

Briefing

Public private partnerships in Tanzania: update following the Finance Act 2014

We issued a projects & construction updaters in September 2013 focusing on Public Private Partnerships (**PPP**) in Tanzania. You will recall that there were two types of PPP Project, namely, solicited and unsolicited.

Both solicited and unsolicited proposals are governed by the Public Private Partnership Act 2010 (the **PPP Act**) and the Public Procurement Act 2011. A solicited proposal is one initiated by the public sector. By contrast, an unsolicited proposal is one initiated by the private sector.

Crucially, both types of PPP had to be competitively tendered at a specific point in the project cycle. The only difference being that, Section 80(1) of the Procurement Act 2011 allowed for an 'advantage' to be given to the unsolicited proposal during the tender process in recognition of the time and expense involved in generating the proposal. The legislation did not prescribe the form of advantage.

Following the implementation of the Finance Act 2013 (the **FA 2013**), unsolicited proposals no longer need to be competitively tendered. Sections 40 and 43 of FA 2013 amend the PPP Act and the Public Procurement Act 2011 respectively.

Unsolicited proposals are defined under the Public Private Partnership Regulations 2010 (the **PPP**

Regulations) as "written proposals that are submitted to a relevant contracting authority on the initiative of the private party for the purpose of entering into a public private partnership agreement with the government".

Previously after conducting a feasibility study, a Contracting Authority (**CA**) (who is any ministry, government department, local government authority or statutory corporation) would invite tenders from interested private entities to bid for a project.

The current position with regards to unsolicited proposals stipulates that a party submitting an unsolicited proposal shall not be subject to a competitive bidding process. Thus after the approval of the project agreement by the minister responsible, the procuring entity will submit an application together with other supporting documents for the Public Procurement Co-ordination Unit (**PPCU**) Assessment and approval. (Rule 21 of the PPP Regulations).

Our updater of September 2013 provided a flowchart which summarised phases of the PPP project cycle in relation to solicited and unsolicited proposals. We now present an updated flowchart in light of the FA 2013 provisions:

Solicited bid: phases of the PPP project cycle



Unsolicited bid: phases of the PPP project cycle



Further information

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