



USAID | **SOUTH AFRICA**
FROM THE AMERICAN PEOPLE

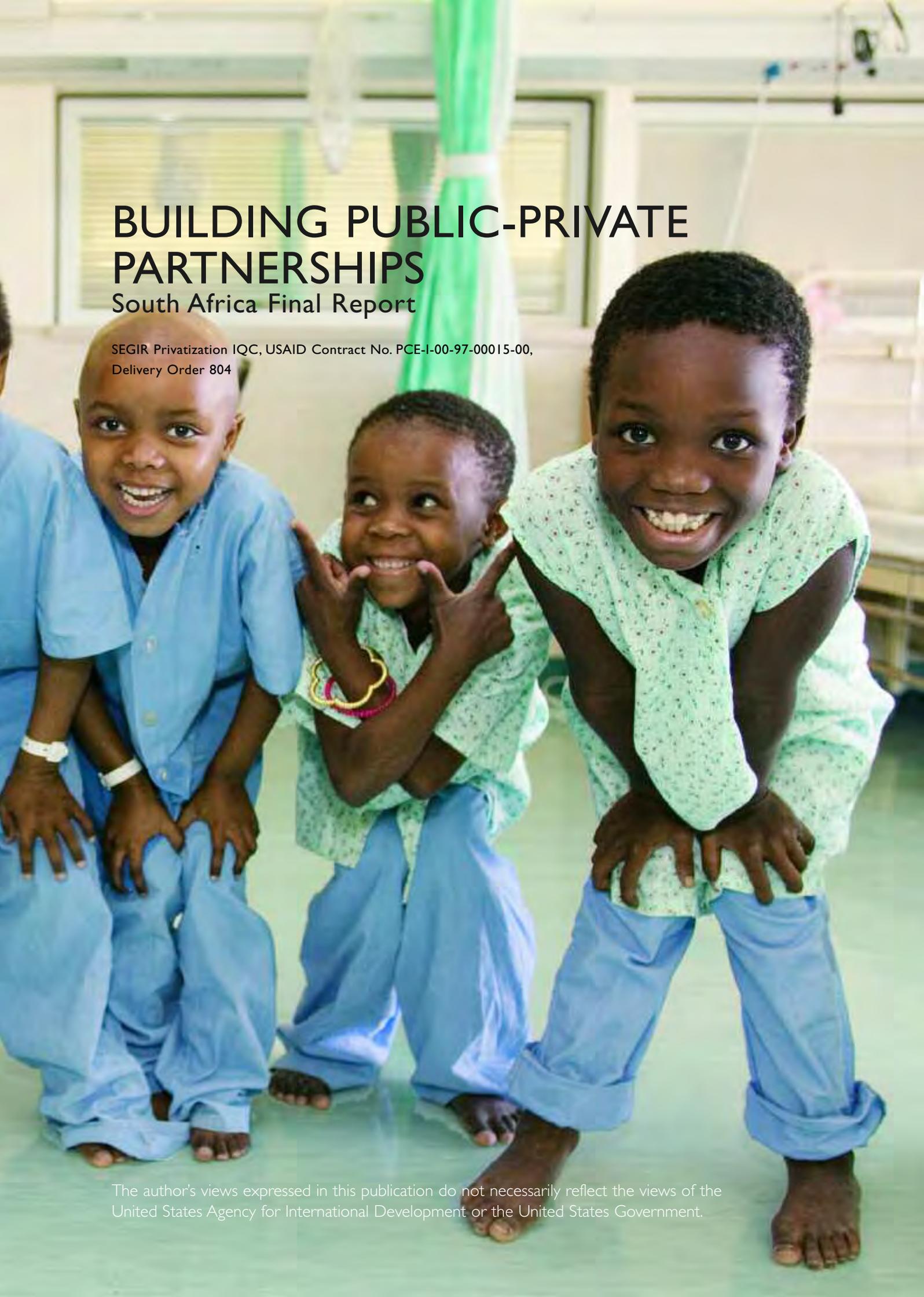
BUILDING PUBLIC-PRIVATE PARTNERSHIPS

South Africa Final Report

DECEMBER 19, 2005

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A photograph of three young children in a hospital room. They are wearing light blue hospital gowns. The child on the left is smiling broadly. The child in the middle is also smiling and making a playful gesture with their hands. The child on the right is leaning forward, smiling, and making a similar gesture. The background shows hospital beds and a window with green curtains.

BUILDING PUBLIC-PRIVATE PARTNERSHIPS

South Africa Final Report

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LEFT: Construction of the Department of Trade and Industry (dti) campus has helped improve the capacity of black-owned businesses, revitalized parts of Pretoria, and saved the government money.

INSIDE FRONT COVER: The Inkosi Albert Luthuli Central Hospital (IALCH) in Durban, which opened in 2002, through a management and operation public-private partnership, offers services to all patients, including those who are unable to pay.

FRONT COVER: The dti campus in Pretoria is one of southern Africa's flagship campuses and won *Euromoney* magazine's Deal of the Year award in 2003.



South Africa has a wealth of natural and human assets to use in securing a sound economic future for the country.

INTRODUCTION

South Africa is at the forefront of developing public-private partnerships (PPPs) for the provision of government services. By promoting efficient and competitive public service delivery, PPPs are viewed as the key to reaching disadvantaged populations while minimizing costs to the government, shifting risk to the private sector, and enabling national, provincial, and municipal governments to concentrate on their core missions. The South Africa Public-Private Partnership project (officially known as the “Support to Establish the Department of Finance Public-Private Partnership Unit to Implement the National and Provincial Public-Private Partnership Policy and Regulations”), was supported by USAID from its inception.

The PPP Unit defined the legal requirements for PPPs, designed an organizational plan and implementation structure for the PPP Unit, prepared guidelines on the various regulatory requirements, and built a portfolio of transactions. It also launched a highly effective stakeholder awareness campaign to educate the private sector in procurement requirements.



PPPs are powerful new tools in South Africa to tackle poverty and enhance public service delivery. They span a broad range of sectors, including transportation, health care, education, and information technology.

CHAPTER ONE

BUILDING PUBLIC-PRIVATE PARTNERSHIPS

In 1994, apartheid ended in South Africa and the country became a constitutional democracy. With a multiethnic population of nearly 47 million, growing at about 1 percent every year, South Africa has strong financial markets and competitive commerce and industry.¹ Despite these strengths, the country also inherited severe disparities in citizen's rights, wealth, and skills, and a services infrastructure backlog of significant proportions. The official unemployment rate is 31 percent (nearly 37 percent for black South Africans), and more than 30 percent of the total population lives on less than US\$2 per day. Nearly 2.4 million South Africans do not have access to proper housing, and more than 13 percent do not have access to clean water

(closer to 17 percent for black South Africans).²

Over the last 10 years, the South African government has enacted 800 new laws in an attempt to address inequities. It has also explored ways to access private capital and expertise to help define and strengthen the institutions responsible for providing government services at the national, provincial, and municipal levels.

THE BIRTH OF PUBLIC-PRIVATE PARTNERSHIPS

One of the South African government's primary objectives has been to deliver high-quality basic services to historically underserved areas. Another major concern has been to ensure greater racial diversity in the government and the private

1. Population Reference Bureau, 2005 World Population Data Sheet

2. USAID, see <http://www.usaid.gov/policy/budget/cbj2005/afr/za.html>, PRB, and World Bank 2005, see http://devdata.worldbank.org/AAG/zaf_aag.pdf

SOUTH AFRICA AT A GLANCE

Social Indicators

Population: 46.9 million
Infant mortality rate: 43/1000
Life expectancy at birth: 52
Per capita income: US\$10,960
Population ages 15 to 59 with HIV/AIDS: 21.5 percent
Population living below US\$2 per day: 34 percent

Economic Indicators

Country credit rating, S&P: BBB
GDP 2004: US\$1,213 billion
GDP growth forecast/2005:
4.4 percent
Actual GDP growth/2004:
3.7 percent
Budget deficit 2004/05:
2 percent of GDP
Projected budget deficit
2005/06: 2.8 percent of GDP
Exchange rate: Rand 6 to US\$1
and R7.9 to 1 Euro

Source: Population Reference Bureau, 2005 and PPP Unit, 2005

business community. PPPs have been an effective vehicle for achieving both of these objectives.

In 1997, the Water Services Act was passed, legally enabling private sector provision of water services for the first time. The Municipal Infrastructure Investment Unit (MIIU) was created to give technical and grant funding assistance to municipalities to access private sector capital and expertise. The MIIU, a joint U.S. Agency for International Development (USAID)/Government of South Africa initiative, became operational in 1998 and began providing PPP assistance to local municipalities.

Shortly thereafter, in 1999, the Public Finance Management Act (PFMA) was enacted. The act created a nationwide public finances management framework, devolving primary responsibility for effective, efficient expenditure of public funds to heads of departments and accounting officers in national and provincial departments and agencies.

On December 1, 1999, the South African Cabinet endorsed a package of initiatives that included a dedicated Public-Private Partnership Unit within the National Treasury to support national and provincial PPPs. Subsequently, the National Treasury received funding for technical assistance from USAID, the German Agency for Technical Cooperation (GTZ), and the United Kingdom's Department for International

Development (DfID) to support the PPP Unit. USAID, through two international consulting firms, helped conceptualize the Unit's functions.

In April 2000, the PPP Unit was formally established with three staff members — an expatriate leader and two South African PPP specialists — plus a National Treasury-appointed acting head of department, a financial analyst seconded from a major South African bank, and administrative staff provided by the National Treasury. With the PPP successfully integrated and running within the Ministry of Finance, donor support ended in December 2005.

South African law defines a PPP as a contract between a public sector institution and/or municipality and a private party, in which the private party assumes substantial financial, technical, and operational risk in the design, financing, building, and operation of a project. There are two types of PPPs: (1) where the private party performs an institutional/municipal function, and (2) where the private party acquires the use of state and municipal property for commercial purposes. A PPP may also be a hybrid of these types. A PPP must meet three conditions:

- The project must be affordable.
- It must provide value for money.

“ The diverse interests of different sectors can be harnessed for the collective good. The public gets better, more cost-effective services; the private sector gets new business opportunities. Both are in the interests of the nation. ”

TREVOR MANUAL,
FINANCE MINISTER
AUGUST 2004

- It must transfer appropriate technical, operational, and financial risk to the private party.

These conditions help determine the success of the PPP project cycle: inception, feasibility procurement, and PPP management and auditing.

At the time of the creation of the PPP Unit, several PPPs were underway at the national level. The Department of Transport was procuring two toll road projects through PPPs, and the Department of Corrections was procuring the design, construction, operation, and maintenance of several national prisons using PPP processes.³ Furthermore, several provinces were exploring PPPs for activities like fleet management and provision of hospital services.

It was clear that a regulatory framework needed to be developed for PPPs at the national and provincial level. The PFMA authorized the Minister of Finance to enact regulations. This legislation was largely based on the United Kingdom’s 1992 Private Finance Initiative that sought to increase the involvement of the private sector in the provision of public services.

3. Some observers have commented that the Department of Corrections’ handling of this procurement was a significant stimulus to the creation of the PPP Unit. The department tendered for more prison PPPs than it could afford, which would have been avoided with PPP Unit oversight.



In 2000, the PPP Unit was established in the National Treasury with staff from both the public and private sectors.

CHAPTER TWO

GOVERNMENT COMMITMENT- USAID SUPPORT

ESTABLISHING THE PROCESS FOR PROCURING PPPs

In the first years of the project, USAID supported the National Treasury's efforts to establish the PPP Unit. This process focused on establishing the regulatory framework governing the pre-procurement, procurement, and implementation process. The unit addressed a stream of existing national and provincial PPPs and provided input to the development of Regulation 16 to establish the mechanism for national and provincial departments to procure PPPs. Enacted in May 2000, it was a comprehensive guide to PPP implementation (see Exhibit 1 on page 13).

THE NATIONAL TREASURY PPP MANUAL

Once Regulation 16 was in place, the unit began developing a National Treasury PPP Manual to further its mandate of creating

a clear policy framework. The manual gives provincial and national officials and private sector partners' technical assistance and regulatory oversight to the steadily growing stream of national and provincial PPPs. Instructions in the manual are binding on all provincial and national departments procuring PPPs under the PFMA. The manual gives a user-friendly, detailed, step-by-step set of instructions to provincial and national departments about how to procure and implement a PPP agreement. It was presented to the public on August 23, 2004, in conjunction with the Standardized PPP Agreement Provisions (see page 12).

The manual comprises nine modules, with illustrative tables and charts. It is used by provincial and national departments to help them procure PPPs, as well as private sector

firms that want to bid on PPPs and financial institutions that want to understand PPP processes to make decisions about financing when they are approached by a private firm seeking financing for a PPP. The modules address the following issues:

- The requirements of Regulation 16
- The code of good practice for black economic empowerment in public-private partnerships
- The various stages in the PPP cycle (inception, feasibility study, procurement, PPP management, and auditing)
- How the PPP should handle accounting and finance

Exhibit 2 on page 14 illustrates the entire PPP project cycle.

STANDARDIZED AGREEMENT PROVISIONS: A HOW-TO MANUAL

A companion manual was developed by the PPP Unit for provincial and national departments on standardized provisions of PPP agreements. This manual ensures that the PPP agreement meets the necessary tests (affordability, value for money, and transfer of risk to the private sector) reflected in the feasibility study and the procurement documents. Like the National Treasury PPP Manual, this manual is a how-to guide with step-by-step procedures that are binding on all provincial and national departments procuring

PPPs. The PPP Unit will not approve a project unless the line department demonstrates that it has established adequate project monitoring capacity. The Auditor General's Office ensures compliance with contractual provisions. If partners do not perform, they are penalized. Consistent noncompliance may result in cancellation of entire contracts. There are also stringent requirements that protect the government from corruption and nepotism in their selection of private partners and transaction advisors. According to Aijaz Ahmad, former head of the PPP Unit and now a senior infrastructure specialist at the World Bank, "We didn't go after corruption as a goal, but set up best practices that combated it. We now had a structured process that was transparent with the PPPs, which also put responsibility on the private sector."

Due to the individual nature of each PPP project, there must be adjustments in specific provisions. The department seeking them must propose the changes, and the National Treasury debates them during the approval review process. These standardized provisions have greatly reduced the time required to negotiate a PPP.

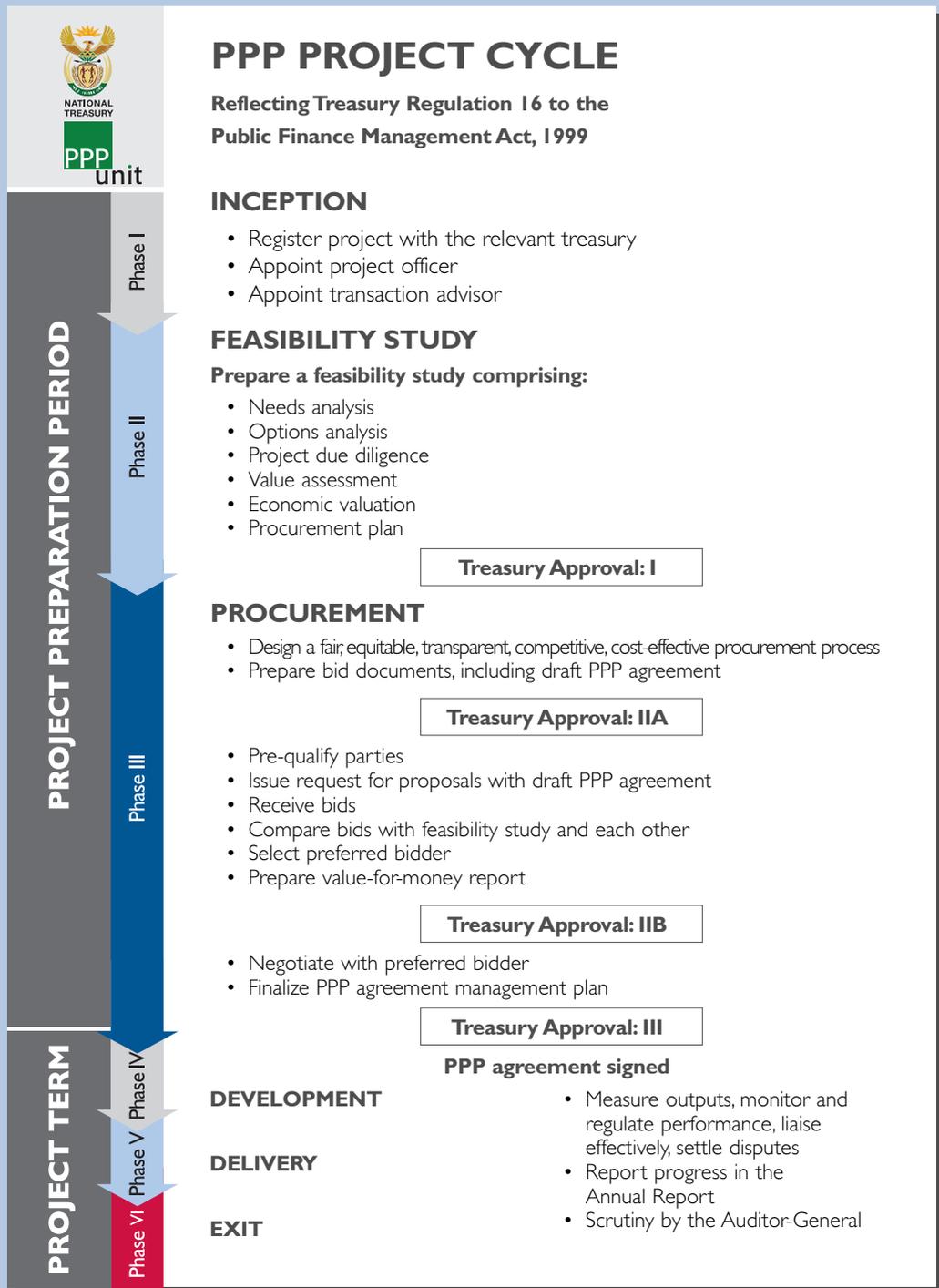
The two manuals have been distributed in South Africa and throughout Southern Africa, particularly within the Southern Africa Development Community (SADC). SADC was founded in 1980 and comprises 14 countries, including Angola, Botswana, the Democratic

EXHIBIT I. REGULATION 16

DEFINITIONS

- **Exclusive competency of accounting officers and accounting authorities** – Only the accounting officer or accounting authority of a provincial or national department may enter into a PPP agreement on behalf of the institution.
- **Project inception** – An accounting officer must register any potential PPP with the PPP Unit and procure transaction advisors to help the accounting officer comply with Regulation 16.
- **Feasibility study (Treasury Approval I)** – A feasibility study must demonstrate affordability, value for money, and the transfer of significant risk to the private sector. The National Treasury must also approve the findings of a feasibility study before proceeding further with the procurement of a PPP.
- **Procurement (Treasury Approvals IIA and IIB)** – The institution needs these approvals from the National Treasury before it issues any procurement documents (tenders), which must include a draft PPP agreement. The procurement process must be fair, equitable, transparent, competitive, and cost-effective. This protects individuals who have been disadvantaged by unfair discrimination in the past. Approval is required after bid evaluation, but prior to entering into negotiations with a preferred bidder.
- **Contracting PPP Agreements (Treasury Approval III)** – The institution also needs this approval from the National Treasury after negotiations are concluded, but prior to execution of a PPP agreement. The institution must demonstrate how the proposed agreement will be affordable, provide value for money, and transfer significant risk to the private sector. It must also describe the competency of the provincial or national department to implement the PPP agreement after execution.
- **Management of PPP agreements** – This describes the responsibilities of the accounting officer or accounting authority of the provincial or national department that has entered into a PPP agreement to manage and implement it, including the requirement of an annual report.
- **Amendment and variation of PPP agreements** – This describes the processes to be undertaken should an executed PPP agreement be amended.
- **Agreements binding on the state** – Any PPP agreement executed in accordance with the regulation is binding on the government.
- **Exemptions** – This sets forth the requirements for an exemption from the provisions of the regulation.

EXHIBIT 2. PPP PROJECT CYCLE



Republic of Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia, and Zimbabwe. It seeks to promote sustainable and equitable economic growth and socioeconomic development in Southern Africa and to support the socially disadvantaged through regional integration. With deviations to reflect local legislation and customs, the manuals are rapidly becoming the standard for PPPs in Southern Africa.

THE PROJECT DEVELOPMENT FUND – IMPROVING THE QUALITY OF PPPs

The National Treasury developed the Project Development Fund (PDF) to give provincial and national departments a way of accessing funding to pay transaction advisors required by Regulation 16 and the PPP

Manual. The PDF can be accessed only after a PPP receives the National Treasury TA I approval (see Exhibit 1), which requires a province or national department to co-fund the viability assessment of a proposed PPP. The PDF is reimbursed for its funding of the PPP assessment by the successful bidder upon execution of the PPP agreement. Because provincial and national departments do not include funding for transaction advisors within their budgets, creation of the PDF has increased the number and improved the quality of PPPs registered by provincial and national departments with the National Treasury.

Thus far, the PDF has funded seven projects committing more than \$2 million to provincial and national departments (see below). Of this amount, nearly \$1 million has been distributed.

PROJECT DEVELOPMENT FUND INVESTMENTS

Free State Department of Health - Trompsburg & Ladybrand Hospitals	\$ 310,319
KZN Department of Transport - Vukuzakhe Plant Depot	\$ 180,169
Eastern Cape Department of Health - Pharmaceuticals	\$ 524,449
Eastern Cape Department of Health - Settlers & Port Alfred Hospitals	\$ 82,677
Western Cape Department of Health - Rehabilitation Centre	\$ 487,500
Department of Labour ICT Convergence PPP: Phase I	\$ 326,667
Western Cape Department of Health - Swellendam Hospital	\$ 93,575
Total	\$ 2,005,356



The IALCH is a well-equipped, "paperless" hospital (using a complete electronic medical record system) with 850 beds. It serves both an urban and rural population of about 9 million.

CHAPTER THREE

REACTION OF THE MARKET TO THE POLICY FRAMEWORK

THE SUCCESS OF PROVINCIAL AND NATIONAL PPPs

Provincial and national departments have taken full advantage of the new policy framework. PPPs now exist for hospitals, providers of transportation infrastructure and services, parks, World Heritage sites, prisons, toll roads, social grants administration, information systems, vaccine production, government office accommodation, and ecotourism sites. Since passage of Regulation 16, 12 PPPs have been completed, with project values in the hundreds of millions of dollars. Currently, there are 51 provincial and national PPPs in various stages of the procurement cycle: 9 are in the inception stage, 22 are in the feasibility stage, 15 are in the procurement stage, and 5 are in final negotiations.

According to William Dachs, current head of the PPP Unit, the health sector has realized the greatest impact. He pointed to the Inkosi Albert Luthuli Central Hospital (IALCH) in Durban, KwaZulu-Natal province, as a major accomplishment. *Project Finance*, a leading financial magazine recognized it as its African PPP/Health Care Deal of the Year in 2002. The 850-bed hospital, which opened in November 2002, 18 months after being built, is a PPP project valued at about \$550 million. Over the past decade, HIV/AIDS (nearly 40 percent of the population in KwaZulu-Natal)⁴, malaria, tuberculosis, cholera, and the high rates of violent crimes and accidents have strained health services in the province. The provincial government began constructing the IALCH, intending it to

4. Susan Erskine, University of KwaZulu-Natal, Durban, Health Economics and HIV/AIDS Research Division, June 2005 (see www.heard.org.za)



The IALCH, a project valued at about \$550 million, was recognized in 2002 by Project Finance, a leading financial magazine as its “African PPP/Health Care Deal of the Year.”

“ The Inkosi Albert Luthuli Hospital has been a pioneering PPP in the health care sector in South Africa. We are proud to have provided world-class health care services to the people of South Africa in such an innovative manner. ”

**MR. HERMANN CONRADIE,
CHIEF FINANCIAL OFFICER,
DEPARTMENT OF HEALTH, KWA
ZULU-NATAL HOSPITAL**

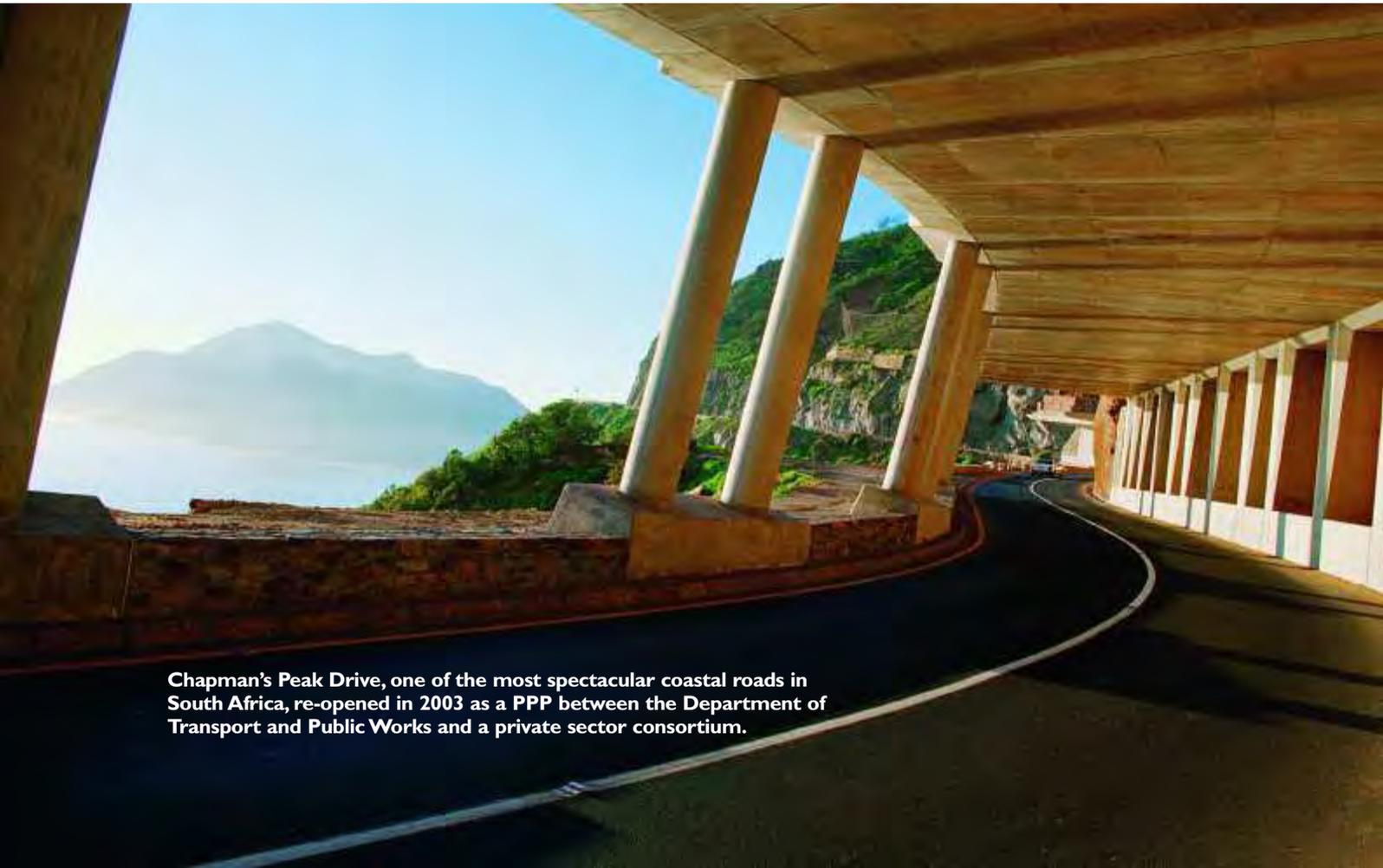
operate as a wholly public facility that would replace three old and undersized hospitals. The government did not have adequate funds to complete the hospital, the only one of its kind in the province. It serves more than 9 million people, 2 million of whom live mostly in rural areas and informal settlements. Thus, in late 2000, the province sought to collaborate with private groups to finance, install, and manage the hospital’s health care machinery and equipment operations — a first for a public hospital in South Africa.

Another key sector for PPPs has been provision of office accommodations. One notable

example is the striking, modern staff campus of the Department of Trade and Industry on Nelson Mandela Drive in Pretoria that houses nearly 2,500 staff. The department was one of the first to apply a PPP solution to its work environment following release of the PPP regulations in 2000. Developed collaboratively by USAID and local partners, the approach to unifying the department’s offices relied on several objectives: construction had to occur in central Pretoria, contribute to the city’s revitalization, and emphasize the use of small business, especially black-owned enterprises. The project has improved the capacity of black-

owned businesses, reinvigorated parts of downtown Pretoria, and saved the government money. It was implemented ahead of schedule and below cost. Furthermore, part of the land on which the complex was built was highly polluted; the project completely restored the land. The project was recognized by Project Finance as the PPP Deal of the Year in 2003, the second PPP to receive this award. The National Treasury now requires that any new infrastructure project follow this model. The project has become both an instrument for and a symbol of the complete transformation of public service delivery in South Africa.

Other successful sectors have included transportation and roads, both high-value sectors. Two good examples are the Chapman's Peak Drive Toll Road and the pending Rapid Rail Link Project in Gautrain Province. The Chapman's Peak toll road, located in the Western Cape, was executed in 2003 as the province's first subsidized toll road. The PPP sought private sector support in funding the repair of the road and constructing and implementing safety measures, including catch fences and related infrastructure to guard against the effect of rockslides. A series of rockslides caused the



Chapman's Peak Drive, one of the most spectacular coastal roads in South Africa, re-opened in 2003 as a PPP between the Department of Transport and Public Works and a private sector consortium.



After the Chapman's Peak Drive toll road was closed in 1999, following accidents from rock slides, the PPP supported implementation of state-of-the-art safety features.

closure of a 10-kilometer stretch of road in 2001, with devastating consequences for the local economies. The provincial government is contributing more than 10 million, or nearly half the initial construction cost. The total project is valued at 52 million.

The pending Gautrain rail project PPP, scheduled for financial close in 2006, faces the challenging task of constructing a modern rapid rail system operating at speeds of up to 160 kilometers per hour to link Pretoria, Johannesburg, and Johannesburg International

Airport. The network is 80 kilometers long and will have 10 stations. Gautrain's project manager, Jack van der Merwe, estimates that the rail line will allow 60,000 passenger trips a day in the Pretoria-Johannesburg corridor and create a significant number of new jobs. Valued at more than \$3.3 billion, the Gautrain rail project is the largest infrastructure program in South Africa. The private sector will be responsible for partially financing, designing, building, maintaining, and operating the rail system and related feeder and distribution services.

WINNING SUPPORT FROM FINANCIAL INSTITUTIONS AND THE PRIVATE SECTOR

Initially, the private financial community was reluctant to provide financing for PPPs. In 1998, the Development Bank of Southern Africa was the only institution willing to finance government-sponsored PPPs. According to James Aiello, who led the South Africa PPP project, “Every major financial institution

in South Africa is now clamoring for more projects.”

CONTRIBUTING TO BLACK ECONOMIC EMPOWERMENT

South African and international private sector firms are avid participants in PPPs. The PPP Manual encourages the formation of consortia to undertake a PPP and requires them to work with Black Economic Empowerment (BEE)

EXHIBIT 3. PPPs AND BLACK ECONOMIC EMPOWERMENT

PROJECT AND GOVERNMENT INSTITUTION	PPP TYPE, CONTRACT DURATION, DATE OF FINANCIAL CLOSE	PRIVATE PARTNER	BEE PARTNER	BEE AS % OF EQUITY AND SUB CONTRACTING
Fleet Management Northern Cape Dept Transport, Roads and Public Works	DFO 5 years, November 2001	Pemberley Investments (Pty) Ltd comprising: Imperial Holdings	Africa Kosini	Equity: 25%, Sub-c: 25%
Inkosi Albert Luthuli Hospital KwaZulu-Natal Dept Health	DFBOT 15 years, December 2001	Impilo Consortium (Pty) Ltd, AME International, Siemens, Drake & Skull, Omame	Mbekane Health & Wellbeing, Vulindlela Holdings	Equity: 40%, Sub-c: 40%
Eco-tourism Manyeleti 3 sites. Limpopo Dept Finance, Economic Affairs, Tourism	DFBOT 30 years, December 2001	Koko Moya Wilderness Trail (Pty) Ltd; Tinswala Lodges (Pty) Ltd; Pungwe Game Reserve (Pty) Ltd	Koko Moya Wilderness Trail (Pty) Ltd; Tinswala Lodges (Pty) Ltd; Pungwe Game Reserve (Pty) Ltd	Equity: 30%, 30%, 40%, Sub-c: 30%, 30%, 40%
Universitas and Pelonomi Hospitals co-location Free State Dept Health	DFBOT 16.5 years, November 2002	Netcare consortium	Community Health Management	Equity: 40%, Sub-c: 40%
Information Systems Department of Labour	DFBOT 10 years, December 2002	Siemens Business Solutions Consortium	Sisikile Technologies African Legends Technologies	Equity: 30%, Sub-c: 25%
Chapman's Peak Drive toll road Western Cape Dept Transport	DF(part)BOT 30 years, May 2003	Capstone 252 (Pty) Ltd comprising: Concor, Haw & Ingles	Thebe Investments & Marib Holdings	SPV : 30%, Design & construct sub-c: 10%, Ops & maintain sub-c: 50%
State Vaccine Institute Dept Health	Equity partnership 4 years, April 2003	Biovac Consortium	Disability Concern Trust & Luthuli Health Care	Equity: 15%, Sub-c: n/a
Humansdorp District Hospital Eastern Cape Dept Health	DFBOT 20 years, June 2003	Metro-Star Hospital (Pty) Ltd comprising Metropal Hospital	Season Star Trading 123	Equity: 25%, increasing to 40%, Construct sub-c: 50%, Ops & maintain sub-c: 40%
Fleet Management Eastern Cape Dept Transport	DFO 5 years, August 2003	Fleet Africa Eastern Cape (Pty) Ltd	25% Direct BEE In company	Equity: 25%, Sub-c: 25%
Head Office Accommodation Dept of Trade & Industry	DFBOT 25 years, August 2003	Rainprop Consortium comprising: WBHO, Atterbury Property Holdings, Parkdev S.A., Reberve Facility Management, Prop 5 Corp, Rainbow, PDSA	Propnet, Zwelinzima Holdings, Construction, WDB Investment Holdings	Equity: 55%, Design & Construct Sub-c: 43%, Facilities Management Sub-c: 50%
Cradle of Humankind Interpretation Centre Complex Gauteng Dept Agriculture, Conservation, Environment and Land Affairs	DBOT 10 years, October 2003	Fumeaux Stewart Gapp consortium comprising stocks	Fikile, Thebe	Operating equity: 53%, Construction sub-c: 40%, Ops sub-c: 25%
Social Grant Payment System Free State Dept Social Development	DFO 3 years, April 2004	AllPay (Pty) Ltd	40% Direct BEE In company	Equity: 40%, Sub-c: Year 1: 30%, Year 2: 35%, Year 3: 45%

“ In the Western Cape, the Department of Health has identified PPPs as part of an integrated strategy for the provision of health care services to its citizens. PPPs are an excellent vehicle for a wide range of health care services that need to be delivered in a cost effective and efficient manner, while transferring significant risk to the private party partners. ”

**DR. JAPIE DU TOIT,
BUSINESS MANAGER,
DEPARTMENT OF HEALTH,
PROVINCIAL GOVERNMENT,
WESTERN CAPE**

firms to address the injustices and inequities of years of apartheid. The PPP Unit developed these guidelines based upon the financial sector charter, a voluntary commitment by South African industry associations to increase black ownership, management and skills development, and the 2004 South African Code of Good Practice for Black Economic Empowerment in Public-Private Enterprises, which sets a clear BEE framework for public and private parties engaging in PPPs. The code gives indicative targets and weightings for each element of the private party's BEE equity structure, management, subcontracting, and local socioeconomic impact. Under the code, blacks must represent 40 to 50 percent of management, with black women holding half of these positions. The guidelines have enhanced black ownership, encouraged the development of consortia with significant black ownership, increased the use of BEE subcontractors and suppliers (by 25 to 50 percent for both men and women), and helped lower the cost for black enterprises to enter the market. In PPPs concluded thus far, black equity represents 25 percent to 40 percent; subcontracting in these deals has had similar success. Small and medium enterprises are benefiting at the local level, and all of the projects seek and extend black management control (see Exhibit 3 on page 21).

The guidelines have helped train a large and growing cadre of black professionals with PPP

expertise. In 2004, the PPU Unit fulfilled a government pledge in the code of good practice for BEE to establish an intern program to “grow the number of black transaction advisors in South Africa's PPP market.” In a two-year period, each young professional gains direct experience working on the financial, legal, and technical aspects of PPP projects in the feasibility and procurement phases. This program has graduated 200 interns. Successful graduates of the program are now in demand for positions in government treasuries, banks, and advisory companies.

THE MUNICIPAL FINANCE MANAGEMENT ACT

The South African Constitution created the “municipal sphere” of government with its own authority to raise taxes and impose rates. In late 2004, the Municipal Finance Management Act (MFMA) was enacted, giving the PPP Unit (together with provincial treasuries and certain other national departments) responsibility for municipal PPPs. The MFMA applies the same accounting and fiscal responsibilities on municipalities that the PFMA imposes upon the provinces and national departments.

The PPP Unit's responsibilities for municipal PPPs differ significantly from its role with provincial and national PPPs. At the provincial and national level, the National Treasury must provide the various approvals listed in Exhibit 1 on page 13. At the municipal level, however, in



The dti campus was one of the first government departments to initiate a PPP solution to its work environment following the release of PPP regulations in 2000.

recognition of the role of municipal councils in choosing service delivery mechanisms, the National Treasury (and the appropriate provincial treasury and specified other national departments) may only give its “views and recommendations” on a proposed PPP.

As just noted, a host of other national departments have jurisdiction over various aspects of municipal activities, including PPPs. These include:

- The Department of Water Affairs and Forestry – provision of water and sanitation services
- The Department for Provincial and Local Government – processes and procedures municipalities must follow to assess municipal services delivery alternatives, including PPPs
- The Department of Minerals and Energy – generation and distribution of electricity

The PPP Unit participated with these national departments to develop Regulation 309, which sets forth the processes, similar to those described in PFMA Regulation 16, for a municipality to conduct a feasibility study and to procure and manage municipal PPPs. The MFMA and Regulation 309 need to be read with another piece of legislation, the Municipal Systems Act, which sets forth the processes for a municipality to make its service delivery decisions.

Because of the numerous national departments involved in decision-making at the municipal level, creating PPPs has been a challenge, particularly in reducing the bureaucratic procedures for private sector clients. The PPP Unit has extended the Project Development Fund to municipal PPPs to encourage them to examine PPPs as potential vehicles for service delivery. Municipalities access the PDF in a way similar to provincial and national departments by co-funding statutory and regulatory development of the PPP before they may apply for PDF funding for the remainder of the PPP assessment. The PPP Unit has established a municipal desk, and with USAID funding, is undertaking the development of municipal PPP guidelines similar to the PFMA PPP Manual to clarify and simplify roles and procedures.

CHAPTER FOUR

BOLSTERING GOVERNMENT PPP CAPACITY

PPP UNIT INVESTS IN PEOPLE THROUGH TRAINING

The PPP Unit provides PPP training for provincial and national officials and for transaction advisors throughout South Africa on a quarterly basis. Since 2001, more than 1,400 provincial and national officials have received this training, with increasing attendance by private sector representatives as well. In 2002, members of the PPP Unit participated in a study tour to Brazil and Chile to learn about the privatization process in the steel, energy distribution, public transportation, telecommunications, and tourism sectors. The PPP Unit has also participated in PPP training for many SADC countries (Botswana, Mauritius, Mozambique, and Tanzania) in 2002 and 2003. Additional training in Malawi and Namibia has been scheduled for 2006.

PUBLICATIONS AND MARKETING CREATE GREATER AWARENESS

A number of publications developed by the PPP Unit have enhanced the capacity of provincial and national departments to conduct PPPs. These include the *PPP Quarterly*, distributed to national, provincial, and municipal government officials and private sector PPP stakeholders. About 20 issues have been published and are available on the unit's Web site (see www.ppp.gov.za). Each issue contains a listing of completed provincial and national PPPs, the status of the PPP pipeline, and articles about recent developments, such as the tourism PPP toolkit and the launch of the PDF facility (see page 15).



The PPP Unit has offered training for government officials and private sector partners throughout the SADC region to learn more about the PPP process.

CHAPTER FIVE

ACCOMPLISHMENTS AND NEXT STEPS

THE PPP UNIT: QUALITY PUBLIC SERVICE DELIVERY

USAID support was instrumental in forming the PPP Unit, creating staff positions and job descriptions, and developing governance processes and procedures. In addition, staff assumed the technical assistance and regulatory roles required by the PFMA and Treasury Regulation 16, receiving requests to register projects from provincial and national departments and taking them through the required approval processes. According to Ahmad, “our timing was just great. Regulation 16 had been approved by the Cabinet and implementation needed to take place, so we filled the gap quickly.” PPP staff has been responsible for procuring several significant, pioneering PPPs in South Africa, such as the Inkosi Albert Luthuli Hospital medical equipment provision PPP. It is

also giving technical and regulatory support to several of the most significant PPPs in the South African pipeline, including the Gautrain Rapid Rail PPP.

The PPP Unit currently has 12 staff, with in-house expertise in project appraisal, finance, development, and management. Its vision is to facilitate and enhance quality public service delivery by being a catalyst for efficient, effective, and best value for money solutions. The unit’s mission is to:

- Enable National Treasury and provincial treasuries to effectively regulate PPPs
- Evolve as a dynamic and sustainable center of excellence for PPPs

- Drive the flow of PPP deals by identifying project opportunities that yield value for all stakeholders
- Give technical assistance to public institutions through project feasibility, procurement, and management
- Promote an enabling environment for PPPs by:
 - facilitating certainty in a regulatory framework
 - developing best practices guidelines
 - providing training
 - disseminating reliable information
 - driving black economic empowerment in PPPs

ENCOURAGING ESTABLISHMENT OF PROVINCIAL COUNTERPARTS

The PFMA anticipates that provincial treasuries will undertake PPP approval processes in terms of Regulation 16, the PPP Manual, and the standardized PPP provisions for all provincial PPPs. No timetable has been set for this to occur. Certain provinces have seconded staff to the PPP Unit in Pretoria to develop the capacity to receive, register, and provide technical and regulatory assistance to provincial departments that wish to pursue a PPP. Provinces are developing PPP capacity and a phased delegation plan is currently being developed, under which the National Treasury PPP Unit will continue to offer technical assistance to provincial initiatives, with the necessary approvals provided by the provincial treasuries.

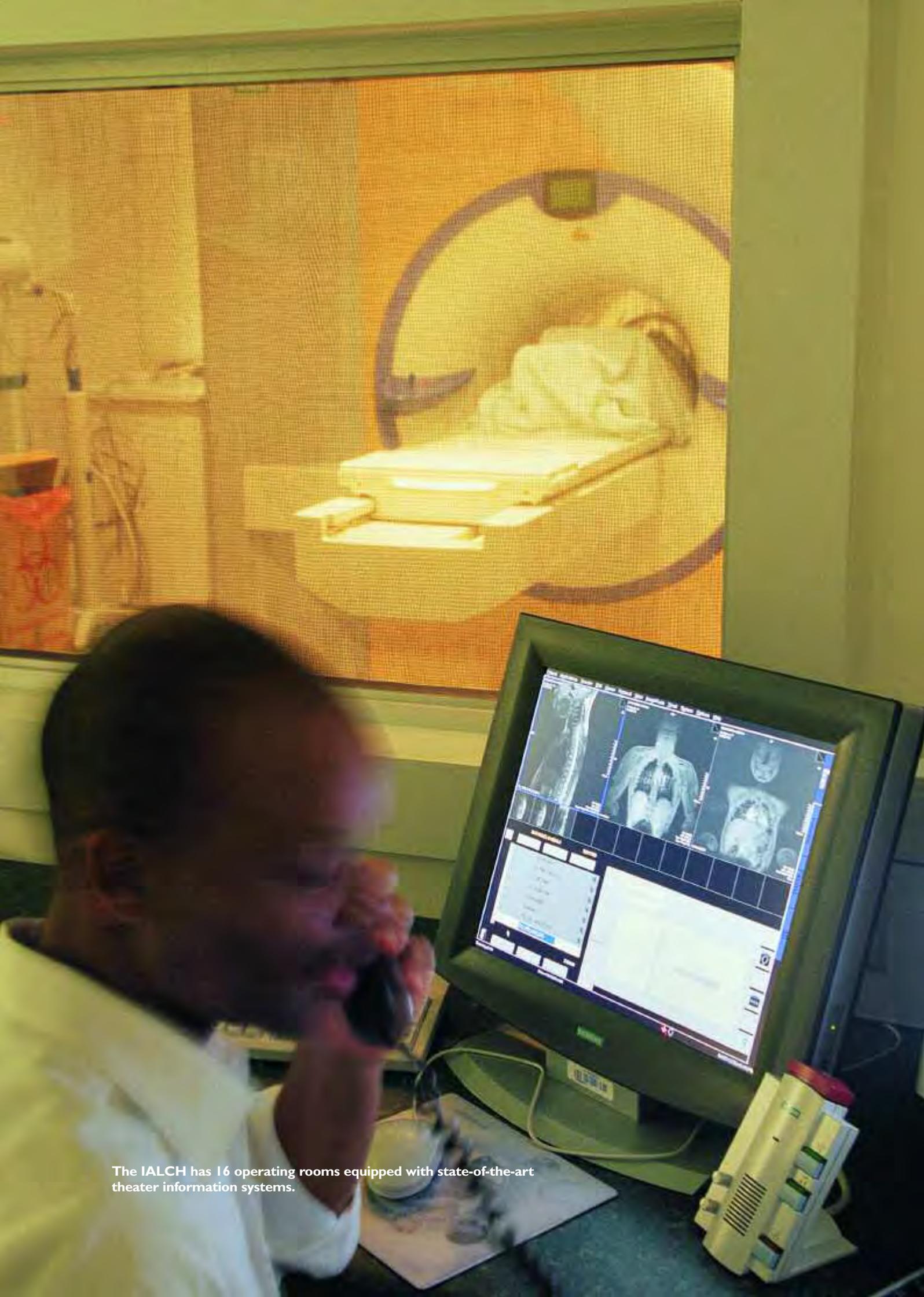
SETTING UP A MUNICIPAL DESK

To encourage more PPPs at the municipal level, the PPP Unit established a municipal desk with USAID support in 2005. The desk gives technical information to municipalities about MFMA/Regulation 309 PPP responsibilities and submits documents by local municipalities to the National Treasury for review and recommendations. Recommendations are coordinated with those of the provincial treasury in which the municipality is located, as well as those of the Department for Provincial and Local Government.

The National Treasury has other departments concerned with municipal finances, so the desk coordinates its reviews with other Treasury departments and with national and provincial departments that have jurisdiction over certain government sectors, including the Departments of Water Affairs and Forestry, Minerals and Energy, and Environmental Affairs and Tourism.

In May 2005, the PPP Unit held a workshop with Treasury representatives from all nine provinces in South Africa to discuss the MFMA and the roles of the National Treasury and provincial treasuries in providing the views and recommendations required by the MFMA.

One of the responsibilities of the municipal desk is to develop municipal PPP guidelines based upon the success of the provincial and national PPP guidelines contained in the National Treasury Manual. This process is currently under way, with substantial progress made despite the complexity of coordinating among the Municipal Systems Act, the MFMA, and Regulation 309.



The IALCH has 16 operating rooms equipped with state-of-the-art theater information systems.

CHAPTER SIX

LESSONS LEARNED AND CHALLENGES

The USAID-supported South Africa Public-Private Partnership project defined the legal requirements for PPPs, designed an organizational plan and implementation structure for the PPP Unit, prepared guidelines on the various regulatory requirements, and built a portfolio of transactions. It also launched a highly effective stakeholder awareness campaign to educate the private sector about procurement requirements.

Several factors have been critical in ensuring the success of PPPs in South Africa. According to William Dachs, current head of the PPP Unit, one of the most critical factors has been commitment at the highest level to create an environment where the provinces have strong support from the national government through the National Treasury's PPP Unit.

Other factors include:

- Creating a sound financial management structure, e.g., the Public Finance Management Act and the Municipal Finance Management Act
- Establishing a solid regulatory framework, e.g., Regulation 16, good step-by-step guidelines in the PPP manual, and standardized PPP provisions
- Creating a dedicated PPP Unit that drafts and updates guidelines, screens projects, and carries out regular training of public sector officials
- Placing strong, visionary personnel in key government departments who understand the critical role of the private sector in promoting economic development

- Promoting access to international expertise, particularly in the early stages of the project
- Putting into place an effective communication strategy and providing ongoing outreach to the public and private sector and beneficiaries

Despite these successes, several challenges remain, the most significant being legislative constraints to implementing municipal PPPs. Municipalities in South Africa must comply with more requirements than national and provincial bodies. Several pieces of legislation (the Municipal Systems Act, the Water Services Act, and the Municipal Rates Act) include provisions that allow sectoral ministers (the Department for Provincial and Local Government and the Department of Water Affairs and Forestry) to veto tariff increases and place upper limits on tariffs or taxes for

municipal services. Banks will not lend money to a municipality where the national government can intervene through a veto or impose a tariff or rate increase cap, thus putting at risk the revenues required to service debt. The PPP Unit's Municipal Desk is working to remove these legislative barriers.

A second challenge is to help black stakeholders in PPP projects lower their cost of entering the market. The PPP Unit, the Development Bank of South Africa, and the Department of Foreign Affairs' PPP project team have structured a PPP facility to help achieve this objective and to support pre-qualified black parties with independent legal and financial advice. These actions fulfill commitments made by the South African government in the 2004 Code of Good Practice for BEE in PPPs.



If the PPP process is adequately regulated and managed, the private sector can bring greater innovation to planning and project delivery and a sharper engagement with technology, with spin-offs for skill transfer in the public sector.



The tourism sector, described as South Africa's "new gold", is a new frontier for PPPs.

CHAPTER SEVEN

THE WAY FORWARD

The most typical PPP proposes paying the private sector a fee for a governmental service, such as the design, construction, maintenance, and operation of a hospital. The tourism sector, described as South Africa's "new gold", is a new frontier for PPPs and represents an important contributor to the country's gross domestic product. South Africa is a major and growing tourist destination, and tourism offers opportunities to create jobs and develop local areas. Provinces and the national government own large tracts of land suitable for tourism development, but lack the spare capital and human resources to exploit this potential. The South African government, through the PPP Unit, has boosted this strategic sector by developing ecotourism guidelines in the form of a Tourism Public-Private Partnerships Toolkit to make it easier for a wide range of private interests to

enter into partnerships with government agencies in tourism. In these circumstances, government will not pay a fee to the developer of the private sector tourist attraction, but will only extract a concession fee sufficient to defray the costs of administering the PPP concession.

Crispian Olver, former director general of the Department of Environment Affairs and Tourism, believes that tourism PPPs have a unique and crucial role to play. "A stable and predictable framework is essential for the promotion of private investment in state conservation land through PPPs, and the toolkit should go a long way in providing encouragement and certainty to both the conservation agencies and businesses," he said.

The ecotourism guidelines were issued in 2005, and they have

already drawn strong interest from provinces and national departments. The Province of Gauteng, for example, is in the feasibility study stage for six orientation centers to be built on lands owned by the province, four around the Cradle of Humankind World Heritage Site and two near its Dinokeng “All of Africa in One Place” development in the northeast of the province.

In addition to the tourism sector, there is a large need for PPPs in social services and education. Thus far, there is only one such registered PPP — the Free State Social Grants. The Social Grants Payments System has enabled the Free State Government, through a private partner, to disburse disability, child care, senior, and other social grants to more than 250,000 poor South Africans every month. The government has been able to reduce the risk associated with fraud, and make payment stations available to those in rural communities. In addition, ancillary services such as first-line medical care are provided to the elderly who line up to collect social security benefits.

There is a critical need to develop PPPs in the education sector. South Africa has strong indicators for education, with high adult literacy (82 percent) and good enrollment in primary, secondary, and higher education (78 percent). However, there is still a wide gap between the rich and the poor, making investments in education all the more important.

The PPP Unit is poised to respond by encouraging education accommodation PPPs to finance the building and maintenance of schools. At the same time, broader social and health issues that influence the provision of education, such as the high prevalence of HIV/AIDS and a resulting small pool of qualified teachers, need addressing. Clearly, more partnerships between the public and private sector will help boost education and social services in South Africa. Both are critical for boosting economic growth and reducing poverty.



In a first for South Africa, a PPP was designed to transfer significant risk to private insurers in providing an effective, secure, and affordable social grants payment system for the poor.



Future PPPs in education accommodation to finance the building and maintenance of schools will help boost education and social services in South Africa.



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FROM THE AMERICAN PEOPLE

BUILDING PUBLIC-PRIVATE PARTNERSHIPS
SOUTH AFRICA FINAL REPORT

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U.S. Agency for International Development

1300 Pennsylvania Avenue, NW

Washington, DC 20523

Tel: (202) 712-0000

Fax: (202) 216-3524

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