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Department of Justice & Constitutional Development

Management of Monies in Trust (MMT) PPP Project Progress Report

The above project was scoped and early investigations as to feasibility and affordability were conducted with the assistance of seed funding from USAID. The executive summary set out below paints the picture of the enormity and importance of the project that has now reached the stage of TA IIA and is thus poised to issue tender documentation to short listed bidders. The Transaction Advisor has determined that the budget envelope set aside within the departmental vote allocations, before ongoing inflation adjustments, of R100 million per annum is expected to be sufficient.

This project will assist Government in delivering the promise of:

- Poverty alleviation especially amongst the poorest of the poor.
- Supporting its focus on "banking the unbanked".
- Improved service delivery by Government.
- Reduced fraud and corruption.
- Addressing the significant concerns of the parliamentary Standing Committee on Public Accounts (SCOPA).

At this stage USAID assistance has come to an end and it is thus appropriate that our thanks are recorded.

As the officially registered PPP project manager of the project and as the Chief Financial Officer of the DoJ&CD that made the request for seed funding to USAID I would hereby like to place on record my sincere thanks to USAID for the assistance provided.

Alan Mackenzie
24 April 2006

The MMT PPP is a registered Public Private Partnership under Treasury Regulation 16

Contents

Detailed Below is an Executive Summary of Selected Portions
of the
MMT Request For Proposals
(Tender Documentation)

IMPORTANT NOTICE

The RFP and National Treasury's Regulations and Standardised PPP Guidelines and Provisions

The procurement process is being conducted under the auspices of a Request for Proposal in accordance with the DoJ&CD's requirements and guidelines for procuring goods and services.

However, for all intents and purposes, and for purposes of interpretation, all references and guidelines regulating the procurement process under a Request for Proposal in terms of Regulation 16 of the PFMA and National Treasury's Standardised PPP Provisions will apply.

1. OVERVIEW OF THE RFP

The MMT PPP RFP (Request For Proposal) document is a substantial document running to a few hundred pages. The RFP documentation has been lodged with the National Treasury PPP Unit and thus the overview presented is subject to amendment in the light of the recommendations of the National Treasury PPP review panel. This overview touches upon a few critical matters outside the standardised PPP provisions that deal with the methodologies surrounding the BEE, technical, financial, adjudication etc processes. This standardised provisions can be seen and downloaded from the National Treasury PPP website.

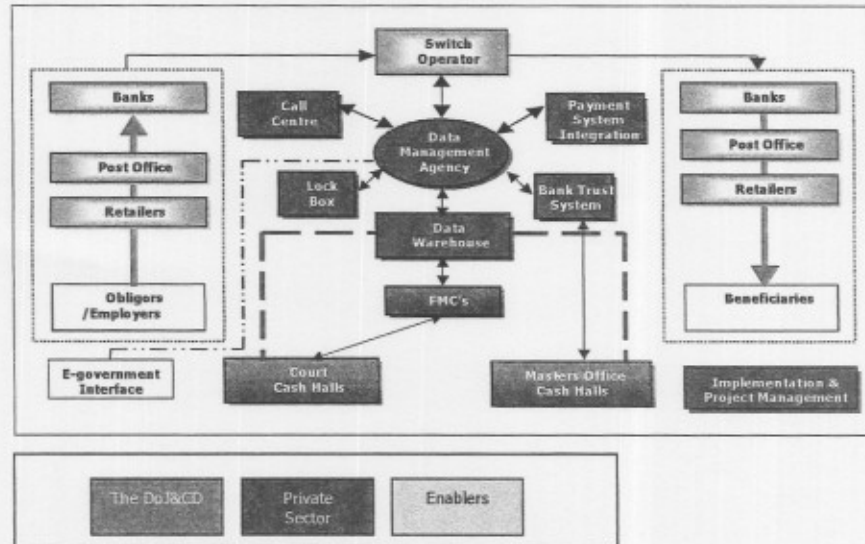
1.1. The Project Approach and Methodology

1.1.1. The Public Private Partnership Procurement Model

The DoJ&CD has determined that it does not have the capacity to manage the MMT funds due to a lack of resources, undercapitalisation and existing budgetary constraints. It has therefore taken the decision to enter into a Public Private Partnership, as per National Treasury's Regulation 16 of the Public Finance Management Act (1999), to improve the services currently available in Court Cash Halls.

This decision is based on the premise that a complete technological, financial and process enhancement and modernisation of the Cash Halls would require the duplication of infrastructure that is already available within the financial services (private) sector. Thus, by entering into a PPP the Department is seeking to create an optimal service environment that is efficient, effective and economic; and in line with Government's service delivery improvements to its citizens. .

A high level overview of the partnering model is shown in the following diagram.



Whilst this schematic reflects the responsibility of the bidders, they may also propose alternate solutions for consideration, to be submitted as alternate bids.

The essential resources as they currently exist will be made available to the PPP.

1.1.2. Project Approach and Methodology

The project approach and methodology is based on National Treasury's guidelines for establishing PPPs and this project is being conducted in accordance with Regulation 16 of the PFMA (1999) and the National Treasury's PPP Manual which provides a best practice guidelines to the PPP framework and processes. The preferred Bidder will be expected to strictly adhere to this project approach and methodology throughout the duration of the project. Refer to www.ppp.gov.za for further details on these PPP Guidelines.



NATIONAL TREASURY

PPP unit

PPP PROJECT CYCLE

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

PROJECT PREPARATION PERIOD

PROJECT TERM

Phase I

Phase II

Phase III

Phase IV

Phase V

Phase VI

INCEPTION

- Register project with the relevant treasury
- Appoint project officer
- Appoint transaction advisor

FEASIBILITY STUDY

Prepare a feasibility study comprising:

- Needs analysis
- Options analysis
- Project due diligence
- Value assessment
- Economic valuation
- Procurement plan

Treasury Approval: I

PROCUREMENT

- Design a fair, equitable, transparent, competitive, cost-effective procurement process
- Prepare bid documents, including draft PPP agreement

Treasury Approval: IIA

- Pre-qualify parties
- Issue request for proposals with draft PPP agreement
- Receive bids
- Compare bids with feasibility study and each other
- Select preferred bidder
- Prepare value-for-money report

Treasury Approval: IIB

- Negotiate with preferred bidder
- Finalise PPP agreement management plan

Treasury Approval: IIB

PPP agreement signed

DEVELOPMENT

- Measure outputs, monitor and regulate performance, liaise effectively, settle disputes
- Report progress in the Annual Report
- Scrutiny by the Auditor-General

DELIVERY

EXIT

PPP Manual reference

Module 1

Module 2

MODULE 3

Module 6

Module 1

Module 2

MODULE 4

Module 6

Module 7

Module 8

Module 9

Module 1

Module 2

Module 4

MODULE 5

Module 6

Module 7

Module 8

Module 9

Module 1

Module 2

Module 5

MODULE 6

Module 7

Module 8

Module 9

1.1.3. Project Activities to Date

Activity	Detail														
Project Approval And Registration As A PPP	The Project is registered with the National Treasury's PPP Unit.														
Appointment of Project Officer	The Project Officer was appointed to the project in September 2002 , with accountability and single point of responsibility for the project activities and PPP deliverables.														
Appointment of Transaction Advisors	<p>The Ernst & Young Consortium was appointed as the Transaction Advisors in May 2003 and consists of the following consortium members:</p> <table border="1" data-bbox="678 737 1367 1464"> <thead> <tr> <th data-bbox="683 743 938 805">Company</th> <th data-bbox="941 743 1362 805">Expertise</th> </tr> </thead> <tbody> <tr> <td data-bbox="683 810 938 978">Ernst & Young</td> <td data-bbox="941 810 1362 978">Transaction Advisory Services i.e. (Public Private Partnerships, Commercialisations and Corporate Restructuring).</td> </tr> <tr> <td data-bbox="683 982 938 1081">CSIR – Crime Prevention Unit</td> <td data-bbox="941 982 1362 1081">Scientific and Technological Research, Development and Implementation.</td> </tr> <tr> <td data-bbox="683 1086 938 1230">Nepaul-Trikamjee Attorneys. In March 2006 Hofmeyer, Herbstein & Gihwala Inc were appointed in their stead</td> <td data-bbox="941 1086 1362 1230">Legal and Contract Analysis and PPP Agreements</td> </tr> <tr> <td data-bbox="683 1235 938 1333">Nthake Human Resources & Project Management Consultants</td> <td data-bbox="941 1235 1362 1333">Human resources management and change management</td> </tr> <tr> <td data-bbox="683 1338 938 1398">Tin Can Communications</td> <td data-bbox="941 1338 1362 1398">Communication</td> </tr> <tr> <td data-bbox="683 1402 938 1462">Byefield Technical Services CC</td> <td data-bbox="941 1402 1362 1462">Systems development, networking and e-commerce</td> </tr> </tbody> </table> <p>The specific role of the Transaction Advisors is to assist with the identification of suitable solutions and services for the project, as well as the management of the entire project and procurement process.</p>	Company	Expertise	Ernst & Young	Transaction Advisory Services i.e. (Public Private Partnerships, Commercialisations and Corporate Restructuring).	CSIR – Crime Prevention Unit	Scientific and Technological Research, Development and Implementation.	Nepaul-Trikamjee Attorneys. In March 2006 Hofmeyer, Herbstein & Gihwala Inc were appointed in their stead	Legal and Contract Analysis and PPP Agreements	Nthake Human Resources & Project Management Consultants	Human resources management and change management	Tin Can Communications	Communication	Byefield Technical Services CC	Systems development, networking and e-commerce
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"Request for Information" (RFI) Tender Issued	In December 2003 an RFI tender was issued; and subsequently closed in January 2004. The objective of the RFI was to identify main suppliers and to gather information about the available infrastructure, financial costs, operations and maintenance issues; determining what Justice Ministries in other countries are doing and generally gauging the market interest in participating in a PPP project of this nature. No pre-qualification of bidders was made nor was any bidder required to respond to the RFI.														

<p>Options Analysis and Feasibility Study – Information Gathering</p>	<p>In terms of National Treasury's PPP Regulations and Best Practice Guidelines, a detailed Options Analysis and Feasibility Study must be conducted. Thus, the methodology and approach taken by the Transaction Advisors to gather necessary information to make informed decisions was based on these Guidelines. This entailed the following activities:</p> <ul style="list-style-type: none"> • Conducting initial interviews and workshops with relevant DoJ&CD staff and other stakeholders and sponsors to determine initial requirements and other factors that may impact upon the project. • Various urban and rural areas were visited. • Gathering all relevant information pertaining to numbers of transactions (values and volumes). • Reviewing all systems, facilities, business operations, cash hall security of the courts and masters' offices. • Reviewing all relevant and existing documentation from the DoJ&CD pertaining to processes and procedures. • Identifying legal and financial issues affecting the project, including procurement, financial management and project management issues arising from the PFMA, and other applicable legislation and regulations. • Conducting a HR Analysis to identify labour relations issues that may affect the project and plan pro-actively for the PPP to address these.
<p>TA1 Application and Approval Granted by PPP Unit</p>	<p>The Options Analysis and Feasibility Study were approved by both the DoJ&CD Executive and the PPP Unit in September 2004; with formal agreement to move the project into the first stage of the Procurement Phase.</p>
<p>TA11A Application and Approval Granted by PPP Unit</p>	<p>The request for qualification (RFQ) was approved by both the DoJ&CD Executive and the PPP Unit and was issued. Bids were received and evaluated resulting in the short listing of six bidders.</p>

1.2. Overall Objective of the MMT Project

The overall objective of the MMT project is to improve service delivery to internal and external clients within a sound system of financial management and reporting, enhance client satisfaction and ensure that business is conducted efficiently and in a cost effective manner, with a focus on courts and other services rendered to the State and the public by the Department. The implementation of the proposed solution will also entail:

- Management of the public and private parties under the MMT project.
- Management of third parties under the MMT project.