

## Public Private Partnership Procurement and Opportunities



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# Introduction

- There are a pressing need for proper and improved waste management services in SA.
- The new Waste Act also adds regulatory pressure to move away from landfilling.
- More sophisticated solutions are being considered due to increasing cost of waste disposal.
- Local authorities contemplating more technologically advanced solutions such as composting, landfill-gas to energy or waste to energy plants.

# Introduction

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# Introduction

- Higher level of technology and capital costs of these facilities can be significant compared to the financial funding ability of a local authority.
- A solution is to enter into a Public Private Partnership (PPP) arrangement with a private partner who will fund, construct and operate the facility.
- A PPP is not always the best option, but where it is it must be structured correctly.
- Any authority need to comply with a number of SA laws and regulations and NT guidelines.

# Background to PPPs in RSA

- South Africa has established a firm regulatory framework that enables municipal, provincial and national government institutions to enter into PPP agreements.
- A number of large national PPPs have been successfully implemented, for example toll roads, a correctional facility and some hospitals

# Regulatory Framework

- Municipal service delivery and PPP guidelines
- Municipal Systems Act
- Municipal Finance Management Act

# Municipal Systems Act

- Sec 76: Municipal service can be done through either an internal or external mechanism.
- External mechanism includes a number of options
- Sec 77 MSA describes points where municipality must review and decide on a mechanism to provide a municipal service.
- A number of occasions are described in the Act
- Sec 78 of the MSA provides for:
  - Assess provision of activity through internal mechanism
  - Then by an external mechanism
  - Feasibility study its subsection (3) is required.



# Municipal Finance Management Act

- Aims to modernise financial management practices, maximising the ability to deliver services
- Municipal manager is the accounting officer, directly accountable for the efficient management to achieve the municipality's public mandate.
- Needs to constantly evaluate value-for-money choices.
- Municipal PPP is firmly in line with the intent of the MFMA and the MSA.

# Municipal Finance Management Act

- Municipal PPP entails:
  - Targeted public spending, principally on outputs to agreed standards
  - Leveraging private-sector finance and efficiencies
  - Allocating risks to the party best able to manage them.
- All municipal PPP activities must be undertaken within the context of an adopted supply chain management policy and, if the envisaged PPP involves a multi-year agreement, the provisions of Section 33 of the MFMA may also apply [section 120(7)].

# Municipal Service Delivery and PPP Guidelines

- Compiled and issued by National Treasury
- Founded on the MFMA and the Municipal PPP Regulations, with references to the Municipal Supply Chain Regulations and the MSA
- Produced for municipalities and municipal entities.
- Constitute guidance to Sec 168 of the MFMA and Section 86A of the MSA.
- Provide best-practice guidance
- National Treasury may approve departure

# Methodology

- Determine the category of type of service i.e. municipal service or municipal support activity.
- Waste collection, transport and disposal to landfills are normal municipal activities.
- Composting, recycling and waste conversion are municipal support activities.
- Feasibility study will only be subject to the PPP provisions as in Sec 120 MFMA, not S78 MSA.
- Public Sector Comparator (PSC) not necessary, only simplified value assessment.

# PPP Feasibility Study

- **Stage 1: The Need Analysis**
  - Waste Generation, Collection and Land filling
  - Avoided Landfill Costs of Land filling
  - Waste Characteristics – Energy Value and composition
- **Stage 2: Technical Solutions Options Analysis**
  - Technical Options
  - Brief description
  - Financial Impacts
  - Funding and affordability

# PPP Feasibility Study

- Risk
- BEE and other socioeconomic aspects
- Delivery arrangements
- Transitional management issues
- Technical analysis.
- Site issues.

# PPP Feasibility Study

- Legislation.
- Human resources.
- Assess the following for each option:
  - Relevant legislation and case law
  - Organised labour agreements
  - The cost of transferring staff, if applicable
  - Actuarial study of accrued benefits
  - Potential willingness of both staff and private parties to implement transfers.

# PPP Feasibility Study

- Qualitative factors.
- Early considerations of suitability for external service delivery.
- Scale.
- Output specification.
- Opportunities for risk transfer.
- Market capability and appetite.
- Guarantees and Accounting Treatment



# PPP Feasibility Study

- Stage 3: Service Delivery Options
  - Conversion Technology Options as PPP and not through internal delivery mechanisms
  - External delivery mechanisms: Will the municipality be able to finance, operate or construct a conversion technology facility
  - Stage 3 Guidelines only for a PPP
- Stage 4: Interim Report, Summary and Recommendations
  - Summarize evaluations and findings of Stages 1 – 4 in concise report
  - After review select one or more options to consider for implementation

# PPP Feasibility Study

- Stage 5: Due Diligence
  - Project team to identify key issues that are associated with selection option
- Stage 6: Value Assessment
  - Financial models will focus on affordability of selected technical options
  - Address the value for money which the various options will present.

# PPP Feasibility Study

- Stage 7: Procurement Plan
  - Procurement Plan will be compiled as per requirements of NT Municipal PPP Guidelines
- Stage 8: Prepare and submit feasibility report to council
  - The report will be submitted to National Treasury for Treasury Views and Recommendations (TVR1)
  - This report will address any changes required in the rates and taxes of municipality

# Procurement Phase

## 2. Procurement Phase

- Achieving TVR: IIA
  - Identify ways in which outcomes of feasibility study will affect PPP procurement
  - Preparation of request for qualification (RFQ) document consisting of –
    - Determine objectives of RFQ
    - Step 1: Prepare the RFQ document
    - Step 2: Consult with the municipal desk
    - Step 3: Advertise and distribute the RFQ
    - Step 4: Evaluate the responses
    - Step 5: Communicate with bidders

# Procurement Phase

- Preparation of draft Request for Proposals (RFP) document which will include:
  - Description of project
  - Municipal requirements
  - Payment mechanism and penalty regime
- Procurement process and timetable to follow
- Instructions to bidders regarding formal compliance/non-compliance issues
- Instructions to bidders regarding legal requirements
- Instructions to bidders regarding essential minimum substantive requirements

# Procurement Phase

- Arrangements for bidders to undertake a due diligence of the project
- Draft PPP agreement
- Instructions to bidders as to the commitments required from them
- How bids will be evaluated as well as bid formalities
- Submitting, revising and finalising of the draft RFP
- Achieving TVR: IIB
  - Providing support during period of bidders preparing bids, e.g.
    - Assisting with technical, financial or legal clarification to bidders' questions
    - Bidder clarification meetings

# Procurement Phase

- Undertaking independent technical evaluation of bids once submitted
  - Undertake detailed analysis of all components of each bid
  - Evaluation of bids
  - Finalising the value assessment report for submission to Council
  - Adjudication Report

# Procurement Phase

- Achieving TVR: III
  - Negotiations with preferred bidder
  - Effect final amendments to PPP agreement
  - Prepare a contract management plan for PPP agreement
  - Preparing a legal opinion in regard to legal compliance of project
  - Preparing the TVR: III report to National Treasury and Provincial Treasury



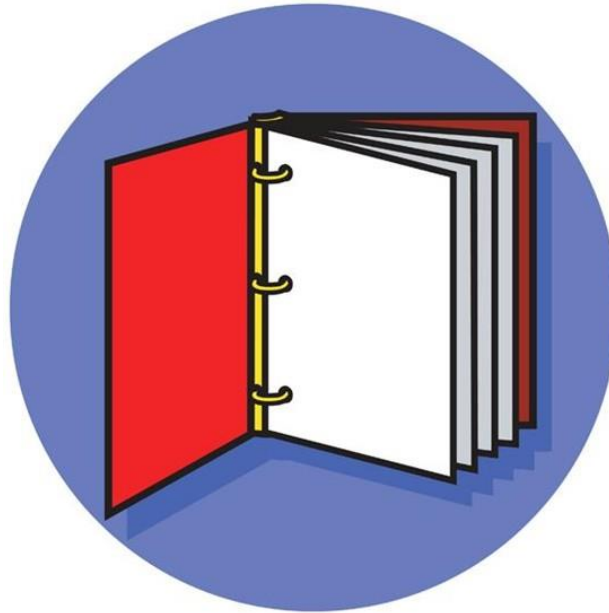
# Procurement Phase

- Comply with section 33 of MFMA, including
  - Prepare information statement required in terms of section 33
  - Consider and categorise the comments and representations
  - Consider and categorise views and recommendation received from Treasury
  - Prepare report to Council required in terms of S 33

# Close out Report

## 3. Close out Report

- A close out report must be compiled on total project



# Conclusion

- PPP solutions can create a step change in municipal waste management service delivery!
- It must however be approached professionally and with caution!

Thank you for your attention.  
Any questions?



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