

Public Communications Strategy for PPP Projects

1. Introduction

This document sets out the disclosure framework for the Public Private Partnership Department of the Revolutionary Government of Zanzibar (“the Department”), regarding the scope of information that it makes available to the public as a routine matter. The disclosure framework comprises the commitment, roles and responsibilities related to disclosure of Public Private Partnership (PPP) projects. The Department believes that the sharing of information on its operations nurtures openness and transparency that are crucial to its mandate, which, as set out in part three of the Public Private Partnership Act 2015 (PPP Act), is to coordinate the development of PPPs.

Zanzibar’s transparency regime is governed by the Constitution of Zanzibar. Article 18 (1) of the Constitution guarantees the right to freedom of opinion and expression, and to seek, receive and impart or disseminate information and ideas through any media. Similarly, Section 10 (1) (g) the PPP Act makes it incumbent upon the Department to provide routine civil education, awareness and understanding of PPPs. The Constitution together with the Public Private Partnerships Act, 2015, provides the legal basis for PPP contract disclosure.

The formulation of this disclosure framework is intended to create a more conducive and transparent environment for PPP projects. Public participation and disclosure of information gives government a wider opportunity to improve contract outcomes. More so, getting the right level of public involvement in the PPP process and program can enhance the legitimacy of PPP as a procurement tool, and contribute to good governance. The Department believes that transparency and accountability is essential to increasing public awareness about PPPs, good governance, accountability and effectiveness. It therefore seeks to pursue systematically coordinated measures aimed at enhancing systems of transparency and accountability throughout the PPP life cycle.

The objective of this framework is to provide guidance to enable systematic and organized disclosure of information at different stages of the PPP process. Since disclosure is an evolving area, this framework will be revisited and revised every 2-3 years, if and as required.

2. Application

This Framework will apply to all PPP projects initiated by the Public Authority, including unsolicited proposals, in accordance with the PPP Act of 2015.

3. Specific disclosures

- a. Specific disclosures will consist of the elements included in sub-sections b to i below and will follow the template provided in Annex 1. Confidential information as provided under Section 4 below will be redacted before publication:
- b. *Project Pipeline*: A list of potential PPP projects submitted to the PPP Department will be published as soon as available.
- c. *Basic project information*: Basic project information along with estimated dates for key milestones will be provided within twenty business days of approval of project pre-feasibility study. Basic project information will include project name, location, sector, sponsoring public authority, estimated costs, needs analysis, description of asset and services to be provided, the rationale for selecting the project for development as a PPP, proposed form of contract, and estimated demand to be served annually. Pre-feasibility study report will be also be published.
- d. *Project progress tracking*: key milestones will be provided as the project progresses in the form of a project progress tracker.
- e. *Procurement information*: Summary procurement information and all tender documents will be provided after contract finalization. The request for qualification, shortlist of qualified applicants, feasibility study will be published upon approval. Request for proposals, minutes from bidder's conference, revisions to tender documents, minutes from opening and evaluation of technical and financial bids, will be published immediately after contract signing.
- f. *Project summary*: Summary information on the PPP Agreement will be provided within twenty business days of signature of the PPP Agreement. The project summary will include basic contract information including parties to the contract, amounts and types of government support provided to the project, information on tariffs and pricing, termination clauses, hand back provisions and key performance indicators with target levels. Information on the financial structure of the Private Partner will be provided within twenty business days of financial close.
- g. *Contract documents*: All contract documents including the PPP Agreement, and the memorandum of understanding will be disclosed within twenty business days of signature of the PPP Agreement.
- h. *Renegotiations*: Summary information relating to each renegotiation will be published within twenty business days of signature of the renegotiated contract. At this time the renegotiated contract will be also be published.
- i. *Performance information*: Information on the performance of the Private Partner on 5 to 10 selected Key Performance Indicators (KPIs) against agreed target levels will be published within one year of commissioning of the project with annual updates. Performance information will include details relating to performance failures and will be updated annually. Links to performance assessments such as audit reports, private party reports (SPV self-reporting), and Independent Engineer reports will be provided and updated annually.

Summary of specific disclosures

No.	Document	Contents	Creator	Approver for public disclosure	Time of Disclosure
1.	Pipeline of projects	List of projects approved as PPPs	PA	PPP Department	As available
2.	Basic project information	Project name Location Sector Sponsoring public authority Estimated costs Needs analysis Description of asset and services to be provided Rationale for selecting the PPP mode Proposed form of contract Estimated demand to be served annually	PA	PPP Department	Within 20 business days after approval of the pre-feasibility study
3.	Pre-feasibility study report		PA	PPP Department	Upon approval
4.	Project progress tracking	a section on the web-based platform that will reflect dates of achievement of key milestones	PPP Department until commissioning of project; PA from commissioning of project until end of contract	PPP Department/PA	Within 20 business days of approval of pre-feasibility studies and within 20 days of each status change

5.	Feasibility Study Report		PA	PPP Department	Upon approval
6.	Value for Money Report/Public sector comparator		PA	PPP Department	Upon approval
7.	RFQ		PA	PPP Department	Upon approval
8.	Shortlist of qualified applicants		PA	PPP Department	Upon approval
9.	RFP		PA	PPP Department	Upon contract signing
10.	Announcement of selected bidder		PA	PPP Department	As soon as decision is approved
11.	Project Summary	Parties to the PPP Agreement Government support Tariffs and pricing Termination clauses Hand back provisions Key performance indicators with agreed target levels	PA	PPP Department	Within 20 business days of contract signing
12.	Financial Structure of the Private Partner		PA	PPP Department	Within 20 days of financial close
13.	Contract documents	All contract documents	PA	PPP Department	Within 20 days of contract signing
14.	Renegotiations and renegotiated contracts	Summary information relating to each renegotiation Renegotiated contract documents	PA	PPP Department	Within 20 days of signature of renegotiated contract

15.	Performance Information	Performance of the Private Partner on 5 to 10 selected Key Performance Indicators (KPIs) against agreed targets Audit report Private operator (SPV) reports Independent Engineer reports	Private Partner Link to audit report provided by the PA Private Partner reports uploaded by the Private Partner IE reports uploaded by the PPP Department	PPP Department	Within one year of commissioning of project
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4. Confidential information

Confidential information refers to “information (however it is conveyed or on whatever media it is stored the disclosure of which would, or would be likely to, prejudice the commercial interests of any person, trade secrets, commercially sensitive intellectual property rights and know-how of either Party, including all personal data and sensitive personal data.”

- (a) For the purposes of this Framework, and in accordance with Section 10 (2) of the PPP Act, the following elements will be considered as confidential. However, these elements will be reviewed every 2-3 years for any modifications:
- (i) Bids
 - (ii) Bid evaluations
 - (iii) Trade secrets
 - (iv) The base case financial model submitted by the winning bidder

5. Method of disclosure

All information and documents will be published on a web-based platform owned by the PPP Department, and any other media platforms as required by extant laws.

6. Responsibilities for disclosure

- (a) The onus for information generation and uploading on the web-based platform will be shared by the PPP Department, the Public Authority and the Private Partner.
- (b) All information will be uploaded by the PPP Department on the Department’s website as provided in Section 3 after redacting confidential information.
- (c) The PPP Department will upload all information and documents to the web-based platform to after validation and approval of the information for public disclosure.

- (d) Performance information and any other information as required by the PPP Department and the Public Authority will be provided by the Private Partner to the contract from time to time.

7. Validation of information prior to disclosure

All information shall be validated by the Commissioner of the PPP Department and / or any officer who has been delegated this responsibility before publication on the website.

8. Standard contractual provisions

- a. A section/ chapter entitled “Transparency and Information Disclosure” shall be included in all draft contractual documentation included in the RFP and in all PPP agreements to be signed by the public authorities.
- b. The section/ chapter mentioned in 8.a. above will contain clauses pertaining to the proactive disclosures to be carried out by the public authority including disclosure of summary project and contract information, contract documents, procurement information including procurement documents and ongoing performance information disclosure.
- c. The section/ chapter mentioned in 8.a. above will also contain the obligation of the private partner to provide documents and information as and when required and in the format required by the public authority as part of its service obligations with consequential payment deductions should there be a failure to provide information on the part of the private partner.
- d. The section/ chapter mentioned in 8.a will include a sub-section dealing with confidential information and will list out the items of confidential information in a schedule along with the date up to which the information will be considered confidential.
- e. The PPP agreement will be structured in a way such that confidential information can be easily removed before publication.
- f. Sample disclosure clauses for use in all draft agreement included in the RFP and in all contracts are provided in Annex 2 and its schedules.

ANNEX 1

DRAFT TEMPLATE FOR PROACTIVE DISCLOSURE OF PROJECTS IN ZANZIBAR DISCLOSURE DURING PROJECT INCEPTION PHASE

I. **BASIC PROJECT INFORMATION** (*Disclosed at identification phase within 20 business days of approval of the project pre-feasibility study*).

- Project name
- Location
- Sector
- Sponsoring public authority
- Estimated costs
- Project rationale
- Proposed form of contract
- Description of asset
- Description of services
- Rationale for selection of PPP mode
- Estimated demand to be served annually
- Link to pre-feasibility study report

II. **PROJECT MILESTONES (ESTIMATED AND ACTUAL)** (*Disclosed as they become available*)

- Project concept note received
- Project concept note submitted to the PPP Department
- Project pre-feasibility study approved
- Project feasibility study approved
- RFQ
- RFP
- Award
- Commercial close
- Financial close
- Commencement of construction or development
- Completion of construction or development
- Commissioning
- Contract expiry

DISCLOSURE DURING PROCUREMENT PHASE

III. PROCUREMENT DOCUMENTS

- Feasibility Study Report (*disclosed upon approval*)
 - Request for qualification (*disclosed upon approval*)
 - List of short-listed bidders (*disclosed upon approval*)
 - Request for proposal (*disclosed after contract signing*)
 - Minutes from bidder's conference (*disclosed after contract signing*)
 - Revisions to tender documents (*disclosed after approval of award*)
 - Minutes from opening and evaluation of technical and financial bids (*disclosed after approval of award*)
 - Award (*disclosed after approval of award*)
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DISCLOSURE FOLLOWING SIGNATURE OF CONTRACT

IV. CONTRACT SUMMARY (*Disclosed within 20 days of the signature of the contract and updated in case of any change*)

- Contracting authority: name of authority, name of representative, address, telephone, fax, e-mail
 - Private Partner: name of company or consortium, name of representative, address, telephone, fax, e-mail
 - Financial structure:(figure showing debt/ equity/proportion/ providers) (provide link to company registry) (This will be disclosed within 20 business days of financial close)
 - Links to PPP Agreement/Memorandum of Understanding
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V. GOVERNMENT SUPPORT

Guarantees

Operating grants

Availability/ annuity payment
schedule

Land leases, asset transfers

Tax

Guaranteed traffic or demand

Equity

Debt

Other support

Revenue share, if any

VI. TARIFFS

Tariffs and pricing •

VII. TERMINATION PROVISIONS

PARTY	BRIEF DESCRIPTION OF EVENT OF DEFAULT
Private Party	
Authority	

Handback terms and conditions

VIII. RENEGOTIATIONS

RENEGOTIATIO N 1 **RENEGOTIATIO N 2** **RENEGOTIATIO N 3** **RENEGOTIATIO N 4**

IX. PERFORMANCE INFORMATION *(to be updated annually)*

KEY PERFORMAN CE INDICATORS	Year 1		Year n	
	Target	Achievement	Target	Achievement

Performance failures

Year	
Category of failure	
Number of events	
Penalty or abatement provided in contract	
Penalty or abatement imposed	
Penalty paid or abatement effected: Yes/No	

Performance assessments

Links to audit reports (if any), SPV reports, IE reports

Annex 2

Draft Sample Contractual Clauses for Public Private Partnership Disclosure.

1. Disclosure of Information

- 1.1 The Private Party agrees to facilitate the Contracting Authority's compliance with its disclosure requirements in accordance with Applicable Law.
- 1.2 Where the Contracting Authority receives a request for information in relation to information that the Private Party is holding and which the Contracting Authority does not hold itself, the Contracting Authority shall refer to the Private Party such request for information that it receives as soon as practicable and, in any event, within [fifteen] business days of receiving the request and the Private Party shall
 - (a) provide the Contracting Authority with a copy of all such information in the form the Contracting Authority requires as soon as practicable and in any event within fifteen business days (or such other period as the Contracting Authority acting reasonably may specify) of the Contracting Authority's request; and
 - (b) provide all necessary assistance as reasonably requested by the Contracting Authority in connection with any such information to enable the Contracting Authority to respond to a request for information in accordance with Applicable Law.
- 1.3 The Private Party shall ensure that all information held on behalf of the Contracting Authority is retained during the term of this Agreement for at least two years after the Agreement has been terminated and shall permit the Contracting Authority to inspect such information as requested from time to time.
- 1.4 Where the Contracting Authority receives a request for information the Contracting Authority shall be responsible for determining at its absolute discretion whether information is exempt from disclosure and for determining what information will be disclosed.

2. Publication of Information

- 2.1 The Parties agree that the Contracting Authority, subject to (Confidentiality) below, is entitled to disclose as specified in Schedule [] the following information:
 - (a) Procurement documents and information;
 - (b) All documents including this Agreement and other associated documents (including the Feasibility Study Report and the Value for Money Analysis Report);
 - (c) Summary contract information;
 - (d) Performance information related to this PPP Agreement.
- 2.2 The Private Party acknowledges that the [Contracting Authority] intends to publish the information mentioned in sub-section 2.1 above, subject to (Confidentiality), on a web-based platform owned by the Contracting Authority.

Amendments to Section 36.

3. Confidentiality

Confidential Information

- 3.1 For the purpose of this Agreement, Confidential Information means, information (however it is conveyed or on whatever media it is stored) the disclosure of which would, or would be likely to, prejudice the commercial interests of any person, trade secrets, commercially sensitive intellectual property rights and know-how of either Party, including all personal data and sensitive personal data.
- (a) Any other information (however it is conveyed or on whatever media it is stored) which may fall within the definition of “confidential information”
- 3.2 Without prejudice to Section 1 and 2, each of the Parties, their employees, sub-contractors, consultants and agents shall hold in confidence all documents and other information, whether technical or commercial, supplied to it by or on behalf of the other Party in relation with this Agreement, and shall not publish or otherwise disclose or use the same for its own purposes otherwise than as may be required by Applicable Law or to perform its obligations under this Agreement.

Confidential Information Related to End Users

- 3.3 Where the Private Party, in carrying out its obligations under this Agreement, is provided with personal Information relating to [end users (e.g., prisoners, patients, pupils)], the Private Party shall not disclose or make use of any such information otherwise than for the purpose for which it was provided, unless the Private Party has obtained the prior written consent of that [end user] and has obtained the prior written consent of the Contracting Authority.
- 3.4 On or before the expiry date, the Private Party shall ensure that all documents or computer records in its possession, custody or control, which contain personal information relating to [end users] including any documents in the possession, custody or control of a sub-contractor, are delivered up to the Contracting Authority.

4. Performance Information

4.1 The Parties agree that the Private Party shall provide to the Contracting Authority performance information as set out in Schedule 4 of this Agreement during the term of this Agreement. This will include a summary of Service Standards and target levels within [] business days after signature of this Agreement as well as each year during the term of this Agreement on [...] information on performance against target levels and performance failure as well as links to performance assessments (such as the SPV reports).

Schedule []

Format for submission of summary project information for disclosure

CONTRACT INFORMATION *(Submitted within 20 business days of signature of contract and updated at financial close and in case of any change)*

- Contracting authority: name of authority, name of representative, address, telephone, fax, e-mail
- Private party: name of company or consortium, name of representative, address, telephone, fax, e-mail
- Financial structure:(figure showing debt/ equity/proportion/ providers) (provide link to company registry) (to be provided within xx days of financial close)

RISK

	DESCRIPTION	ALLOCATION

GOVERNMENT SUPPORT

Guarantees

Grants

Availability/ annuity payment schedule

Land leases, asset transfers

Other support

Revenue share, if any

TARIFFS

Tariffs and pricing

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TERMINATION PROVISIONS

PARTY	BRIEF DESCRIPTION OF EVENT OF DEFAULT
Concessionaire	
Authority	

Handback terms and conditions

RENEGOTIATIONS

RENEGOTIATION 1	RENEGOTIATION 2	RENEGOTIATION 3	RENEGOTIATION 4
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Schedule []

Format for submission of performance information for public disclosure

PERFORMANCE INFORMATION (KPI and target summary to be submitted within 20 business days of signature of contract and achievement and performance failure information to be updated annually)

KEY PERFORMANCE INDICATORS	Year 1		Year n	
	Target	Achievement	Target	Achievement

Performance failures

YEAR	
Category of failure	
Number of events	
Penalty or abatement provided in contract	
Penalty or abatement imposed	
Penalty paid or abatement effected: Yes/No	

Performance assessments

Links to SPV reports

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Schedule []

Penalties for non-compliance with the obligation to provide information

Period of delay in compliance	Penalty

Schedule []

Confidential information

Clauses/ schedules	Period for which information will remain confidential

