Public private partnerships: opportunities, complexities and Treasury regulations

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Definition and Opportunities

- “public private partnership” or “PPP” means a commercial transaction between an institution and a private party in terms of which the private party –
- (a) performs an institutional function on behalf of the institution; and / or
- (b) acquires the use of state property for its own commercial purposes; and
- (c) assumes substantial financial, technical and operational risks in connection with the
- performance of the institutional function and/or use of state property; and
- (d) receives a benefit for performing the institutional function or from utilising the state property, either by way of:
- (i) consideration to be paid by the institution which derives from a revenue fund or, where the institution is a national government business enterprise or a provincial government business enterprise, from the revenues of such institution; or
- (ii) charges or fees to be collected by the private party from users or customers of a service provided to them; or
- (iii) a combination of such consideration and such charges or fees;

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Definition and Opportunities

- PPP's generally apply to large infrastructure investments such as toll roads or hospitals and are also sometimes referred to as private finance initiatives
- Private parties often take on substantial risk to build the infrastructure
- PPP's could be BOO (build, own, operate) or BOT (build, operate, transfer)
- The modalities of PPPs should be very carefully considered, in particular the suitability of a particular project for such a partnership contract

Triple helix public-private-community partnerships with limited or no finance agreement

e-Government, e-Business, e-Society
Collaboration with the education and health, banking and finance, travel & tourism, social development, cultural and NGO sectors

Human Resource Development
e-education live in all schools, e-skills development in every household, specialised R&D skills development at FET and HET level

e-Services revolution

Policy and Regulatory Environment
Regular interaction with ICASA, DTPS, PCPTS and PPC to advance policy and regulation

Electronic communications network infrastructure and services
Collaboration among operators, ISPs, applications service providers to push broadband Internet to the home, school, SME premises, with cloud computing backup and data access

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Complexities

- Governments are keen on PPPs or PFIs in circumstances where they do not have the finances to build infrastructure, where private firms are willing to put up the capital and seek a concession from government at a relatively high cost of capital over the long term
- PPPs are always of long duration – 15 or 20 years or more
- PPPs present risks to investors, but also present risks to government, in particular the risk of financial expenditure rendered valueless by non-completion of the project – this is a multi-billion rand risk
- Notable examples of PPPs include the e-toll system in Gauteng and the broadband infrastructure project of the City of Joburg, though the City has parted ways with Ericsson

National Treasury Regulations on PPPs (NT, 2005)

- Project inception
- Feasibility study – Treasury approval I
- Procurement – Treasury approval IIA and IIB
- Contracting public private partnership agreements – Treasury approval III
- Management of public private partnership agreements
- Agreements binding on the state
- Exemptions

QUESTIONS?