

MUNICIPAL PUBLIC PRIVATE PARTNERSHIPS

CIGFARO SYMPOSIUM

05 April 2024



NATIONAL
TREASURY

PPP
unit

CONTENTS

- What is a Municipal PPP
- Legislative environment
- Different Types of PPP models
- Questions and Answers

What is a municipal ppp

- **“Public-private partnership”**: a commercial transaction between a municipality and a private party in terms of which the private party:
 - Performs a municipal function for or on behalf of a municipality or acquires the management or use of municipal property for its own commercial purpose; or both performs a municipal function for or on behalf of a municipality and acquires the management or use of municipal property for its own commercial purposes.
 - Assumes substantial **financial, technical and operational risks** in connection with:
 - (i) The performance of the municipal function
 - (ii) The management or use of the municipal property; or
 - (iii) Both
 - Receives a benefit from performing the municipal function, or from using the municipal property or both, by:
 - Unitary payment and/or
 - User charges
 - Both

Key Acts, Regulation and Guidelines

- Municipal Finance Management Act (2003)
 - Section 120 on PPPs
 - Section 33 on long term contracts
- Municipal Systems Act
 - Section 76, 77, 78 on different delivery mechanisms, including PPPs
- Municipal PPP Regulations (2005)
- Supply Chain Regulations (2005)
- Municipal Service Delivery and PPP Guideline
 - Combines and harmonizes the requirements of all of the above in one document

Implication of the Acts and Regulation

- Municipal Service (MSA and MFMA apply)

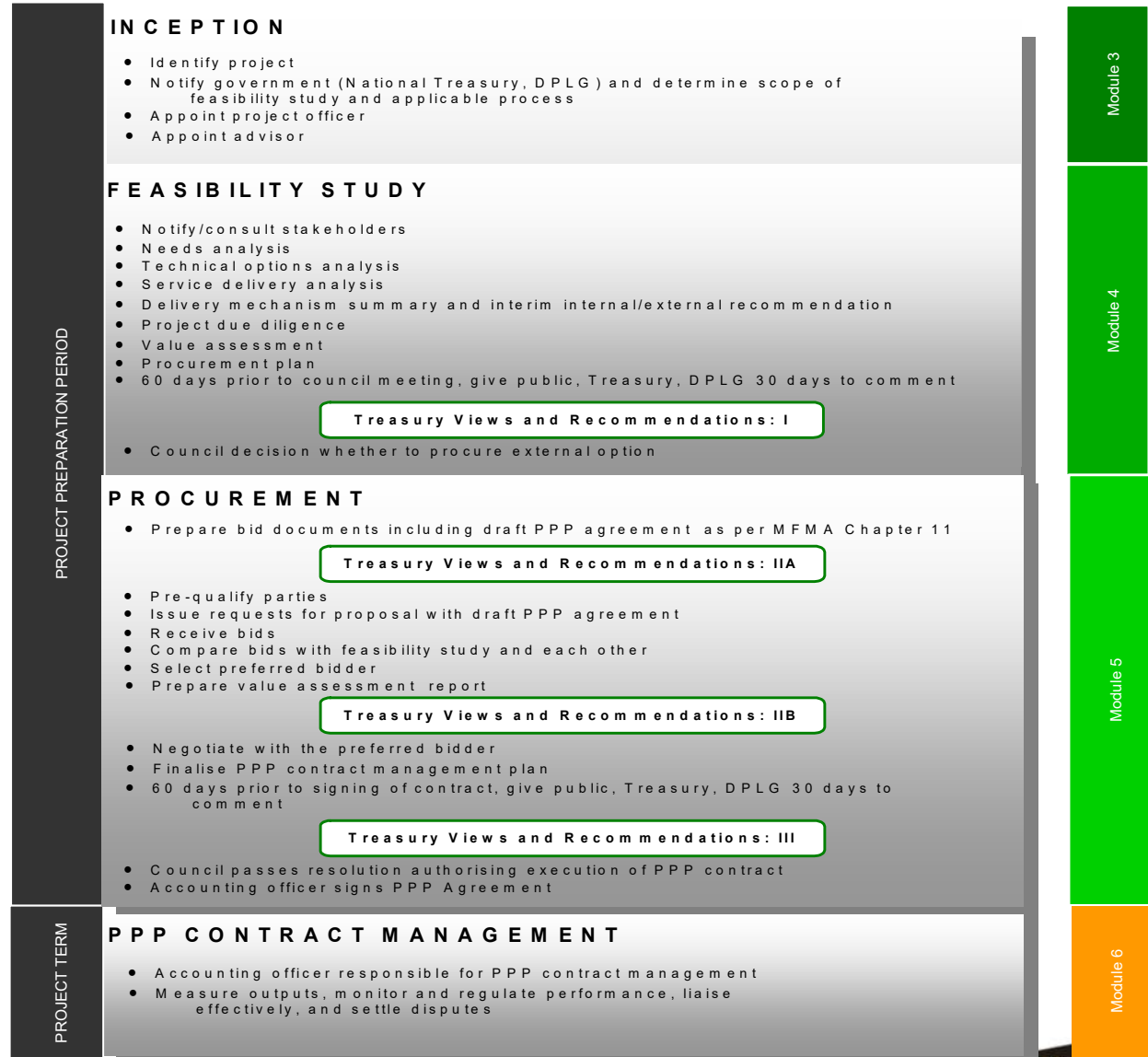
- Support Activity (only MFMA apply)
 - Example: waste collection and disposal is a “municipal service” but composting and recycling is a “support activity”

- Use of municipal property for commercial purposes (only MFMA apply)

MFMA, section 120 requirements

- Treasury Views and Recommendation (TVR)
- Views and Recommendation of CoGTA and sector department
- Public participation
- *“In principle”* Council decision

TVRs



Public Participation

Phases and Type of Participation	Municipal Service	Support Activity
Internal assessment: solicit views of organized labor	√	
External assessment: solicit views of organized labor and public consultation	√	
After completion of feasibility study prior to council decision: public consultation	√	√
Prior to signing contract (if longer than 3 years): public consultation	√	√

- Guideline provides more detail on the minimum requirements for notification and consultation



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“In principle” Council Decision

- End of the Feasibility
- Prior to contract signing (preferably also at initiation)

Contract Management

- On going, ito MFMA, Section 116

DIFFERENT PPP MODELS

Contracting

- Contract with private sector to design & operate public facility
- Asset financed & owned by public sector
- Key driver: transfer of design & construction risk
- **Suitability**: projects with small operating requirements & public sector wants to retain operating responsibility

Build, Operate & Transfer (BOT)

- Contract with private sector to design & operate public facility
- For a defined period then hand over to public sector
- Financed by public sector & ownership with public sector for contract period
- Key driver: transfer of design, construction & operating risks
- **Suitability**: projects with significant operating content, e.g. water & waste projects

DIFFERENT PPP MODELS cont...

Design, Build, Finance & Operate (DBFO)

- Contract to design, build, finance and operate facility for defined period
- Facility owned by private sector but revert to public sector at end of contract
- Key driver: utilisation of private finance over transfer of design, build & operating risks
- **Suitability:** project with significant operating content, e.g. roads, waste & water projects

Concession

- As for DBFO but private sector recover costs from user fees
- Key driver: User pay principle & use of private finance
- Also transfer of risks as in DBFO
- **Suitability:** projects with opportunity for user charging, e.g. roads & non-domestic water



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Questions and answers

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Content

- Introduction
 - Regulatory Framework for Municipal PPPs
 - Types of PPP's
 - Regulatory Cycle and PPP Project Cycle
 - Role of Provincial Treasury
 - Challenges and Opportunities
- Highlight of Limpopo projects



Introduction

- **Public Private Partnership (in terms of the Municipal PPP Regulations)**
 - A commercial transaction between a municipality and a private party, where a private party performs a municipal function; or
 - Acquires the use of municipal property for own commercial purposes
 - Assumes substantial financial, technical and operational risks
 - Receives a benefit for performing the municipal function or utilizing the municipal property through direct payment, user fees, charges or both

Introduction

- Three tests for a PPP:
 - **Affordability**
 - **Value for money**
 - **Appropriate risk transfer**



Key Acts, Regulations and Guidelines

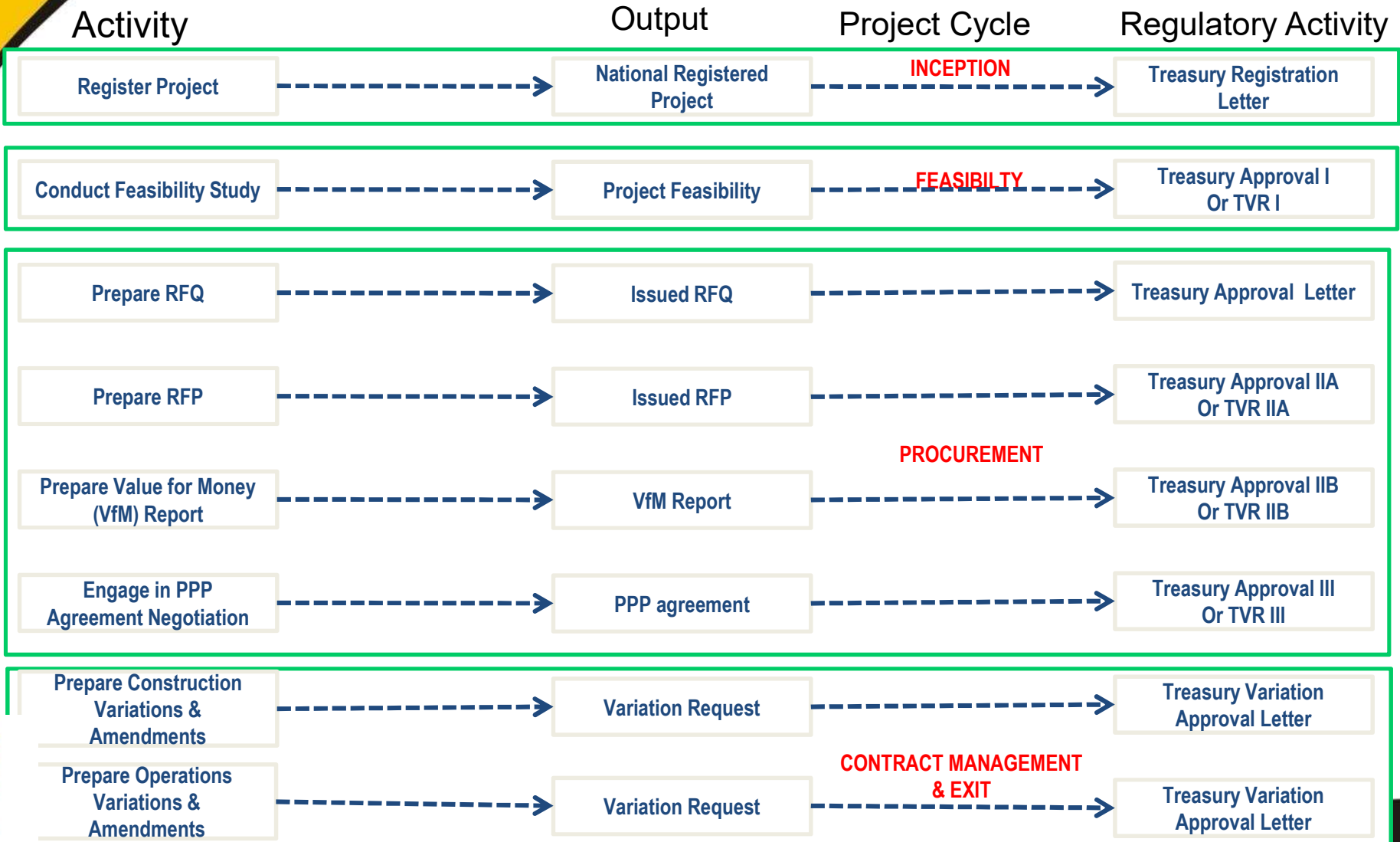
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Types of Municipal PPP

- Municipal Service (MSA and MFMA apply)
- Support Activity (only MFMA apply)
 - Example: waste collection and disposal is a “municipal service” but composting and recycling is a “support activity”
- Use of municipal property for commercial purposes only MFMA apply)



The Regulatory Cycle & PPP Project Cycle





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THE ROLE OF PROVINCIAL TREASURY PPP UNIT IN MUNICIPALITIES

- Provides direct technical assistance to municipalities, in preparing and procuring value-for-money PPPs;
- Provide support to Municipalities by taking Municipalities throughout the PPP project Cycle process;
- Assist the Municipalities in securing funding for Feasibility Study;
- Assist Municipalities in drafting Terms of References and Scope of Work for appointment of Transaction Advisor.
- Analyze and interrogate reports and draft letter of support for approval from the National Treasury;



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Continued...

- Form part of the Technical Evaluation Team for the appointment of transaction advisory team for conducting the Feasibility study as well as preparation for the procurement document and negotiation processes as well as for the appointment of the Private Party.
- Form part of the Project Steering Committee during the Feasibility Study phase.
- Form Part of Joint Management Committee for Projects on Implementation and Contract management for projects on implementation in order to ensure compliance and non deviation from the PPP contractual agreement by both the institution and the private partner.
- Monitors the performance of the Municipalities on the PPP processes.

Challenges

- Balance: investing in municipal support services vs municipal services infrastructure vs use of municipal property,
- Investing in “catching up infrastructure” vs “infrastructure of the future”,
- Identifying sound & feasible PPP projects,
- Developing competencies in managing PPP projects
- No planning budget for PPP projects

Opportunities

- Enable municipality to defer spending on infrastructure without forgoing services of necessary & required infrastructure services,
- Ease fiscal constraints on infrastructure investment,
- PPP offer efficiency gains in design, construction, operation, maintenance, & upgrade of infrastructure,
- Sound, best practice legal PPP framework, a competent, & experienced PPP Unit at National Treasury.



Highlight of Limpopo Projects

Greater Tubatse Municipality Solid Waste Project	Assess the viability of PPP for waste management
Greater Tubatse Municipality Water reticulation	Getting the supply of Water to Tubatse in order to meet the demand of the projected economic development
Thabazimbi Municipality Office Accommodation	Assess the viability of building the municipal offices, civic centre, shopping centre and community hall through the PPP procurement methodology
Lephalale Municipality Water reticulation project	Getting the supply of Water to Lephalale in order to meet the demand of the projected economic development



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Thank You!!!



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The heartland of southern Africa - development is about people