

# PPP QUARTERLY

## PUBLIC PRIVATE PARTNERSHIPS

Innovative infrastructure and service delivery by South African national and provincial government and public entities.

December 2003 Number 13

### PPPs FIRST IN LINE WITH DRAFT BEE CODE OF GOOD PRACTICE

The PPP Unit this month releases its draft *Code of Good Practice for BEE in PPPs*. After feedback, the National Treasury will request the Minister of Finance to submit it to the Minister of Trade & Industry to be issued in terms of the new Broad-based Black Economic Empowerment Bill, once enacted.

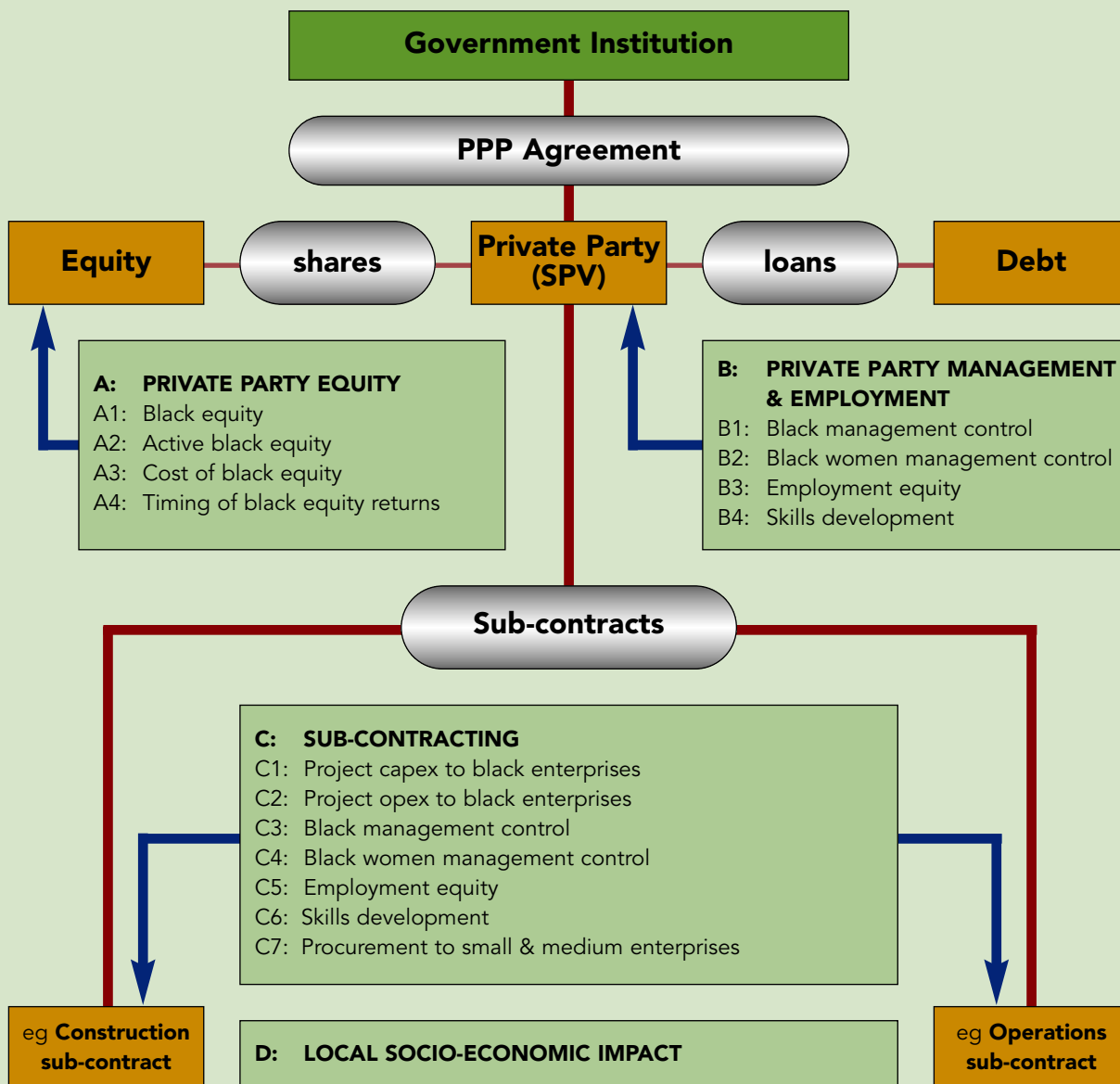
The *Code* contains government's policy on BEE in PPPs, gives direction on how to apply PPP BEE policy in a PPP agreement and at each phase of the PPP life-

cycle, and summarises these in a *PPP BEE Balanced Scorecard*. The *Code* also makes proactive commitments by government to further support BEE in PPPs.

PPP BEE elements (A1-4, B1-4, C1-7 and D in the diagram) are identified for typical PPP project structures. Indicative targets are given for each element, to be fixed per project during PPP feasibility and procurement phases. Guiding bid evaluation weightings are also given for each element. In total



NATIONAL TREASURY  
PPP unit



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PPP bid evaluation, no less than 15% and no more than 20% of points are to be given to the BEE elements combined, with 80%-85% being split as appropriate between the financial and technical elements of a bid.

**PPPs are inherently excellent for achieving BEE objectives:**

- Their **long term nature** provides an opportune instrument to grow black equity and black management over time;
- **Risk is clearly identified**, clearly costed and appropriately allocated, so black participants know in advance what they are committing to;
- The formation of **private consortia** in the form of special purpose vehicles (SPV) for many PPPs facilitates long-term beneficial partnerships between new black enterprises and experienced, resourced companies – both as equity partners and in project management, and both at the Private Party SPV and sub-contracting levels;
- Where government is the buyer of a service, and insofar as the service is provided to the agreed standards, there is a **secure revenue stream** to the Private Party, reducing risk to new black enterprises;
- Principal equity sponsors in a PPP are often also the primary sub-contractors, building **incentives for optimal risk management**;
- PPPs provide significant subcontracting opportunities for black enterprises, where **early cash flow benefits** can be derived as delivery commences;
- PPPs have far-reaching **broad-based** BEE potential: through the sub-contracting and procurement mechanisms they can involve a full spectrum of large, medium and small enterprises, and bring tangible local economic development benefits to targeted groups of people;
- **Return on equity** to the Private Party is competitive where risk is properly assumed;
- There is an increasingly strong demand for **black professionals** as transaction advisors to both public institutions and private parties in PPPs;
- PPPs develop **skills**; and
- PPPs create **jobs**.

**Challenges nevertheless remain:**

- There is a **small pool of black equity** in South Africa. Historically black people have not accumulated capital and it is a challenge for black enterprises to raise required levels of equity at reasonable prices;
- Sources of BEE funding are generally **expensive**, reflecting lenders' assessment of risk associated with new black enterprises whose balance sheets may be relatively small;
- Costs of **independent financial and legal advice** to black enterprises is an inhibiting factor in the preparation of bids, during contract negotiation, and during start-up, often leaving black partners in a consortium vulnerable to concluding disadvantageous arrangements;
- There is **limited black experience and skill** in PPPs resulting in an uneven playing field with established company partners;
- Established companies in the consortia often become obliged to provide **sponsor security** for the committed BEE capital and to guarantee performance of the black partners, contributing further to the uneven playing field;
- **Dividend distributions** are seldom structured to provide returns on equity in the earlier years of a project, with detrimental consequences for new black enterprises; and
- There are **few black South African PPP transaction advisors**, and they are over-committed.

**The Code seeks to maximise BEE opportunities in PPPs and to address the challenges. It also commits government:**

- To establish a PPP BEE equity fund;
- To provide a facility to support independent financial and legal advice to black enterprises bidding in PPP projects; and
- To establish an internship programme to grow the number and quality of black transaction advisors in South Africa's PPP market.

**GOVERNMENT'S POLICY OBJECTIVES FOR BEE IN PPPs:**

- To achieve **meaningful and beneficial direct ownership** of substantial equity interests in the Private Party to a PPP Agreement by black people, black women and black enterprises;
- To achieve **effective participation in the management control** of the Private Party and its sub-contractors by black people and black women;
- To ensure that a substantive proportion of the Private Party's **sub-contracting and procurement** is to black people, black women and black enterprises;
- To ensure effective **employment equity and skills development** in the Private Party and its sub-contractors throughout the PPP project;
- To promote positive local **socio-economic impact** from the project to the benefit of small and medium enterprises, the disabled, the youth, and non-government organisations within a targeted area of project operations;
- To create **jobs**; and
- For institutions of government to be represented in all PPP transactions by **financial, legal and technical advisors** who generally reflect South Africa's diverse population, and to build the professional skills and number of black people and black enterprises in these fields.

Go to [www.treasury.gov.za](http://www.treasury.gov.za) to download the draft *Code of Good Practice for BEE in PPPs* or call the PPP Unit for a copy (27)12-3155741. Comments to [sue.lund@treasury.gov.za](mailto:sue.lund@treasury.gov.za) and [sheila.themba@treasury.gov.za](mailto:sheila.themba@treasury.gov.za) by 30 January 2004.

**NEW**

**PPPU WORKSHOP:  
TRANSACTION ADVISORS**

The PPP Unit is conducting a workshop for professional consultants who want to be Transaction Advisors to government for PPP projects in terms of Treasury Regulation 16. The workshop will provide detailed guidance on how to prepare bids for this important role. If over-subscribed, the workshop will be repeated at a later date.

Date: 19 February 2004

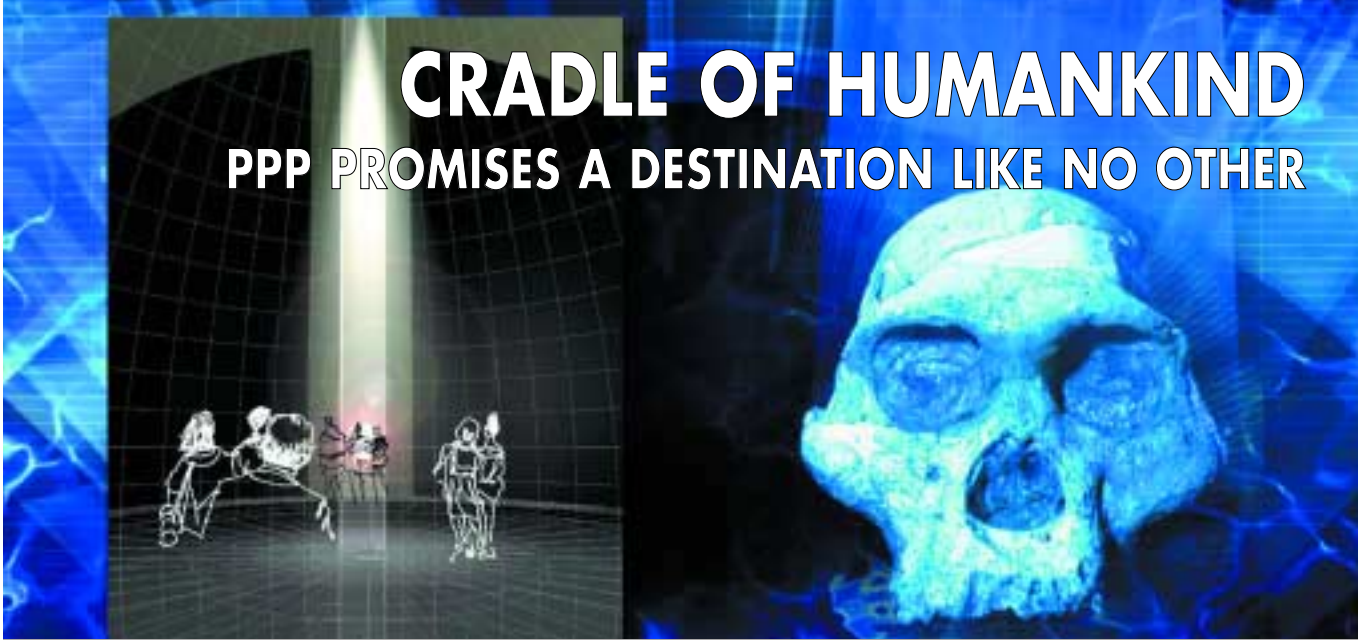
Time: 10:00–16:00

Place: National Treasury, 240 Vermeulen St, Pretoria

To book, email: [nelisiwe.mtsweni@treasury.gov.za](mailto:nelisiwe.mtsweni@treasury.gov.za)

# CRADLE OF HUMANKIND

## PPP PROMISES A DESTINATION LIKE NO OTHER



**One of South Africa's more unusual PPPs was signed into operation on 19 October 2003, heralding significant public and private investment in a unique development at Gauteng's Cradle of Humankind World Heritage Site.**

Capital costs for the R163m tourism and education facility are funded by the province's BlueIQ programme, while design, construction completion and operating risk are assumed by the private party. An annual concession fee from year one, linked to operating turnover, is payable by the private party.



The ten-year concession gives the Furneaux Stewart Gapp consortium rights to design, build and operate a world-class Interpretation Centre Complex linking provincial land and land belonging to the University of Witwatersrand (Wits) within the world heritage area. A supporting agreement sets up project terms between the Gauteng's Department of Agriculture, Conservation, Environment & Land Affairs (DACEL) and Wits. A Trust has also been established to distribute the concession fees for scientific, educational and community benefit.

Addressing the gathering at the signing ceremony, Gauteng Premier, Mbhazima Shilowa, declared the site: "A place for discovery, for reflection, for analysis and the advancement of science." Applauding the cooperation between DACEL and Wits, the Premier paid tribute to the great pioneers of science whose work has brought the site to the world's attention.

To the private consortium, Premier Shilowa said: "You need to build us not simply a building, but an icon... so enthralling that tourists will want to visit it again and again... You must also run it in such a way that maximum revenue will ensure not only profits for the company, but returns for the community and science. We believe that this is precisely what you will do. That is why we chose you."

Furneaux Stewart Gapp comprises principal sponsors Stocks Building Africa, Fikile Projects, Thebe Tourism Group, a consortium of architects, engineers, surveyors and the UK-based museum design company Furneaux Stewart. The consortium has strong empowerment credentials and effects direct empowerment impact in its sub-contracting.

DACEL's project officer, Michael Worsnip, reflects on three years of project preparation as "a complex journey of building

relationships." The use of technical evaluation teams to evaluate all aspects of the bids was identified as highly effective, and he described negotiations with the preferred bidder as thorough but also remarkably good-natured. "We are convinced that we have secured an extremely workable agreement which will deliver a product unlike any other in South Africa – a legacy for the country, the continent and the world," he said.

Furneaux Stewart Gapp's Director, Rob King, now driving the project into its development and operating phases, is equally upbeat. "When one considers the complexity of the contract, the time taken to negotiate has been surprisingly quick; indeed it took less than eleven months. There were no templates and most issues had to be dealt with from first principles. This was further compounded by the fact that there are two client bodies with a variety of inputs. The cooperation of all parties around the negotiation table was evident from our very first meeting, and the agreement is a credit to all involved."

The new Sterkfontein caves facility opens to the public in August 2004, and the primary visitor centre at Mohale's Gate opens in November 2005.



*The Cradle deal is sealed: from left, Head of DACEL, Dr Trish Hanekom; Wits Vice Chancellor, Prof Luyiso Nongxa; Furneaux Stewart Gapp Director, Rob King; Gauteng Acting MEC for Finance, Trevor Fowler; and CEO of BlueIQ, Pradeep Maharaj*

# DEPARTMENT OF LABOUR'S IT PPP: A YEAR AHEAD

*Deon Haasbroek, DoL's CIO and pioneering PPP manager, reviews 365 days in PPP action*

On December 1, 2002 the Department of Labour (DoL) entered into a PPP agreement with Siemens Business Services (Pty) Ltd (SBS) for the provision of IT service to DoL and two of its statutory bodies, the Compensation Fund (CF) and the Unemployment Insurance Fund (UIF). The contract involves the delivery of R1.2 billion of IT services over ten years, including providing operational and support services to some 4 600 IT service users, and developing new IT systems to support business processes.

Whilst signing the deal was an important milestone, its success can only be judged from performance: Is DoL getting value for money? Is it effectively exploiting the value? Do the services remain affordable? Is the envisaged risk allocation proving effective in practice? Is there a sense of partnership?



After 365 days, it is a good moment to ask these questions and to examine how DoL and SBS chose to tackle the challenges.

There is a lot more to providing a technology services PPP than technology. A value-creating relationship arises from joint efforts to create sensible processes and governance for the relationship and service delivery. The parties developed a comprehensive six-month transition plan as part of the PPP agreement. This covered specific tasks and outcomes for technology, financial, human resource and cultural issues, to ensure challenges and risk were recognised and addressed. The objective was to ensure that SBS would be fully 'in control'. The transition plan worked. SBS stepped in in a controlled manner, and DoL stakeholders started a new way of requesting and receiving IT services, without any material disruptions.

But a successful transition is not enough. DoL did not enter into a PPP to carry on 'business as usual'. It has an ambitious, yet achievable, plan to introduce a wide range of new integrated systems that will support its strategies in providing services to the citizen. Also supporting e-government initiatives, these include systems that will support each of DoL's business processes. DoL agreed its needs with SBS as part of the contract, but both parties also recognised that requirements could be adjusted over time to cater for changes as DoL evolves its services to the citizen. The partners therefore made provisions for flexibility and, at the same time, for re-assessing value for money and affordability.

No partnership will work fully unless both parties achieve their reasonable expectations. SBS needs to make a fair profit and DoL needs to achieve targeted improvements. Both parties carry risks in these expectations: SBS cannot reasonably be expected to provide more services than they promised at no additional cost. DoL must manage its requirements within its affordability. To address such issues, the partners have developed systems for fair handling of risks and cost. After one year, no issue has arisen that could not be effectively dealt with to both parties' satisfaction.

What have been the tangible results? There is much more clarity regarding DoL's business priorities for IT services, and less need to worry about how technology is delivered. Also, because the business focus is now on the effective use of technology, not the technology itself, IT is now commanding a significantly higher level of management interest and attention.

It would be naive to assume that the PPP will produce benefits without further effort. Achieving value will demand dedication and effort from both partners. But the signs are good: this partnership is as much about the journey as the destination ... and both partners are enjoying the ride.

## PPP REGULATIONS SMARTEN UP

Amendments to Treasury Regulation 16 to the Public Finance Management Act, Act 1 of 1999 (PFMA) have been published by the Minister of Finance, tightening up a number of definitions and procedures, emerging from both public and private experience in current PPPs.

- The definition of an 'institutional function' is elaborated.
- Definitions for the key roles of 'project officer' and 'transaction advisor' have been added.
- 'Substantial assumption of financial, technical and operational risk' by the private party is included in the definition of a PPP.
- A new clause on project inception requires institutions to register the project with Treasury, confirm its expertise, appoint a project officer, and if required, appoint a transaction advisor.
- The institution is now required to notify Treasury if any feasibility assumptions change affecting affordability, value for money and risk transfer, at any time prior to Treasury

Approval III, and obtain approval for an amended feasibility study.

- It is now an explicit requirement that PPP procurement make provision for 'a preference for the protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination.'
- Treasury Approval III for the final terms of the PPP agreement now includes approval for a satisfactory legal due diligence of the private party and the institution on legal compliance, competence and capacity to enter into the PPP agreement.
- Material amendments and variations to the PPP agreement at any stage in the contract term, now require explicit Treasury approval.

The re-vamped PPP Regulation reads more clearly than its predecessor, and the terms and processes are being incorporated into National Treasury's forthcoming *PPP Manual and Standardised PPP Provisions*.

# CLOSED DEALS UNDER PPP REGULATIONS (SINCE MAY 2000): AS AT DECEMBER 2003

**PPP type** indicated by combination of private party risk for: **D:** design; **F:** finance; **B:** build; **O:** operate; **T:** transfer of assets back to government  
**BEE:** Black economic empowerment

Project and government institution	PPP type Contract duration Date Financial Close	Project Officer	Private Partner	BEE as % of equity and sub contracting	Financing and Arrangers	Transaction Advisors to government	Value to govt (NPV of unitary charge)	NPV of benefit to government
1. Fleet Management Northern Cape Dept Transport, Roads and Public Works	DFO 5 years November 2001	Tshego Motaung (053) 839-2109	Pemberley Investments (Pty) Ltd comprising: Imperial Holdings and Africa Kosini	Equity: 25% Sub-c: 25%	Equity: 100%	Deloitte & Touche	R181 million	N/a
2. Inkosi Albert Luthuli Hospital KwaZulu-Natal Dept Health	DFBOT 15 years December 2001	Herman Conradie (033) 395-2019	Impilo Consortium (Pty) Ltd comprising: Mbekane Health & Wellbeing, AME International, Vulindlela Holdings, Siemens, Drake & Skull, Omame	Equity: 40% Sub-c: 40%	Debt: 70% Equity: 20% Govt contribution: 10% Rand Merchant Bank	PricewaterhouseCoopers; White & Case; EC Harris; Alocpac; Hiltron	R4.5 billion	N/a
3. Eco-tourism Manyeleti 3 sites. Limpopo Dept Finance, Economic Affairs, Tourism	DFBOT 30 years December 2001	Charles Maluleke (015) 288-0049	Koko Moya Wilderness Trail (Pty) Ltd; Tinswala Lodges (Pty) Ltd; Pungwe Game Reserve (Pty) Ltd	Equity: 30% 30%, 40% Sub-c: 30%, 30%, 40%	Equity: 100%	DBSA; White & Case	N/a	R25 million cash
4. Universitas and Pelonomi Hospitals co-location Free State Dept Health	DFBOT 16,5 years November 2002	Mr Shuping (051) 430-8989	Community Health Management/ Netcare consortium	Equity: 40% Sub-c: 40%	Equity: 100%	Ignis; Naude's Attorneys	N/a	R43 million cash plus R38 million in form of upgrade
5. Information Systems Department of Labour	DFBOT 10 years December 2002	Deon Haasbroek (012) 309-4551	Siemens Business Solutions Consortium	Equity: 30% Sub-c: 25%	Equity: 100%	KPMG	R1.5 billion	N/a
6. Chapman's Peak Drive toll road Western Cape Dept Transport	DF(part)BOT 30 years May 2003	Ben Veldman (021) 483-2004	Capstone 252 (Pty) Ltd comprising: Concor, Thebe Investments, Marib Holdings, Haw & Ingles	SPV : 30% Design & construct sub-c: 10% Ops & maintain sub-c: 50%	Debt: 44% Equity: 10% Govt. Contribution: 46% Rand Merchant Bank	Ignis; Jeffares & Green; Hofmeyr; Herbstein & Gihwala; Intertoll; Decathlon	N/a	R 450 million in form of capital works and operations
7. State Vaccine Institute Dept Health	Equity partnership 4 years April 2003	Gerrit Muller (021) 312-0717	Biovac Consortium	Equity: 15% Sub-c: n/a	Equity: 100%	PricewaterhouseCoopers; Deneys Reitz	N/a	R15 million systems investment; & NPV vfm of R60m over current spend
8. Humansdorp District Hospital Eastern Cape Dept Health	DFBOT 20 years June 2003	Eugene Jooste (040) 609-3702	Metro-Star Hospital (Pty) Ltd comprising: Metropal Hospital and Season Star Trading 123	Equity: 25% increasing to 40% Construct sub-c: 50% Ops & maintain sub-c: 40%	Equity: 90% Govt Contribution 10%	Ignis; PHI Attorneys	R18.9 million	R15 million upgrade plus R34 million cash
9. Fleet Management Eastern Cape Dept Transport	DFO 5 Years August 2003	Mr M Nkalane (043) 604-7425	Fleet Africa Eastern Cape (Pty) Ltd	Equity: 25% Sub-c: 25%	Debt: 100% Rand Merchant Bank	Deloitte & Touche	R553 million	N/a
10. Head Office Accommodation Dept of Trade & Industry	DFBOT 25 Years August 2003	Hamida Fakir (012) 310-1564	Rainprop Consortium comprising: WBHO, Atterbury Property Holdings, Parkdev S.A., Rebsene Facility Management, Propnet, Zwelinzima Holdings, Prop 5 Corp, Rainbow Construction, WDB Investment Holdings, PDSA	Equity: 55% Design & Construct sub-c: 43% Facilities Manage sub-c: 50%	Debt: 80% Equity: 8% Govt. Contribution: 12% Standard Corporate & Merchant Bank	Ignis, Utho Capital, Ledwaba Mazwai/ MasonsB.I. Assoc.	R870 million	N/A
11. Cradle of Humankind Interpretation Centre Complex Gauteng Dept Agriculture, Conservation, Environment and Land Affairs	DBOT 10 years October 2003	Michael Worsnip (011) 355-1400	Furneaux Stewart Gapp consortium comprising: Stocks, Fikile, Thebe	Operating equity: 53% Construction sub-c: 40% Ops sub-c: 25%	Govt: 100% capex Equity: 100% opex	PricewaterhouseCoopers; White & Case	N/a	R39 million cash

# PROJECTS IN DEVELOPMENT REGISTERED WITH NATIONAL TREASURY PPP UNIT – DECEMBER 2003

National Departments	Project Officer	Project	Status	Preferred Bidder	Transaction Advisors
1. Dept.Arts Culture Science & Technology	Peter Pedlar (012) 337-8587	Head Office Accommodation Services	Transaction Advisors to be appointed.		Not yet appointed
2. Dept Correctional Services	Mollet Ngubo (012) 307-2557	Negotiation of two existing PPP prison contracts and feasibility 4 new prisons	Transaction Advisors to be appointed.		Not yet appointed
3. Dept Defence/Armscor	Kevin Hanafey (012) 428-3472	Simons Town Naval Dockyard	Pre-feasibility business case underway.		PricewaterhouseCoopers
4. Dept Defence South African Military Hospitals	Brig Gen H Wallis (012) 671-5244	Various hospitals	Feasibility study underway.		Ignis; PHC Inc
5. Dept Education	Carmen Coetzee (012) 312-5661	Head Office Accommodation Services	Negotiations.	Setheko Consortium	KPMG
6. Dept Environmental Affairs & Tourism	Edwin Maseda (012) 310-3750	Sustainable Working Environment Service Delivery	Project re-registered. Inception. Transaction Advisors to be appointed.		Not yet appointed
7. Dept Foreign Affairs	P Bolinck (012) 351-1910	Sustainable Working Environment Service Delivery	Project re-registered. Inception. Transaction Advisors to be appointed.		Not yet appointed
8. Dept of Home Affairs	Gareth Warner 083 257-0275	IT - HANIS	Feasibility Study underway.		PricewaterhouseCoopers; AloeCap; White & Case
9. Dept Justice	Alan Mackenzie (012) 315-1019	IT Cash Hall Payment System	Feasibility Study underway.		Ernst & Young; CSIR
10. Dept Land Affairs	Thizza Tsoanyane (012) 312-8286	Head Office Accommodation Services	Transaction Advisors to be appointed.		Not yet appointed
11. Dept Social Development	Selwyn Jehoma (012) 312-7647	IT SOCPEN System	Transaction Advisors to be appointed.		Not yet appointed
12. Dept Transport	Themba Nkosi (012) 309-3597	IT Road traffic offences system	Feasibility study underway.		Deloitte & Touche
13. Dept of Transport	Nashee Sewpersad (012) 309-3165	Fleet Management for National Departments	Transaction Advisor to be appointed.		Not yet appointed
14. Dept Water Affairs & Forestry	Christo Marais (021) 405-2200	Working for Water: secondary industries	Revised Treasury Approval I and IIA pending.		KPMG; Stellenbosch University; Edward, Nathan & Friedland; Nosipho
<b>Provincial Departments</b>	<b>Project Officer</b>	<b>Project</b>	<b>Status</b>	<b>Preferred bidder</b>	<b>Transaction Advisors</b>
15. Eastern Cape Dept Health	Lulu Peteni (040) 609-3763	Pharmaceutical Management & Distribution	Feasibility Study underway.		PricewaterhouseCoopers; White & Case; Utho Capital; LEAP Architects
16. Eastern Cape Dept Health	Eugene Jooste (040) 609-3702	Grahamstown & Port Alfred Co-location	Feasibility Study underway.		Ignis; PHI; EC Harris; Annette van der Merwe; Peter De Boere
17. Free State Dept Education	Kevin Abrahams (051) 430-8989	Schools	Feasibility Study underway.		KPMG; Ashira; HLM-SV Architects; Africon
18. Free State Dept Health	Mr Shuping (051) 405-4818	New build hospitals in Trompsburg and Lady Brand	Feasibility Study underway.		Ignis; EC Harris; PHI
19. Free State Dept Transport	Strover Maganedisa (051) 405-4697	Fleet Management	Treasury Approval IIB in review.		Deloitte & Touche
20. Free State Dept Social Development	Dr.Shirley Havenga (051) 409-0635	IT Grants payment system	Negotiations underway.	Alipay	Ernst & Young
21. Gauteng Dept Public Works & Transport	Nicolette Huluba-Mitrofan (011) 355-2686	Gauteng Kopanong Precinct Working environment service delivery	Feasibility Study underway.		Kagiso Financial Services; Ledwaba Mazwai; PD Naidoo
22. Gauteng Dept Transport	Gautrans (011) 355-7300	Gautrain Rapid Rail Link	Bids closed September 2003. Evaluation underway.		Khuthele; Arcus Gibby; Kagiso Financial Services

INCEPTION

FEASIBILITY

PROCUREMENT

NEGOTIATIONS

Provincial Departments		Project Officer	Project	Status	Preferred Bidder	Transaction Advisors
23. Kwa-Zulu Natal Dept Economic Development and Tourism	Mel Clark (031) 310-5400	Dube Trade Port	Feasibility study underway.			PricewaterhouseCoopers; EC Harris; SDG; Siwendu & Partners
	James Mlawu 082 803-7779	Yukuzakhe Plant Park Depot	Transaction Advisor to be appointed.			Not yet appointed
25. Limpopo Dept Health	Clifford Motsepe (015) 295-8163	Polokwane hospital Renal Dialysis	Transaction Advisor to be appointed December 2003.			Not yet appointed
26. Limpopo Dept Health	Clifford Motsepe (015) 295-8163	Ellisras; Phalabonwa & Duiwelskloop Co-location	Transaction Advisors to be appointed December 2003.			Not yet appointed
27. Limpopo Dept Health	Clifford Motsepe (015) 295-8163	Provincial Linen Management Services	Transaction Advisors to be appointed December 2003.			Not yet appointed
28. Limpopo Dept Health	Clifford Motsepe (015) 295-8163	Accommodation for clinical staff at various hospitals	Transaction Advisors to be appointed December 2003.			Not yet appointed
29. Limpop Dept Transport	R Kgosana (015) 295-1014	Emergency Vehicles Management Services	Transaction Advisors to be appointed.			Not yet appointed
30. Mpumalanga Dept Education	Jan Kriel (013) 766-5122	Schools	Transaction Advisors to be appointed.			Not yet appointed
31. Northern Cape Dept Economic Affairs & Tourism	Dave Perkins (083) 255-8833	Namaqualand Mariculture Park	Transaction Advisors to be appointed.			Not yet appointed
32. Northern Cape Dept Housing & Local Govt and Dept Agriculture, Land Reform, Environment & Conservation	Peter Wakelin (082) 553-8692	Eco-tourism: 10 business sites	Transaction Advisors to be appointed.			Not yet appointed
33. Northern Cape Dept Public Works & Transport	Pat Mokhalali (053) 839-2107	Provincial Government Office Accommodation Services	Treasury Approval IIA - November 2003.			Ignis
34. North West Dept Health	Dr. TKG Oosthuizen	Victoria Hospital	Inception.			Not yet appointed
35. North West Dept of Transport	Teboho Molaba (018) 387-4709	Fleet Management	Feasibility Study underway.			Deloitte & Touche
36. Western Cape Dept Health	Japie Du Toit (021) 483-5844	Hermanus hospital co-location project	Negotiations.	Mediclinic Holdings		Ignis
37. Western Cape Dept Health	Japie du Toit (021) 483-5844	Swellendam hospital co-location project	Feasibility finalised December 2003.			Ignis; PHI
38. Western Cape Dept Health	Japie du Toit (021) 483-5844	Conradie Hospital replacement	Feasibility finalised December 2003.			KPMG; Africon; Deneys Reitz Consortium
39. Western Cape Dept Health	Japie du Toit (021) 483-5844	Eerste River Hospital-Facility Management	Feasibility finalised December 2003.			Ignis; EC Harris; PHI attorneys
Public Entities		Project Officer	Project	Status	Transaction Advisors	
40. Eastern Cape Mayibuye Transport Corporation	Andrè de Vries (043) 604-7424	Bus company restructuring	RFP in review.			Deloitte & Touche
41. Greater St Lucia Wetlands Authority	Terri Castis (083) 309-3587	Eco-tourism: 14 business sites	Negotiations with five bidders for eight sites.	Lubumbo Hotel, IL Leisure, Halcyon Hotels, Akani Leisure, Wilderness Safaris		White & Case; Delano Caras
42. Mpumalanga Parks Board	Abe Sibiya (013) 759-5307	Eco-tourism: 21 business sites	Transaction Advisors to be appointed.			Not yet appointed
43. National Housing Finance Corporation	Luthando Vutula (011) 644-9872	Rental Housing	Feasibility Study underway.			Not yet appointed
44. South African Revenue Services	Roger Khouri (012) 422-5200	IT-Container inspection	Transaction Advisors to be appointed.			Deloitte Consortium
45. Western Cape Nature Conservation Board	Adnaan Abrahams (021) 483-4874	Eco-tourism: 15 business sites (10 small and medium, 5 large) on 12 reserves	Treasury Approval II(B) due November 2003.			Dynacon Technologies; Bell, Dewar & Hall; Busico
		INCEPTION	FEASIBILITY	PROCUREMENT	NEGOTIATIONS	

## STANDARDISED PPP PROVISIONS ARE DONE

Lively consultations and negotiations of recent months on *Standardised PPP Provisions* have proven a true model of partnering between government and the private sector. The final version will be issued for use in January 2004, representing a major milestone in the development of South Africa's PPP market.

The Minister of Finance, inviting comments, launched the draft document on 6 May 2003. Three hundred pages of private sector response were returned, and was closely studied and catalogued by National Treasury's PPP Unit to form the basis of detailed engagement thereafter. The first of these well-attended meetings took place on 3 September 2003, where private parties that had given written comments had the chance to present oral submissions.

Intensive negotiation sessions followed between 21 and 30 October 2003. The private sector organised themselves in teams to address the items distilled by the PPP Unit, and were well represented by the financial sector, the legal fraternity, the construction sector and the facilities management sector, many under the banner of the South African

branch of the International Project Finance Association. The issues on the table were:

- Legal dispute resolution;
- Material adverse government action and change in law;
- The liquid market test for private party default;
- Payment mechanism;
- Refinancing;
- Security over project assets;
- Insurance, warranties and indemnities; and
- Empowerment.

The PPP Unit's manager of the process, Uven Bunsee, praised the quality of professional participation, and the spirit of solution-finding that characterised the meetings: "The principles of many issues were resolved to the satisfaction of the both parties", he said. "We came to understand one another better, and the result is a document that bears testament to a real commitment to make PPPs work for South Africa. National Treasury extends a warm thank you to all who contributed."

Find *Standardised PPP Provisions* on [www.treasury.gov.za](http://www.treasury.gov.za)

## TAX LAWS TO PROVIDE FOR PPPS

Many government grants are currently subject to income tax and value-added tax (VAT). The result is that one arm of government is effectively taxing the other, reducing its ability to deliver cost efficiency. This arises especially when government provides grants for infrastructure and other capital investments, as it does in some PPPs.

The issue was reviewed by National Treasury's PPP Unit and Tax Policy Unit during 2003, and amendments to tax legislation are now in the pipeline.

The review, conducted with tax advisers from Deloitte & Touche, concluded that there is international practice in exempting such grants from income tax, that the effect of taxing such grants

was indeed circular, and that an exemption is warranted.

It was concluded further that it would be equitable to provide the PPP with a tax deduction for the capital expenditure which will not be funded by the government grant, despite the fact that ownership does not vest with the PPP. In addition, it is proposed that the grant be excluded from the base cost for Capital Gains Tax and from the cost of capital assets for capital allowance purposes. The Draft Revenue Laws Amendment Bill, due in parliament before the end of this year, includes all these principles.

For VAT, the approach proved to be different. Here, the VAT status of the

## PPP FOUNDATION

### TRAINING 2004

**Dates:** 9-10 March  
1-2 June  
14-15 September  
24-25 November

**Place:** Johannesburg

**Cost:** R2 300 +VAT

*Travel and accommodation not included in price.*

This acclaimed introduction to South African PPPs has been run by the PPP Unit and the NBI since 2001, attracting over 800 people to date, and it continues to be booked up in advance. The practical two-day session is packed with useful and inspiring material. Enthusiastic presenters explain the regulatory framework for PPPs, how to appoint and manage advisors, how to do a PPP feasibility study, how to run sound PPP procurement, how to structure empowerment in PPPs, gives a short introduction to project finance, explains key PPP contracting terms, and introduces PPP contract management principles. The two days are interspersed with current South African case studies presented by speakers who have done the deals, and participants are given short assignments to consolidate learning.

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grant is linked to the nature of the service provided by the PPP. If this service is VAT exempt, then so is the grant. If not exempt, then the grant will be taxed at the standard rate. Given that VAT exempt supplies cannot claim input credits, the effect is intended to be constant in terms of VAT collected. The VAT Act is due to be amended to this effect.

The PPP Unit will be attending to other tax issues in 2004, including requirements for ownership for purposes of claiming capital allowances, gross-up requirements for termination payments, and right-of-use payments.

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