

# **INSTITUTIONAL FRAMEWORK REPORT**

**Project 8906**

## **DWAF's Institutionalisation of the Public Private Partnership Toolkit for Tourism**

September 2006

(Recreational Water Use Manual Document Series Number: RWU GA2)



**water & forestry**

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Department:  
Water Affairs & Forestry  
REPUBLIC OF SOUTH AFRICA

## **APPROVALS**

Approved for the Department of Water Affairs and Forestry by:

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**Project Manager**

**Date:**

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**Director: Water Abstraction and Instream Use**

**Date:**

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**Chief Director: Water Use**

**Date:**

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**Chief Director: Business Management**

**Date:**

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**Deputy Director General: Policy and Regulation**

**Date:**

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**Deputy Director General: Water Resource Infrastructure Branch**

**Date:**

**REVISION RECORD:**

Date	Report Status	Written by	Reviewed by	Received by		Date
				Name	Company	
19/09/06	Draft 1	H. Bhana	D. Gertzen	L Fick	DWAF	28/09/06
05/10/06	Draft 2	H. Bhana	L. Fick			

## Executive Summary

The Government's Accelerated and Shared Growth Initiative for South Africa (ASGISA) targets an average growth rate of the gross domestic product (GDP) by at least 4,5% between 2004 and 2009 and 6,0% between 2010 and 2014. ASGISA also highlights that the following aspects are fundamental in achieving targets: sustained strategic economic leadership from government; effective partnerships between government and stakeholders such as labour and business; macroeconomic development relating to management of expenditure, particularly in government capital investment; and labour absorbing economic activities which facilitate Broad Based Black Economic Empowerment (BBBEE) and small business development.

ASGISA further states that tourism is one of three sectors within which strategies are being developed to promote private sector involvement. The World Travel and Tourism Council report<sup>1</sup> shows that in South Africa, tourism contributes 492 000 direct jobs, constituting 3% of total employment. Its impact is far wider and the report states that tourism constitutes 6.9% of the country's total employment (1 148 000 jobs). Tourism has a multiplier effect through various economic sectors, such as agriculture, fishing, manufacturing, finance, government etc.

Current data provided shows that the Department of Water Affairs and Forestry (DWAF) has approximately 325 dams of which 110 (33%) dams are currently used for some recreational purposes with 215 (67%) dams not being utilised. This data clearly shows that there may be considerable scope for the increase in recreational use on DWAF dams. Recreational use may be linked, in many instances, to tourism development and since the majority of the country's dams are located in rural areas, the dams provide a natural focus point for rural local economic development (LED) and the simultaneous provision of infrastructure.

DWAF has amongst others the following strategic objectives:

- promoting equitable access to water
- promoting efficient, sustainable & beneficial use of water in public interest
- facilitating social and economic development

The facilitation of social and economic development can be encouraged through the creation of economic opportunities on the dams where DWAF has a mandate.

Water-based activities on DWAF dams are regulated by two pieces of legislation: The National Water Act, Act 36 of 1998 (NWA) and the Public Finance Management Act, Act 1 of 1999 (PFMA).

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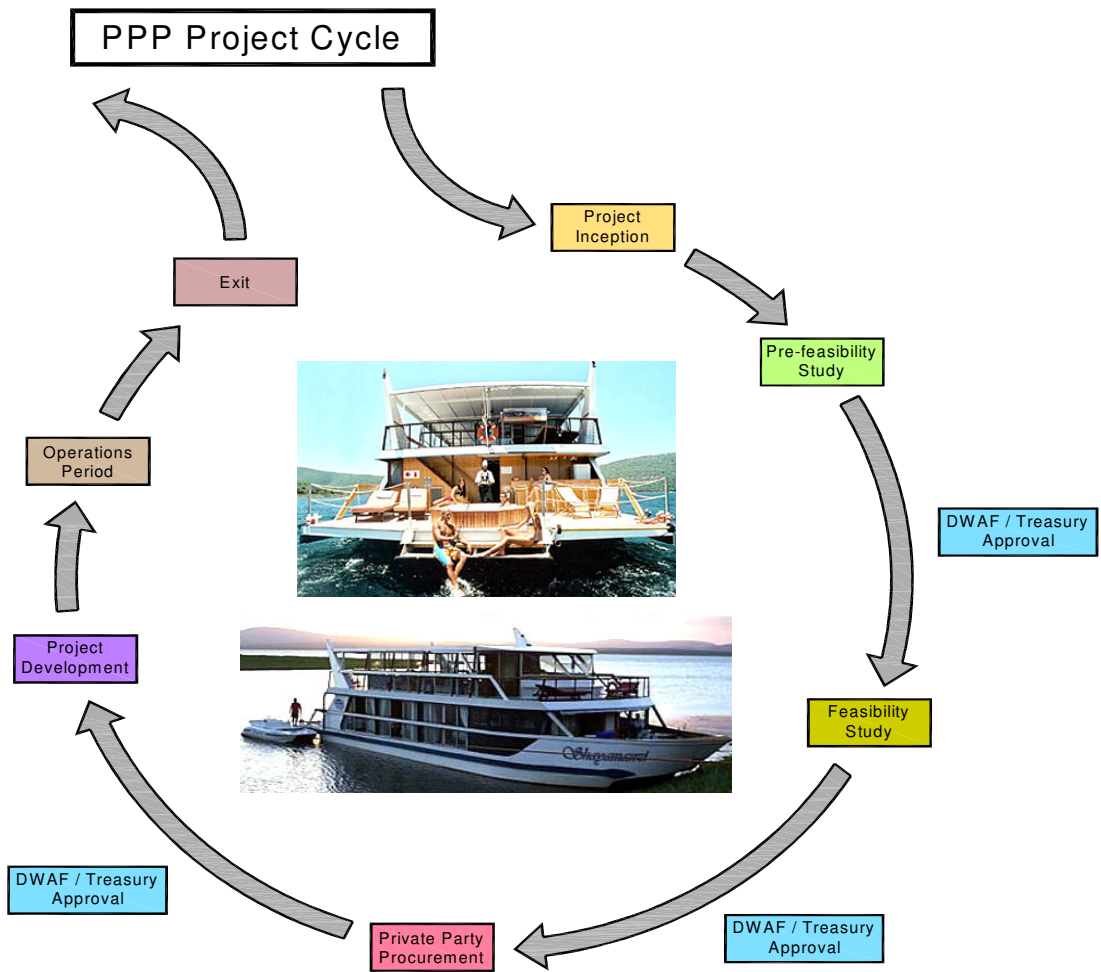
<sup>1</sup> The impact of travel and tourism on jobs and the economy. South Africa

Section (3) of the NWA declares the National Government, acting through the Minister, as the public trustee of the nation's water resources. Section (113) of the NWA makes provision for the Minister to make available its waterworks and surrounding state land for recreational purposes, for which the Minister may make charges. Section (21(k)) of the NWA recognises the use of water for recreational purposes as a water use. Recreational use of water means the use of water for recreational purposes and includes all activities that require the use of water, including the surface of water, for the exclusive purpose of sport, tourism or leisure; personal or commercial recreational water use; or activities which contribute to the general health, well-being and skills development of individuals and society.

The PFMA makes the DWAF Accounting Officer (AO) accountable to Parliament for the effective and efficient management of DWAF's budgets and the state property under its care to achieve public mandates. The AO or its delegated officials must evaluate Public Private Partnership (PPP) related value-for-money choices.

This project has been initiated to clarify "DWAF's institutional and organisational framework within which National Treasury's Public Private Partnership Toolkit for Tourism must be implemented." Management approval has been obtained to institutionalise the PPP Tourism Toolkit within DWAF to execute water based PPPs.

A PPP is a contractual arrangement whereby a private party performs an institution's functions and/or makes use of State property for its own commercial purposes. The private party assumes substantial financial, technical and operational risks associated with those functions or the use of state property. In return, the private party receives a benefit according to pre-defined performance criteria. The PPP Manual and Standardised PPP Provisions are practice notes issued in terms of the PFMA. These documents cannot summarily be applied to tourism PPP projects; hence a sector specific "PPP Toolkit for Tourism" was developed.



The project cycle for Tourism PPPs reflecting the PFMA is illustrated above.

National Treasury<sup>2</sup> has stated that implementation of PPPs is stated as a process that will facilitate the advancement of government objectives with respect to BBBEE, LED, Small Medium and Micro Enterprises (SMMEs), infrastructure development and sustainable job creation.

A requirement for PPPs is that “value-for-money” is achieved. Value-for-money means that the use of state property by a private party in terms of the PPP agreement results in a net benefit to the institution defined in terms of cost, prices, quality, quantity, risk transfer or a combination thereof. Value for money for DWAF in tourism PPPs may involve any combination of revenue generation, loss minimisation or savings in existing operations, optimal utilisation of under-performing assets, job creation, BEE, infrastructure upgrades, tourism promotion or further biodiversity protection and conservation.

<sup>2</sup> PPP Toolkit for Tourism

It should be noted that the institutionalisation of the Toolkit is accompanied with potential risks for DWAF. These risks and perceptions are noted herein and include; too much emphasis on business and not enough on service delivery, possible financial mismanagement, environmental risks and resource protection. It is imperative that these risks are addressed in the commercialisation policy and strategically managed by DWAF.

The project has two chief deliverables, an Institutional Framework and a Strategic Plan for Commercialisation, both of which are required for DWAF to institutionalize the PPP Toolkit to implement water-based PPPs. This report constitutes the Institutional Framework.

The Institutional Framework was developed in consultation with appropriate DWAF officials through individual interviews and workshops. Various aspects were also reviewed. These include relevant legislation; policies; DWAF's existing and envisioned processes and institutional arrangements; current practice in industry; linkage to the prioritisation of Resource Management Plans (RMPs), State land under custodianship of the Department of Public Works (DPW) and Department of Land Affairs) and number of PPP opportunities.

One of the major initiatives of DWAF is the establishment of the Water Resource Infrastructure (WRI) Branch and its transition into the National Water Resources Infrastructure Agency (Agency). Operation and maintenance of infrastructure will from 2008 onward be a responsibility of the Agency.

Therefore the Institutional Strategy has assessed:

- The transition from the Branch to the Agency
- Organisational implications of the Tourism Toolkit
- An assessment of the methodology for implementation for national and non national assets
- Current contracts
- The Transition from the Branch to the Agency

The principle adopted is that there should be a seamless transition from a Branch structure to the Agency. The workshop consensus was that a PPP unit located in the Facilities Utilisation section of the WRI Branch would be the best institutional framework.

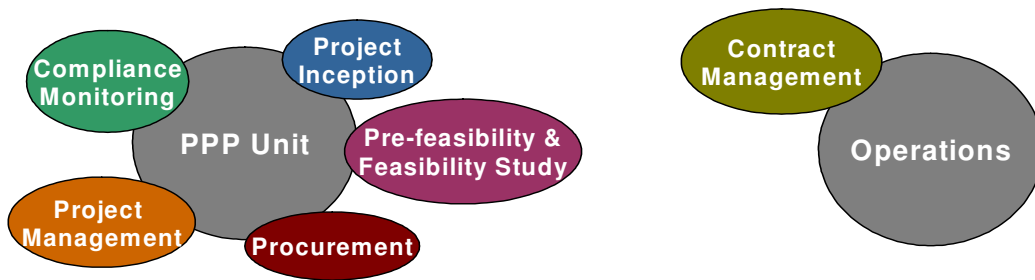
This Unit would be situated in the Engineering Services Chief Directorate and situated under the Integrated Environmental Engineering Directorate. It should be supported by representatives from the "Operations" units within the WRI Branch. In areas where significant opportunities exist, increased capacity will be deployed and this may be regionally based. Pilot projects should be implemented by a core unit initially to develop capacity within DWAF. The Project Management and Business Risk Management Units may support the Head

Office PPP Unit if required. The WRI Branch will ultimately have its own “Supply Chain Management” and “Corporate Services” units. Additionally, each “Operations” section will have a “Finance” and “Corporate Services” section. Until such time that this capacity is developed, DWAF’s capacity will be utilised.

When the Agency is established the PPP unit should be transferred to the Agency with DWAF providing a regulatory and oversight function.

The advantage of a centralised and dedicated Head Office PPP unit is that the entire unit can be seamlessly transferred to the WRIA.

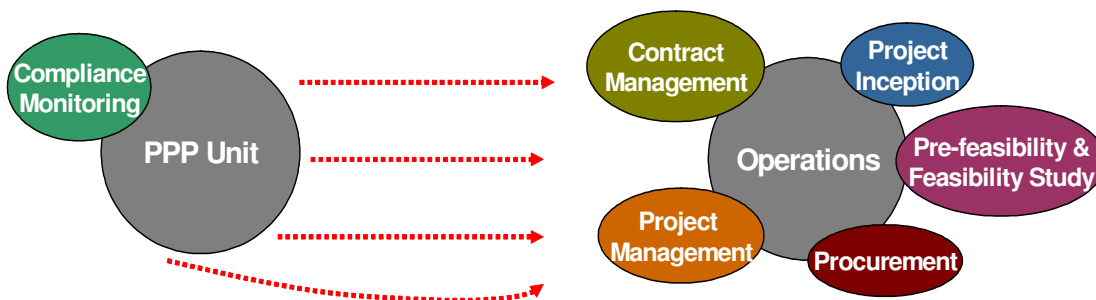
The functions, in terms of the PPP business process, could be executed by the PPP Unit or the Operations’ Units. At a workshop with DWAF officials (head office and regional), the consensus was that the functions should be allocated as follows:



For the areas/regions where a larger volume of PPPs is likely, such as:

Province	National Assets	Non-national Assets
Eastern Cape	20	71
Western Cape	11	27
Gauteng	26	7

the Project Inception, Pre-feasibility and Feasibility Study, Procurement and Project Management functions can ultimately devolve to the Operations unit when sufficient capacity is developed and sourced, as illustrated below:





This option was preferred since it facilitates the co-operative balance between a centralised unit and the four 'Operations' units in the interim and makes provision for capacity development of human resources in the long-term.

As a result of DWAF's interim lack of capacity for PPPs, water management institutions (WMIs) with relevant experience should also be able to execute PPPs on behalf of DWAF. The use of WMIs would also address DWAF's concerns pertaining to future work load and capacity. Additionally, DWAF can simultaneously develop PPP capacity by seconding staff to these WMIs. Public Sector Bodies (PSBs) can also execute certain PPP functions, in accordance with DWAF's draft policy titled "Recreational Water Use Management: Transfer of Function", available from DWAF's Water Management and Institutions Governance". The use of PSBs will be clarified during the next phase of this project.

Supplementary to above-mentioned Institutional Framework, this report addresses the following:

- The delegation of powers w.r.t PPPs
- The roll-out of PPPs and its associated implications
- The treatment and of existing operations and development relating to recreational water use
- The management of unsolicited bids received from private parties to develop state assets
- The potential for DWAF to acquire from National Treasury exemptions from statutory approvals for PPPs
- Interim measures for implementation until such time that the "Strategic Plan for Commercialisation" is developed

DWAF's institutionalization of the PPP Toolkit for Tourism will in addition to ensuring its compliance with the PFMA enable it to further attain some of the NWA's stated purposes and further promote government's policy to promote BBEE, LED, SMMEs, sustainable job creation and infrastructure development. The implementation of PPPs will be mutually advantageous to South Africa through its contribution to the GDP and DWAF through legislation compliance, attainment of its objectives, revenue generation, loss minimization, savings in existing operations and optimal utilisation of under-performing assets.

This report provides the Institutional Framework developed thus far. The framework forms an integral part of this project and will be further developed as additional surveys, interviews and workshops are conducted during the next phase of this project. The next deliverable, the 'Strategic Plan for Commercialisation', will be instrumental in DWAF's institutionalisation of the Toolkit and subsequent implementation of water-based PPPs.

## List of Acronyms

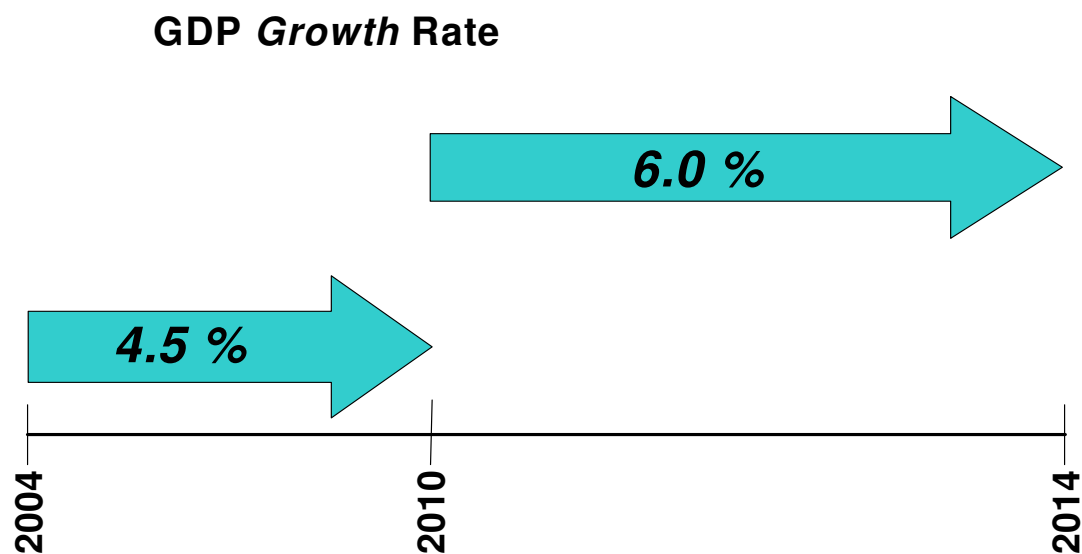
AO	Accounting Officer
ASGISA	Accelerated and Shared Growth Initiative for South Africa
BBBEE	Broad-based Black Economic Empowerment
DEAT	Department of Environmental Affairs and Tourism
DLA	Department of Land Affairs
DPW	Department of Public Works
DWAF	Department of Water Affairs and Forestry
EIA	Environmental Impact Assessment
GDP	Gross Domestic Product
LED	Local Economic Development
NWA	National Water Act, 1998
PFMA	Public Finance Management Act, 1999
PPP	Public Private Partnerships
PPPFA	Preferential Procurement Policy Framework Act, 2000
PSB	Public Sector Body
PSP	Professional Service Provider
RMP	Resource Management Plans
SMME	Small, Medium and Micro Enterprise
TA	Transaction Advisor
ToR	Terms of Reference
TR16	Treasury Regulation 16
VfM	Value for Money
WTTC	World Trade and Tourism Council

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# 1. Introduction

## 1.1 Project Context

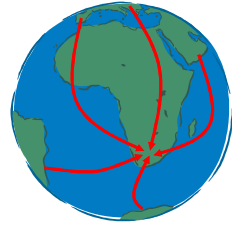
In 2004 the government decided its priority was to halve poverty and unemployment by 2014. South Africa's national shared growth initiative Accelerated and Shared Growth Initiative for South Africa (ASGISA) sets out the following growth targets:



This initiative's additional social objective is promoting an environment that is conducive to labour-absorbing activities. ASGISA acknowledges that this can only be achieved through sustained strategic economic leadership from government and effective partnerships between government and stakeholders such as labour and the private sector.

ASGISA further documents binding constraints and the following responsive intervention categories: infrastructure programmes; sector investment; skills and education initiatives; second economy interventions; macro-economic interventions issues and public administration issues. Infrastructure programmes include increased public sector investment, preparation for the 2010 Soccer World Cup and further modalities for Public Private Partnerships (PPPs) in the development and maintenance of public infrastructure.

Tourism is one of ASGISA's three sectors prioritized for the development and implementation of strategies to promote private sector investment.



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