

PPP QUARTERLY

PUBLIC PRIVATE PARTNERSHIPS

Innovative infrastructure and service delivery in South Africa

June 2004 Number 15

HEALTH PPPs IN FOCUS

Just two days after taking office, the new MEC for Health in the Free State, Mr ST Belot, opened the "PPP in Health" workshop in Bloemfontein on 4 May, and announced the provincial executive's support for the Trompsburg and Ladybrand Hospital PPPs. These will be the first health PPPs in South Africa where the private sector finances, designs, builds and operates public hospitals for fixed concession periods.



Mr ST Belot, MEC for Health in the Free State

The workshop, organised by the Free State Health department, National Treasury's PPP Unit, and the NBI, was attended by 130 enthusiastic delegates from the public and private sectors. All sixteen speakers in nine presentations

were South Africans talking about innovative South African health projects, each of which offers a unique opportunity to change and improve healthcare delivery.

Three broad topics were up for discussion: infrastructure, support systems and health financing. The CHM/Netcare consortium's major progress in upgrading both Universitas and Pelonomi public hospitals in Bloemfontein was on show to delegates, who were given guided tours of the co-location facilities and a chance to

review the type and management of the service level agreements.

Other hot topics included: the multi-billion Rand state medical scheme; the daunting challenges of procuring more Anti-retrovirals than any other country in the world; and the particular needs of military healthcare providers. With eight big facility management-related PPP projects in five provinces now successfully in operation, these PPPs are seen as providing significant value for money.



Workshop speakers included: front row: Dr Ian Kadish (Netcare); Dr Anna Mokgokong (Community Investment Holdings); Dr Victor Litlhakanyane (Head, Free State Department of Health) and Sheila Themba (Project Advisor, PPP Unit, National Treasury) back row: Brenda Malongete (Project Advisor, PPP Unit, National Treasury); William Dachs (Senior Project Advisor, PPP Unit, National Treasury); Andrew Donaldson (Deputy Director-General, Public Finance, National Treasury) and Shadrack Shuping (General Manager, Free State Department of Health)

SIGNED: FREE STATE SOCIAL GRANTS SYSTEM

Leading the way in social grants payments via a PPP, the Free State signed a three-year deal with AllPay (Pty) Ltd on 19 April 2004. The short contract period is to accommodate the anticipated creation of a national agency for managing social grants.

The R260 million agreement is for efficient delivery to about 3,5 million recipients of social grants. The cost saving to the province over the contract period is R115 million or 28% below its current cost of delivering its social grants.

National norms and standards provide the framework for the service level agreement with the private party. Any failure to meet standards is linked directly to penalties being deducted from the administration fees payable by the province, and strict monitoring systems are in place. AllPay will provide help desk facilities at all pay points together with automated teller machines.

Black equity in AllPay is 40%, and its sub-contracting to black companies rises from 30% in year one to 45% by year three. Penalties also apply for any non-compliance with the BEE commitments.



NATIONAL TREASURY

PPP unit



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UNTANGLING THE EASTERN CAPE'S PHARMACEUTICAL SUPPLY CHAIN

The Eastern Cape department of Health has secured approval from National Treasury for a feasibility study to revitalise its pharmaceutical supply system through a PPP. Procurement documents calling for private partners are being drafted, and should be issued to the market in the third quarter of this year.

The current pharmaceutical distribution supply chain features two depots – the main facility in Port Elizabeth and another depot in Umtata, with some 15 sub-depots throughout the province. This serves the health care needs of a population in excess of 7 130 489 through 92 hospitals and 711 clinics and Community Health Centres (CHCs).

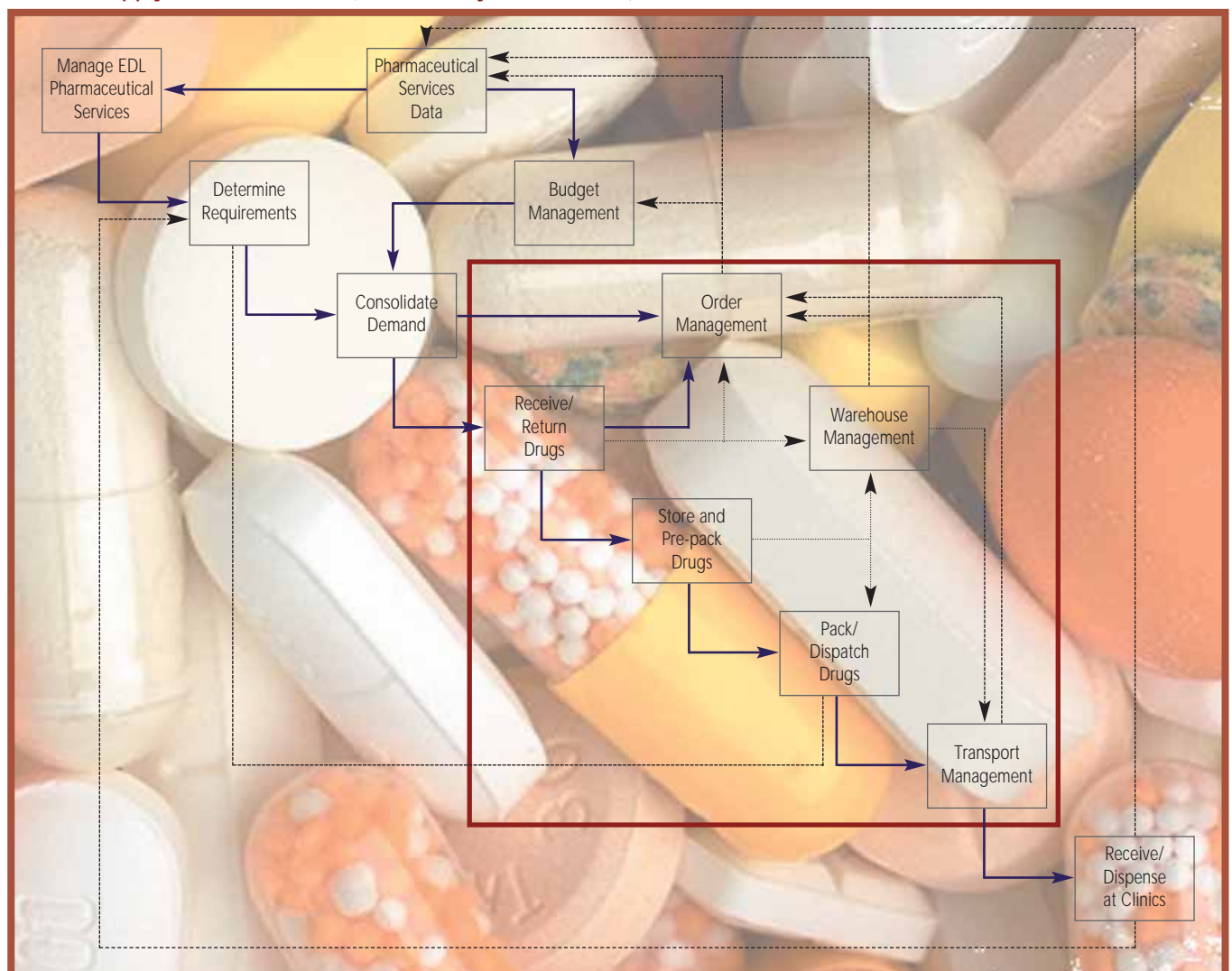
Orders are currently placed with the state tender suppliers directly by the two depots. Thereafter, the pharmaceuticals are delivered to the hospitals, clinics and CHCs by a variety of means: by courier from the depots to the hospitals, sub-depots and some clinics. Most deliveries to clinics are via the sub-depots or hospitals, on an ad-hoc basis. There is no formal, dedicated transport system from either the hospitals or sub-depots to the clinics or CHCs, and certain bulk items are delivered directly from the state suppliers to hospitals.

There is a disconnect between the direct deliveries of the bulk items and depot records and there is no management information beyond the depots. Manual requisitioning and expediting compound the situation and the sub-depots have no dedicated budget or staff.

The inadequacies in the supply chain stem from a lack of reliable demand data and poor consolidation of data from the two depots. The result is both over- and under-stocking and shrinkage.

The feasibility study – concluded with a transaction advisory team headed by PricewaterhouseCoopers – recommends that the supply chain activities be revitalised through a reconfiguration of the two depots. The PPP model proposes to do away with the sub-depots, and develop a tightly-knit supply chain with an appropriate management information system, that provides for direct and regular deliveries from the depots to hospitals, clinics and CHCs. Clear information-gathering responsibilities will be placed on the supply chain operator to track all pharmaceuticals from receipt at a depot to final delivery at all hospitals, clinics and CHCs.

The new supply chain boundaries (illustrated by the red block)



MFMA BOOSTS MUNICIPAL PUBLIC PRIVATE PARTNERSHIPS

The Municipal Finance Management Act (MFMA) takes effect on 01 July 2004, aiming to modernise municipalities' budget and financial management practices and maximise their capacity to deliver services. The Act focuses on outputs, outcomes and measurable objectives, and includes a clear framework for municipal PPPs.

Municipalities face enormous challenges in the delivery of public services and infrastructure. Despite the considerable achievements of the last 10 years, large backlogs remain. Correctly structured PPPs are viable options for addressing some of these needs.

The MFMA prescribes that PPPs must provide value for money, present an appropriate allocation of risks between the contracting parties, and be affordable in terms of current and projected budgets. It requires that a PPP regulatory framework be developed and prescribed by National Treasury. It also requires that municipalities conduct feasibility studies before concluding PPPs and that National Treasury may assist them to do so. The municipality's accounting officer is specifically required to formally solicit the views and recommendations of the National Treasury, along with other relevant departments, once the feasibility is completed.

A Municipal Desk is being created in National Treasury's PPP Unit to help municipalities to meet these MFMA requirements and to ensure that National Treasury can fulfill its PPP MFMA obligations. The Desk will develop a clear policy framework, and provide hands-on technical assistance in preparing feasibilities and developing procurement and contract management skills to ensure sustainable municipal partnerships.

The Municipal Infrastructure Investment Unit (MIIU), owned by the Department of Provincial and Local Government, will continue to provide technical assistance and support to municipalities exploring Municipal Service Partnerships, including PPPs.

The MFMA PPP rollout plan entails short, medium and long-term targets:

SHORT-TERM (APRIL TO JUNE 2004)

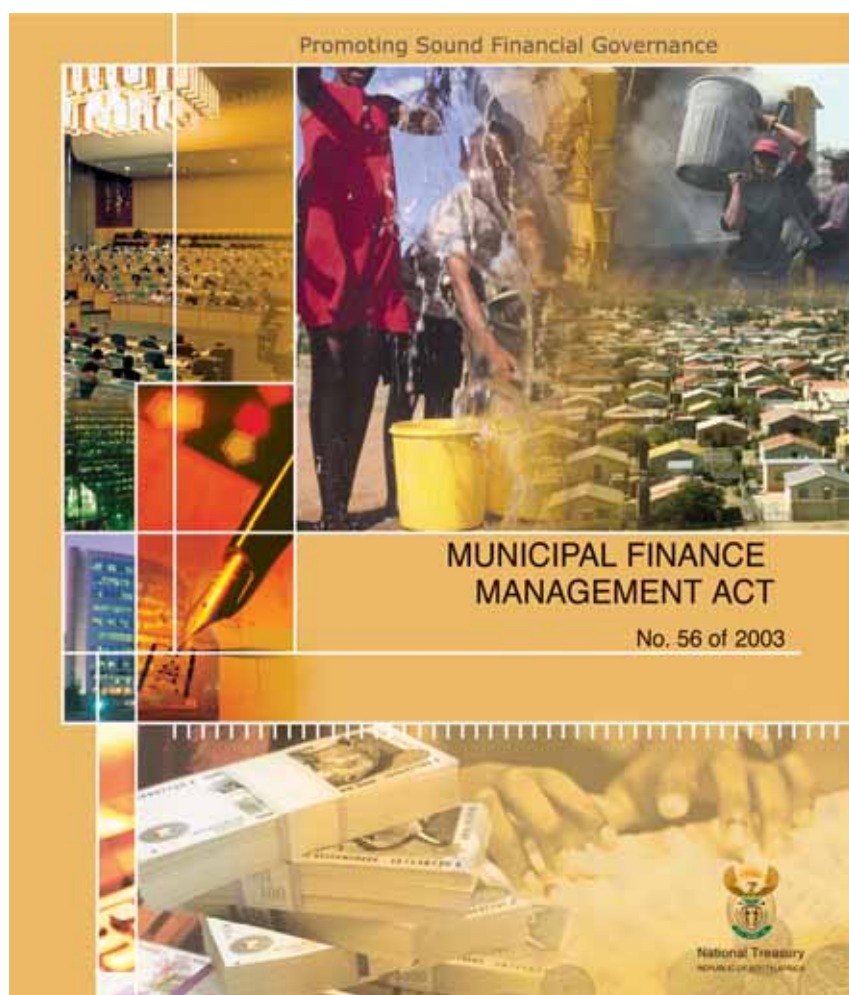
Interim regulations are being drafted with pilot municipalities (which will be a mix of capacitated and smaller, inexperienced municipalities). Thresholds for applicability of Section 120 requirements are being developed and tested. Application of Section 120 to non-pilot municipalities will be delayed.

MEDIUM-TERM (JULY 2004 TO JUNE 2005)

Training will be done with the pilot municipalities. Practice Notes will be drafted on recruiting project officers, recruiting transaction advisors, and conducting feasibility studies. Technical assistance to the pilot municipalities in PPP inception phases of identified projects will be provided. Based on this experience, Municipal PPP Regulations will be drafted and gazetted for comment and finalised thereafter.

LONG-TERM (POST JUNE 2005)

Application of Section 120 will be extended to all municipalities with training support. Additional Practice Notes will be drafted on PPP procurement and contract management. A comprehensive framework on municipal PPPs will be developed and issued.



Both the Public Finance Management Act and the MFMA compel accounting officers to accept full responsibility for expenditure. PPPs are an important component of government strategy for service and infrastructure roll-out, but their viability for particular initiatives has to be properly tested in each case. They are being considered among a range of possible mechanisms for delivery in all spheres of government.

Read together, the amended Municipal Systems Act and the provisions of the MFMA that deal with PPPs (Chapter 11: Part 2: Section 120) provide the legal framework for municipal PPPs.

Project
Development
Facility

PDF KICKS OFF WITH FUNDING TO SIX PPP PROJECTS

Since its establishment in October 2003, National Treasury's Project Development Facility (PDF) has approved funding to support procurement in six PPP projects. Having targeted to support 75 projects over its 10-year life, the fund's roll-out is well on track.

The PDF is a single function trading entity, which pays for transaction advisory services to PPP projects. Disbursed funds are then recovered from the successful private party bidder upon financial close of the PPP. At present, only projects regulated in terms of the Public Finance Management Act are funded by the PDF – with a particular focus on projects in the social sectors.

By assuming significant risk in the procurement process, the PDF encourages institutions to undertake highly innovative projects. Should a PPP not conclude, the loss is for the PDF account.

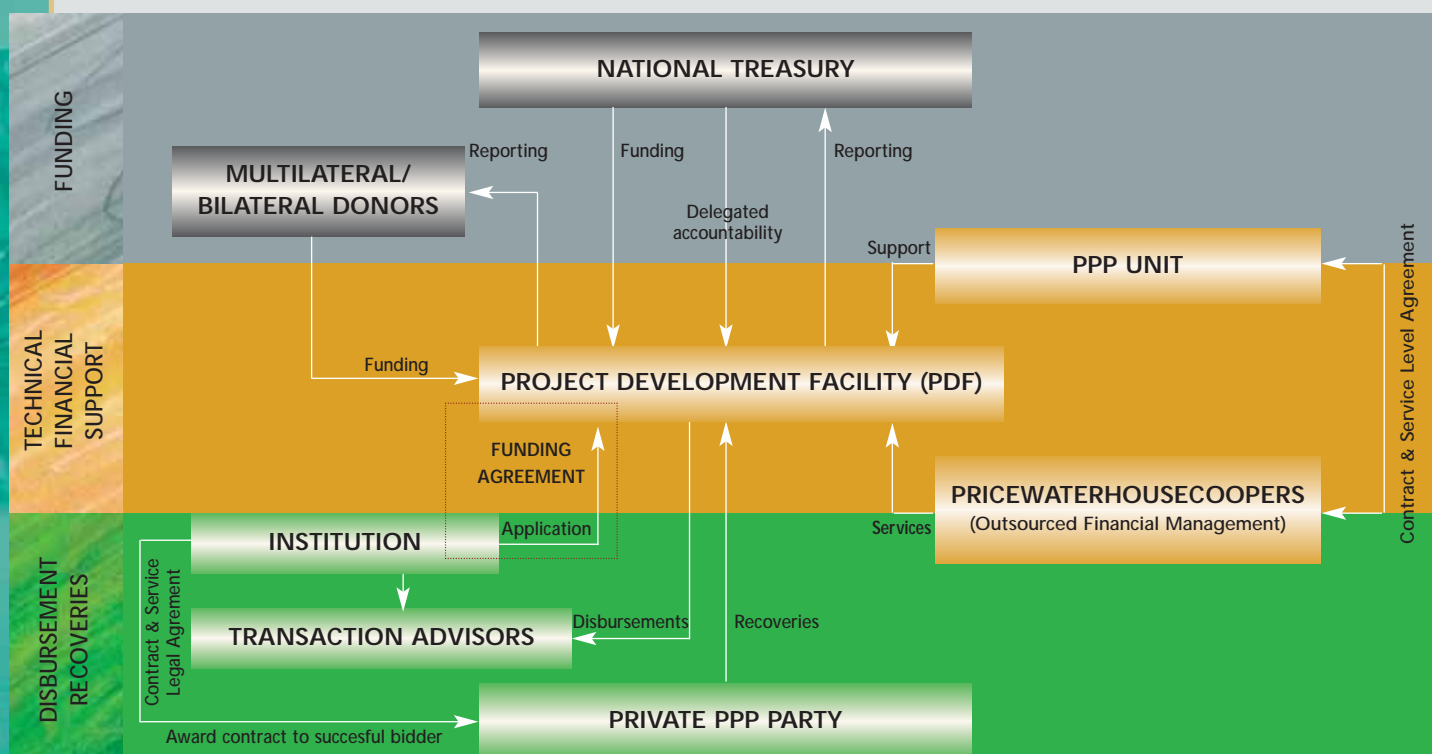
The drive is to increase the quality and quantity of “bankable deals” processed through the PPP Unit's project pipeline. Transaction advisor costs often pose a burden on the budget of the procuring institution. But quality advisory services are fundamental to procuring affordable, value for money PPPs, and the PDF seeks to directly support the achievement of these regulated requirements.

The fund is administered and managed by the PPP Unit supported by PricewaterhouseCoopers as the appointed financial managers of the PDF for an initial three-year period. For 2004, the PDF's Policy Board has prioritised the health, education and social development sectors as well as particularly innovative projects that advance the use of PPPs in all sectors.

Evaluation of applications considers the institution's capacity, the project and the sector as well as PDF priority, risk and cash flow suitability. An independent Treasury evaluation committee carries out the evaluation with input from the relevant provincial treasury for provincial projects.

New applications for PDF funding will be assessed in the 3rd quarter. Closing date for this round of submissions is 31st July 2004. Application forms are available from the PPP Unit.

PPP projects supported by PDF funding by March 2004	Amount funded (R)
Northern Cape Office Accommodation	717,060
Free State Department of Health – Trompsburg and Ladybrand Hospitals.	1,861,912
KZN Department of Transport – Vukuzakhe Plant Depot	1,081,011
Eastern Cape Department of Health – Pharmaceuticals	3,146,696
Eastern Cape Department of Health – Settlers and Port Alfred Hospitals	496,060
Western Cape Department of Health – Rehabilitation Centre	2,925,000
Total	10,227,739



Closed deals under PFMA PPP regulations (since May 2000): as at June 2004

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; vfm: value for money; PFMA: Public Finance Management Act, 1999

Project and government institution	PPP type Contract duration Date Financial Close	Contact Official	Private Partner	BEE as % of equity and sub contracting	Financing and Arrangers	Transaction Advisors to government	Value to gvt (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	Hermann Conradie (033) 395-2019	Impilo Consortium (Pty) Ltd comprising: Mbekane Health & Wellbeing, AWE International, Vulindlela Holdings, Siemens, Drake & Skull, Orname	Equity: 40% Sub-c: 40%	Debt: 70% Equity: 20% Govt Contribution: 10% Rand Merchant Bank	PricewaterhouseCoopers; White & Case; EC Harris; Alocap; 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; Naudes 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; Interfoll; Decathlon	N/a	R450 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	Blovac 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 Nkhalane (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, Alterbury Property Holdings, Parkdev S.A., Reberve Facility Management, Propnet, Zwellinzima 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 Mazwal/ Masons B.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
12. Social Grant Payment System Free State Dept Social Development	DFO 3 years April 2004	Shirley Havenga (015) 409-0635	AllPay (Pty) Ltd	Equity: 40% Sub-c: Year 1 - 30% Year 2 - 35% Year 3 - 45%	100% Equity	Ernst & Young	R260 million	N/a

Projects in development registered with National Treasury in terms of the PFMA as at June 2004

National Departments	Project Officer	Project	Status	Preferred bidder	Transaction Advisors
1 Dept. Arts Culture Science & Technology	Peter Podjar (012) 337-8587	Head Office Accommodation Services	Transaction Advisors to be appointed.		Not yet appointed
2 Dept. Communication	To be appointed	Emergency 112	Transaction Advisors to be appointed.		Not yet appointed
3 Dept. Communication	Joe Mjwana (012) 427-8296	Regional language television services	Transaction Advisor to be appointed.		Not yet appointed
4 Dept. Correctional Services	To be appointed	Head Office Accommodation Services	Transaction Advisors to be appointed.		Not yet appointed
5 Dept. Correctional Services	Mollet Ngubo (012) 307-2557/2487	Negotiation of two existing PPP prison contracts and feasibility 4 new prisons	Feasibility Study underway.		Kagiso Financial Services; Ledwaba Mazwai; Carter Gobel Lee; P D Naidoo
6 Dept. Defence South African Military Health Service	Brig. Gen H Wallis (012) 671-5244	Purchase of Clinical Services in 7 districts	Feasibility Study completed.		Ignis; PHC Inc
7 Dept. Education	Carmen Coetzee (012) 312-5661	Head Office Accommodation Services	Negotiations.	Sethekgo Consortium	KPMG
8 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
9 Dept. Foreign Affairs	Denise Africa (012) 351-1407	Sustainable Working Environment Service Delivery	Project re-registered. Feasibility Study underway.		Deneys Reitz; G5; Vela VKE; ME Corporation
10 Dept. Foreign Affairs	Peter Bolinck (012) 351-1910	Missions Accommodation Services	Inception.		Not yet appointed
11 Dept. of Home Affairs	Gareth Warner 083 257-0275	IT-HANIS	Feasibility Study being completed.		PricewaterhouseCoopers; AoeCap; White & Case
12 Dept. Justice	Alan Mackenzie (012) 315-1019	IT Cash Hall Payment System	Feasibility Study underway.		Ernst & Young; CSIR
13 Dept. Labour	Deon Haasbroek (012) 309-4551	Communication Technology	Feasibility Study underway.		PricewaterhouseCoopers
14 Dept. Labour	Jan van Tonder (012) 804-6847	Sheltered Employment Factories	Inception.		Not yet appointed
15 Dept. Land Affairs	Thizza Tsoanyane (012) 312-8286	Head Office Accommodation Services	Transaction Advisors to be appointed.		Not yet appointed
16 Dept. Social Development	Selwyn Jehoma (012) 312-7647	IT SOCPEN System	Transaction Advisors to be appointed.		Not yet appointed
17 Dept. Transport	Themba Nkosi (012) 309-3597	IT Road traffic offences system	Feasibility Study underway.		Deloitte & Touche
18 Dept. Transport	Nashree Sewpersadh (012) 309-3165	Fleet Management for National Departments	Feasibility Study underway.		Deloitte & Touche; Madhlopa Attorneys
19 Dept. Water Affairs & Forestry	Christo Marais (021) 405-2200	Working for Water: secondary industries	Revised Treasury Approval I and IIA April 2004. In procurement.		KPMG; Stellenbosch University; Edward, Nathan & Friedland; Nosipho
Provincial Departments	Project Officer	Project	Status	Preferred bidder	Transaction Advisors
20 Eastern Cape Dept Health	Lulu Peleni (040) 609-3445	Revitalisation of Pharmaceutical Supply Chain	Treasury Approval I given April 2004.		PricewaterhouseCoopers; White & Case; Utho Capital; LEAP Architects
21 Eastern Cape Dept Health	Eugene Jooste (040) 609-3581	Grahamstown & Port Alfred Co-location	Feasibility Study submitted for Treasury Approval I: May 2004.		Ignis; PHI; EC Harris; Annette van der Merwe; Peter De Boere
22 Eastern Cape Provincial Administration	Ian Assam 082 578-1891	IT System for Eastern Cape Province	Transaction Advisor to be appointed.		Not yet appointed
23 Free State Dept Education	Kevin Abrahams (051) 430-8989	Schools	Feasibility Study underway.		KPMG; Ashira; HLM-SV Architects; Africon
24 Free State Dept Health	Mr Shuping (051) 405-4818	New build hospitals in Trompsburg and Lady Brand	Feasibility Study complete April 2004.		Ignis; EC Harris; PHI
25 Free State Dept Transport	Strover Magamedisa (051) 405-4697	Fleet Management	RFP to be issued.		Deloitte & Touche
26 Gauteng Dept Public Transport, Roads & Works	Nicolette Huluba-Mitrofan (011) 355-2686	Gauteng Kopanong Precinct Working environment service delivery	Treasury Approval I granted May 2004.		Kagiso Financial Services; Ledwaba Mazwai; P D Naidoo

INCEPTION

FEASIBILITY

PROCUREMENT

NEGOTIATIONS

Provincial Departments			Project Officer	Project	Status	Preferred bidder	Transaction Advisors
27	Gauteng Dept Public Transport, Roads & Works	Gautrans (011) 355-7300	Gautrain Rapid Rail Link		Bid evaluation underway.		Knuthele; Arcus Gibb; Kagiso Financial Services; Ledwaba Mazwai
28	Kwa-Zulu Natal Dept Economic Development and Tourism	Mei Clark (031) 310-5400	Dube Trade Port		Feasibility Study underway.		PricewaterhouseCoopers; EC Harris; SDG; Siwendu & Partners
29	Kwa-Zulu Natal Dept Health	Hermann Conradie (033) 395-2019	Soft FM for Health Facilities		Transaction Advisors appointed, Feasibility Study due June 2004.		PricewaterhouseCoopers; White & Case; Turner & Townsend; Siwendu & Partners; Gasa & Associates; L Msimang
30	Kwa-Zulu Natal Dept Transport	James Mlawu 082 803-7779	Vukuzakhe Plant Park Depot		Transaction Advisors appointed.		Deloitte & Touche; Henwood & Nxumalo Engineers; Ndumase Inc; Madhlopa Inc; Mc Carthy Consulting
31	Limpopo Dept Health	Ramakuntwane Selepe (015) 291-2798	Polokwane hospital Renal Dialysis, Ellisras, Phalabonwa & Duiweiskoop Co-location		Feasibility Study underway.		Ignis; Munyai Malaka; SPP; Phatshoane Henney Inc; Vela VKE; Care Clean; Resolve Workplace Solutions
32	Limpopo Dept Health	Ramakuntwane Selepe (015) 291-2798	Provincial Linen Management Services		Feasibility Study underway.		Ignis; Munyai Malaka; SPP; Phatshoane Henney Inc; Vela VKE; Care Clean; Resolve Workplace Solutions; Mtema Mashao Engineers; Maluleka Mokoena & Associates
33	Limpopo Dept Health	Ramakuntwane Selepe (015) 291-2798	Accommodation for clinical staff at various hospitals		Feasibility Study underway.		Procurement Dynamics; Turner & Townsend; Nalane Manaka Attorneys; SAB&I
34	Limpopo Dept Transport	R Kgosana (015) 295-1014	Emergency Vehicles Management Services		Feasibility Study underway.		Deloitte & Touche; Madhlopa Attorneys
35	Limpopo Dept Transport	Mr Sathekge (015) 295-1018	Limpopo traffic training College Accommodation & FM Services		Transaction Advisors to be appointed.		Not yet appointed
36	Mpumalanga Dept Education	Jan Kriek (013) 766-5122	Schools		Transaction Advisors to be appointed.		Not yet appointed
37	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
38	North West Dept Health	Dr Tgk Oosthuizen	Victoria Hospital		Inception.		Not yet appointed
39	North West Dept of Transport	Teboho Molaaba (018) 387-4709	Fleet Management		Draft Feasibility Study.		Deloitte & Touche
40	Western Cape Dept Health	Japie Du Toit (021) 483-5844	Hermanus hospital co-location project		Negotiations.	Mediclinic Holdings	Ignis
41	Western Cape Dept Health	Japie du Toit (021) 483-5844	Swellendam hospital co-location project		Treasury Approval I application delayed.		Ignis; PHI
42	Western Cape Dept Health	Japie du Toit (021) 483-5844	Rehabilitation Centre		Feasibility Study complete April 2004.		KPMG; Africon; Deneys Reitz Consortium
43	Western Cape Dept Health	Japie du Toit (021) 483-5844	Eerste River Hospital-Facility Management		Feasibility Study due June 2004.		Ignis; EC Harris; PHI attorneys
Public Entities			Project Officer	Project	Status		Transaction Advisors
44	Eastern Cape Mayibuye Transport Corporation	Andre de Vries (043) 604-7424	Bus company restructuring		Treasury Approvals I and IIA pending.		Deloitte & Touche
45	Ezemvelo KZN Wildlife	Derek Potter (033) 845-1513	Black Rhino conservation		Feasibility Study underway		White & Case; Siwendu & Partners; Kagiso Financial Services; Mohlaleng
46	Greater St Lucia Wetlands Park Authority	Terri Caslis (083) 309-3587	Eco-tourism: 14 business sites		Negotiations underway		White & Case; Delano Caras
47	Limpopo Tourism & Parks Board	Fixon Hlungwani (015) 288-9000	Eco-tourism: 20 nature reserves		Feasibility Study underway.		Vela VKE; Busico; Daye Short; attorneys; Dynacon; Munyani Malaka; Resolve Group
48	Mpumalanga Parks Board	Abe Sibiyi (013) 759-5307	Eco-tourism: 21 business sites		Transaction Advisors to be appointed.		Not yet appointed
49	National Housing Finance Corporation	Luthando Vutula (011) 644-9872	Rental Housing		Feasibility Study underway		Not yet appointed
50	South African Revenue Services	Roger Khouri (012) 422-5200	IT-Container inspection		Feasibility Study underway		Deloitte & Touche
51	Western Cape Nature Conservation Board	Admaan Abrahams (021) 483-4874	Eco-tourism: 15 business sites		Negotiations underway		Dynacon Technologies; Bell, Dewar & Hall; Busico.
7			INCEPTION	FEASIBILITY	PROCUREMENT	NEGOTIATIONS	

STANDARDISED PPP PROVISIONS

with South African flair

Released recently after extensive consultation, National Treasury's final *Standardised PPP Provisions (Standardisation)* has managed to both capture international best practice, and tailor some uniquely South African features. Key amongst the local characteristics are provisions for unforeseeable conduct, black economic empowerment (BEE), compensation on termination for private party default, and refinancing.

Unforeseeable discriminatory government conduct

Private parties often seek relief from changes in law, and from the consequences of institutional conduct, which affects its financial position. *Standardisation* states that the risk of 'unforeseeable conduct' of a general nature should be borne by the private party. Unforeseeable conduct that discriminates against the private party should generally be the institution's risk.

To constitute 'unforeseeable conduct', the conduct (in addition to it having to be discriminatory) must have been unforeseeable by a reasonable person in the position of the private party, and must also have in fact been unforeseen by the private party.

If unforeseeable conduct has occurred, the private party is entitled to compensation from the institution that puts it in the same overall economic position it would have been in had the unforeseeable conduct not occurred.

BEE

Standardisation incorporates the terms of the *Code of Good Practice for BEE in PPPs*, and includes a number of relevant prescribed clauses for BEE in PPP agreements, covering black equity in the private party, management and employment equity, sub-contracting and local socio-economic impact.

Compensation on termination for private party default

Compensation payable on private party default termination is a key commercial issue. The market value approach prescribed in *Standardisation* (reflected in the price that prospective bidders would be willing to pay for the PPP agreement) represents a balance between protecting the institution's interests, and not imposing unreasonable penalties on the private party for its default. It also encourages lenders to step-in and rescue the project, while taking into account poor performance by the private party.

A criticism is that the South African PPP market is not mature enough to determine a liquid market, which is an important element of the market value approach. Lenders are concerned that it may result in a substantial portion of the debt not being recovered.

During these developing stages of our PPP market, *Standardisation* addresses these concerns by compensating a minimum agreed percentage of debt: the compensation is the greater of the agreed percentage of the debt and the highest tender price that is received pursuant to the project being retendered, or the greater of the agreed percentage of the debt and the adjusted estimated project value in the case where the project is not retendered.

The intention is, as our PPP market develops, to move away from any debt-based compensation towards the market value approach exclusively.

Refinancing

Although increased returns due to improved performance should generally be for the private party's benefit, where increased returns derive from a refinancing (i.e. from changes in the nature of or the terms governing the funding structure of the project), they should be shared between the institution and shareholders. *Standardisation* prescribes a 50:50 sharing of the refinancing gains between the institution and the private party, believing that this provides a fair balance.

Standardisation aims to create certainty, uniformity and predictability in PPPs and to reduce transaction time and costs. But it is also recognised as a 'living' document that will need to respond to an evolving PPP market. Users have been encouraged by the PPP Unit to submit comments at any time to standardisation@treasury.gov.za

Article written by Della Levinsohn, an independent consultant retained by the PPP Unit to manage the production of *Standardisation*. *Standardisation* is available on www.treasury.gov.za

LAUNCH OF NATIONAL TREASURY'S NEW PPP MANUAL AND STANDARDISED PPP PROVISIONS

Printed volumes and CDs of these groundbreaking PPP documents will be launched by the Minister of Finance in Pretoria in August 2004.

SECTORAL PPP CONFERENCES

Following the successful PPP health conference in May, a further three have been lined up by the PPP Unit and NBI for the remainder of 2004.

- **Government fleet PPPs:**
13-14 July – East London
- **Information Technology PPPs:**
17-18 August [location to be announced]
- **Eco-tourism PPPs:**
19-20 October [location to be announced]

To register as a delegate: email flo@nbi.org.za
To offer sponsorship: email nevina@nbi.org.za

PPP FOUNDATION TRAINING 2004

This popular, practical, start-up course has been run by the PPP Unit and NBI since 2001, attracting more than 1 000 people to date. Packed with useful guidance and case studies, it covers the PPP regulatory framework, appointing advisors, doing feasibility studies, running procurement and BEE. It also introduces project finance, risk assessment, and Standardised PPP Provisions.

Dates: 14-15 September
24-25 November

Place: Johannesburg

Cost: R2 300 +VAT

Travel and accommodation not included in price.
To book, email: flo@nbi.org.za

WORKSHOP FOR PPP TRANSACTION ADVISORS

The one-day session presented by the PPP Unit gives professional advisors insight into what is expected in bid submissions to act as PPP transaction advisors to government, and what PPP feasibility studies and procurement entail.

Dates: 20 July and 2 November 2004

Time: 10:00 – 16:00

Place: National Treasury,
240 Vermeulen St, Pretoria

To book, email: nelisiwe.mtsweni@treasury.gov.za

How to contact:

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