

**NATIONAL TREASURY
PPP TOOLKIT FOR TOURISM**

GETTING STARTED:

1. UNDERSTANDING THE PPP TOOLKIT FOR TOURISM

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ANNEXURE

Annexure 1: Treasury Regulation 16 to the PFMA

SUMMARY OF THE CONTENTS OF THE TOOLKIT

Getting started	1. Understanding the Public Private Partnership Toolkit gives an introduction to the Toolkit, defines a tourism PPP, describes the regulatory environment, introduces key concepts and introduces the PPP project cycle for tourism PPPs.
Getting started	2. Clarifying some key policy issues gives guidance on policy issues specifically relevant to tourism PPPs.
Module 1	PPP inception and pre-feasibility phase for tourism PPPs explains the steps to be followed in the inception and pre-feasibility phases and provides templates for key documents.
Module 2	Feasibility study and procurement phases for small cap tourism PPPs explains the steps to be followed in the feasibility and procurement phases for the small cap route, and provides templates for key documents.
Module 3	Feasibility study and procurement phases for large cap tourism PPPs explains the steps to be followed in the feasibility and procurement phases for the large cap route, and provides templates for key documents.
Module 4	Managing the tourism PPP agreement provides guidance to institutions for managing tourism PPP agreements.

Templates and annexures to the Toolkit

The templates that accompany each module of the Toolkit standardise the terms and conditions under which tourism PPPs are implemented. They are designed to help the project officer complete quality documentation. The annexures provide additional information or guidance.

While the templates and annexures are listed on each module's contents page, they are not part of the printed version of the Toolkit. Instead, each document can be downloaded, in Microsoft Word or Excel, from the CD accompanying the Toolkit and from the PPP Unit's website, www.ppp.gov.za. A summary of what is contained in each template and annexure is provided at the end of each module, or the relevant section within the module.

INTRODUCTION

South Africa has established a firm regulatory framework for national and provincial institutions¹ to enter into public private partnerships² (PPPs). This is set out in Treasury Regulation 16³ issued in terms of the Public Finance Management Act, 1999 (PFMA). Furthermore, National Treasury's *PPP Manual* and *Standardised PPP Provisions* have been issued as PPP practice notes in terms of section 76(4)(g) of the PFMA to make the application of the PFMA and its regulations easier. Municipal PPPs are regulated under the Municipal Finance Management Act, 2003 (MFMA) and its regulations, and similar PPP guidance is being devised for this sphere of government.

South Africa's tourism industry has experienced considerable growth in the last decade, but despite the many opportunities that exist, the development of tourism-based businesses on state-owned land has been slow. The *PPP Manual* and *Standardised PPP Provisions* cannot, however, be summarily applied to tourism PPP projects. National Treasury therefore seeks to boost this strategic sector of the economy by providing practical guidelines in the form of this *PPP Toolkit for Tourism*, referred to throughout as the Toolkit⁴. It makes the PPP process relevant to the particular characteristics of the country's nature and heritage tourism industry. The Toolkit should make it easier for institutions and the private sector to enter into tourism-related partnerships on state property⁵ managed by national and provincial government institutions.

Specifically, the Toolkit:

- establishes appropriate systems, standards and contracting terms for a wide spectrum of tourism and tourism-related PPPs in compliance with the PFMA and Treasury Regulation 16
- streamlines the PPP process for the sector, creating consistency and certainty
- enables relevant institutions to build the necessary capacity to prepare for, procure and manage these PPPs
- furthers the drive to ensure black economic empowerment (BEE) in the tourism sector
- furthers the drive to support and promote the growth of small, medium and micro enterprises (SMMEs) in the tourism sector
- seeks to build private sector confidence in entering into tourism and tourism-related PPPs in South Africa.

1. See 'Annexure 1: Treasury Regulation 16': 16.1 Definitions.

2. See 'Annexure 1: Treasury Regulation 16': 16.1 Definitions.

3. See 'Annexure 1: Treasury Regulation 16'.

4. The Toolkit is National Treasury PPP Practice Note Number 01 of 2005.

5. See 'Annexure 1: Treasury Regulation 16': 16.1 Definitions.

WHAT IS A TOURISM PPP?

PPPs in general

A PPP is clearly defined in Treasury Regulation 16 to the PFMA. It is essentially a contractual arrangement whereby a private party⁶ performs an institution's functions⁷, and/or makes use of state property for its own commercial purposes. The private party assumes substantial financial, technical and operational risks associated with those functions or the use of state property. In return, the private party receives a benefit according to pre-defined performance criteria. This benefit may be entirely from a service tariff or other user charges, an institution's budget, or a combination of the two.

The private party's responsibilities typically include the financing, design and construction of a facility, as well as its operation and maintenance, for a specified period of time. Where substantial capital investments are made by the private party under such arrangements, the PPP agreements⁸ tend to be of long duration. A distinct characteristic of a PPP is that it is for a fixed period, during which time ownership of the immovable assets typically vests with the state, and control over these assets reverts to the state at the termination of the PPP agreement.

It is just as important to define what a PPP is not.

- A PPP is not a simple outsourcing of functions with substantial financial, technical and operational risk retained by the institution (such as a service contract).
- A PPP is not a donation by a private party for the public good.
- A PPP is not the privatisation or divestiture of state assets and/or liabilities.
- A PPP is not the commercialisation of a public function by the creation of a state-owned enterprise.
- A PPP does not constitute borrowing by the state.

The benefits of tourism PPPs

South Africa's tourism industry has been described as the country's 'new gold'. It is one of the largest contributors to the country's gross domestic product (GDP), and has a significant impact on job creation. A number of national and provincial government institutions control an array of protected areas and associated state assets that are, in many ways, under-utilised and which

6. See 'Annexure 1: Treasury Regulation 16': 16.1 Definitions.

7. See 'Annexure 1: Treasury Regulation 16': 16.1 Definitions.

8. See 'Annexure 1: Treasury Regulation 16': 16.1 Definitions.

offer significant opportunity for investment. These institutions are subject to the provisions of Treasury Regulation 16 and some have already succeeded in attracting private sector investment in these assets.

The transactions have generally involved private parties bidding for the right to invest in and commercially use state property in support of conservation, in return for the payment of a concession fee to the institution. The PPP agreement is for a fixed term, after which the assets revert to the institution.

The benefits from these deals for the private party are that it gets access to unique tourism sites and is able to get a competitive return on its investment. The benefits for the institution are that it gets revenue, savings and an assets upgrade. At the same time, it facilitates BEE, stimulates SMMEs, job creation and skills in the local economy, and encourages growth in the tourism industry. There is clearly considerable benefit to be realised for the country in tourism-related PPP transactions.

Defining a tourism PPP

Tourism PPPs fall firmly within the Treasury Regulation 16 definition of a PPP, in that they entail a commercial transaction between an institution and a private party, in terms of which the private party:

- performs an institutional function on behalf of an institution (if applicable) and/or
- acquires the use of state property for its own commercial purposes and
- assumes substantial financial, technical and operational risks in relation to the use of the state property and
- receives a benefit from performing the function and/or using the state property by way of charges or fees collected by the private party from users or customers of a service provided to them⁹.

The *PPP Toolkit for Tourism* is principally based on the application of the PPP definition: a private party acquires the use of state property for its own commercial purposes, assuming substantial risk, and receives a benefit from charges collected from users.

All conservation institutions have enabling statutes, many of which include various provisions for the institution to operate commercial ventures or provide tourism amenities in protected areas. Therefore, if the institution grants rights to a private party to operate commercially on land managed by the institution (even if it is not state property), this could constitute the private party performing an institutional function. This aspect of the definition of a PPP in Treasury Regulation 16 therefore applies, implying that the private party undertakes commercial activities ‘on behalf of’ the institution.

9. Paraphrased from Treasury Regulation 16.1 Definitions, “PPP”. See Annexure 1.

Most conservation institutions, however, view their core function as managing conservation rather than operating commercial businesses. Their policies increasingly reflect the intention not to operate commercial ventures themselves, but to facilitate proactively private parties being granted rights to use state property for private commercial purposes via PPP agreements.

There are circumstances involving communal land, or private land which is under state conservation management, over which conservation institutions have acquired explicit commercial rights which they seek to exercise via a PPP. These are special circumstances, requiring the application of land rights legislation and policy in appropriate conjunction with Treasury Regulation 16¹⁰.

Typical tourism PPP products

To date, the following typical tourism products have either been offered to the market on national and provincial state conservation land or have been considered as possible PPPs. The categories and products point to the range of opportunities to which the Toolkit can be applied. This is not a closed list – tourism PPPs may involve any combination or variation of these.

- **Accommodation.** This includes hotels, lodges, self-catering resorts, camping and caravan accommodation, houseboat accommodation, corporate lodges and health spas/healing centres, sometimes including conference facilities. The Tourism Grading Council categorises accommodation to establish the level of service these facilities offer to tourists, providing a useful set of benchmarks for PPPs¹¹.
- **Food, beverage and retail.** This includes restaurants, take-away outlets, supermarkets, craft/curio outlets, catering businesses and picnic sites.
- **Activity-based tourism.** This includes open-vehicle safaris, hiking trails, mountain bike trails, hot-air ballooning, aerial walkways, 4x4 routes, elephant-back safaris, bungee jumping, abseiling, and activity-based water sports. This category can include commercialised hunting and fishing activities. It can also include airstrips. But it excludes airports, harbours and other multipurpose transport-related complexes, which are not covered in the Toolkit.
- **Heritage and culture.** This includes museums, interpretation and exhibition centres, and may also include conferencing facilities and specialist cultural tour guiding operators.

10. Specific guidance is therefore given by National Treasury in the information on communal and private land in *Getting started: 2. Clarifying some key policy issues*.

11. The categories and criteria can be viewed at www.tourismgrading.co.za.

PPPs in relation to land incorporations and co-management plans for extended protected areas

A co-management agreement does not itself constitute a PPP.

A land incorporation involves private or communal land being voluntarily incorporated, through an agreement (possibly involving the dropping of fences), into a state-owned protected area and being declared a nature reserve, special nature reserve or protected environment in terms of the National Environmental Management: Protected Areas Act, 2003. This co-management agreement does not itself constitute a PPP. This is because it does not involve substantial risk transfer from the institution to a private party, nor does it always involve the use of state property by a private party for commercial purposes, nor does it always involve the private party obtaining a benefit by charging customers who use state property. Because of the neighbour-like relationship, a land incorporation and co-management agreement also cannot be achieved through competitive procurement. The declaration of private (or communal) land to be a special nature reserve, nature reserve or protected area is expressly regulated under the National Environmental Management: Protected Areas Act, 2003. Planning, implementing and managing these land incorporations will thus be guided by the Department of Environmental Affairs and Tourism (DEAT).

A co-management agreement may make provision for some division of revenue generated by a PPP.

Section 42 of the National Environmental Management: Protected Areas Act, 2003 provides for co-management of a protected area in which the management authority may enter into an agreement with another organ of state, local community or individual or other party to co-manage the area and regulate human activities that affect the area. The co-management agreement may make express provision for developing economic opportunities within and adjacent to a protected area. A co-management agreement, for example, could make provision for the revenue generated by a PPP on the state's portion of the co-managed land to be shared with the other parties to the co-management agreement because of their role in the success of the PPP¹².

Furthermore, a co-management agreement could, for example, expressly provide that the development of commercial activities on the privately owned land in the protected area must follow the Toolkit. Similarly, the National Water Act, 1998 allows for the creation of water management institutions, which provide for co-management and which control commercial development

12. See the guidance on communal and private land in *Getting started: 2. Clarifying some key policy issues*, for how the Toolkit applies to investments by third parties in land that is managed by an institution but is not state land.

opportunities on dams. The agreements regulating these institutions may also provide for the division of revenue from PPPs, where the co-operation of parties other than the Department of Water Affairs and Forestry (DWAF) is essential for the success of the PPP. Other statutory institutions which provide for the combining of state institutions and non-state entities in co-management structures can deal with PPPs in a similar manner.

Examples of co-management agreements¹³

1. Part of a protected area has been the subject of a successful land claim. The new owners may enter into a co-management agreement with the management authority, which sets the basis for any commercial development to take place. (For example, who will run the tender procedure and adjudicate bids and what standards of conservation will apply.) The agreement will also determine the division of revenue so that the management authority is compensated for costs incurred in managing the land and the owners receive a return from the commercial use of their asset.
2. DWAF wishes to offer houseboat PPP opportunities on a dam. The neighbouring properties are private game farms and their owners have entered into a co-management agreement with the department for conservation purposes. The presence of game adds to the value of the houseboat PPP opportunities, and the private owners will allow access to the dam from their land. The co-management agreement may therefore provide for an appropriate division of revenue from the PPPs between DWAF and the private landowners.

PPPs in relation to other uses of state property and licence systems

The Toolkit gives guidance for PPPs involving the use of state property by private parties for commercial purposes. The Toolkit is not designed to be a guide for all private uses of state property.

A number of institutions apply legislation, regulations and procedures that deal with other uses of state property. For example, such provisions allow members of the public to use state property for recreational purposes or communities to gather natural resources from protected areas. These laws, regulations and procedures are still applicable, whether or not the use of the state property concerned constitutes a PPP.

Some institutions operate licence systems which authorise private individuals to make use of state assets. An example is the licence system operated by DWAF which allows members of the public to make use of dams (for example, to sail a boat on a dam). Licence fees are payable and certain conditions, such as safety and

13. See the guidance on communal and private land in *Getting started: 2. Clarifying some key policy issues*, for how the Toolkit applies to investments by third parties in land that is managed by an institution but is not state land.

which areas can be used, accompany the issuing of the licence. The Toolkit does not replace this licence system. Individuals who use a dam for purely recreational purposes are not subject to PPP regulation but will have to apply to the relevant authority for a licence and comply with its provisions. However, where a private party wishes to conduct a commercial enterprise on a dam (for example, to offer houseboat accommodation to tourists), involving both commercial and use rights, the institution responsible will need to follow the Toolkit in awarding commercial rights in terms of a PPP agreement. Similarly, the private party will also have to apply for a licence for the specific use rights. The licence and PPP agreement therefore work together and complement each other.

THE PPP REGULATORY ENVIRONMENT

The Public Finance Management Act

The PFMA approach to financial management focuses on outputs and responsibilities, and is a cornerstone of government's strategy to improve financial management in the public sector and to ensure that, in spending taxpayers' money, it produces the intended result. The PFMA makes the heads of department of national and provincial departments (the accounting officers) and the boards of schedule 3 public entities (the accounting authorities) responsible for its implementation. They are directly accountable to Parliament or the provincial legislature for the effective and efficient management of their budgets and the state property under their care to achieve their public mandates. These responsible officials need to evaluate constantly value-for-money¹⁴ choices. A PPP choice for the use of state property for private commercial purposes (such as a tourism PPP) warrants this kind of evaluation.

By its nature, a tourism PPP entails:

- leveraging private sector finance and efficiencies
- allocating risks to the party best able to manage them.

The PFMA stipulates¹⁵ (among other obligations) that an accounting officer/authority must:

- ensure that there is an effective, efficient and transparent system of financial and risk management and internal control of these systems
- be responsible for the effective, efficient, economical and transparent use of the resources of the institution
- be responsible for the management, including the safeguarding and the maintenance, of assets of the institution.

The various phases of a PPP are designed to ensure that an accounting officer or accounting authority complies with his or her PFMA obligations. The Toolkit provides specific guidance to an accounting officer/authority in conducting tourism PPPs.

14. See 'Annexure 1: Treasury Regulation 16': 16.1 Definitions.

15. Section 38.

Treasury Regulation 16

Section 76 of the PFMA provides that National Treasury must make regulations for a range of matters to do with the effective and efficient management and use of financial resources. Many of these matters are relevant to PPPs and Treasury Regulation 16 to the PFMA provides precise and detailed instructions for PPPs. Treasury Regulation 16 defines a PPP and sets out the phases and tests it will have to go through.

Treasury Regulation 16 envisages three key tests for a PPP:

- affordability
- value for money
- appropriate risk transfer.

The PPP project cycle, which is clearly set out, involves the following phases:

- inception
- feasibility
- procurement
- PPP agreement management.

Treasury Regulation 16 requires that the relevant treasury give various approvals at certain crucial stages which ensure that the three tests have been passed and that the PPP project cycle has been complied with.

The role of national and provincial treasuries in PPPs

The relevant treasury

At present, all PPP processes and approvals are given by National Treasury. However, Treasury Regulation 16 allows this authority to be delegated to provincial treasuries. Reference is therefore made throughout the Toolkit to the relevant treasury¹⁶ when directing an institution to the PPP approval process to be followed.

The role of National Treasury's PPP Unit

National Treasury has established a dedicated PPP Unit with the following functions:

- to provide technical assistance to institutions embarking on PPPs, throughout the PPP project cycle, to help them achieve a quality PPP project and comply with Treasury Regulation 16
- to recommend to National Treasury whether treasury approvals for the various phases in a PPP project cycle should be granted or declined
- to develop and disseminate PPP policy, manuals, standardisation and sectoral toolkits

16. See 'Annexure 1: Treasury Regulation 16': 16.1 Definitions.

- to disseminate accurate and up-to-date information on PPP projects
- to build PPP capacity
- to build confidence and integrity in South Africa's PPP market.

Where Treasury Regulation 16 approvals are delegated to provincial treasuries, the provincial treasuries will establish similar PPP units. South Africa's PPP policy is reflected in National Treasury's *PPP Manual, Standardised PPP Provisions*, and sectoral Toolkits as updated by National Treasury from time to time, and will continue to apply through the provincial treasuries to all PPPs undertaken in terms of the PFMA.

Institutions to which the Toolkit applies

The Toolkit is issued by National Treasury as a PPP Practice Note in terms of section 76(4)(g) of the PFMA. This Practice Note, which will be updated from time to time, constitutes instructions in terms of section 76 of the PFMA aimed at facilitating the application of the PFMA and its regulations.

Treasury Regulation 16 and this Toolkit apply to national and provincial departments, constitutional institutions, and public entities listed or required to be listed in schedules 3A, 3B, 3C and 3D of the PFMA, and any subsidiary of such public entities which is undertaking or intends to undertake tourism PPPs.

Treasury Regulation 16 does not apply to the major public entities listed in schedule 2 to the PFMA, and therefore the Toolkit does not apply to tourism PPP opportunities that may be offered on property owned by these state-owned enterprises.

The PFMA and Treasury Regulation 16 do not apply to municipalities. The Toolkit therefore does not apply to tourism PPPs on municipal property. Municipal PPPs are conducted in accordance with regulations issued in terms of the MFMA, giving effect to the PPP provisions of the MFMA, the Municipal Systems Act, 2002, and the Municipal Systems Amendments Act, 2003. The PPP Unit will be issuing specific guidance for municipal PPPs.

Other important legislation and regulations

In addition to the PFMA and Treasury Regulation 16 there are many other laws and regulations which are relevant to tourism PPPs. Examples of these are the specific statutes which govern the particular institution (such as the World Heritage Convention Act, 1999, which applies, among others, to the Greater St Lucia Wetland Park; and the Western Cape Nature Conservation Board Act, 1998, which applies to CapeNature). Other statutes are of general application, such as the National Environmental Management: Protected Areas Act, 2003,

as well as a range of heritage and environmental legislation. The Toolkit will provide guidance on applicable legislation as far as possible. However, an institution conducting a PPP must always take cognisance of all applicable legislation.

Tax treatment of PPPs

The Revenue Laws Amendment Act, 2005 provides that improvements to state property that are funded by a private party in a PPP may be written off over the duration of the PPP agreement, and that any residual value at the termination of the PPP agreement may also be written off. Also, where an institution makes a capital grant in a PPP for improvements to the state property, the grant is not treated as private party revenue. These are significant tax benefits in a tourism PPP.



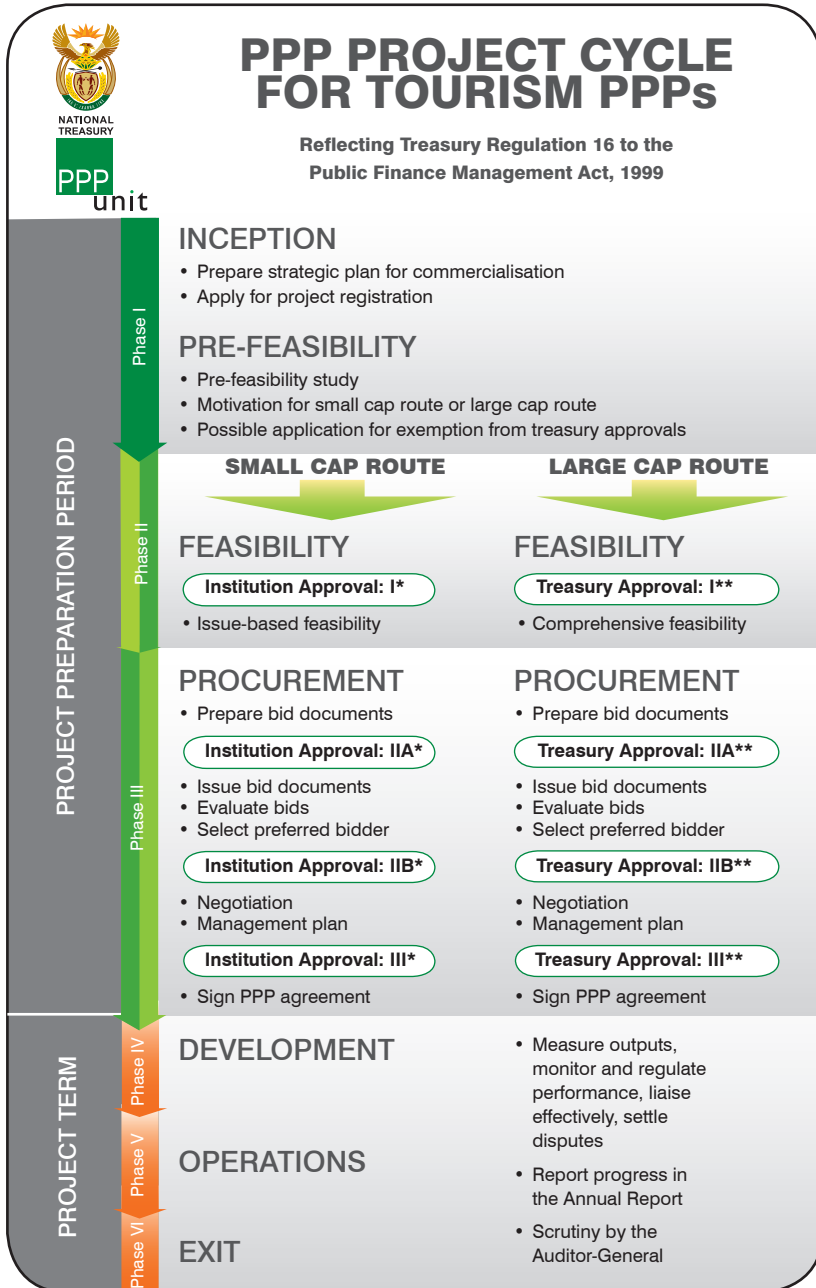
NATIONAL TREASURY

PPP

unit

PPP PROJECT CYCLE FOR TOURISM PPPs

Reflecting Treasury Regulation 16 to the Public Finance Management Act, 1999



* If exemption from treasury approvals is granted.

** Unless exemption from treasury approvals is granted.

THE PROCESS FOR TOURISM PPPs

The Toolkit's approach

South Africa's experience in tourism PPPs to date has shown that:

- for many of the high-value assets that have been developed through tourism PPPs, the current regulations are sound. However, clear guidance is needed on how best to apply these regulations in such tourism PPPs.
- in cases where lower-value assets have been commercialised, the four phases of the PPP project cycle (inception, feasibility, procurement and PPP agreement management) and tests (affordability, risk transfer and value for money) have been applied in complex, expensive and onerous ways. These are not conducive to the SMMEs they are typically seeking to attract. While the cycle and the tests are sound, it is necessary to tailor them to the scale and risk profile of the project.
- conservation institutions manage state assets that could conceivably be used in a wide range of tourism PPPs, but there is no simple fit between each of the categories of tourism products and the type of PPP process to follow. For example, a 120-bed hotel with a capital value of R40 million and a four-bed rondavel with a capital value of R20,000 both fall into the category of tourism accommodation. Activity-based tourism products may vary from a cable car up a mountain to guided walks in a nature reserve.

The Toolkit's approach is therefore that the value of the capital investment to be made by the private party, and an assessment of project risks, should be used by the institution to determine the PPP route to be followed.

Two critical building blocks

- **Strategic fit.** PPPs must always be grounded in the statutory mandate, mission and strategic objectives of the institution, such as its conservation, empowerment and development priorities, and its mandate to ensure a range of visitor experiences. The institution's PPP projects must complement these objectives and be reflected in its reserve management plans or equivalent.
- **Capacity.** Often institutions start PPPs before they have either the internal capacity to manage them or the ability to manage consultants or transaction advisors. This is manifested in poor communication, slow and inconsistent decision-making, and limited commercial insight.

The steps required in the inception phase for the registration of a tourism PPP with the relevant treasury are designed to ensure that institutions have addressed these critical building blocks for successful PPP projects. Guidance is given in Module 1.

The small cap and large cap routes

In order to simplify tourism PPP processes and make them applicable to the range of tourism PPP opportunities, the Toolkit provides for two main scenarios.

- **The small cap route**¹⁷. The business opportunities targeted for these PPPs will be characterised by **relatively small capital investments of up to R10 million, few employees, and relatively low turnover**, typically activity-based or making use of existing infrastructure or requiring relatively small infrastructure investments. The PPP feasibility and procurement mechanisms are therefore simplified, quick and appropriate, and the standard PPP agreement terms are tailored specifically for SMMEs. The purpose is to make these opportunities both attractive and easy to pursue. **Module 2**¹⁸ of the Toolkit deals specifically with the feasibility and procurement phases of the PPP cycle for small cap projects.
- **The large cap route**. The business opportunities targeted will entail sizeable investments in accommodation, retail, restaurants and conferencing (with associated activity-based exclusive components), characterised by substantial private party **capital investment of R10 million or more, sizable turnover, relatively high project risks, and will have suitably long contract periods**. Consequently, the PPP feasibility and procurement mechanisms, and the terms of the PPP agreements provided for these large cap projects in **Module 3**¹⁹ of the Toolkit are robust but clear. The purpose is to make the PPP opportunities attractive to both parties and, at the same time, to provide protection, both for the institution and for the private party, against very costly mistakes.

An institution will therefore have to assess whether the tourism PPP it is planning falls into the small cap or large cap route in order to determine the path it must follow. Guidance for this assessment is given in **Module 1**²⁰.

17. Used throughout the Toolkit for easy reference, the colloquial term 'small cap' stands for 'small capital expenditure' and 'large cap' stands for 'large capital expenditure'.

18. *Module 2: Feasibility study and procurement phases for small cap tourism PPPs.*

19. *Module 3: Feasibility study and procurement phases for large cap tourism PPPs.*

20. *Module 1: PPP inception and pre-feasibility phase for tourism PPPs.*

Take note

The small cap route allows an institution to follow a simpler form of the same PPP project cycle prescribed in Treasury Regulation 16.

Where the institution has the capacity to manage the PPP process – either the small cap route or the large cap route – it may obtain exemption from treasury approvals.

The relevant treasury may, in terms of Treasury Regulation 16.10.1, exempt the institution in advance from having to get the various treasury approvals, provided that the institution can show it has the capacity to manage the process in accordance with the standards set out in Treasury Regulation 16, and will internally apply and monitor the requirements of affordability, value for money and substantial risk transfer in the manner set out in the Toolkit. In the case of such exemption, the institution concerned will run an in-house approvals process that follows the guidelines of the Toolkit.

The Toolkit sets out the criteria for determining whether a particular PPP opportunity falls into the small cap route or large cap route. Exemption from treasury approvals (but with equivalent institution approvals built in) can be obtained for either process if the necessary institutional capacity exists to manage these in-house. There are, therefore, two crucial decisions to be made that determine the process to be followed for a tourism PPP.

- **First, is the PPP opportunity suited to the small cap route or the large cap route?**²¹ This involves an assessment of both quantitative and qualitative factors.
- **Second, has the institution sufficient capacity to conduct the approvals in-house?**²² An institution's capacity and experience in running similar projects will determine whether it will be granted exemption from obtaining treasury approvals for the phases of the PPP project cycle.

21. Guidance on how to assess whether the small cap route should be followed is set out in *Module 1: PPP inception and pre-feasibility phase for tourism PPPs*: Stage 2: Choosing the small cap or large cap route.

22. Guidance on applying for exemption from treasury approvals is set out in *Module 1: PPP inception and pre-feasibility phase for tourism PPPs*: Stage 3: Applying to the relevant treasury for exemption from treasury approvals.

ANNEXURE

ANNEXURE 1

Treasury Regulation 16 to the PFMA

Treasury Regulation 16 constitutes the institution's legal responsibilities in PPPs, in all the phases of the PPP project cycle, providing definitions of key terms.

Annexure

The annexure for this module, listed on the contents page, can be downloaded, in Microsoft Word from the CD accompanying the Toolkit and from the PPP Unit's website, www.ppp.gov.za.