



Namibia implements new PPP laws and pilot project

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In brief

On 9 July 2017, the Public Private Partnership Act, No. 4 of 2017 (the Act) was signed into law by the President of Namibia and published, by notice, in the Government Gazette on 14 July 2017 in accordance with Article 56 of the Namibian Constitution. The Act aims to:

- Provide a legal framework for public-private partnership (PPP) projects.
- Establish a PPP committee, whose functions would include providing transaction approvals for proposed PPP projects, developing best practice guidelines for PPP, advising the Minister of Finance on matters related to PPP projects, overseeing the functioning of the PPP unit and (in consultation with the Attorney General) providing clarification on matters of interpretation under the Act.
- Regulate PPP projects through the stages of initiation, preparation, procurement, conclusion of the PPP agreement and its implementation.

Recent developments

The Namibian government has recently received funding from the African Development Bank for the Institutional Strengthening for Public-Private Partnerships (ISPPP) project to, among other things, provide capacity building, technical assistance and advisory services to assist the Namibian Government in operating its PPP framework. A key focus of this project is to fund technical assistance for pilot projects in an attempt to address one of the key challenges faced by African governments procuring projects under burgeoning PPP laws or frameworks: the limited expertise on the part of contracting authorities and limited knowledge regarding best practices.

On 31 May 2017 (shortly before implementation of the Act), the National Development Plan 5 (NDP5) was published, which serves as Namibia's blueprint for national development between 2017 and 2022. The projects identified in the NDP5 will require estimated funding of NA\$164 billion which, according to a ministerial statement on the NDP5 implementation plan, will be funded from several sources, one of which is private-sector funding through PPPs (specifically for land servicing and infrastructure construction, such as water, roads, sewers and electricity).

Progress

Namibia has had a non-binding policy as its framework for PPPs since 2012. The implementation of the Act, coupled with the above recent developments (among others), indicates a significant shift in the last 12 months to

achieve some of Namibia's infrastructure development goals through a binding set of legislative provisions aimed at the government deriving efficiencies (including value for money) from the involvement of the private sector.

Pilot project

While regulations to the Act are yet to be published, the Ministry of Finance appears to be forging ahead with its plans to implement projects identified under the NDP5 in the near future. Utilizing the funding procured under the ISPPP project, the Ministry of Finance is in the early stages of procuring transaction advisory services for a PPP for the redevelopment of an office building for the Ministry of Justice. If implemented, we understand this would be the first PPP project to be successfully procured under this new legislation.

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