

**NATIONAL TREASURY  
PPP TOOLKIT FOR TOURISM  
MODULE 4:  
MANAGING THE TOURISM PPP AGREEMENT**



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.

## ABOUT THIS MODULE

The PPP agreement has been negotiated and signed. This module sets out key principles and approaches for managing the signed PPP agreement. The principles apply to both small cap and large cap<sup>1</sup> tourism PPP projects, but the extent of the actions to address the principles may vary significantly between the two routes. Project officers must apply the principles in all projects.

PPP agreement management must be on the project officer's agenda throughout the project preparation period (from the inception phase to the signing of the PPP agreement) and be implemented throughout the project term (from the signing of the PPP agreement to its expiry or termination, whichever occurs first). It is a function that features throughout the PPP project cycle.

This module gives guidance on:

- how to develop a PPP agreement management plan
- how to create a comprehensive PPP agreement management manual.

The manual and the plan that guides its use will be the project officer's handbook throughout the project term.

This module has been developed from experience gained in tourism PPPs to date and from applying the generic principles presented in Module 6 of National Treasury's *PPP Manual*, which should be consulted further if necessary.

### Take note

The management of the PPP agreement:

- starts in the inception and pre-feasibility phases of the PPP project cycle
- is designed in detail towards the end of the procurement phase
- is put into practice after the signing of the PPP agreement, for the development, delivery and exit phases.

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1. 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'.



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# THE KEY COMPONENTS OF MANAGING A TOURISM PPP AGREEMENT

## Take note

When using Module 4, refer to the definitions of terms in the template draft PPP agreements in Module 2 (Template 5) and Module 3 (Template 10). Key terms used in this module are defined in the draft PPP agreements.

Public private partnership (PPP) agreement management enables both parties to the contract (the private party and the institution) to meet their respective obligations.

There are three main functions of PPP agreement management in tourism PPPs:

- **partnership management** is concerned with how the institution and the private party relate to one another
- **performance and risk management** is concerned with how the institution and the private party are performing to the standards set in the PPP agreement
- **PPP agreement administration** is concerned with efficient day-to-day financial and administrative systems to support the partnership, and with performance and risk management.

**The central aim of PPP agreement management is to ensure that the project continues to be affordable and provides value-for-money outcomes for the institution, and that the private party continues to manage project risk.**

**Treasury Regulation 16.7.3 of the Public Finance Management Act, 1999 (PFMA) specifically provides that a PPP agreement involving the use of state property by a private party does not divest the accounting officer/authority of the institution of the responsibility to make sure that the property is appropriately protected against forfeiture, theft, loss, wastage and misuse.**

Managing PPP agreements is therefore critical for the success of the PPP. No matter how well the PPP agreement is crafted, there will always be some ‘grey’ areas arising from unforeseen circumstances. The working relationship of the partnership between the private party and the institution is built and developed during the length of the agreement. A good relationship requires fair judgment and a sound understanding of the other party’s goals and constraints.

The performance that the institution is to manage is determined by the specific rights and obligations set out in the PPP agreement and must be explicitly reflected in the institution’s PPP agreement management plan. For

tourism PPPs, the typical performance standards are given in the template PPP agreements provided in the Toolkit<sup>2</sup>. Most of the performance standards, however, will be site-specific and captured in the PPP agreement schedules<sup>3</sup>.

This module gives guidance on how to package these for the purposes of devising a PPP agreement management plan as part of a working manual for PPP agreement management.

### Take note

PPP agreement management starts seriously after the PPP agreement has been signed.

The development phase is the initial period of the agreement, when the private party is constructing and developing the facilities.

The operations phase is the longest portion of the agreement, when the private party is actually operating its business.

The exit phase is the last part of the agreement term, when the private party is getting ready to transfer the site back to the institution.

## Success factors for good tourism PPP agreement management

### A strong project officer

- **Get the right person for the right phase.** The project officer must understand the project very well and must be competent<sup>4</sup>. The same person who undertook the feasibility and procurement phases should implement the project, at least until the institution and private party have settled into a productive relationship. It may be appropriate to introduce a new project officer during the development phase so he or she can take over when construction is finished. Some personality types would rather work under high pressure and in the uncertain environment of feasibility, procurement and construction than build long-term relationships. The exit phase may require a person with more analytical and negotiation skills.
- **Identify training needs.** The project officer must understand the fundamentals of business drivers such as financing, marketing, operations, the legal context and human resources. Training might be required.
- **Delegate appropriately.** The project officer must be delegated authority to manage the PPP agreement with the private party and to address any problems arising from the institution failing to fulfil its obligations.
- **Dedicate project officer time.** The project officer should be focused primarily on the job of managing the institution's PPPs, not diverted to other functions.

2. See *Module 2: Feasibility study and procurement phases for small cap tourism PPPs*: 'Template 5: Draft small cap tourism PPP agreement' and *Module 3: Feasibility study and procurement phases for large cap tourism PPPs*: 'Template 10: Draft large cap tourism PPP agreement'.
3. For example, site development parameters will be addressed in Schedule 1: Works Specifications and Schedule 6: Project Site. Waste management, ecological management, operational activities, and facilities maintenance should be addressed in Schedule 2: Operation and Maintenance Specifications and Schedule 4: Environmental Specifications. BEE commitments will be specified in Schedule 5: BEE Obligations.
4. *Module 1: PPP inception and pre-feasibility phase for tourism PPPs* provides an overview of the desired skills and experience for project officers.

### **The institution must fulfil its contractual obligations**

- **The project officer is responsible for making sure that the institution fulfils its obligations as set out in the PPP agreement.** Often other officials will be responsible for the delivery of services or conditions specified in the agreement (such as the maintenance of roads or support infrastructure, or taking care of conservation issues). The project officer must monitor and address any ways in which the institution is not observing the agreement.
- **The project officer must know the PPP agreement thoroughly and apply it continually to make sure that the agreement objectives and details are being implemented.** The PPP agreement defines the rights and obligations of each party. The project officer must implement both the letter and the spirit of the agreement.
- **The project officer must monitor private party performance and apply the contractual measures for underperformance.** The private party must be held accountable if its obligations are not fulfilled. If the project officer is lax and does not make sure that the private party is called to account, all the effort to negotiate an acceptable PPP agreement for the institution will have been wasted. The agreement is only as good as its implementation.

### **The project officer must be proactive**

- **The project officer must be proactive in identifying and addressing potential problems without micro-managing aspects that are not within his or her jurisdiction or amount to taking project risk back from the private party.** The project officer must respect that the development and operations specified in the PPP agreement are managed and reported on by the private party, which requires a relatively hands-off, but tentatively watchful approach by the institution.

### **The project officer must build relationships**

- **The project officer must build a relationship of trust and respect with the private party without compromising the intended objectives of the project.** This can sometimes be very difficult, but can be resolved if the project officer seeks to understand fully the private party's view, is principled without being dogmatic, firm but not inflexible, and is proactive and communicates effectively. The project officer builds trust and credibility with the private party by undertaking his or her duties efficiently and effectively. The project officer needs to demonstrate that the institution applies the same standards to its own performance as it does to that of the private party.
- **The project officer should build relationships with stakeholders, especially local communities.** Third parties and associated parties can significantly affect the private party's performance. The project officer needs to be fully aware of the issues and which stakeholders they affect, setting up good communication channels with the identified players. By being proactively involved, while keeping within the appropriate boundaries, the project officer may be an important agent in conflict resolution.

### **Good multi-way communication**

- **Clear communication channels must be defined.** At all times, there must be direct communication access between the project officer and private party management.
- **Regular communication forums are required.** These should be held at least monthly, and decisions and discussions must be minuted. These forums should be used to inform the institution and private party of their respective plans and operational activities. For example, the private party needs to be informed of the institution's ecological plans for the year, as they may directly affect the private party's operations (for example, a planned burning programme in an area where the private party is operating).

### Key procedures

- **Developing appropriate procedures to receive, manage and distribute the PPP fees paid by the private party.** The PPP agreement defines how the PPP fee is calculated and when it is due. The project officer must make sure that the PPP fees are invoiced and paid within the specified time limits. All receipts and payments must be traceable and in line with the PPP agreement.
- **Developing appropriate measurement systems for tracking non-financial aspects such as black economic empowerment (BEE) and environmental impacts.** The PPP agreement may make provision for independent monitors for these aspects. In all cases, the private party has strict reporting obligations, and the institution must study the reports carefully and take corrective action where necessary in terms of the PPP agreement.

### Setting up a PPP division if there are a number of PPPs

- If the institution is involved in a number of PPP projects, it is recommended that a PPP division be set up. Ideally, members will specialise in specific areas of PPP agreement management.

### Using independent experts

- An independent expert can be invaluable to the partnership, offering objectivity and skills. For example, independent environmental officers have been used very successfully on projects that require construction work in ecologically sensitive areas.

### Developing documented guidance for applying the agreement

- The management plan should be updated regularly and is the primary tool for informing the institution's staff of their roles and responsibilities. The plan should clearly set out who is responsible for what. For example, to monitor the water use standards, responsibility may be assigned to a ranger in the reserve to measure a water tank level once a month.

### Managing possible amendments and variations

- The PPP agreement may need to be amended or aspects re-negotiated to cater for any unforeseen circumstances that arise during the project term. This can be problematic as it creates an opportunity for deviating from the performance standards and risk profile specified in the procurement phase. If the proposed changes are material, they are subject to approval in terms of Treasury Regulation 16.8 (unless the institution has obtained exemption from such approval, in which case it requires a formal institutional approval). Any variation of a PPP agreement must continue to meet affordability, value-for-money and risk transfer requirements.

# MANAGING THE TOURISM PPP AGREEMENT THROUGHOUT THE PPP PROJECT CYCLE

PPP agreement management begins in the inception phase, establishes its building blocks during the pre-feasibility and feasibility phases, is planned in detail during the procurement phase, and is implemented in the development, operations and exit phases.

The following extracts from Treasury Regulation 16 to the PFMA show the importance of PPP agreement management at each of these phases of the PPP project cycle.

## Take note

The project officer must develop and compile auditable records that address the phased regulatory requirements for PPP agreement management.

## Extracts from Treasury Regulation 16 to the PFMA

*“Project officer” means ... a person identified by the accounting officer or accounting authority of an institution, who is capable of managing and is appropriately qualified to manage a PPP to which that institution is party from its inception to its expiry or termination.*

### 16.3 Project inception

16.3.1 *As soon as the institution identifies a project that may be concluded as a PPP, the accounting officer or accounting authority must in writing ...*

*(c) appoint a project officer from within or outside the institution ...*

### 16.6 Contracting PPP agreements – Treasury Approval: III

16.6.1 *After the procurement procedure has been concluded but before the accounting officer or accounting authority of an institution concludes a PPP agreement, that accounting officer or accounting authority must obtain approval from the relevant treasury ...*

*(b) for a management plan that explains the capacity of the institution, and its proposed mechanisms and procedures, to effectively implement, manage, enforce, monitor and report on the PPP ...*

### 16.7 Management of PPP agreements

16.7.1 *The accounting officer or accounting authority of the institution that is party to a PPP agreement is responsible for ensuring that the PPP agreement is properly implemented, managed, enforced, monitored and reported on, and must maintain such mechanisms and procedures as approved in Treasury Approval: III for –*

*(a) measuring the outputs of the PPP agreement;*

- (b) *monitoring the implementation of the PPP agreement and performances under the PPP agreement;*
  - (c) *liaising with the private party;*
  - (d) *resolving disputes and differences with the private party;*
  - (e) *generally overseeing the day-to-day management of the PPP agreement; and*
  - (f) *reporting on the PPP agreement in the institution's annual report.*
- 16.7.2 *A PPP agreement involving the performance of an institutional function does not divest the accounting officer or accounting authority of the institution concerned of the responsibility for ensuring that such institutional function is effectively and efficiently performed in the public interest or on behalf of the public service.*
- 16.7.3 *A PPP agreement involving the use of state property by a private party does not divest the accounting officer or accounting authority of the institution concerned of the responsibility for ensuring that such state property is appropriately protected against forfeiture, theft, loss, wastage and misuse.*

### **16.8 Amendment and variation of PPP agreements**

- 16.8.1 *The prior written approval of the relevant treasury is required for any material amendments to a PPP agreement including any material variations to the outputs therein, or any waivers contemplated or provided for in the PPP agreement.*
- 16.8.2 *The relevant treasury will approve a material amendment only if it is satisfied that the PPP agreement, if so amended, will continue to provide –*
- (a) *value for money;*
  - (b) *affordability; and*
  - (c) *substantial technical, operational and financial risk transfer to the private party.*
- 16.8.3 *The accounting officer or accounting authority must substantially follow the procedure prescribed by regulations 16.4 and 16.6 for obtaining such treasury approval.*

## **Preparing: before the agreement is signed**

### **The inception, pre-feasibility and feasibility study phases**

These span the period from the inception of the project by the institution until it has obtained Treasury Approval: I (TA:I) or Institution Approval: I<sup>5</sup> (IA:I) for the feasibility study.

Effective PPP agreement management can be established by the institution during these phases by:

- appointing a competent project officer
- setting budgets for managing the PPP agreement
- interrogating the institution's management plans and other plans to identify the full implications of the PPP for the institution
- identifying the support infrastructure needed and the resulting maintenance costs
- calculating costs to ensure that the minimum PPP fee covers the institution's costs of managing and fulfilling its obligations
- building support among internal and external stakeholders
- specifying the performance standards clearly
- ensuring very clear statements of value-for-money objectives, affordability limits, and project risks.

### **The procurement phase**

This covers the period from when the institution has obtained TA:I or IA:I to the signing of the PPP agreement, including all the steps preceding TA:II or IA:II and TA:III or IA:III before the signing of the PPP agreement.

In the procurement phase the project officer prepares for PPP agreement management by:

- ensuring that the bid documents reflect precisely the project's required performance standards, value-for-money objectives and risk allocation expectations
- developing a PPP agreement management plan confirming the institution's capacity to effectively 'implement, manage, enforce, monitor and report on the PPP'<sup>6</sup> for TA:III or IA:III. (The recommended contents of a tourism PPP agreement management plan are set out in Figure 4.1.)

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5. Detailed guidance for obtaining TA:I and IA:I is given in Modules 1, 2 and 3.

6. As per Treasury Regulation 16 to the PFMA.

## **Managing: once the agreement has been signed**

### **The development phase**

This phase begins once the PPP agreement has been signed and continues until the independent certifier signs the completion certificate (if necessary) and operations start. It includes the private party moving onto the site, and, depending on the nature of the project, typically involves facilities design, construction and the commissioning of goods and equipment.

Critical milestones prescribed in the template tourism PPP agreements for the development phase include: signature date, works, completion certificate, scheduled operations commencement date, and long-stop date.

The project officer's role during this phase includes:

- monitoring the institutional and private party obligations in terms of the PPP agreement, specifically in respect of the commencement and completion of the works
- acting as the day-to-day link between the private party and the institution, and providing the accounting officer/authority with regular reports
- acting as the institution's representative in assessing applications for any relief or compensation events, with delegated authority to agree to changes arising from relief events
- managing the consequences of private party default precisely as specified in the PPP agreement.

### **The operations phase**

This refers to the period of tourism operations for the project term. The PFMA requires annual reporting on the agreement.

The project officer's duties include:

- monitoring that all the private party's performance standards and obligations set out in the PPP agreement are fully complied with
- making sure that all the institution's obligations set out in the PPP agreement are fully complied with
- building the relationship between the institution and the private party and making sure that there is good, ongoing communication
- granting institutional approval for operations and maintenance to begin
- ensuring that PPP fees are paid correctly and on time
- receiving and evaluating the private party's reports as per reporting obligations in the PPP agreement
- managing relationships with internal and external stakeholders
- managing dispute resolution.

## **The exit phase**

This phase covers the end of the project term, or when the contract is terminated prior to the expiry date. The private party's operations are wound up and the institution makes new financial and contractual arrangements for the use of the state property. The handover should cause minimal disruption, especially for institutional employees and future clients.

The project officer's duties include:

- undertaking a feasibility study and completing the procurement phase for a new PPP, if appropriate
- checking that the private party has complied with its obligations, specifically, reviewing the quality of facilities maintenance, and drawing on the final bond if necessary to rectify any maintenance defects
- ensuring that there is a firm plan in place for the management of the site from the expiry date, ideally managing the handover of the site to the next private party which has signed a new PPP agreement.

## THE PPP AGREEMENT MANAGEMENT PLAN

### Extract from Treasury Regulation 16 to the PFMA

#### 16.6 Contracting PPP agreements – Treasury Approval: III

16.6.1 After the procurement procedure has been concluded but before the accounting officer or accounting authority of an institution concludes a PPP agreement, that accounting officer or accounting authority must obtain approval from the relevant treasury ...

(b) for a management plan that explains the capacity of the institution, and its proposed mechanisms and procedures, to effectively implement, manage, enforce, monitor and report on the PPP ...

The institution must demonstrate in its TA:III or IA:III application that it has the capacity to manage the PPP agreement. This capacity must be detailed in the PPP management plan. The plan will be very similar for both small and large cap tourism PPP projects, although the scope and details will vary.

The tourism PPP agreement management plan should be compiled according to the following structure.

Figure 4.1: Template PPP agreement management plan

Sections	Summary of contents
<b>1. Purpose and approach</b>	<ul style="list-style-type: none"> <li>• Purpose of the PPP agreement management plan</li> <li>• Partnership principles (corporate governance, communication and information, relationship management, trust and attitudes, dispute management)</li> <li>• Benefits of a successful partnership to the institution and the private party</li> <li>• The institution's approach to PPP agreement management</li> </ul>
<b>2. Value-for-money objectives</b>	<ul style="list-style-type: none"> <li>• Summary of project's value-for-money objectives and how these are expected to be achieved with the private party</li> </ul>
<b>3. Partnership management</b>	<ul style="list-style-type: none"> <li>• Partnership management plan (to manage the partnership principles identified in section 1)</li> </ul>
<b>4. Risk and performance management</b>	<ul style="list-style-type: none"> <li>• Risk management plan</li> <li>• Performance management plan</li> </ul>
<b>5. PPP agreement administration</b>	<ul style="list-style-type: none"> <li>• Plan for variation management, agreement maintenance, and financial administration</li> </ul>
<b>6. Exit strategy</b>	<ul style="list-style-type: none"> <li>• Options and procedures for continuing operations after termination/expiry based on the provisions of the PPP agreement</li> </ul>
<b>7. Implementation plan</b>	<ul style="list-style-type: none"> <li>• Table for each phase, identifying key tasks, target dates, responsibilities and the institution's budget</li> </ul>

## Section 1: Purpose and approach

The purpose of the plan, partnership principles, benefits of a successful partnership to both parties, and the institutional approach to PPP agreement management must be addressed in this section.

The five key principles of partnership management are:

- **corporate governance:** this comprises structures, systems, policies and other mechanisms of accountability within the institution
- **trust and attitudes:** while contractual and commercial arrangements may lay the basis for a partnership that is built on common objectives and shared rewards, trust is a key feature of a successful partnership. The behaviour of individuals in a contractual relationship is a reflection of their attitudes, and the right attitudes will lead to the right behaviour
- **communication and information sharing:** good communication and systematic information sharing is fundamental to the partnership
- **relationship assessment:** a way of assessing the non-financial performance aspects of the partnership between the institution and the private party should be put in place. External parties can be contracted to give this assessment
- **dispute resolution:** the PPP agreement sets out the dispute resolution process to be followed. But one of the main goals of the project officer should be to anticipate and prevent disputes from arising.

## Section 2: Value-for-money objectives

The plan must summarise the value-for-money objectives that were established in the feasibility study and specified in the bid documents. It must then indicate how these are likely to be fulfilled by the private party according to the commitments made in the PPP agreement. Figure 4.2 is an example of how this can be done.

Figure 4.2: Example summary of how the private party will fulfil the value-for-money objectives

Value-for-money objective	Private party commitment
To increase revenue to the institution	Minimum PPP fee: Rx per annum Variable PPP fee: x per cent revenue per annum
To create jobs	x number of construction jobs during the development period x number of permanent jobs during the operating period

### Section 3: Partnership management

The key principles of partnership management have been set out in Section 1. This section must set out the practical steps that will be taken to give effect to these principles, specifically:

- how decisions affecting the PPP will be taken in the corporate governance structures of the institution and how these decisions are communicated to the private party
- whether any particular steps need to be taken to build trust between the institution's staff and the private party and between the private party and other stakeholders
- what formal and informal communication channels will be set up, what meetings are needed between the parties and how often they will be held
- whether a periodic review of the relationship will be conducted by an independent party and on what terms
- the formal mechanisms by which disputes will be managed between the parties.

PPP agreements are managed not only by the agreement but also through a respectful relationship between the parties on a day-to-day basis. Infrequent and informal interaction will not prove successful. Sufficient time and resources must be budgeted for the necessary senior managers to participate when needed. Any potential damage to the relationship, and possible legal consequences, must be considered when relationship management is left to junior officials.

#### **The parties need to share a common goal, recognise 'own goals'**

**For a PPP to function effectively the private party and the institution must both strive towards a common goal of creating a sustainable business.**

To achieve this, both parties may need to build the brand of the nature reserve and to improve the visitor enjoyment of the reserve. But each party will have different 'own goals' within this common goal. For example, the private party needs to service its debt and make a return on equity for its shareholders, while the institution wants to protect biodiversity and effect socio-economic development. The common goal must be kept in sight constantly by both parties in all dealings, with an appreciation of the other party's 'own goals'. This becomes especially important when dealing with variations to the PPP agreement.

## **Section 4: Risk and performance management**

### **Risk management**

This involves keeping the exposure of the project to any potential threats at an acceptable level by taking appropriate action.

Risk is the essence of all business relationships. An understanding of the risk each party is taking will help to build a good working relationship. Although one party may be taking the risk, the management of this risk is often contingent on the other party fulfilling its obligations. The private party invests in the reserve, but for the business to be successful, the reserve must be well run and managed.

Reward must be commensurate with the risk the parties are bearing. Typically, private parties that are absorbing high risk will expect higher returns. The management plan must identify these high-risk elements. It must focus on how they will be managed in the relationship.

The project officer must list the potential risk events, drawing on the risk matrix established in the pre-feasibility study<sup>7</sup>. The probability of any of the risk events happening should be stated, as well as the consequences for the institution should a risk event occur. The effects on the institution must be measured against the value-for-money objectives of the PPP. There should be contingency plans for risks with significant consequences.

For example: The risk of the private party not paying the PPP fee. This may have significant consequences for the institution's management of the reserve in which the tourism project is situated. But there may be a low probability that it will occur. Importantly, the institution can mitigate the risk by putting in place measures to predict it. The private party's reporting obligations are the institution's early warning system. If the business shows consistently low occupancies, low revenue and high costs, it is likely to be in trouble. The project officer can discuss this with the private party's management before a default occurs and establish what is being done to turn the business around. If the private party defaults, the institution will not only suffer the loss of PPP fee income it will incur additional costs in the dispute and termination process. It is in the interests of both parties to act early to rectify the problems.

Once a default occurs the steps set out in the PPP agreement must be taken, giving the private party opportunities to rectify the default, and proceeding with termination of the PPP project if it fails to do so.

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7. See *Module 1: PPP inception and pre-feasibility phase for tourism PPPs*: PPP Pre-feasibility: Stage 1.

Figure 4.3 is an example of how to tabulate each identified risk in order to anticipate the consequences of a risk arising and put mitigation measures in place.

**Figure 4.3: Example of how to tabulate risks, their consequences, and mitigation measures**

Risk event	Probability of occurrence	Consequences of occurrence	Early warning indicators	Private party mitigation	Institutional mitigation	Process to follow if risk event occurs
Non-payment of PPP fees.	Low.	Significant, with increased costs to the institution and the possible termination of the PPP agreement.	Declining profitability of business. Poor occupancies. Poor levels of service.	Management measures. Insurance.	Close monitoring of private party reports. Visitor surveys. Ensure remedy periods are used effectively.	Notice to rectify failure. Fast track dispute. Notice of termination. Remedy period. Termination.

## Performance management

This involves making sure that the performance standards set out in the PPP agreement are met<sup>8</sup>. Site-and project-specific issues should be added by the project officer.

Monitoring is largely the private party's responsibility, and reports are provided to the institution on a regular basis as specified in the PPP agreement. The project officer will need to set up periodic checks on these reports. To keep track of performance it is essential to list the performance standards of the agreement and identify which will require specific monitoring, and by whom. Performance management checklists will need to be drawn up, reviewed and updated continually as performance levels change over time and a better understanding develops between the parties.

8. These performance standards are specified in the template PPP agreements and their schedules in *Module 2: Feasibility and procurement phases for small cap tourism PPPs*: 'Template 5: Draft small cap tourism PPP agreement' and *Module 3: Feasibility and procurement phases for large cap tourism PPPs*: 'Template 10: Draft large cap tourism PPP agreement'.

## Section 5: PPP agreement administration

PPP agreement administration involves setting up administrative processes to make sure that all the procedures and documentation relating to the PPP agreement are effectively managed on a day-to-day basis.

The three main categories of PPP agreement administration are:

- **financial administration:** establishing systems and procedures to make and receive financial payments and to keep accurate records of financial transactions
- **PPP agreement maintenance:** making sure that all project documentation is consistent, up-to-date and accessible, and that actions are taken timeously to fulfil the administrative requirements of contractual obligations. Constant updating of the PPP agreement management manual is essential
- **variation management:** creating mechanisms to enable changes to the PPP agreement to be made, if necessary. Variations may involve changes to the works or performance standards. The relevant treasury must be notified of all material amendments and variations before they are implemented. Variations that will have an impact on affordability, value for money, or risk transfer will require treasury approvals in terms of Treasury Regulation 16 to the PFMA, or formal institutional approvals if an exemption from treasury approvals has been granted.

Details of staff or experts who have been contracted to undertake the different activities must be provided in this section. This should include CVs that show their relevant experience.

## Section 6: Exit strategy

The exit strategy should include:

- a list of the options for continued operations after the expiry of the PPP agreement term
- measures to monitor facilities and maintenance standards in the final years of the project term
- ensuring that the final bond is instituted by the private party as required in the PPP agreement
- procedures to be adopted for a smooth transition to new operations
- roles and responsibilities in the transition.

## Section 7: Implementation plan

The implementation plan should set out in detail every task that the project officer or other staff in the institution need to carry out in each phase of the project term. It will need to be updated regularly.

Figure 4.4: Template PPP agreement implementation plan

Key tasks (examples)	Target date	Responsibility	Institution budget
<b>1. Development phase</b> Approve appointment of independent certifier	Within one month of signature date	Project officer	Rx' 000
Upgrade access road to agreed standard	(x day x month)	Reserve manager	Rx' 000
Receive completion certificate and snag list	(x day x month)	Project officer	–
Hold meetings with private party	Last Friday of each month	Project officer and reserve manager	–
<b>2. Operations phase</b> Give approval for the private party to begin operations	(Scheduled operation commencement date)	Project officer	
Receive and study private party reports	Monthly	Project officer and reserve manager	–
Hold meetings with the private party	Last Friday of each month		
Monitor water consumption		Reserve manager	Rx'000
Arrange game stocking to agreed levels	Monthly (x month) per annum		
<b>3. Exit phase</b> Feasibility study for new PPP Procurement for new PPP Facilities maintenance inspection Check final bond	(2 years prior to expiry date)	Project officer	Rx'000

The permanent staff involved in these tasks must be identified and their level of input must be specified and reflected in their annual performance agreements. A short CV for each staff member and his or her position within the organisation can be supplied with the management plan. An organogram may help to show how the organisation is structured and how the reporting relationships will function. It is important that the project officer manages the interaction between the staff members for the implementation plan.

Building on the feasibility study's calculation of the institution's cost of PPP management, key staff time and overhead costs to PPP management need to be updated. A medium-term expenditure framework budget for internal management and monitoring purposes is necessary.

## Development phase<sup>9</sup>

It is during this phase that problems can escalate fast and environmental and social impacts can deviate from what was agreed, through deliberate avoidance, neglect, or unforeseen circumstances. Although it is the job of the independent certifier to confirm whether or not the works comply with the specifications agreed between the parties, the institution must keep track of how the works are progressing. A sound communication system must be put in place at the outset, both between the private party management and the project officer, and also within the institution, so that all staff know what is expected of them and how they should deal with problems that arise. Relief events and compensation events in this period need to be very carefully managed by the project officer, as set out in the PPP agreement.

### **The time line for tourism PPP agreement management in the development phase**

The time line for this phase is explicitly stated in the PPP agreement. For large cap tourism projects it starts with the signature date and is completed at the scheduled operations commencement date. It may extend, however, to the long-stop date. If the independent certifier has not issued the completion certificate by the long-stop date, the PPP agreement may be terminated by the institution. The independent certifier must be approved by the institution. During the development phase the private party must maintain a performance bond in favour of the institution.

## Operations phase<sup>10</sup>

The start of the operations phase is also demanding of time and resources. For the institution to establish a relationship with the private party and develop optimal processes typically takes from one to three years, depending on the type and nature of the PPP and the development, and the institution's experience in managing PPPs.

### **The time line for PPP agreement management in the operations phase**

Operation begins on the operation commencement date when the certificate of completion has been issued and the institution has granted approval for the private party to undertake operation and maintenance.

9. The draft tourism PPP agreements use the term 'development period'.

10. The draft tourism PPP agreements use the term 'operations period'.

The initial stages of the operations phase are important as they set the tone for the rest of the project. If management is lax it is often difficult to tighten it later.

### Exit phase

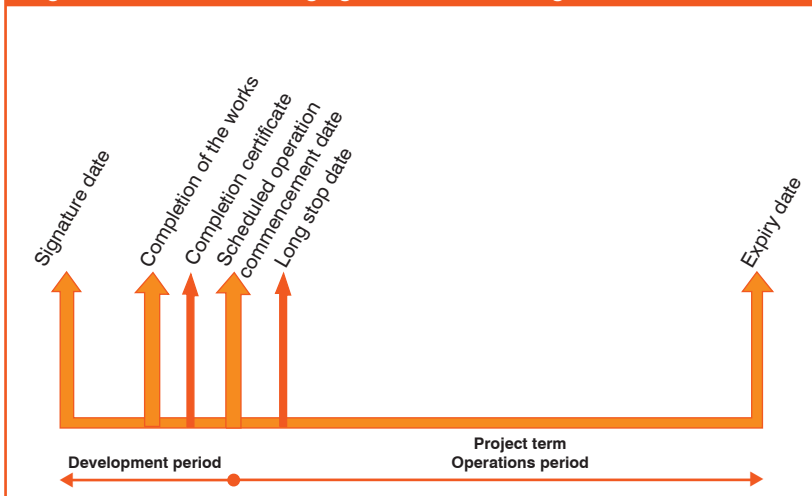
If the private party or institution terminates the PPP early, or if it has run its full project term, this phase will require additional input. The monitoring of the standards of the business and the infrastructure, in particular, needs to be increased to make sure that assets do not deteriorate. A feasibility study for a new PPP may be appropriate and should be done at least two years before the expiry date of the previous agreement, followed by procurement.

#### The time line for PPP agreement management in the exit phase

The private party is required to obtain a final bond in a specified amount, at a specified date in the final years of the PPP agreement. This is to incentivise the private party to maintain the facilities in excellent condition until the expiry date. If the private party fails to do so, the institution may call the bond to remedy the maintenance shortfall.

The exit phase will start at a date that allows the institution enough time to prepare to rebid the site or make alternative arrangements. A description of the options that are available to the institution at the expiry date should be listed in the PPP management plan. The impacts on staff, the environment (if any structures are to be removed or decommissioned), and the institution must be considered. It is likely that for most opportunities the site will be rebid and continually upgraded for tourism. PPP fees and other conditions may change in the new procurement.

Fig 4.5 Time line for managing the tourism PPP agreement



## THE PPP AGREEMENT MANAGEMENT MANUAL

The tourism PPP management manual is a physical and electronic compilation of all the documents relating to the PPP agreement. It is a living resource for the institution, and must be updated constantly by the project officer. New PPP management staff or the office of the Auditor-General should be able to familiarise themselves with the full background to the agreement by studying the manual. It should accurately reflect, therefore, the history that has informed the working relationship between the private party and the institution.

### Contents of the PPP agreement management manual

- the strategic plan for commercialisation
- the pre-feasibility study report
- all Treasury Regulation 16 compliance documentation, such as that for project registration, exemption approvals (if applicable), and all treasury approvals or institutional approvals (as applicable)
- the feasibility study report, including the business model
- the bid documents (the request for qualifications, the request for proposals and the draft PPP agreement) issued by the institution
- the memoranda of understanding with development financing institutions, other financing institutions and support organisations
- the preferred bidder's bid submission and all related correspondence
- the record of the bid evaluation
- the value-for-money report on the preferred bid
- the final, signed PPP agreement and all schedules to the PPP agreement
- all financing agreements
- the PPP agreement management plan
- variations to the PPP agreement, if any
- the names and roles of all contact people in the institution, private party, third parties, and key external stakeholders
- all contractual correspondence
- any other important documentation supporting the PPP agreement.

## SUMMARY OF KEY INSTITUTIONAL ROLES AND RESPONSIBILITIES IN PPP AGREEMENT MANAGEMENT

National Treasury's *PPP Manual* provides a framework and principles for managing PPP agreements<sup>11</sup>. A critical aspect of effective PPP agreement management for the institution is to clarify the roles and responsibilities of key individuals. Ambiguity about the functions of important players in PPP agreement management can lead to unnecessary delays and disputes. The primary figures involved in PPP agreement management in the institution are the accounting officer/authority and the project officer.

### **The accounting officer/authority's roles and responsibilities**

In relation to PPP agreement management, the main responsibilities of the accounting officer/authority are to:

- mobilise support for the PPP project among politicians and other key stakeholders
- appoint a project officer as soon as the institution identifies a possible PPP, as required by Treasury Regulation 16.3.4 to the PFMA
- get all necessary treasury approvals as per Treasury Regulation 16 to the PFMA, or execute the approvals internally, if exempted from obtaining treasury approvals
- sign the PPP agreement
- provide executive commitment to sound partnership management
- delegate the necessary powers to the project officer for the management of the PPP agreement
- resolve any disputes the project officer is unable to settle
- provide financial oversight and ensure that the PPP project continues to operate in the public interest
- ensure that institutional functions are effectively and efficiently performed in the public interest or on behalf of the public service
- ensure that the state property is protected from forfeiture, theft, loss, wastage and misuse
- ensure that the PPP agreement is properly enforced
- report on the management of the PPP agreement in the institution's annual report.

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11. See National Treasury's *PPP Manual: Module 6: Managing the PPP Agreement*.

## **The project officer's responsibilities**

While the PPP agreement will determine the legal and contractual obligations of the parties, the project officer will be required to exercise skill and judgment to protect the institution's interests effectively. In addition, he or she will be responsible for hiring a team with the technical know-how to manage the interests of the institution properly, as set out in the PPP agreement.

The project officer's main responsibilities in relation to managing the PPP agreement are to:

- manage the project on behalf of the institution, exercising delegated authority
- make sure that the PPP project continues to be affordable, that it provides value for money, and that risk is appropriately allocated
- monitor the fulfilment of all private party obligations
- ensure that the institution fulfils its obligations
- build a strong partnership and good working relations with the private party
- prevent and resolve disputes
- manage the consequences of private party defaults and institution defaults precisely as specified in the PPP agreement
- manage all financial and administrative systems required for the PPP
- manage the implementation of approved variations
- report on the management of the PPP agreement, among others, for the institution's annual report, and for the Accountant-General, the Auditor-General and any other government regulator.

