lack of centralised screening, capacity constraints, and rigid processes that hindered progress. On a positive note, several aspects of the legal and regulatory framework were identified as sound compared to international benchmarks.

National Treasury's findings culminated in various proposed changes, namely:

- Amending legislation;
- Streamlining strategic and critical processes;
- Upskilling staff;
- Improving the PPP Unit's regulatory and advisory functions;
- Simplifying Treasury's approval process; and
- Giving responsible offers specific accountability to ensure project completion, which has been a hindrance in the past.

The proposed legislative changes involve amending the Public Financial Management Act and the Municipal Finance Management Act and making regulatory changes for PPP project management. Critical actions at a provincial and municipal level were identified as simplifying processes, adhering to deadlines, and upskilling employees in provincial and municipal offices.

On the face of it, these initiatives seem praiseworthy, especially because they fall under the umbrella of Project Vulindela, which was introduced in 2020 specifically to expedite PPPs in the country. Nonetheless, we should question whether these initiatives are truly gaining the required momentum to achieve their intended outcomes. Much like a freshly paved road built over an unstable foundation, the lack of implementation in our government's past may result in the eventual collapse of these initiatives if there is no real change to the foundation on which these PPPs are built.

## Conclusion

The situation in South Africa is grave and infrastructural investment critical if we are to escape the country's low-growth trap. To do so, the PPP framework needs to be robust and effective, incorporating the learnings from the REIPPPP.

However, there is a deep-rooted concern that the government's history of crafting well-thought-out plans, only to fall short in their execution, will once again stand in the way of making any progress. Despite its best intentions, in the past the government has failed to follow through on many initiatives, resulting in widespread public disillusionment.

This time around, it is imperative that the government follows through on its commitments to streamline the PPP process, improve transparency and accountability, incentivise investors, and build capacity within the public sector. Only then will government turn around its history of failed execution and ensure that the PPP framework is implemented effectively and efficiently, unlocking the full potential of the South African economy, and laying the ground for a brighter future for all.

1. Source: Overview of PPP experience, Toolkit for PPPs in Roads and Highways by the PPIAF, 2008
2. Source: Competitive Neutrality – Maintaining a level playing field between public and private business by OECD, 2012

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3. Source: Engaging Stakeholders for Successful PPPs – David Baxter - International Sustainable Resilience Center, 2021
4. Review of the Public-Private Partnership Regulations to deliver on strategic infrastructure projects; with Deputy Minister Public Works and Infrastructure – Parliamentary Monitoring Group, 2022

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