# Development of Previously Disadvantaged Individual subcontractors in Public Private Partnerships


Author: Joseph Mokoala

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School of Construction Ecocomics and Management, University of Witwatersrand, Johannesburg

Supervisor: Dr Nthatise Khatleli

## Contents

**LIST OF FIGURES**

**LIST OF TABLES**

**LIST OF ACRONYMS**

PDI – Previously Disadvantaged Individuals

PPP – Public Private Partnerships

SMME – Small Medium Micro Enterprises

SPV – Special Purpose Vehicle

RDP – Reconstruction and Development Programme

VFM – Value for Money

TA – Treasury Approval

RFQ – Request for Qualification

GLA – Gross Lettable Area

GCA – Gross Construction Area

IPP – Independent Power Producers

DEA – Department of Environmental Affairs

CETA – Construction and Education Training Authority

NDPW – National Department of Public Works

**ABSTRACT**

Public Private Partnerships (PPPs) are an innovative method to deliver infrastructural projects without government having to use public funds for funding capital projects. This innovative method has been adopted worldwide and has yielded the intended results, more especially in European countries. This innovative method provides government with an opportunity to focus on governing and take advantage of skills and funding from the private sector to fund capital-intensive infrastructural projects.

Within the South African context, all PPPs are required to comply with the requisites of the BEE Code of Good Practice for PPPs, which states that 10% of the bid weight will be allocated for compliance in terms of BEE. Over the years, this requirement has been met for the majority of PPP projects that reached financial close and complied with the requirements promulgated by the South African Government as a tool to promote, develop and empower up-and-coming entities.

The aim of this study was to investigate the economic advancement occasioned by PPPs on Previously Disadvantaged Individuals (PDI) subcontracting. This was attained through the use of a case study method as a result of the type of questions and objectives to be met.

The study revealed that PPP projects are compliant with the BEE Code of Good Practice for PPPs. However, the requirements are not specific and clear in the PPP agreement to facilitate better monitoring and evaluation.

**Keywords:** Previously Disadvantaged Individuals, Subcontracting, Black Economic Empowerment, Public Private Partnerships

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## CHAPTER 1

# 1. INTRODUCTION

This study seeks to investigate the involvement of Previously Disadvantaged Individual (PDI) subcontractors in Public Private Partnership (PPP) transactions within the South African context. Furthermore, the study will determine the factors that can aid or improve the involvement of PDI subcontractors in PPP projects. The findings in the study will benefit a large number of individuals such as government employees, the private sector and researchers; *inter alia* those who want to gain insight into the PPP domain and gain a high-level view of the advantages and disadvantages of utilising PPPs as a model of project delivery and what benefits does PPPs have on the upliftment of PDI subcontractors. Various sources of literature and industry experts have been consulted in an effort to meet the research objectives and answer the research questions, considering that there is no ‘fit for purpose off-the-shelf solution’ due to the uniqueness of every project. This study was predominantly focusing on previously closed PPP projects. The selected projects were analysed in terms of testing the hypothesis. Data for this study was collected through semi-structured interviews and a qualitative research method was adopted for the study.

## 1.1. Context of the Study

The South African Government has a duty of care to all its citizens and to deliver the appropriate infrastructure, social and public services. According to the Constitution of South Africa, all citizens are entitled to the said services as their basic constitutional right. Delivering such services has been a challenge, attributable to a growing population and most importantly, lack of resources or funding constraints for projects, especially mega projects. Government’s inability to deliver infrastructural services in turn hampers the country’s economic growth, widens the already stretched income gap and results in provision of basic services targets set by government not being met. Together with government, the private sector plays an important role in the reduction of poverty and ensuring sustainable economic growth through various initiatives. Conversely, government plays an important role in creating an enabling environment for the private sector to operate in. Public and private sector relationships have to strength for optimal economic growth. The state should endeavour to complement its budgetary capacity and capability with the wealth, innovation, resources, skills and knowledge of the private sector and leverage the available state resources as an optimisation measure (Retief, 2011).

In South Africa, implementation of projects through the conventional method has not yielded the intended results, especially while delivering mega projects. In most cases, government cites lack of resources for their inability to implement or fund infrastructural projects. Consequently, it is important for government to adopt innovative ways of delivering infrastructural services. PPPs are one of the options that can benefit government in terms of delivering off-balance-sheet projects. PPPs are considered a creative, faster and effective way of delivering public infrastructural projects and services by transferring technical, financial, legal and operational risks to the parties better suited to manage the risks. The National Treasury's standardised PPP Provisions 2004 under the incumbent of Treasury Regulation 16 defined a PPP as "a contract between a public-sector institution and a private party, in which the private party assumes the substantial technical, financial, legal and operational risk in a PPP transaction, and both parties work together towards reaching a joint target and all the objectives stipulated in the PPP agreement".

In 1997, the South African Cabinet approved the adoption of PPPs as a catalyst for social and infrastructural project delivery in South Africa. In so doing, South Africa was following a trend set by developing and developed countries around the world, where governments partner with the private sector as a means to improve the state of infrastructure, alleviate poverty and accelerate service delivery. In the South African context, PPPs are regulated by Treasury Regulation 16, which outlines the processes to be followed from project inception until project closure and, in some instances, until the end of the maintenance or operational contract. In accordance with the standardised PPP provisions approved by the South African National Treasury, "all

PPP transactions should demonstrate value for money, affordability and risk transfer to the party better suited to manage the risk". According to Jamali (2004), the regulation of PPPs provides assurance to the private partner that the implemented regulatory system provides protection from expropriation, arbitration of possible commercial disputes, respect for contract agreements, including PPP agreements and legitimate recovery of costs and profit proportional to the risks incurred in the course of the transaction.

The establishment of PPPs hinged on transferring risk to parties better suited to manage the said risks and affording government an opportunity to focus on governing rather than absorbing risks, which can be better managed by the private sector. Nisar (2007) articulated that there are 3 (three) main benefits for utilisation of PPPs, namely:

- Enabling public sector projects to be undertaken without increasing government debt or triggering the need for government to increase taxes;
- They provide a competitive and cost effective alternative to the conventional method of delivering infrastructural projects; and
- They bring key resources, particularly in the technical disciplines, i.e. project management, finance, legal and technical skills.

Small businesses are diverse and cut across all sectors of the business sphere, including *inter alia* transportation, health, construction and education. For the purpose of this study, only small businesses that operate within the formal economy will be referenced. A substantial element of South Africa's economic growth is dependent on the growth, development and empowerment of Small and Medium Enterprises (Retief, 2011). Some people claim that the majority of the BEE empowerment partners are mainly individuals who have some strong political connections or a strong footing in the business field and thus believe that BEE is only beneficial to the "elite" blacks (Patel & Graham, 2012). However, despite such negative perceptions, it is a requirement for any PPP transaction that the Special Purpose Vehicle (SPV) have a BEE partner. The level of development from the private party/consortia to the BEE partner will be discussed in detail later in the study. It is, however, encouraging that there is a high level of preparedness in the business sector to comply with the BEE Code of Good Practice for PPPs.

Mohammed and Roberts (2008) articulated that the commitment to the BEE policy was identified by the Reconstruction and Development Programme (RDP) in an effort to decentralise business ownership, control and effective participation of black people and women in the mainstream economy. There is a notion that says black groups participating in PPP transactions only represent a tiny fraction of black people, the so-called "black elite", with only very few benefits reaching the masses. It can be questioned whether the majority of the BEE deals are creating true empowerment or whether they are mere fronting for investors and provide a significant impact on the future cash flows of those companies involved in the deals (Jackson & Alexandri, 2005). Some believe that BEE deals have somewhat lost their original meaning and intent by necessitating political connections more than focusing on empowerment and transferring of skill, thus perpetuating a system that promotes patronage and inequality rather than providing equal opportunities and developing or upskilling companies.

This research will explore the linkages between the three variables: PPPs, PDI sub-contracting and BEE as variables; ultimately exploring involvement of PDI subcontractors in PPP projects and to what effect the transactions comply with the adopted BEE Code of Good Practice in PPPs.

## 1.2. Research Questions

For a research study to be meaningful and achieve all its intended objectives, it is important to formulate research questions that will guide the research in a certain direction. Open-ended research questions, on the other hand, are more suited to exploratory research. Research questions are important for guiding decisions regarding how data should be collected, what kind of data and from whom the data should be collected, what literature needs to be reviewed and thus plays a significant role in a research study (Bryman & Bell, 2011).

The primary questions the research was aiming to address were the following:

- What is impact does PPPs have on the development of PDI subcontractors?
- What is the compliance level with the BEE Code of Good Practice in PPP projects?

The research also aimed to address the following subsidiary research questions:

- Were necessary skills transferred to PDI subcontractors in previously closed PPP transactions?
- What initiatives can be adopted to ensure or improve the development of PDI subcontractors in PPPs?

## 1.3. Research Approach

This research is concerned with assessing the compliance level of PPP projects with the BEE Code of Good Practice; the compliance level can be attained through assessment of previously closed PPP transactions. The assessment was done through a review of case studies of previously closed PPP transactions. The researcher conducted semi-structured interviews with participants who were at one point in their careers involved in a PPP project that was compliant with the requisites of the BEE Code of Good Practice for BEE in PPPs.

Due to the nature of the research questions and the variables contained in the research; the researcher opted for the qualitative research method. This method was adopted through conducting semi-structured interviews with participants and undertaking a detailed analysis of the collected data. The researcher solicited data from primary and secondary data sources in an effort to allow for triangulation and assess the validity of the information used in the study.

## 1.4. Research Aim

The aim of the study was to interrogate the economic advancement occasioned by Public Private Partnerships on PDI subcontracting.

## 1.5. Research Objectives

The study addressed the following research objectives:

- Investigate the impact PPPs have on developing PDI subcontractors;
- Assess the compliance level of previously closed PPP projects in terms of subcontractor development;
- Asses the general performance of the PDI subcontracting policy as encapsulated on the BEE Code of Good Practice of PPPs;
- Determine the critical success factors of subcontracting in PPPs; and
- To associate the knowledge and skills transferred though PPPs within demographics.

## 1.6. Problem Statement

Since the legislation of PPPs was promulgated in South Africa, the South African Government saw an opportunity to utilise this vehicle for the advancement of economic sustainability of small PDIs. Although the BEE intervention has had mixed results in the normal construction environment, the research sought to assess the success of BEE subcontracting in advancing the economic development in PDIs. The assessment was undertaken through assessing the project’s compliance level with the BEE Code of Good Practice for PPPs.

There PPP market has seen traction over the years and a substantial number of PPP projects have been completed. It is envisaged that majority of the completed PPP projects have not complied fully with the requisites of the BEE code of good practice.

This study will evaluate and analyse the involvement and development of PDI subcontractors in PPP projects, through assessment of compliance with the BEE code of Good practice for PPPs.

## CHAPTER 2

# 2. LITERATURE REVIEW

## 2.1. Subcontracting

### 2.1.1. Introduction to Subcontracting

Subcontracting is a common term used in the construction industry. Projects are temporary endeavours undertaken to create a unique, product, service of result (PMBOK, 2014). Due to the uniqueness of every project, multiple disciplines are involved in projects, some activities in a project are often subcontracted to subcontractors to undertake a portion of work that was supposed to be executed by the main contractor or the contracted entity.

According to the CIDB (2013), subcontracting is defined as Inclusion of specialist, generalist, trade and labour-only subcontractors, “which forms an integral component of the construction industry and many other industries, and its importance has been increasing in the industry over the last two decades in South Africa and elsewhere around the world”

According to (Lian, Hassim, Muniandy, and Hua, 2012) Subcontractors are specialist in the execution of a specific job, they act as agents of the production system of the contractor company in supplying materials, manpower, equipment, tools or designs for the specific work they are contracted to undertake. (Lian et al, 2012), further articulates that there are various types of subcontracting, namely:

- Equipment intensive subcontractors; and
- Labour intensive subcontractors.

For the context of the study, the type of subcontractor that will be investigated in this study is purely from a developmental perspective, predominantly previously disadvantaged individuals. Ponte, Roberts and Van Sittert (2007) “Since 1994, South Africa has embarked on a series of programmes aimed at empowering groups and individuals who had been negatively affected by the previous system of apartheid. This has been attempted directly by government through efforts to deliver better public services and housing, and indirectly through the process of Black Economic Empowerment (BEE)”. Such efforts have also been realised not only in corporations but also in a project environment. Ponte et al (2007) further articulates that organisations undertaking business in South Africa are assessed in terms of seven criteria, namely: ownership, management representation, employment equity, skills development, preferential procurement, enterprise development and corporate social investment. From the year 2000 onwards, it was a requirement that the abovementioned factors be complied with in terms of undertaking business in South Africa.

### 2.1.2. Subcontracting in South Africa

Subcontracting is a business strategy that is used by main contractors to deal with uncertainties in the construction market, and allows the main contractor to reduce operating costs and thereby enhance competitiveness. Subcontracting is very prevalent in the South African construction industry, with up to 70% of building and 30% of civil construction projects subcontracted out. The most prevalent types of subcontracting are labour-only, trade contracting in the building sector and specialist subcontracting in the building and civil sectors, (CIDB, 2013).

Martin and Root (2009), newly formed enterprises often fail to turn into sustainable companies with many failing during their first five years of existence. This high failure rate adds to the pressure on the sector and infringes on its overall capacity; capacity required to satisfy the country’s needs for built infrastructure. The said failure rate is attributable to lack of opportunities and the short-term nature of projects results in subcontractors undertaking work over short periods of time and resulting in skewed cash flow inflows.

### 2.1.3. Why could PPPs address subcontracting issues

A substantial element of South Africa's economic growth is dependent on the growth, development and empowerment of Small and Medium Enterprises (Retief, 2011). Some people claim that the majority of the BEE empowerment partners are individuals, who have a strong political connection or are linked to successful business people and believe that BEE is only beneficial to the "elite blacks" (Patel & Graham, 2012). However, it is a requirement for any PPP transaction to have a BEE partner. The level of development from the private party/consortia/SPV to the BEE partner will be discussed in detail later in the study.

In ensuring BEE compliance in PPP's, the National Treasury's PPP unit together with the Department of Trade and Industry (DTI) facilitated the adoption of a BEE code of good practice in which the National Treasury aligned their objectives with government and recognised that BEE plays an integral part on all phases of a PPP transaction and project cycle, hence compliance with BEE is contractually binding in all PPP Agreements. This method is ideal because BEE forms part of the evaluation at tender stage and contractors will not be forced to comply but rather are aware of compliance from the onset.

The code of good practice for PPPs enforces compliance by contracting entities and the long-term nature of PPPs can benefit subcontractors through provision of long term opportunities and stable cash flow. It is, however, encouraging that there is a high level of preparedness from the market to comply with the BEE Code of Good Practice for PPPs.

## 2.2. Introduction to PPPs

The growing popularity of PPPs around the world was as a result of financially and other resource-constrained public sectors. PPPs alleviate the burden normally placed on governments and deliver avenues to achieve quality public services. PPPs provide an added advantage over and above the conventional funding methods by affording the private sector the opportunity to fund and deliver infrastructural services, while government will pay unitary fees on a monthly or annual basis. Grilo et al. (2004) stated that every PPP transaction − regardless of the future impact on public debt − should be properly accounted for. Within the South African context, this would mean that National Treasury, through the accounting officer of the implementing entity, will have such a record and it will also be documented in the PPP agreement. By participating in PPP transactions, governments have the option of reducing unitary fees by paying a once-off capital injection upon signing of the PPP agreements and all its schedules; as a result, this will lower the loan repayments.

Yongjian, ShouQing, Albert, Chan and Esther (2009) claimed that the first PPP transaction in Europe was undertaken in 1987. Since then, PPPs have been recognised as an efficient way of delivering infrastructural projects, offering value for money and playing a significant role in delivering infrastructural services in developing countries. Europe is a trendsetter for innovative solutions and the majority of countries around the world tend to replicate the systems/methods adopted by the European countries. Therefore, PPPs have been adopted in the rest of the world and South Africa in particular.

Asia also took advantage of this infrastructural delivery catalyst tool and China in particular implemented their first PPP in the late 1970s. The Chinese Government recognised the importance of undertaking PPPs as a tool for service delivery and also made efforts in the legal, supervisory and management spheres of government to ensure that the adoption of PPPs was successful and the private sector keen on partnering with government to deliver key services (Adams, Young, & Zhihong, 2006).

Public Private Partnerships have an ability to help achieve the development goals in countries, where governments have financial constraints and are still developing such as in the case of South Africa. In recent years, a number of PPP transactions have been completed in South Africa, some successfully and some not successfully due to varying reasons.

## 2.3. What are PPPs?

According to available literature, there are a number of definitions for PPPs. As the project environment evolves and regulations of PPPs are being enforced, the definitions of PPPs are also evolving. Below is a number of varying definitions provided by local and international academics:

- According to the World Bank (2012), a Public Private Partnership is defined as a long-term contract between a private party and a government agency for providing public assets or services, in which the private party bears the significant risk in the transaction and the responsibility of managing the project or assets;
- Jamali (2006) defined Public Private Partnerships as an institutional form of cooperation between the private and public sector that − on the basis of their own indigenous work − work together towards a joint target;
- The Partnerships British Columbia (2009, cited by Garvin, 2010) indicated that Public Private Partnerships are a partnership arrangement in the form of a long-term performance-based contract between the public sector, at any level of government and the private sector, usually a team of private sector companies working together to deliver public infrastructure for citizens;
- According to the South African National Treasury PPP Practice Note Number 02 of 2004), Public Private Partnerships are a contract between a public-sector institution and a private party, in which the private party assumes substantial financial, technical and operational risk in the design, financing, building and operation of a project;
- The National Treasury's Public Finance Management Act of 1999 National Treasury Regulation 16, defined a Public Private Partnership as a commercial transaction between an institution and a private party in terms of which:
    - ➢ The private party either performs an institutional function on behalf of the institution for a specified or indefinite period; or acquires the use of state property for its own commercial purposes for a specified or indefinite period;

- The private party receives a benefit for performing the function or by utilising state property, either by way of compensation from a revenue fund, charges or fees collected by the private party from users or customers.

Based on the definitions above, it is evident that Public Private Partnerships are long-term contracts, where infrastructure/assets are provided by the private sector on behalf of the public sector/government with the aim of ensuring that quality services are provided to the public in an efficient manner with the aim of attaining value for money, whilst transferring risks to parties better suited to manage them.

### 2.4. Tests for a PPP Transaction

Burger (2006) stated that for any PPP transaction to move from the conceptual stage to a point, where it becomes a project, there are tests conducted on the project as per the requirements of the Public Finance Management Act and Municipal Finance Management Act, with both regulating the utilisation of PPPs in South Africa:

- Affordability;
- Risk transfer; and
- Value for money (VFM).

#### 2.4.1. Affordability

This is the most important test a PPP transaction must pass. In most instances, the procuring institution would give an undertaking to implement a project through the PPP mechanism, but after conducting a detailed business case, it could then be discovered that the procuring institution does not have the required budget to implement the project.

One of the main concerns of PPPs is that they make room for re-negotiation due to their long-term nature and as a result of triggering compensation events outlined in the PPP agreements, compensation events have a nature of changing the financial composition of the contracts and may render the financial composition unaffordable (Sarmento & Renneboog, 2016:95).

It is important that all contracting parties comply with the requisites of the PPP agreement to render the transaction affordable throughout the entire contract term. Carbonara and Pellegrino (2014) stated that governments around the world should adopt adequate tools and techniques to assess the affordability and sustainability of projects during the initiation stages of the PPP process.

### 2.4.2. Risk transfer

Risk is a key principle in a PPP transaction because it transfers the risk to parties better suited to manage the risks. While it is the intention of PPP agreements to transfer risks, it is not an easy task to find the optimal workable balance of the risks to be transferred. This is not only dependent on project-specific characteristics, but also the macro-economic environment (Demeriag, Khadaroo, Stapleton, & Stevenson, 2012:1321). Contract disputes, construction claims, litigation and consultations with dispute resolution boards are on the rise, especially in construction projects due to risks not being transferred/allocated to suitable parties. As a result, projects are not being completed or are completed either over budget or behind schedule (Gerard et al., 2016). Risk transfer is a major driver for value for money; and thus ensuring that a PPP transaction is delivered successfully, optimal risk transfer to the parties involved in the transaction is imperative (Jin, Zhang, & Yang, 2012:298). Both the public and private parties must work together to ensure that risk transfer is attained as it is the ultimate test a transaction must pass prior to it being registered with the Treasury's PPP unit for implementation.

However, PPPs do not indicate that there is an introduction of mechanisms in the market or simply privatising the public sector, but rather that the private and the public sector have the same goals, objectives and values in the partnerships to leverage the strengths and opportunities of each other (Pangsiri, 2002). Demering et al. (2012) defined PPPs as a "partnership that involves the public and the private sector sharing the risks and rewards on clearly defined projects financed by the private sector". In this case, the risks should be identified and transferred to the party better suited to manage the risk. In most cases, while the larger part of the risk is pertinent to the public agency in the PPP transaction, the debt provider could vary depending on the type of PPP adopted. However, it is necessary to analyse, which party is bearing each of the risks associated with a particular item and transfer properly (Thomas et al., 2010). Thomas et al. (2010) further articulated that "risks may give rise to project failure, and in the absence of an assured minimum "revenue stream", the equity investor and/or debt provider are assuming most of the economic losses in a concessionary project. Losses could be due to "cost overrun and/or underestimation of revenue".

### 2.4.3. Value for money (VFM)

A Value for money (VFM) assessment is an important determination, when choosing to deliver a project through the conventional method or PPP. The VFM test is undertaken to determine the cost effectiveness of a PPP transaction. The objective of a PPP transaction is to ensure the delivery of services from the private sector by combining the strengths of the public and private sectors working in partnership, each focusing on the areas they know and do best. This approach also underlines the role of risk allocation in PPP projects. The party that can efficiently manage the risk at the lowest cost should be responsible for the risks and thus VFM will be attained (Nasir, 2007:155).

For value for money to be attained in a PPP transaction, the level of transparency, accountability, competition, commitment and stakeholder consultation should be enhanced from project inception right through to project procurement, negotiations, construction, operation and hand-over to the client (Ameyaw, Adjei-Jumi, & Owusu-Manu, 2015:276). Ameyaw et al. (2015:276) further articulated that encouraging competition in PPP transaction enables bidders to reduce their mark-ups/profits to enhance their chances of securing the contract and thus fostering competition as a key determinant for value for money.

In a market that is still growing like PPPs, it is therefore important that entrants in the market are developed and upskilled for the enhancement of competition. Value for money is designed to be of use and benefit to all parties involved in the PPP transaction, including the procuring parties, designers, contractors, subcontractors, all Special Purpose Vehicle (SPV) participants and all relevant stakeholders involved in the transaction throughout the entire project lifecycle (Mc Donald, Walker, & Moussa, 2013).

## 2.5. Types of PPPs

PPPs are adopted on various projects, ranging from infrastructural, social or economic projects. For a successful implementation of any PPP project, it is important to determine the appropriate type of PPP for the transaction. The discretion to select the project type is not dependent on the market nor the SPV; however, it rests with the transactional advisors undertaking the project under the guidance of the National Treasury's PPP unit.

According to Adams, Young, and Zhihong (2006:389), there are 14 "generic" types of PPP models that entities can adopt:

- Service contract;
- Management contract;
- Design build transfer;

- Design build major maintenance;
- Operate and maintenance;
- Design build and operate;
- Lease upgrade operate and transfer;
- Purchase upgrade operate and transfer;
- Build lease operate and transfer;
- Build own operate and transfer;
- Design build operate and transfer;
- Design build finance operate;
- Purchase upgrade and operate; and
- Build own operate.

Adams et al. (2006:390) indicated that although there are a number of PPP models available that can be adopted for PPP projects, the PPP projects initiated over the last 20 years, were dominated by the Design, Build Operate and Transfer (DBOT) model. The model to be adopted for a specific PPP transaction is dependent on the industry, in which the project is being implemented, *inter alia* health, transport, social and infrastructure. Another consideration to include prior to selecting a PPP model is to assess the SPV composition of the market the procuring department is aiming to attract (financier, contractor, operator) because the SPV signs the PPP agreement and, as a result, is responsible for delivering the infrastructure (Demirag et al., 2012).

## 2.6. PPP Process in South Africa

The PPP process in South Africa is governed by the National Treasury's PPP unit and is regulated by Treasury regulation 16 of the Public Finance Management Act, 1999. The advantage of having a dedicated PPP unit is that it creates a centre of knowledge and expertise that provides technical assistance during the creation process of PPPs and keeps a watchful eye on implementing entities and departments through its regulatory mechanism (Burger, 2006). The PPP lifecycle within the South African context is divided into six (6) phases:

## 1. Phase 1: Inception

Section 16.3 of the Treasury Regulation 16 to the Public Finance Management Act, 1999 indicates that:

*"As soon as the institution identifies a project that may be concluded as a PPP, the accounting officer or accounting authority must in writing –*

*(a) register the PPP with the relevant Treasury;*

*(b) inform the relevant Treasury of the expertise within that institution to proceed with a PPP;*

*(c) appoint a project officer from within or outside the institution; and*

*(d) appoint a transaction advisor, if the relevant Treasury so requests."*

During the project inception stage, it is important that all relevant stakeholders involved in the needs analysis of projects broaden and re-orientate their frame of reference in defining the project from the prescriptive and standard response, to one in which they have a strategic view of the procuring department/entity's realistic goals, objectives, needs and requirements (Smith, Wyatt, & Love, 2008:291). The procuring departments most often focus on the "must have's" rather than actual "needs" and as a result, the project becomes unaffordable during the feasibility assessment stage. This results in the project not proceeding to the next stage in terms of the PPP cycle.

## 2. Phase 2: Feasibility

The feasibility study undertaken in Phase 2 of the PPP lifecycle is based on a pre-feasibility study undertaken in Phase 1. The feasibility study for any PPP transaction is a key component for project preparation and acts as a baseline during project implementation. Any project implemented as a PPP − regardless of its scale, magnitude and nature, can have long-term implications with a great deal at stake once it has been implemented. Thus, it is important that key considerations and a high level of thorough examination be included, when undertaking a feasibility study. A feasibility study, therefore, needs to be authentic, accurate and thorough. It is the basis on which the procuring institution and the government, through the facilitation of the National Treasury's PPP unit, would make a sound investment decision on the project and not just fulfil a bureaucratic requirement (IPDF, 2007).

The primary objective of undertaking a feasibility study in a PPP transaction is to assess, what is more feasible in implementing a project; conventional public procurement or PPP procurement. The feasibility study will comprise of:

1) A needs analysis;
2) A solution options analysis;
3) Project due diligence;
4) A value assessment;
5) Economic valuation and
6) A procurement plan.

According to module 4 of the PPP manual (National Treasury, 2004), the feasibility study is undertaken to assist the procuring institution when determining, whether conventional public sector procurement or a PPP project delivery model is the best choice for the proposed project. Module 4 of the PPP manual (National Treasury, 2004) further articulated that the feasibility study presents and explains the core concepts of affordability, risk and value for money in an effort to provide the procuring entity with the holistic view of whether to continue with the project or not. Users are taken through the following stages of the feasibility study process. The outcome of the feasibility study phase is the approval of transactional advisors and a Treasury approval (TA) I.

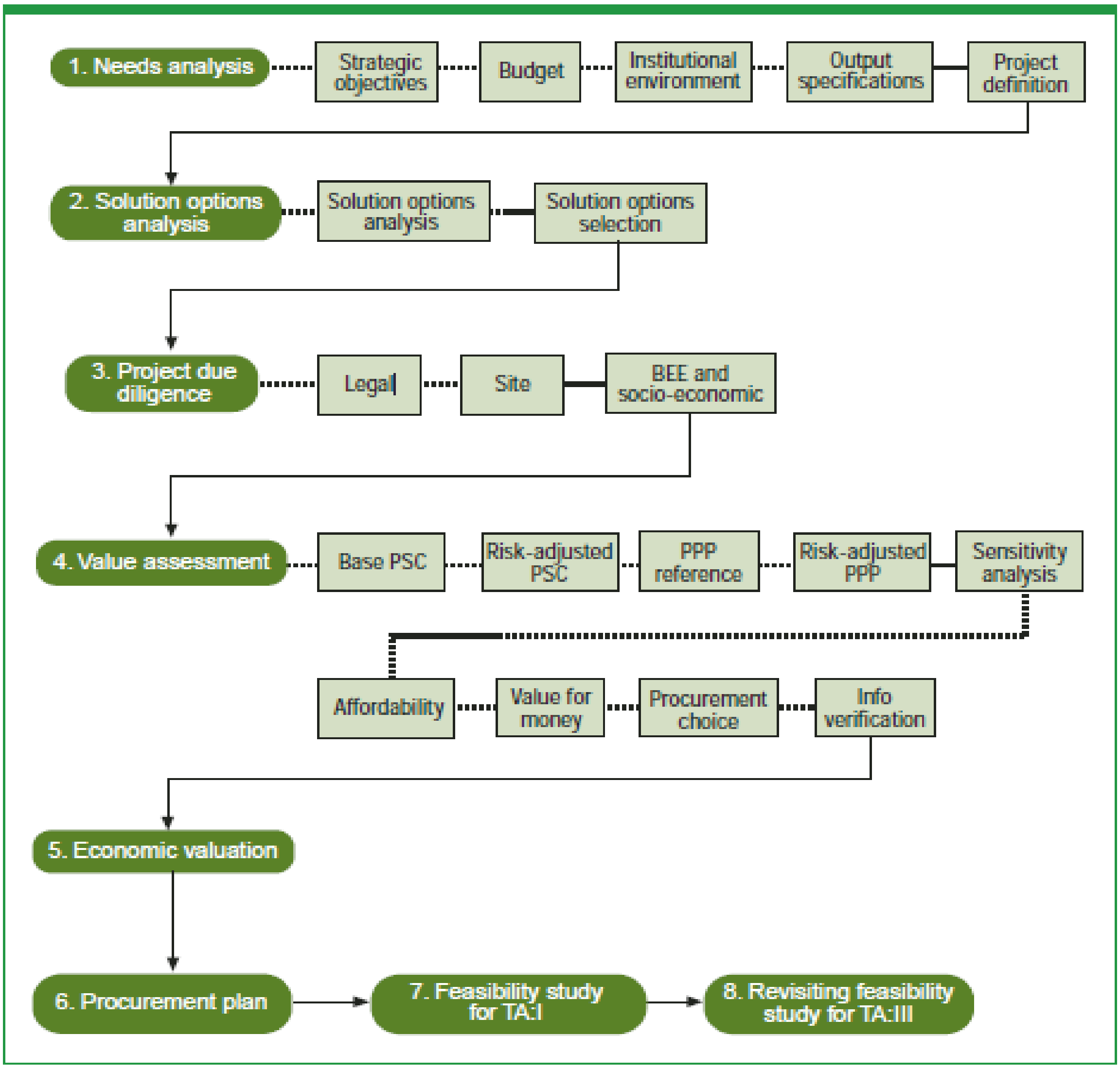


**Figure1 Source: Module 4 of the PPP manual, National Treasury**

## 3. Phase 3: Procurement

According to Module 5 of the PPP Manual (National Treasury, 2004), it is important that prior to undertaking/designing procurement documents, the project scope and objectives be clearly and concisely stated in accordance with the business/procuring department's intended outcomes that are to be supported by the project outputs. PPP procurement is seen as an effective way to achieve VFM in public infrastructure projects and thus, the effort should be put into the process to ensure transparency and accountability (Li Bing, Akintoye, Edwards, & Hardcastle, 2004). The PPP procurement process is lengthy and thus, results in delays in the construction start date (Hampton, Balwin, & Halt, 2012:88).

PPPs have inherent characteristics that make them more prone to renegotiations more often than the traditional procurement method because they are long term, complex and incomplete contracts, occur in a highly-politicised environment and are highly regulated by National Treasury. In some instances, the procuring department is required to inject large amounts of capital as “capital injection”; they are highly capital intensive in their nature, which makes them prone to risk and uncertainty (Sernemento & Reneboog, 2016:95). Based on the reasons stated above, during this stage, PPPs are subject to negotiation in an effort to derive value for money and apportion risks appropriately to parties better suited to manage the risks.

The outcome of the process is an approved TAIIA, TAIIB and a TAIII from National Treasury. After an approved TAIII, the project will then be ready for implementation because National Treasury authorises that a project can go to implementation.

### 4. Phase 4: Development

During the development phase of the project, renegotiations are undertaken. Renegotiations usually result from unpredicted or uncontrolled events within the market conditions; in most instances, the conditions triggering renegotiations are listed in the project documents or the PPP agreement to be precise (Sernemento & Reneboog, 2016:111). During the development phase, all disputes should be settled and performance monitored through the prescribed performance mechanisms. Good communication is key during this stage. During the development stage, all the project documents, including the PPP agreements and all its schedules, are reviewed to assess, if they are no gaps that may hinder the project delivery and affect the project negatively prior to the project delivery stage.

### 5. Phase 5: Delivery

During the development phase of the project, the design and construction members of the SPV (assuming an infrastructural project) are actively involved in delivering the infrastructural project. Depending on the PPP agreement, the technical advisors and the lenders' technical advisors are actively involved during this stage to ensure that the contents of the PPP agreement are adhered to. The outcome of this phase is an infrastructural project that meets the project requirements.

### 6. Phase 6: Exit

During the PPP exit phase, the Auditor General scrutinises the project in an effort to ensure that the project is "tight" from an audit perspective. The audit is usually conducted to test the affordability outlined in the feasibility study and compliance with the requisites of the Public Finance Management Act and Municipal Finance Management Act.

## 2.7. Challenges of Implementing PPPs in Developing Countries

Developing countries have been trying to implement measures to improve trade through free-trade markets, participation in the world system and thus, growing appreciation of the importance of market mechanism. This, coupled with the success of privatisation in various countries has sharply increased interest in the continuously emerging Public Private Partnership phenomenon because of its benefits (Jamali, 2004:414). The rationale behind adopting the mechanism is that it offers the promise of efficiency, savings and a reduced burden on strained public sector resources and certainly struck a positive chord in countries operating under tight budgets (Jamali, 2004:414). Zhang and Jia (2009) claimed that governments around the world are faced with urgent demands from the public to develop public services; yet, they are faced with enormous capital constraints and a demand for effective methods to fund developments. Thus, partnerships are becoming more popular as alternative options.

Case studies and available literature have demonstrated that PPPs are yielding the intended results in developed countries. However, adopting PPPs in developing and non-developed countries has its challenges and shortfalls. The successful adoption of PPPs in developing countries is based on experience and coupled with the fact that PPPs have been implemented for over two (2) decades, the PPP mechanism is still a new phenomenon in developing countries, where it is still being tested. According to Jamali (2004:428), majority of developing countries fail, when implementing PPPs because of their inability to implement a sound legal framework or demonstrate transparency regarding financial accountability. On the other hand, Zouggari (2003, cited by Jamali, 2004:419) indicated that most PPP transactions do not go through the pre-development stage due to hastily-prepared tender documents, lack of experience in implementing PPPs, lengthy procurement process, highly inflated tender responses from the market and procuring departments not having enough experience in managing large or super projects.

According to Babatunde, Pereira, Zhou, & Udeaja (2015:685), there are 10 barriers to PPPs being successful in developing countries:

- Factor 1: Public and private partners' capacity deficiencies;
- Factor 2: Weak political willingness and administrative bottleneck;
- Factor 3: Weak economic conditions and environmentally related problems;
- Factor 4: Socially related problems;
- Factor 5: Corruption and inadequate governmental actions in PPPs;
- Factor 6: Low social acceptability;
- Factor 7: Legal and regulatory related problems;
- Factor 8: Poor internal and external stakeholders' relationships;
- Factor 9: Delay and politicisation of the concessions; and
- Factor 10: Absence of competition and due diligence.

Given the factors above and readings from available literature, it is noted that the majority of researchers cite political risk as one of the major contributors for developing countries not being able to grow the PPP mechanism for project implementation. Government should play an important role in ensuring that political risks are reduced or removed to pave the way for successful PPP project delivery and assist in improving the status of infrastructure in developing countries.

Generally, for a PPP transaction to be successfully implemented trust between the parties, openness and fairness are the basic fundamental principles underpinning successful PPPs. PPP partnerships should be viewed as an opportunity to improve the state of infrastructure rather than a threat or loss of control (Jamali, 2004:414).

## 2.8. Benefits of Implementing PPPs in South Africa

Financial constraints in public institutions is one of several contributory factors to developing countries not being able to reach their institutional objectives. Infrastructure is important for developing countries because it is a major contributor to the growth of the economy, job creation and bridging the fiscal challenges (EPEC, 2011).

There are three (3) main benefits of implementing PPPs in developing countries, namely:

### a) Accelerated service delivery

EPEC (2011) described accelerated service delivery as the benefit of having an asset and related services available earlier than would be the case otherwise, i.e. having a road, school or hospital delivered earlier means that society can enjoy the expected socio-economic benefits that come from transport, education and health services being accessible earlier. The traditional procurement method of infrastructure delivery is not yielding the indented results due to various reasons and delays in project implementation and as a result, infrastructural projects being delayed. According to Russel and Bvuma (2006), the South African Government acknowledged that service delivery improvements in the public sector were a pressing national priority that had been neglected over time and thus needed some serious intervention. However, neither the reform of bureaucratic structures, the advocacy of the much talked about "Batho Pele" principle, which advocates that government should always put the public interest first and ensure that public services are delivered in real time. Nor does the National Treasury's advocacy of Public Private Partnerships alone provide the answer. However, they may contribute to the solution, if properly implemented and regulated.

Since it has been proven that delivery of projects through the traditional method is slow and offers many challenges, it is important that government should investigate and implement alternative service perspectives and test what contribution they might make towards the acceleration of service delivery (Russel & Bvuma, 2001:243). Adoption of projects through the PPP mechanism will accelerate service delivery on a project that qualifies and passes the affordability and value for money tests as per the requirements of the National Treasury.

**b) Enhanced delivery**

According to EPEC (2011), the incentive to provide innovative solutions in the delivery of public services is an important benefit for PPPs and has been a VFM driver in several PPP projects and transactions. This may come in the form of innovation in infrastructure design and/or the delivery form of the service. The fact that the public sector specifies the outputs that are required through the output specification, which is a schedule to the PPP agreement, should facilitate a form of innovation.

The enhanced delivery of services referred to in this section is the quality of infrastructure delivered through adopting the PPP mechanism. During the design and construction stages of the transaction, the SPV designs and constructs the infrastructure to the highest quality standard because of the service and performance standard outlined in the PPP agreement. The SPV has to bear in mind that should there be any defects, the SPV will have to fix the defects until their operational term lapses. This benefit is not available, when procuring and delivering infrastructure in the conventional manner.

### c) Wider social impacts

EPEC, (2011) articulated that “the range of wider public sector benefits may be diverse and particularly difficult to quantify or value. For example, these comprise (i) the benefits accruing to the public sector from a more explicit approach to cost identification and transparency, (ii) the planning benefits of having long-term fixed prices and output certainty under the PPP contract or (iii) the contribution that PPPs make to improve the public sector’s ability to procure projects conventionally”. The wider social impacts that adopting projects through the PPP mechanism has is that the long-term impact of PPP projects is that they tend to create sustainable jobs and as a result, more people can actively participate in growing the economy.

## 2.9. Subcontracting in PPPs

CIDB (2013) stated that subcontracting is a business strategy that is used by contractors mainly to deal with uncertainties in the market and to transfer risks, for example financial risks, completion risks and responsibility for and to employees in an effort to transfer skills. Subcontracting reduces direct costs and overheads, and allows contractors to use more competitive local firms with their lower overhead costs and better knowledge of the local market conditions, practices and procedures.

Subcontracting is very prevalent in the South African construction industry, with up to 70% of building and 30% of civil construction projects being subcontracted. On the other hand, according to the PPP Guidelines (2003), every PPP transaction is structured on a combination of financial, technical, legal and BEE components, in an effort to attain the desired value for money in the delivery of infrastructural services.

In ensuring compliance with the PPPFA, the BEE component of a PPP transaction weighs 10% of the tender evaluation weighing and thus, forces the parties to consider subcontracting in PPP transactions.

Small businesses are diverse and cut across all sectors of the economy, including *inter alia* transportation, health, construction and education. For the purpose of this study, only small businesses that operate in the formal economy will be referenced.

The then Minister of Finance of South Africa, Trevor Manuel, reinforced the need for procurement strategies in fast-tracking development in the statement made on the preface to the PPP Manual by asserting that “the PPP Manual contains a code that will go a long way to achieving Broad-Based Black Economic Empowerment in PPPs, not only in the equity and management of contracted private parties, but in their subcontracting and in the projects’ local socio-economic impacts” (National Treasury PPP Manual, 2004:1). However, the implementation of such initiatives has not yet yielded the intended results due to the process being prone to manipulation by those familiar with the processes. As a result, government − thorough National Treasury and the Department of Trade and Industry − have to issue practice notes to refine developmental initiatives and enforce compliance.

### 2.9.1. BEE Code of Good Practice in PPPs

The Constitution of the Republic of South Africa, Act 108 of 1996, in section 9 on equality (and unfair discrimination) in the Bill of Rights, states the imperative of redressing historical and social inequalities. The Broad-Based Black Economic Empowerment Act (No. 53 of 2003) establishes a legislative framework for the promotion of BBBEE, provides for the gazetting of transformation charters and empowers the Minister of Trade and Industry to issue codes of good practice. These codes are utilised to regulate the manner, in which construction projects are undertaken and acts as a guide for empowering previously disadvantaged individuals.

PPPs are a ground-breaking approach to providing a long-term relationship between the public and the private sector in delivering infrastructure to the public. In the majority of countries around the world, PPPs are considered projects for the “elite” and big companies and that they do not cater for the developing organisations. Ponte, Roberts, and Van Sittert (2007) stated that "since 1994, South Africa has embarked on a series of programmes aimed at empowering groups and individuals, who had been negatively affected by the previous system of apartheid. This has been attempted directly by government through efforts to deliver better public services and housing, and indirectly through the process of Black Economic Empowerment (BEE)". Such efforts have also been realised not only in corporations, but also in a project environment.

Ponte et al. (2007) further articulated that organisations undertaking business in South Africa are assessed in terms of seven criteria, namely: ownership, management representation, employment equity, skills development, preferential procurement, enterprise development and corporate social investment. From the year 2000 onwards, it was a requirement that the abovementioned factors be complied with in terms of undertaking business in South Africa.

According to Zhang and Jia (2009), PPPs enable private companies or enterprises to build and solidify relationships with government, which results in a "win-win" or even "multi-win" situation. In the South African context, the "win-win" situation should not only apply to the private party or the public entity undertaking the transaction, but should also be seen from a developmental perspective. Some people believe that PPPs only cater for well-established companies and not small or developing companies. However, it is pertinent that the BEE companies involved in the PPP transaction be developed to widen the PPP market and because PPP contracts extend over multiple years, they will develop sustainable companies. In South Africa, it is a requirement that every PPP transaction should have an empowerment component linked to it, the empowerment regime is through the Black Economic Empowerment (BEE) initiative.

National Treasury's BEE Code of Good Practice (2004) stated that "*BEE is a key component of South African PPP projects, each of which is structured on a combination of financial, technical and BEE components in order to achieve optimal value for money in government's delivery of infrastructure services. In compliance with the PPPFA, the BEE component of a PPP bid will constitute 10% of the bid evaluation weighting. The price and technical components will be weighted within the remaining 90%, as appropriate to the project. BEE in the PPP bid will be evaluated against a balanced scorecard designed for the project, and bidders must achieve a minimum threshold of 50% of the total BEE points. If a PPP bid fails to pass this BEE threshold, it should not be evaluated further*".

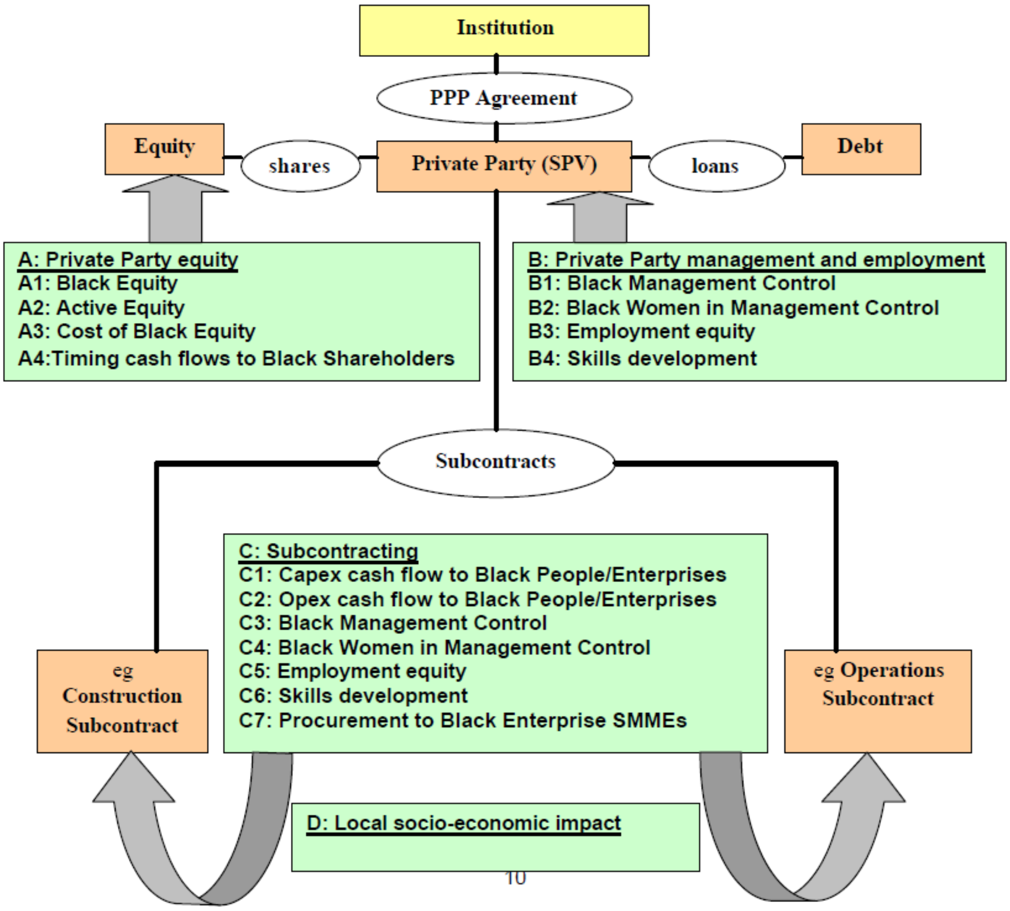


**Figure 2 Source: BEE Code of Good Practice**

According to Jackson and Allesandri (2005), the commitment to BEE policy was identified by the Reconstruction and Development Programme (RDP) in an effort to decentralise business ownership, control and effective participation of black people and women in the main stream economy. As previously stated, there is a notion that black groups participating in PPP transactions only represent a fraction of black people and are called the “black elite”. They believe that only a few people are benefitting from BEE and PPPs, whilst the masses are being denied the opportunity to participate. They doubt that the majority of the BEE deals are for empowerment, are mere fronting for investors and only provide a significant impact on the future cash flows of the companies involved (Jackson & Allesandri, 2005).

BEE deals have somewhat lost their original meaning and intent, necessitating political connections more than focusing on empowerment and transfer of skill, perpetuating a system that promotes patronage rather than providing equal opportunity and developing skills in the companies involved in PPPs.

National Treasury’s BEE Code of Good Practice (2004) stated that a typical structure is as per the structure depicted below, in line with the implementation of sectoral transformation charters and, where appropriate, may be structured to attain stronger BEE outcomes over the project term. The targets are set during the feasibility stage of the project and after a Treasury Approval is issued, they cannot be changed as they will form part of the contract documents.

According to the National Treasury’s PPP unit, there are a number of PPP projects that were completed and where the BEE compliance threshold had been met. The projects *inter alia* include the following:

- Statistics South Africa Head Office accommodation;
- Department of Environmental Affairs Head Office accommodation;
- The Department of Trade and Industry complex;
- Inkosi Albert Lithuli Hospital;
- Cradle of Humankind Enterprise Centre;
- Polokwane Hospital Renal Dialysis.

### 2.10. Rationale for adopting BEE in PPPs

Section 10 of the Broad Based Black Economic Empowerment (BBBEE) Act (2003) stated that “every organ of state and public entity must take into account and, as far as it is reasonably possible, apply any relevant Code of Good Practice” in, among other things, “determining qualification criteria for the issuing of licences, concessions; developing and implementing a preferential procurement policy; and developing criteria for entering into partnerships with the private sector”. On the other hand, the PPP Guidelines (2003) stated that every PPP transaction is structured on a combination of financial, technical, legal and BEE components in an effort to attain the desired value for money in the delivery of infrastructural services. In ensuring compliance with the PPPFA, the BEE component of a PPP transaction weighs 10% of the tender evaluation weighing.

The PPP Code of Good Practice (2003) cited the following factors necessary in making PPPs inherently excellent and achieving BEE objectives.

- The long-term nature of PPP has a potential of growing black equity and management over time;
- Risk is prioritised, ranked and appropriately allocated to parties better suited to manage them and thus, BEE candidates are made aware well in advance of the nature of risks they are committing to. They can, therefore, have a mitigation plan in place;
- The formation of a Special Purpose Vehicle (SPV) on a PPP transaction usually is a long-term partnership between all parties involved in the SPV and thus, BEE candidates and experienced companies will remain in long-term partnerships;
- Where government is the client on the PPP transaction, for as long as the services are provided to the agreed-upon quality standards, there will be a steady revenue stream to the private party, thus reducing the risk to the BEE candidate;

- The principal equity sponsor in the PPP transaction is usually the first tier subcontractor; this therefore builds solid incentives for optimal risk management and transfer in the PPP transaction;
- In some PPP transactions, there are upfront payments made as capital injection, which will be used as early cash flow benefits for the BEE candidate; this will deal with cash flow challenges experienced by the majority of BEE candidates in subcontracting under established organisations;
- PPPs have a far-reaching broad based BEE potential and if appropriately implemented, they can develop subcontractors and provide tangible economic development for the developed organisation and the targeted people;
- PPPs provide a return on equity (RoE) to all members of the SPV;
- PPPs develop skills; and
- PPPs create sustainable jobs, especially in developing countries, where PPPs are still growing; the BEE candidates will use their experience on other PPP transactions and can grow their portfolio.

## 2.11. Conclusion of Literature Review

Based on the literature analysed above, it is evident that PPPs have the ability to positively enhance countries' economic status, if properly implemented − as seen in European countries. PPPs can act as a catalyst for implementation of infrastructural projects and offer benefits not available from implementing such projects in the traditional manner.

Although there are challenges experienced with PPPs in South Africa, it is noted that the National Treasury's PPP unit is drawing lessons learnt from previously completed and abandoned PPP projects to improve the process. Conversely, subcontracting plays a pivotal is the development of PDIs. The literature analysed above indicates that the long term nature of PPP projects have the ability to develop sustainable entities through the endeavours stipulated in the BEE code of good practice for PPPs.

## CHAPTER 3

# 3. RESEARCH DESIGN AND METHODOLOGY

## 3.1. Introduction

This chapter is aimed at introducing the research design method that was adopted for the study. This chapter also focuses on the research philosophy, research approach, research strategy, data collection methods and ethical consideration applied in the study. The information was sourced from primary and secondary data sources and forms the basis of the research.

## 3.2. Research Philosophy

Saunders, Lewis, and Thornhill (2012:5) defined research as “something that people undertake in order to find out things in a systematic manner, thereby increasing their knowledge in the process”. Research involves collection of information and presenting the information in such a way that it makes sense and becomes facts.

Research philosophy gives a clear perspective of the researcher’s line of thinking regarding the subject matter, in which the study is undertaken. The research philosophy adopted is informed by the questions the research is aiming to answer. It includes practical considerations regarding the subject matter and the manner, in which the primary and secondary data collected is analysed and interpreted (Saunders, Lewis, & Thornhill, 2012:128). This study investigated government’s intentions in advocating PPP involvement by PDI in the form of subcontracting. The variables of the study were analysed based on the principle of logical reasoning and acceptable knowledge regarding the subject matter. There is a notion that states “philosophy should be thought of as a multidimensional set of continua, where one can still consider that choosing one’s position on each of the continua is somewhat unrealistic in practice” (Saunders, Lewis, & Thornhill, 2012:128). The advantage of adopting the multidimensional philosophy is that unlike the separate positions, they take into consideration the fact that they are socially constructed, objective and value bound (Saunders, Lewis, & Thornhill, 2012:128).

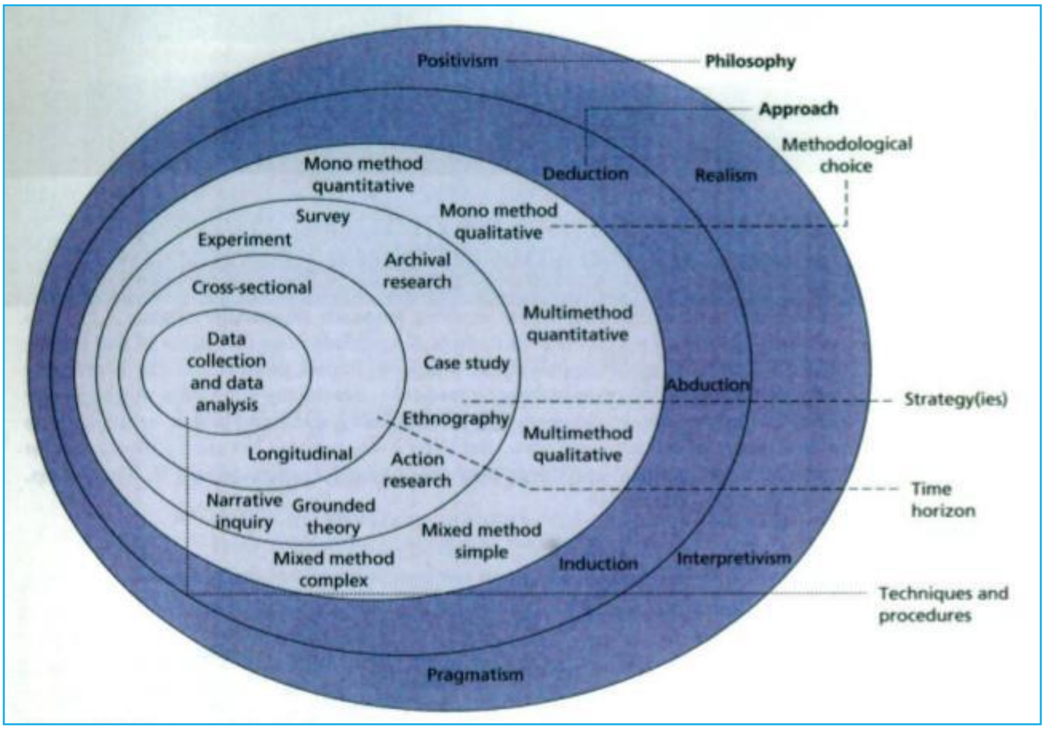


**Figure 3: Research onion Source: Saunders, Lewis & Thornhill, 2012: 128**

The research philosophy adopted by a researcher is usually perceived as the manner, in which the researcher views the world and relates to the assumptions made by the researcher (Saunders, Lewis, & Thornhill, 2012:128). Philosophy in research insists on clearly defined definitions, considers alternatives and demands explicit grounds for the brief on the research topic (Wortham, 2014:131).

There are a number of research philosophies that can be adapted to a research study. However, for this study, only four (4) were explored, namely:

- **Pragmatism** – This is a widely adopted phenomenon, which advocates that the most important determinations of the researcher's position are the research questions. This concept can be applied in both qualitative and quantitative methods when undertaking research. The researcher is free to choose, whichever method, technique and procedures they regard as the most suitable while undertaking the research (Creswell, 2009:10).

- **Positivism** – "This philosophy adopts the stance of a natural scientist" (Saunders, Lewis, & Thornhill, 2012:134). The researcher is value neutral and objective when adopting this philosophy. Positivism is also linked to post-positivism, which "holds a deterministic philosophy, in which causes probably determine effects or outcomes and measurement of the objective reality that exists 'out there' in the world" (Creswell, 2009:9).

- **Realism** – The philosophy of realism advocates that "objects have an existence independent from the mind" and also a function of scientific enquiry (Saunders, Lewis, & Thornhill, 2012:128). Realism is divided into direct realism and critical realism philosophies.

- **Interpretivism** – This philosophy advocates that the researcher should get an in-depth understanding of the differences between conducting research amongst people and objects, *inter alia* technology or equipment (Saunders, Lewis, & Thornhill, 2012:128).

The primary question the research is aiming to answer is what impact does PPPs have on the development of PDI subcontractors. For this research, a combination of positivism and interpretivism were adopted mainly because they are regarded the two basic philosophies for research. A combination of positivism and interpretivism philosophies were adopted for this research. The rationale behind opting for the two philosophies is that positivism adopts a stance of a natural scientist, whilst interpretivism allows the researcher to adopt an empathetic stance (Saunders, Lewis, & Thornhill, 2012:137). The two philosophies allow the researcher to attain a common ground between the two philosophies in an effort to attain objectivity in the research.

## 3.3. Research Methods

Greener (2008:10) stated that research methodology is about the researcher's attitude in terms of analysing the available data, the researcher's ability to familiarise themselves with the field, in which the research is being undertaken and strategies together with mechanisms put in place in an endeavour to reach the objectives set in the study.

For this study, the researcher analysed two (2) variables; PPPs and PDI subcontracting. Both variables are technical, thus it is imperative for the researcher to adopt a research design method, sampling and data collection method that will yield the intended results in terms of ensuring that the research objectives are met.

The research method is a grand plan of approach to a research topic being researched and is a framework for the collection and analysis of data for the research (Bryman & Bell, 2011:40). Greener (2008:10), on the other hand, referred to research methods as specific activities designed to generate data for a particular research in the form of questionnaires, focus groups or interviews, often referred to as research methodology. "The choice of methods turns on whether the intent is to specify the type of information to be collected in advance of the study or allow it to emerge from participants in the project. Also, the type of data analysed may be numeric information gathered on scales of instruments or text information recording and reporting the voice of the participants" (Crosswell, 2009:16). According to Crosswell (2009:16), the researcher has the option of choosing from three (3) research methods, namely:

- Qualitative method;
- Quantitative method; and
- Mixed method.

Due to the nature of the research questions and the variables contained in the research, the researcher opted for the “qualitative data” research method. The advantages of adopting the qualitative data method are that it is based on meanings expressed as words; collection of results is non-standardised data requiring classification into categories; and analysis is conducted through the use of conceptualisation (Saunders, Lewis, & Thornhill, 2012:547).

The researcher opted for the case study method, which is compatible with both the qualitative and quantitative methods and also the combination of the two methods may be used (Saunders, Lewis, & Thornhill, 2012:179). In adopting the qualitative method, the researcher endeavoured to ensure that analysis of cases was done in an unbiased manner. SMART recommendations were drawn for the analysis.

### 3.4. Research Design

Research design is a general plan of how the researcher endeavours to answer the research questions for the undertaken study, describes how the data will be collected, the sources from which the data will be collected and ethical issues to be encountered (Saunders, Lewis, & Thornhill, 2012:159). On the other hand, research design is often defined as a “plan or blueprint of how the researcher intends conducting the research” (Mouton, 2001, as cited by De Vos, Strydom, Fouché, & Delport, 2005:132). Research design describes the detailed process and procedure necessary for collecting data required to solve a research problem.

## 3.5. Research Strategy

There are a number of variables that inform the selection of an appropriate research strategy. It is a challenge for researchers to select an appropriate research strategy. Depending on the field, in which the research is being undertaken, researchers often choose a research strategy based on previously undertaken research studies; thus resulting in most research studies in the same field following a similar pattern in terms of research design and research methodologies (Walker, 1997:149). Decisions regarding a choice of research strategy to be designed are also dependent on the research problem or issue being researched, personal experiences of the researcher regarding the research problem and the audience the researcher is writing the research about (Creswell, 2009:20).

This research has two variables, namely PPPs and PDI subcontracting; thus, it is imperative that the researcher selects a research strategy that will explore the two variables in detail and answer the research questions.

The types of research questions asked are more likely to attract a certain research strategy, in an instance, where the research questions to be answered are ‘what’, ‘how’ and ‘why, than the case study, experiments, archival research and action research methods are likely to be adopted (Yin, 2009).

On the other hand, according to Walker (1997:151), the qualitative research method is aimed at answering the questions pertaining to the ‘how’ and the ‘why’, while the quantitative research method is aimed at answering the ‘how much’ and ‘how many’ type questions.

Based on the abovementioned considerations, the researcher opted for the “case study methodology”. According to Yin (2009), the case study methodology is aimed at expanding and assessing theory by analysing and providing insight into a specific case rather than re-creating theory.

In an effort to generate value from the research and since there are a number of cases to be assessed by the researcher, the “multiple case study methodology” was adopted. A multiple case study methodology enables the researcher to explore differences across a number of cases, and the researcher can conduct comparisons between them. The advantage of adopting the multiple case study methodology is that the researchers are able to replicate their findings across multiple cases and comparisons will be drawn from those multiple cases. The researcher should endeavour to choose the cases for analysis and investigation carefully so that they can predict similar results/patterns across cases, or predict contrasting results based on a theory (Yin, 2009).

### 3.6. Case Study Research

According to Flyvbjerg (2013), there are a number of aspects that a case study research exemplifies. Firstly, case studies are renowned for the choice of individual unit. Secondly, case studies give more detailed and rounded phenomena of the research being investigated. Thirdly, case study research takes into consideration that variables evolves over time and as a result, provides an element of flexibility. Lastly, the case study research put much emphasis on the contextual investigation of the research undertaken. Case study research, through reports of past studies, allows the exploration and understanding of complex issues. It can be considered a robust research method particularly when a holistic, in-depth investigation is required (Zainal, 2007).

A case study research methodology explores a research topic or phenomenon in a number of ways within its context or within a number of real life contexts (Saunders, Lewis, & Thornhill, 2012:179). According to Lehaney and Vinten (1994:5), a case study research methodology is considered for the following reasons:

- It is necessary to study a phenomenon in its natural setting;

- The researcher can generate answers to the ‘why’, ‘what’ and ‘how’ questions; and
- The research undertaken is being conducted in an area, where few or no studies have been conducted.

### 3.7. Justification of Adopting the Case Study Research Methodology

The research strategy is referred to as the “plan of action” and the choice of the research methodology is dependent on the research questions to be answered by the research (Saunders, Lewis, & Thornhill, 2012:179). For the researcher to obtain a clear picture of the “development of PDI subcontractors in PPPs, the researcher should analyse cases of previously completed PPP projects and their level of compliance with the BEE Code of Good Practise for PPPs, promulgated by the South African Government. The only methodology that is able to extract ultimate value is the case study methodology.

According to Flyvbjerg (2011:301), there are four aspects that provide a clear distinction of a case study research and they include:

- It takes into consideration the selected choice of the individual unit of study;
- The case study provides more detail, completeness and insight into the phenomena investigated;
- It takes cognisance of the iterative-ness of the case and the fact that it evolves over time; and
- It focuses on contextualising the phenomenon that is being investigated.

Based on the abovementioned considerations, the researcher was confident that a multiple case study research method would direct the research in a way that the research objectives would be met and the research questions would be answered.

## 3.8. Time Horizon

The time horizon is an important consideration for the research as it determines the time needed for the research to be undertaken. The research is constrained by the allocated time and cannot be open ended. Thus, it is important to consider the deadlines set and the time horizon for the research. There are two types of time horizons to be considered when undertaking a research, namely; cross-sectional studies take a “snapshot time horizon”, whereby the research involves the study of a phenomenon at a particular point in time; and “longitudinal” or sometimes referred to as “the diary perspective”, whereby the undertaken research is not time constrained and provides the researcher with a latitude to capture changes regarding the research as they occur (Saunders, Lewis, & Thornhill, 2012:190).

For this research, the researcher opted for the “cross sectional study” in an effort to validate the results from a now perspective and the fact that the research is time constrained, thus it is imperative to analyse the case study in relation with the currently adopted legislation. The cross sectional study is practical in a sense that most research projects are undertaken from an academic reason and many courses do not allow sufficient time for longitudinal study (Saunders, Lewis & Thornhill, 2012:190).

## 3.9. Sample Population

A sample population is considered a group of individuals or persons from which the sample is taken for measurement, and it plays a vital role in the success of the study. The population/projects considered for the research are projects listed on the National Treasury’s website (www.ppp.gov.za) and only projects that reached financial closure were considered in the research. The key stakeholders in PPP projects are predominantly representatives from the public sector, private sector representatives and all relevant parties directly or indirectly involved in the PPP projects. In soliciting information, a case study analysis was undertaken for the two (2) projects listed below.

**Table 1: PPP projects**

| Project | Asset type |
|---|---|
| Statistics South Africa | Building |
| Department of Environmental Affairs | Building |

## 3.10. Sampling

The author opted for a "judgement sampling method" for this research. Judgement sampling is a sampling method that occurs when the "elements selected for the sample are chosen by the judgement of the researcher" and it is solely at the discretion of the researcher. Researchers, in adopting this method, often believe that they can obtain a representative sample by using a sound judgement based on various factors such as *inert alia,* experience and knowledge in the field, which will result in saving time and money (Black, 2010:225). Fox and Bayat (2007:59) confirmed that when adopting the judgement sampling approach, the researcher selects those units that s/he regards as being "typical" of the population. Basically, the researcher relies on experience, ingenuity and/or previous research experience and findings to deliberately obtain units of analysis in such a way that the sample obtained may be regarded as being representative of the relevant population (Fox & Bayat, 2007:61).

## 3.11. Data Collection

The case study methodology advocates for multiple data collection methods in an effort to construct and administer validation. Yin (2003) identified these methods as including:

- Direct observation of activities and phenomena and their environment;
- Indirect observation or measurement of process-related phenomena;

- Focus group;
- Interviews, structured or semi-structured;
- Documentation, such as written, printed or electronic information about the company and its operations; also newspaper cuttings; and
- Spreadsheets used by the company to record design changes.

The data collection methods highlighted above are unique and have their distinct advantages one over the other. However, for this research, the researcher opted for the “semi-structured interviews” data collection method. The semi-structured interview data collection method was chosen as − unlike the structured interview or questionnaire − the interviewer has the flexibility to direct the interview based on the responses from the participant.

According to Rule and John (2011:65), the semi-structured interview method is not rigid, but provides an element of flexibility. The researcher is at liberty to solicit information from the respondent in an unstructured manner and in this case, the researcher was able to clarify certain issues or questions during the interviews. An distinct advantage with adopting the semi-structured interview method is that “additional questions may be required to explore a research question and research objective, given the nature of events within a particular interview session. In most instances, this method is likely to contain some comments to open discussions on certain questions and promotes further discussion” (Saunders, Lewis, & Thornhill, 2012:375). Ahadzi and Bowles (2004:969) articulated that semi-structured interviews are utilised in an effort to obtain a clear and distinctive perspective on and of the research questions.

Data collection is an important aspect of research as it has a direct impact on the quality of research, relevance of the research and the research findings. The researcher solicited data from primary and secondary data sources in an effort to allow for triangulation and assess the validity of the information used in the study.

### 3.12. Research Approach

Research approach mainly refers to the line of thinking/reasoning the researcher is applying when undertaking the research. It also relates to the hypothesis tested in undertaking the research and the manner in which the hypotheses are tested. There are three (3) forms of reasoning, in which the researcher can adopt, namely:

- **Deductive approach** – The deductive research approach involves developing a hypothesis for the research, based on the existing available theory and formulating a strategy to test the hypotheses. According to Hyde (2000:83), a deductive approach is a theory testing the "process, which commences with an established theory or generalisation, and seeks to see if the theory applies to specific instances".
- **Induction approach** – Inductive reasoning is a theory-building process, starting with observations of specific instances or theories, and seeking to establish generalisations about the phenomenon under investigation (Hyde, 2000:83).
- **Abduction approach** – Abduction reasoning is a theory that tests the existing evidence provided by existing data and modifies the theory to build a new theory (Saunders, Lewis, & Thornhill, 2012:128).

It is considered a normal practice to undertake a research combining induction and deduction within the same space of research. For the purpose of this research, the researcher adopted the "deductive" approach due to the following reasons:

- There is ample data available regarding Public Private Partnerships and subcontracting in South Africa to feed into the research;
- The deductive approach is quicker to complete, although a lot of time should be dedicated to study the available literature, and the hypothesis should be properly captured because both will direct the research (Saunders, Lewis, & Thornhill, 2012:148); and

- This approach is considered a low risk strategy because of the time factor, there is the risk of non-return of questionnaires (Saunders, Lewis, & Thornhill, 2012:148), the author managed this risk and was in a position to accept it.

### 3.13. Sources of Data

The researcher called the participants to ask for their willingness to participate in the research and set up a date and time for the interview. The researcher noted the viewpoint by Perry (1998), who advocated that requirements of a good interview should be objective, reliable and be easy to validate.

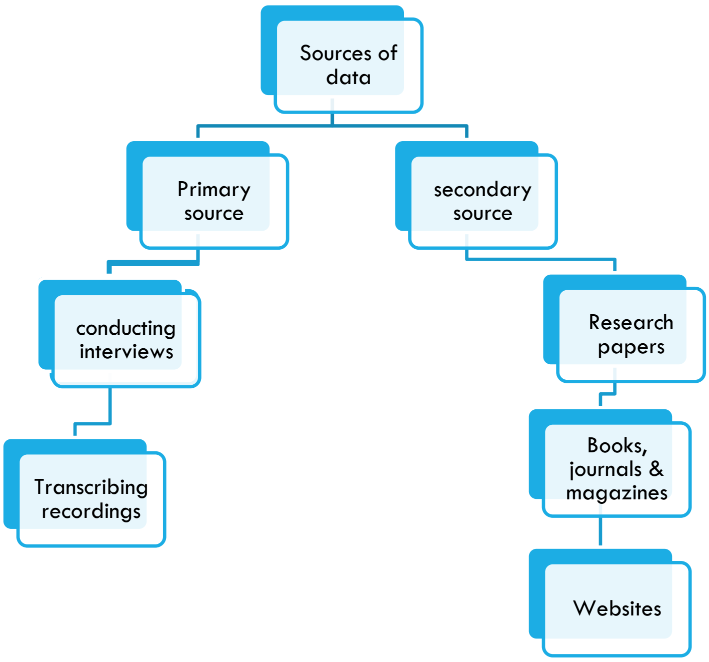


**Figure 4: Sources of data**

### 3.14. Ethical Consideration

Babbie (2001:470, as cited by De Vos, Stryjdom, Delpoort, & Fourie, 2009:56) articulated that a researcher should take cognisance of the general agreement of what is considered proper and improper research. It is imperative that the researcher respects the participants and obtains consent from them prior to undertaking the research.

Leedy and Ormond (2005:101) further articulated that when the research participants are human beings, then ethical considerations must be considered. The participants should not be put in a situation, where they are at risk or face the possibility of losing their jobs as a result of participating in the research. The information to be solicited from the participants is regarded as confidential and sensitive as some of this information will be expressing individualised views held by the participants. Thus, the principle of anonymity prevailed throughout the study.

The researcher carried out the research without causing harm, physically or emotionally to the participants, not invade their privacy, not deceiving them into participating in the study, not invading their privacy, not misrepresenting their facts and lastly not put the participants in any position that may result in conflict of interest. Saunders, Lewis, and Thornhill (2012:237) articulated that ethical issues that have a potential of emerging and compromise the position of the participants, should be identified, addressed and dealt with in the infancy stages of the research. As indicated in the beginning of the section, the data collection method was through semi-structured interviews. It is imperative that the researcher considers ethical considerations when using this type of data collection method (Saunders, Lewis, & Thornhill, 2012:237).

The participants were given the right to pull out at any stage of the interview or when they feel that they are not comfortable with the questions being asked. In an effort to minimise the risk of participants being uncomfortable, the researcher adopted the principle of informed consent. Informed consent "involves participants being given sufficient information, the opportunity to ask questions, time to consider questions without any pressure or coercion, to be able to reach a fully informed, considered and freely given decision about taking part in the research (Saunders, Lewis, & Thornhill, 2012:237). Where the researcher considered the use of "tape recorders", consent was obtained from the participants and should they confirm that they are not comfortable with being recorded, then the researcher would refrain from using the recording device. The researcher confirms that no minors were used in soliciting of information for the research and that all participants were over the age of 18. Names and organisations of the participants are not included in the research in an effort to ensure that anonymity is attained in the study.

## CHAPTER 4

# 4. DATA COLLECTION

## 4.1. Introduction

The aim of this study was to interrogate the economic advancement occasioned by Public Private Partnerships on PDI subcontracting. The study also s to assess the level of compliance with the BEE Code of Good Practice in PPPs. This was assessed by reviewing BEE criteria set and approved during the procurement process, on previously closed PPP projects in terms of black equity on the Special Purpose Vehicle (SPV) and management controlled positions. PPPs have various stages that involve compliance with the BEE criteria. However, due to the broadness of the PPP process, the researcher limited the study to analysing BEE compliance in PPP projects during the construction stage of the project. In an effort to address the research objectives and answer the questions asked in this study, case studies of closed PPP projects were analysed and data was collected through semi-structured interviews from respondents who have been involved in PPP projects at some point in their careers.

This section of the report contains the presented data collected through the semi-structured interviews collection method. The results are presented in terms of themes, in which different themes aligned to the research objectives extracted from interviews are presented and discussed in this section.

## 4.2. Statistics South Africa Building PPP Project

### 4.2.1. Introduction

Statistics South Africa (Stats SA) is a national government department, with its role defined in terms of the Statistics Act, 1999 (Act No. 6 of 1999). Stats SA has a multi-functional role, varied and deals with a wide range of beneficiaries. In order for the Department to fulfil the said requirement, the Department should staff their resources sufficiently in terms of provision of office space for the Department's resources.

During the 2005/06 financial year, Stats SA identified that their accommodation facilities did not meet the current and future needs of the organisation. Due to various reasons, the Department was still exploring options in 2008 to buy, build or lease a head office building, and the growing numbers of personnel had led to head office staff members being housed in four (4) different premises. As a result, this situation was creating efficiency problems in terms of conducting business and fulfil their mandate. The Department's staff was exposed to poor working conditions and therefore the Department decided to embark on procuring new head office accommodation to house all their staff members centrally in Pretoria and improve their working environment. The Department initiated the engagement with National Treasury's PPPs unit to assist in registering a project and assessing the feasibility of building a head office instead of continuing with the lease of the 4 buildings.

According to the Stats SA Feasibility Study (2013), referred to as a Treasury Approval (TA) 1 on the PPP manual, the following challenges were experienced by the Department and led to the Department registering a project with National Treasury:

- The Department's facilities were inadequate for the needs of the Department. Any growth in personnel numbers would not be able to be accommodated by the current facilities, which made it difficult for the Department to achieve its strategic objective of improving 'productivity and service delivery'.

- Facilities were separate from each other, causing duplication, wastage of time and resources. Personnel were unproductive as they moved from one building to the next. This was viewed as wasteful use of government resources due to the amount of time it took the employees travelling from one building to the other.
- The current facilities were not suitable as office working environments, resulting in low staff morale and poor productivity levels.
- Parking was viewed as a ‘nightmare’ because it was not appropriate and inadequate.

The Department registered the project with National Treasury and appointed Transactional Advisors (TAs) comprising of technical, legal, financial and BEE advisors. The appointed advisors conducted a feasibility study, referred to as a Treasury Approval 1 in terms of the PPP manual. The feasibility study was approved in 2012 and the Request for Qualification (RFQ) process was initiated in May 2012.

#### 4.2.2. Project scope

The Stats SA Output Specification (2013) defined the project scope as “provision of new head office accommodation for Stats SA, which will be located within the City of Tshwane Metropolitan Municipality (CTMM), South Africa. The project also entailed the procurement of suitable and sustainable accommodation facilities for the Department of Statistics South Africa requiring a private party to finance, design, construct, manage and provide complementary support to services relating to such facilities in accordance with the terms and conditions of the PPP agreement”.

According to the Stats SA Output Specification (2013), the project was aimed at providing the following spaces for the Department:

**Table 2: Stats SA building project**

| CATEGORY | SPACE REQUIREMENT ($m^2$) |
|---|---|
| Personnel Space (Workspace) | 20,504 |
| Functional Space | 14,892 |
| Special Spaces | 11,686 |
| **GROSS LETTABLE AREA (GLA)** | **47,082** |
| Structural - & Circulation Spaces | 11,770 |
| **TOTAL ACCOMMODATION SPACE** | **58,852** |
| Parking – Internal | 7,614 |
| **GROSS CONSTRUCTION AREA (GCA) – 'BUILDING SPACE'** | **66,466** |
| Parking - External | 30,630 |
| **TOTAL (GCA & EXTERNAL SPACE)** | **97,096** |

### 4.2.3. Project site

According to the Stats SA Output Specification (2013:55), the site is located in Salvokop, on the part of the Remainder of Portion 406 of the farm Pretoria Town and Townlands No. 351-JR, Gauteng Province, and the site is 79,8334ha in total. The site comprised houses of heritage significance that had to be restored and integrated into the building design. The houses are depicted as No 4 on the figure below.


**Figure 5: Stats SA project site**

#### 4.2.4. Project procurement timeframes

There was a 5-year delay from the time National Treasury approved the feasibility study due to difficulties in securing suitable land for the facility.

The delay was attributable to the Department not securing a suitable site for the building. The project was subjected to the following timeframes.

**Table 3 Stats SA building project timeframes**

| Activity | Date |
|---|---|
| Register the project with National Treasury | September 2006 |
| Appoint Transactional Advisors | November 2006 |
| Feasibility Study Approval | April 2012 |
| Request for Proposal (RFP) - TA IIA | November 2012 |
| Treasury Approval IIB (TA IIB) | September 2013 |
| Treasury Approval III (TA III) | March 2014 |
| Financial Closure | March 2014 |
| Construction Start | April 2014 |

### 4.2.5. BEE requirements

According to the RFP documents (2013), the Department through this project aimed to enhance the economic empowerment of previously disadvantaged groups and maximise local participation in terms of business activities. As part of this initiative, the Department intended to comply with the Code of Good Practice for Black Economic Empowerment in Public Private Partnerships, issued as National Treasury PPP Practice Note Number 03 of 2004. In addition to this requirement, the Department − in procuring suitable service providers for the project − was also mandated to comply with the stipulations of the Preferential Procurement Policy Framework Act (PPPFA).

Over and above compliance with the BEE Code of Good Practice for PPPs, the Department also set the following thresholds during the Request for Proposal (RFP) stage and enforced that the targets would form a basis from which the evaluation would be undertaken:

- A minimum of 30% of all expenditure subcontracted by the private party should be subcontracted to black people or black enterprises; and

- A minimum of 30% of the total procurement budget of the subcontractors must be to black enterprise SMMEs.

**Table 4: Stats SA building targets VS actual requirements**

| Criteria | Actual % of targets attained by the SPV | Criteria % set at procurement stage |
|---|---|---|
| **BBBEE Procurement** | 50% | **10.0%** |
| **QSE and EME Procurement (SMMEs)** | 10% | **10.0%** |
| **Black Enterprise Procurement** | 20% of TMP | **10.0%** |
| **Local Community Enterprise Procurement** | 30% of TMP | **15%** |
| **Black Women Owned Procurement in Local Communities** | **10% of TMP** | **5.0%** |

### 4.2.6. Participants' profile

The following participants were interviewed through semi-structured interviews. The participants were selected to contribute to the research study because they were involved with PPP projects at one stage of their career and their involvement in the project resulted in the project being delivered successfully. Participants will be referred to as Stats SA 1, 2, 3, etc.

***Stats SA Participant 1 (Stats SA 1)***

Participant 1 was a legal advisor specialising in BEE compliance. The participant, through the participation of other key stakeholders, was responsible for the drafting of the BEE requirements for the project and was also involved in the procurement stage of the project. The participant's organisation was appointed as part of the Transactional Advisory (TA) team. Over and above participation in the Stats SA PPP project, the participant played a pivotal role in delivering other PPP projects in different industries, including fleet, rail, Independent Power Producers (IPP's) *inter alia*. The participant was interviewed on 13 October 2016.

***Stats SA Participant 2 (Stats SA 2)***

Participant 2 was a legal advisor specialising in legal matters related to the project. With the input of the technical and financial advisors and other key project stakeholders, the participant was responsible for the drafting and consolidation of the PPP Agreement for the Stats SA project. Over and above the Stats SA project, the participant worked as a legal advisor on the Gautrain PPP project and the IPP programme. The participant was interviewed on 25 October 2016.

***Stats SA Participant 3 (Stats SA 3)***

The participant was a project manager for a majority shareholding company in the SPV composition. The participant was involved in compiling the bid document for the project, played a pivotal role during the project negotiation phase with the preferred bidder and also provided a technical advisory role during the construction period. The participant was interviewed on 25 October 2016.

***Stats SA Participant 4 (Stats SA 4)***

The participant was involved with the project as a technical advisor on the transactional advisory team to the Department. The participant played a project management role amongst the transactional advisors and was involved in the drafting of the technical specification (output specifications) on the project. The participant was involved from the RFQ stage up to obtaining an approved TAIII (financial close) from National Treasury.

### 4.2.7. Data collection presentation

The section below represents data that was collected from the participants. The presentation is as per the questionnaire attached as Annexure 1 of this report. Data was collected through conducting interviews and the following information was elicited from the participants.

#### 4.2.7.1. PDI subcontracting

***Do you think PDI subcontractors are developed in PPPs?***

Stats SA 1, 2 and 4 agreed that PDI subcontractors are developed in PPP projects. According to the Stats SA 1 (2016), “even though the PDI sub contractors are developed in PPP projects, there is still a misalignment between the construction sector codes and the BEE schedules in PPP projects. The success in terms of developing subcontractors is dependent on the structure adopted on the project and SPV composition”. On the other hand, Stats SA 3 (2016) indicated that the development of PDI subcontractors in PPP projects hinges on “how specific the contract requirements are, how they are measured during and after the contract. The BEE Code of Good Practice is generic and is not a mandatory requirement to be met. However, the BEE schedule of the PPP Agreement should be specific as to how the

PDI subcontractors should be developed and the penalty regime should be clear and enforceable”.

***What impact do PPPs have on the development of sustainable organisations?***

Stats SA 1 indicated that PPPs have a lasting impact on the development of PDI subcontractors. However, it should be noted that the construction duration in most PPP projects is two (2) years and should an appropriate BEE structure be adopted on the contract, the PDI subcontractors will benefit greatly from the transaction, not only in terms of monetary gains, but also in terms of taping into the enterprise development mechanisms put in place at the project level.

A company is as good its employees. However, there is limited time for developing PDI subcontractors during the design and construction period of a PPP project and thus, the limited development cannot sustain the organisation. Sustainability depends on the organisations participating in a number of PPP projects. Although this study does not cover the operations stage of the PPP project, “sustainable entities are created during the operations stage because of the long-term nature of the operations period. In most projects, facilities are being operated over a period of 20 years. The only setback is that the activities in the operations period are limited to cleaning, gardening and security *inter alia*”, according to Stats SA 2 (2016).

“PPPs would have a positive and lasting impact on developing sustainable organisations, if the project roll-out was transparent and reliable. It is currently very difficult to build a sustainable business specialising in PPPs as the PPP market is uncertain”. Stats SA 3 (2016).

On the other hand, Stats SA 4 indicated that the fact that PPP projects are long term and are legislated in terms of complying with the PPP agreement specific to every project, there is usually a schedule in the PPP agreement for performance measurement in PPPs, which sets out the targets and monitoring regime throughout the project. Should all the stipulations of the PPP agreement and its schedules be met, the project has a potential of the creating sustainable organisations. It should be noted that when the transactional advisors draft the PPP agreements and its schedules, they have the aim of creating a lasting benefit for the subcontractors.

***What is your opinion on the notion that says PPPs only benefit the "black elite" or the "politically connected"?***

According to Stats SA 1 (2016), lack of funding is the major contributor that result in the same participants/service providers being awarded PPP contracts. There are high barriers to entry in the PPP market and the market is considered to be a niche. Government also has a role to play in increasing participation of PDIs in PPP projects by making available funding/vehicles/mechanisms for equity funding to PDIs. Initially, DBSA was funding PDI equity in PPP projects; however, they have since stopped providing equity funding, thus leaving "Royal Bafokeng" the dominant player in the equity funding space and as a result, they are seen as participating in all PPP transactions.

Stats SA 2 (2016) indicated that during the project evaluation stage, entities are required to declare their interest and also if they are related to anyone working for the state. The fundamental issue is funding in this regard. It is difficult for developing or non-developed organisations to obtain funding from banks as they have no collateral and as a result leave room only for all the players with funding to play in the PPP space.

"In my opinion there have not been enough PPPs to test the notion. Only once we have had over 100 successfully executed PPPs could we test that notion." Stats SA 3 (2016). On the other hand, Stats SA 4 indicated that the notion is true due to PPPs being highly capital intensive and as a result, only entities with a positive balance sheet will be in a position to bid for PPP projects. Another discouraging factor is that to prepare a PPP bid costs approximately R15 million, which is done at risk and entities with a positive balance sheet often have a high appetite for risk.

***In an SPV composition, what skills are transferred to the PDI subcontractors?***

According to Stats SA 1 (2016), government institutions undertaking PPP projects should be deliberate in terms of skills required on a particular project. As a result, it would be easy to measure the type of skills transferred. On the Stats SA project, the BEE compliance schedule was detailed in terms of the skills to be transferred to the subcontractors and the amount, which should be spent expressed as a percentage of the total project budget.

There are various levels of PDI subcontractors that are involved in projects, namely:

- Subcontractors, who have never been in business and are using the projects as a means to start up; and
- Subcontractors, who are already in business and participating in the commercial space; however, they are developing and require guidance and mentoring from the experienced members in the SPV composition.

Stats SA 1 (2016) further articulated that the BEE schedule was drafted in such a way that it accommodates both types of subcontractors and as a result, subcontractors would have skills being transferred to management, control systems, business skills, PPP process and negotiation, contractual matters and technical skills. Over and above, preferential procurement is an important aspect in this regard and consequently, structured programmes in enterprise development were enshrined in the BEE schedule for the Stats SA building project.

Stats SA 2 (2016) indicated that skills development is undertaken at two (2) levels; at an employee level and enterprise development level. PPP targets are set at RFQ stage and are approved by the National Department of Treasury's PPP unit as one of the key approvals leading to the transaction reaching financial close or being approved for implementation. The majority of the prescribed targets are met; however, initiatives should be put in place to assist PDI subcontractors to provide services timeously and within the prescribed quality standards (project management skills).

According to Stats SA 3 (2016), compliance with this requirement is dependent on the stage/phase, in which the subcontractor is involved; however, the potential skills to be transferred to subcontractors include:

- Project finance;
- Bidding techniques and strategy;
- Legal negotiation;
- Budgeting; and
- Project planning.

Stats SA 4 (2016) requested not to answer the question because in his opinion, there is no skills transfer in the PPP projects.

***What percentage of the scope and cost is generally allocated to PDI subcontractors in PPP projects?***

Stats SA 1 (2016) believed that according to the Preferential Procurement Framework "all service providers involved in construction activities are mandated to subcontract at least 10% of the construction activities to developing entities". Stats SA 1 surpassed this requirement by subcontracting 30% of the construction activities to PDI subcontractors during the construction period.

Stats SA 2 (2016) indicated that 30% of the scope and cost is subcontracted to the PDI subcontractors in PPP projects. "This is fully dependent on the requirements of the client and the agreements within the SPV composition; the range varies between 10 - 49%" (Stats SA 3, 2016). According to Stats SA 4 (2016), the range is between 20 - 40%.

***In your opinion, do/es the PDI subcontractor/s graduate to being a standalone company/s post project delivery?***

According to Stats SA 1 (2016), "there have been instances, where PDI subcontractors have managed to graduate from the PDI subcontractor's status to entities performing in the mainstream commercial market". Transactional advisors should be specific when developing BEE schedules; they should also include an entrance and exit criterion in the BEE schedules as a mandatory requirement, i.e. "*the objective of the project should be to develop two contractors with CIDB grading 1 and develop the entities such that they are CIDB grade 4 at the end of the project*".

Stats SA 2 (2016) stated, "PPPs have an element of enterprise development and that is a major contributor in the development of sustainable entities". The ability of a PDI subcontractor to graduate from being a subcontractor to competing in the mainstream commercial space is dependent on the commitment of the organisation.

On the other hand, Stats SA 3 (2016) indicated that "No, PDI sub contractors can only graduate, if there are quantifiable pipeline projects for them to participate in. Within the PPP context, there are not enough PPP projects that entities can participate in and this makes it difficult for one to make an assessment". The PPP process does not allow for the enhancement of skills and providing the PDI subcontractors with the platform to leverage on the lessons learnt from previously closed projects and enhance their skill sets.

Conversely, Stats SA 4 (2016) alluded to the fact that the PDI subcontractors can graduate to be standalone entities; however, this is dependent on the financial management savviness of the entity. One of the key components of the enterprise development stipulated in the construction charter is to assist the developing entities with establishment of a cost control system. If proper skills are transferred, it will yield its intended results.

#### 4.2.7.2. Section 2: BEE Code of Good Practice

***Why are PPPs good for BEE?***

Stats SA 1 (2016) indicated that PPPs provide an opportunity to leverage government spending to achieve transformation in PDI subcontractors. The majority of infrastructure projects that have forward-looking sustainable attributes and are capital in nature are good for transformation and if properly adopted, will play a pivotal role in the development of subcontractors.

Stats SA 2 (2016) alluded to the fact that BEE in PPPs results in the creation of sustainable entities, which will be beneficial to the growth and development of the country by means of entities performing in the mainstream commercial space and as a result, creating jobs and producing sustainable tax-paying entities.

According to Stats SA 3 (2016), “BEE is a regulatory requirement that provides access and opportunity to PDI subcontractors; however, a more constructive and cohesive approach is required to ensure that it becomes easy to understand, access and implement”.

Stats SA 4 (2016) indicated that PPPs are good for BEE because they are long-term mega projects and that there is a BEE code to govern the compliance with the BEE component in PPPs.

***What challenges are experienced on PPPs in terms of complying with the code?***

Stats SA 1 (2016) stated that "the biggest challenge is that the BEE Code of Good Practice in PPPs is not aligned to the construction sector codes. The construction sector codes are structured from a backward-looking perspective, i.e., obtaining a certification for work done previously, and the BEE Code of Good Practice for BEE is forward-looking in that it enforces compliance to project that will be undertaken in future".

Stats SA 2 (2016) indicated that PPPFA legislation constrains the compliance with the BEE Code of Good Practice in PPPs due to the misalignment of the two documents, and if service providers are put in a position to choose, which of the two they will comply with, they will choose to comply with the PPPFA as noncompliance may result in penalties levied by government, whereas the BEE Code of Good Practice is a guideline, which is based on the discretion of the SPV management or the main contractors. The inconsistency and misalignment in the two documents creates a situation, where targets cannot be achieved. The two documents should be harmonised and then procuring entities will no longer pay premiums to enforce BEE compliance. Another challenge is that there is lack of skills by PDI subcontractors. During the construction period, there are not enough PDI entities that undertake the installations of lifts and other key trades and thus PDIs tend to miss out on those opportunities to tap into a niche specialised market.

According to the Stats SA 3 (2016), each PPP project comes with its own unique requirements, which are mostly in line with the BEE codes, but always create contestation when it comes to the application of the requirements per project and thus limiting participation of the PDI subcontractors.

According to Stats SA 4 (2016), the procuring entities were not setting clear requirements and the monitoring regimes are skewed towards not achieving the prescribed targets, especially during the construction period. Clear monitoring regimes are outlined in the operations and performance measurements standards.

***In the previous projects you were involved in, what was the percentage of black equity in the SPV composition?***

According to Stats SA 1 (2016), “it depends on the type of project and industry, in which the project is undertaken. When undertaking head office accommodation PPPs, the percentage of black equity in the SPV composition ranges between 25 to 55%”.

According to Stats SA 2 (2016), the range varies from 30 to 50%, depending on the industry and the location of the project. If the project is undertaken in an area that comprises of unemployed people, then the black equity will be higher. It should be noted that blacks tend to miss out on this requirement due to lack of funding and not enough financiers, who are willing to fund equity transactions in PPP projects without collateral.

Both Stats SA 3 and 4 (2016) indicated that the equity in SPVs is around 30%.

***The code requires that PPP projects have a “local socio-economic impact”. Did the previously closed PPP projects you were involved in meet this requirement?***

According to Stats SA 1 (2016), “yes, communities should benefit from projects and their livelihood should be improved”. On the other hand, Stats SA 2, 3 and 4 indicated that “yes, this requirement was met”, but without substantiation.

***The Code of Conduct for PPPs indicates that “the BEE component of a PPP bid will constitute 10% of the bid evaluation weighting”. Was this requirement met?***

All Stats SA participants indicated that this requirement was met and cited that it is a mandatory requirement and is enforceable by law.

#### 4.2.7.3. CSF of PPPs

***What is the critical success factor attained in PPPs by developing subcontractors?***

Stats SA 1 (2016) indicated that the institution needs to be deliberate in what they want to achieve and should have a clear strategy in place. Clear requirements and measurements should be set from the onset; penalty and rewards mechanisms should be put in place. Proper measurements regimes should also be set and form part of the PPP agreement.

Stats SA 2 (2016) indicated that the experience and exposure that will be realised by the PDI subcontractors is the key success factor. Another important aspect is the track record of being involved in a mega project.

Stats SA 3 and 4 (2016) both indicated that the fact that a subcontractor was involved in a mega project and can use that as reference for future projects is a critical success factor.

***What measures are there to assess if the proper skills are transferred to the PDI subcontractors in PPPs?***

Stats SA 1 (2016) indicated that the procuring institution should specify, which skills are required to be transferred to the PDI subcontractors in PPP projects as part of the project documents. There is a monitoring regime, which stipulates that compliance with requirements such as the BEE and other socio-economic aspects agreed upon in the contract should be measured monthly or quarterly.

Stats SA 2 (2016) indicated that the set threshold of the contract and the monitoring regime stipulated in the PPP Agreement and its related schedules should be used to measure, if proper skills are transferred to the subcontractors. Meeting the requirements set by the private party at RFP stage should be considered a key driver in assessing skills transfer.

Stats SA 3 (2016) indicated that depending on what measure is used, PDI subcontractors can go through formal training and be provided with certificates or other documentation to prove their competency.

Stats SA 4 (2016) indicated that the PPP agreement has a BEE compliance schedule with clearly set out monitoring regimes and penalties for noncompliance with the requirements.

***At what stage of the project cycle does the PDI subcontractor benefit from the transaction?***

All Stats SA participants indicated that it depends on the agreed-upon structure by the procuring entity, National Department of Treasury and the SPV management. If there is a capital contribution by the procuring Department, the benefits will be realised immediately after financial close, and if there is no capital contribution, the benefits will only be realised after submitting the first claim to the Department/financiers.

## 4.3. Department of Environmental Affairs

### 4.3.1. Introduction

The mandate of the Department of Environmental Affairs (DEA) is to ensure that citizens of South Africa are provided with the right to an environment that is not harmful to the health and well-being of all citizens, and to have the environment protected for the benefit of present and future generations.

The mandate of the Department is to “provide leadership, strategic-centralised administration, executive support, corporate services and, facilitate effective cooperative governance, international relations and environmental education and awareness”.

### 4.3.2. Project background

DEA conducted a feasibility study in 2006 for its accommodation needs and arrived at the conclusion that the office accommodations at the time no longer met the Department’s fundamental needs. This resulted in a process to procure new office accommodation for the Department. Financial close was reached in March 2012 and construction commenced in April 2012. Construction was nearly completed in May 2014, and relocation by the Department started in June 2014. The project was constrained in terms of timelines as the Department’s lease was expiring and there was only a month’s buffer on the project.

### 4.3.3. Project scope

DEA procured a suitable and sustainable working environment, custom made to facilitate the achievement of the Department’s strategic and service delivery objectives, thereby improving organisational performance and employee satisfaction, consolidated its head office facilities into one office to improve the quality and efficiency of the services provided by the Department. This had to happen in an affordable, cost efficient and effective manner to be operated by a private party in terms of a Public Private Partnership agreement and all its schedules.

The objective of the project was to provide office accommodation for 1 305 (one thousand three hundred and five) workstations and a gross lettable area of 27 422 m². Over and above these requirements, the facility was to make provision for 488 covered parking bays, 146 A-grade outside parking bays and 4 VIP lockable parking bays located adjacent to a dedicated lift for exclusive use by the Minister, Deputy Minister and Director General. As part of the signed PPP agreement, the project had a skills development component, in which the SPV would assess the skills of its subcontractors and employees, and subject them through training from a CETA accredited training provider.

### 4.3.4. Project site

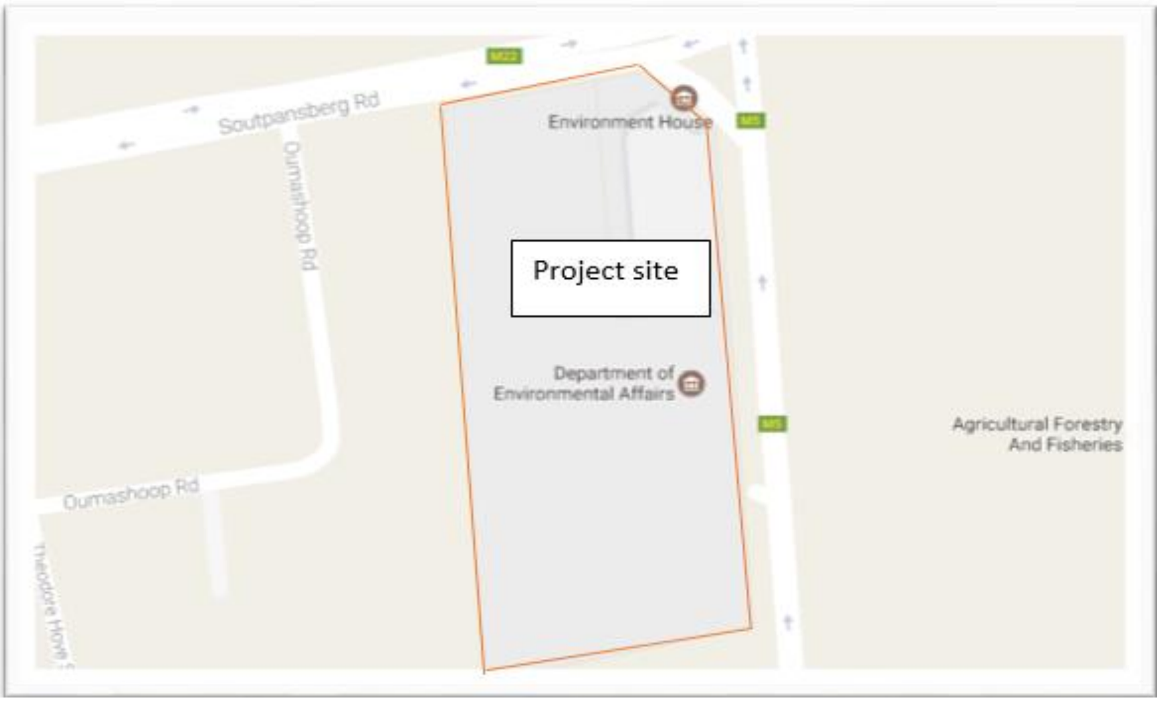


**Figure 6: DEA project site**

The site is located on Erf 1563 Arcadia Extension 6, Registration Devision J.R. Province of Gauteng, measuring 3.1309 hectares, corner Steve Biko (previously Beatrix Street) and Soutpansberg Road in Pretoria Central.

#### 4.3.5. Project procurement timeframes

There was a substantial delay from the time the Department registered the project with National Treasury to the finalisation of the feasibility study. The delay was attributable to the lack of commitment from the Department's side. The Department then assigned the Head of Facilities to be the project officer. The project was undertaken according to the following timelines:

**Table 5: DEA timeframes**

| Activity | Date |
| --- | --- |
| Register the project with National Treasury | March 2006 |
| Feasibility Study Approval | March 2011 |
| Treasury Approval III (TA III) | February 2014 |
| Financial Closure | March 2014 |
| Construction Start | April 2014 |

#### 4.3.6. BEE requirements

According to the RFP documents (2013), the Department, through the project, sought to enhance the economic empowerment of previously disadvantaged groups by creating a platform for PDIs to participate in commercial construction activities, and empower them with skills and experience that can be of their benefit post project completion. As part of this initiative, the Department intended to comply with the Code of Good Practice for Black Economic Empowerment in Public Private Partnerships, issued as National Treasury PPP Practice Note Number 03 of 2004.

According to the RFP documents (2013), the Department set the following threshold at the Request for Proposal stage and enforced that the targets form a basis from which the evaluation will be undertaken and should the tenderers not meet this requirement, they will be scored down.

- A minimum of 30% of all expenditure (cumulative of capital and operating) subcontracted by the private party should be subcontracted to black people or black enterprises; and
- A minimum of 30% of the total procurement budget of the subcontractors must be to black enterprise SMMEs.

**Table 6: DEA BEE criterion**

| Criteria | Criteria Bias % For Procurement Round |
| --- | --- |
| **BBBEE Procurement** | **15.0%** |
| **Procurement (SMMEs)** | **15.0%** |
| **Local Community Enterprise Procurement** | **1% of Net profit after TAX** |
| **Black Women Owned Procurement in Local Communities** | **30.0%** |
| **Disabled Persons** | **5%** |

### 4.3.7. Participant’s profile

***DEA Participant 1 (DEA 1)***

The participant was involved in the project as the project officer as per the stipulations of the Treasury Regulation 16 to the MFMA, 1999. The participant has vast experience in facilities management and, at the time the project was initiated, he was working as the Director of Facilities for the Department. The participant was involved throughout the project lifecycle from inception until closure.

***DEA Participant 2 (DEA 2)***

The participant was involved in the project as a project manager during the construction stage, directing and coordinating all activities during the construction stage. The participant has vast experience in the construction field, in the construction of buildings.

***DEA Participant 3 (DEA 3)***

The participant was involved in the project as part of the executives in the SPV team. The participant was involved in the process from the procurement stage through to construction. The participant has vast experience in building construction and PPPs.

***DEA Participant 4 (DEA 4)***

The participant was involved in the project as an advisor from the National Treasury’s PPP unit. The participant was involved in a substantial number of PPP projects and his role on the project was more of an advisory role in terms of the processes and monitoring and controlling compliance with the PPP agreements and legislation.

***DEA Participant 5 (DEA 5)***

The participant was involved in the project as an independent certifier, enforcing compliance with all the technical stipulations in the PPP agreements and its schedules. The role played by the participant on the project was to certify the work in terms of the technical specification (output specifications) on the project and issued certificate for compliance prior to the commencement of the relocation process. The participant has a vast experience in PPPs and was involved in a number of transactions as a transactional advisor and a project manager, responsible throughout the PPP project lifecycle.

### 4.3.8. Data collection

The section below represents data that was collected from the participants; the presentation is as per the questionnaire attached as Annexure 1 of this report.

#### 4.3.8.1. Section 1: PDI subcontracting

***Do you think PDI subcontractors are developed in PPPs?***

Participants are referred to as DEA 1, 2, 3, etc. According to DEA 1 (2016), “No, PDI subcontractors do not get developed in PPP projects. They are pulled in the SPV composition promised substantial returns and passed with risks that are too big for them to handle as a result not realising the benefit”.

According to DEA 2 (2016), “Yes, without a doubt. PDI subcontractors are developed in PPP projects. There is major emphasis put by the National Government in terms target groups that are to be met by projects. The targets set in the PPP agreements are mandatory and penalties will be imposed on service providers who do not meet the set targets”.

DEA participants 3, 4 and 5 (2016) agreed that PDI subcontractors are developed in PPP projects, but did not provide substantiation.

***What impact does PPPs have on the development of sustainable organisations?***

DEA 1 (2016) believed that, PPPs are a good model for service delivery. “At a national level, accommodation for government departments is administered by the National Department of Public Works (NDPW) and as a result, service deliver is very slow and hampered significantly, funding being a major issue and contributor for NDPW not meeting its service delivery objectives. Risk transfer is a major contributor in that it is managed by the private party and the long-term nature of the contract makes it sustainable.

According to DEA 2 (2016), the regulatory framework governs the requirements. “How are you going to asses, if the organisations are sustainable? They work on a project basis, and thus it becomes difficult to measure. The construction period was 26 months and the majority of the involved subcontractors were benefitting greatly from the project; however, their sustainability cannot be proven due to monitoring and tracking mechanisms not being in place to assess compliance in this regard. PPPs offer a great platform to equip PDIs with skills and expertise that they can use in conventional projects post involvement in PPP projects”.

DEA 3 (2016) stated that “PPPs have a lasting impact on the development of PDI subcontractors into sustainable entities. The experience that subcontractors will gain from the project will be beneficial for them in subsequent projects, and it is up to the contractors to maintain their organisations by participating in tender processes and always marketing for new work. It takes time to develop contractors; the average PPP project has a 2-year construction period, thus hampering the ability for the main service providers to train the PDI subcontractors”.

According to DEA 4 (2016), “PPPs have firm and rigid goals that will be penalised, if not complied with and thus force the SPV team to comply with requirements. Experienced contractors add risks to develop emerging enterprises and, as a result, render the PPP model of delivering projects more expensive than the conventional project delivery”.

DEA 5 (2016) confirmed that “PPPs have a massive impact on the development of sustainable organisations; they have a huge impact due to a project lifecycle of 25 years. However, it should be noted that the sustainability is only during the operation period, due to limited time during the construction phase, is somewhat impractical for the PPPs to create sustainable entities during that period. Systems are put in place for organisations to be able to stand on their own post project delivery”.

***What is your opinion on the notion that says PPPs only benefit the “black elite” or the “politically connected”?***

According to DEA 1 (2016), the notion is true because “the PPP market is very small, niche and only some small new entrants are entering the market; however, the current players are protecting the market and all projects; the majority of the black participants are involved in a number of PPP projects at the same time. Another important factor is that PPPs are highly capital intensive, and not all black entities have the financial muscle to undertake PPP projects”.

According to DEA 2 (2016), the statement has valid substantiation. “BEE targets and the local socio-economic targets should be met. The challenge with the DEA project was that the ward councillor appointed CLO, who were paid by the contractor, but he reports directly to the councillor. The system was open to manipulation, local employees were appointed through the CLO and the majority of the people employed in the project were from a specific political party”.

DEA 3 (2016) indicated that ownership requirements are skewed in PPPs. “PPPs require a substantial amount of funding. There are a few black players in the market, who are willing and able to fund the projects. At some point, DBSA used to fund the black equity portion of the PPP projects; however, due to political pressure and unknown reasons, the fund was ceased. DEA 3 further articulated that to put a PPP bid forward usually costs approximately R15 million; government and the procuring entities do not pay bid costs to participating entities, and as a result, the participants / bidders are risking a substantial amount of money. Only an elite few can afford to take the risk”.

DEA 5 (2016) agreed with the notion, but did not provide substantiation.

***In an SPV composition, what skills are transferred to the PDI subcontractor?***

DEA 1 (2016) indicated that, “the SPV should run the project throughout the contract period. The PDI subcontractor’s scope is only limited to brickwork and plastering, it does not focus on developing key skills and trades to the subcontractor. In the DEA project, there were no PDI subcontractors involved in the installation on air conditioners and lifts, nor was there any training in that regard”.

According to DEA 2 (2016), “skills are kept to the big companies; real engineering work is only undertaken by the main service providers; however, the PDI subcontractors are only given the ‘non-specialised’ activities, which is not fair to a certain extent. How will the PDI sub contractors learn, if they are not given an opportunity and exposure to undertake technical activities”?

According to DEA 3 (2016), the following skills are developed and transferred to PDI subcontractors on PPP projects:

- Management;
- Technical;

- Financial;
- Life skills training; and
- Leadership programmes, which were CETA-accredited training providers, awarding certificates at the end of the programme.

According to DEA 5 (2016), the following skills are transferred to the subcontractors:

- Finance;
- Contracts, shareholding;
- Technical;
- Legal; and
- Realities that happen in a business.

***What percentage of the scope and cost is generally allocated to PDI subcontractors in PPP projects?***

DEA 1 and DEA 5 (2016) claimed that 30% of the scope and cost is generally allocated to PDI subcontractors in PPP projects.

Contrary to this, DEA 2 and DEA 3 (2016) believed that 50% of the scope and cost is generally allocated to PDI subcontractors in PPP projects.

DEA 4 (2016) thought that 40% of the scope and cost is generally allocated to PDI subcontractors in PPP projects.

***In your opinion, does the PDI subcontractor/s graduate to being standalone companies post project delivery?***

DEA 1 (2016) indicated that “PDI subcontractors do not graduate to being standalone entities. On the DEA project, the councillor insisted that local companies should benefit; however, after the project, none of the subcontractors proved to have graduated to being standalone companies, even though this is a requirement in the PPP agreement. A major contributor to this requirement is that PPP agreements are not clear in terms of the requirements and for procuring entities and the National Treasury to be able to enforce compliance. This can be mitigated by writing clear and enforceable requirements into the PPP agreement".

DEA 2 (2016) did not provide a lot of detail, stating that "the PPP projects expose the subcontractors to mega projects, and they can use the project as reference for future projects".

According to DEA 3 (2016), "PDI subcontractors do not graduate to being standalone companies. This requirement can only be met on service type / consulting entities; however, on construction or engineering projects".

DEA 4 and 5 (2016) confirmed that "PDIs graduate to being standalone entities in PPP projects", but did elaborate on such statement.

***What are the challenges faced by the PDI subbies in PPPs?***

DEA 1 (2016) stated that "the subcontractors are not aware of PPP processes and they are thrown in the deep end. Lack of funding is one of the main challenges experienced by subcontractors; subcontractors do not have collateral and as a result do not have access to funding. Only a few will have the skills and the expertise to unravel what is contained in the PPP agreement".

DEA 2 (2016) agreed with this sentiment, believing that "the primary challenge experienced by PDI subcontractors on the DEA project was lack of funding. The secondary challenge experienced on the DEA project was lack of technical skills / capabilities (some subcontractors could not even read or interpret working plans)". Another observation by the participant was that majority of the subcontractors could not even produce a safety file that met the requirements of the Output Specification.

According to DEA 3 (2016), the following challenges were experienced by PDI subcontractors on the DEA project:

- Lack of funding;
- Lack of adequate resources;
- Lack of technical competency; and
- Lack of project management skills.

DEA 5 (2016) stated that “the DEA project had more than 40 defects. Subcontractors had to borrow money to fix the defects as they were only realised after payment of the activities was effected, and this was a challenge as banks were not willing to fund the subcontractors. Another challenge experienced by subcontractors is meeting the requirements of the Output Specifications”. Participant 3 further articulated that “PDIs have less shareholding on the SPV team and hence they have limited powers in terms of decision-making”.

#### 4.3.8.2. BEE Code of Good Practice

***Why are PPPs good for BEE?***

DEA 1 (2016) thought “PPPs are good at face-value; they are good in a sense that they provide quality services to the procuring entity and leverage on private sector funding. This will benefit BEE in terms of skills and insight into a complex model of funding projects”.

According to DEA 2 (2016), “PPPs are long-term contracts, a contractual regime with requirements that will be applied long term, i.e. a 25-year contract. Planning can be aligned in terms of implementing BEE. This requirement is priced into the unitary fee as a risk that cannot be absorbed by the subcontractors, but will reside with the main players or major shareholders in the SPV composition”.

DEA 3 (2016) thought that “PPPs are good for BEE in that they provide the following benefits:

- Job creation;
- Skills development, knowledge and experience transfer to the contracting entities;
- Opportunities that were not accessible due to apartheid;
- Creation of sustainable black owned entities due to the enterprise development plan;
- Demand for black equity in PPP projects; and
- Community upliftment through socio-economic endeavours.

DEA 4 (2016) indicated that “PPPs are not good for BEE because the BEE structure in terms of acquisition is structured in such a way that you obtain shares and pay for them over a certain period of time, and the shares do not have a growth element. Market shares are CPI linked; however, PPP shares do not have a growth aspect”.

According to DEA 5 (2016), the participant does not agree that PPPs are good for BEE. Not much substantiation was provided in this regard.

***What challenges are experienced on PPPs in terms of complying with the BEE code?***

DEA 1 (2016) indicated that “the BEE codes are not compulsory and thus, compliance cannot be enforced. Big companies cite that government will pay a premium, should they be required to comply with the contents of the BEE codes and most big companies indicate that it does not make ‘commercial sense’ to comply with the codes. Fronting is generic and not specific, it depends on the SPV goodwill”.

On the other hand, DEA 2 (2016) believed that “the preferential procurement and enterprise development is very challenging in the construction industry, due to lack of experienced PDI subcontractors. For the domestic trades (i.e. brickwork and plastering), there are experienced PDIs. However, there are no PDI subcontractors for the specialised trades”.

DEA 3 (2016) claimed that “entities spend a lot of time and effort to meet and comply with their business scorecards, but in a PPP project, such effort is more like a sunk activity. Every PPP project is structured differently and there is no consistency in terms of methodologies and requirements”.

DEA 4 (2016) thought that “there are no challenges experienced in this regard; the codes adopted in South Africa are based on best practice and better than codes adopted in most counties around the world”.

***In the previous projects you were involved in, what was the percentage of the black equity in the SPV composition?***

DEA 1 and 5 (2016) claimed that the percentage of black equity in PPP projects is 30%.

While DEA 2 (2016) claimed that the percentage of black equity in PPP projects is 35%, DEA 4 (2016) raised the percentage to 40%.

DEA 3 (2016) stated that the percentage of black equity in PPP projects is 50%.

***The code requires that PPP projects have a “local socio-economic impact”, did the previously closed PPP projects you were involved in meet this requirement?***

According to DEA 1 (2016), “yes, the requirement was met. The DEA project involved local communities and the majority of them benefitted greatly from the project. The project also uplifted communities of the area”.

DEA 2 (2016) agreed with such statement, “yes, the target was met. Labourers and subcontractors were employed from the local community”.

This view was expanded by DEA 3 (2016). “Yes, the requirement was met as a result of rigid requirements and defined penalty mechanisms set in the outset on the PPP agreement”.

DEA 4 (2016) confirmed that the requirement was met, but without giving substantiation.

According to DEA 5 (2016), “this requirement was met. The local business was benefitting from the construction activities. Local labourers were employed from the community and there were a number of subcontracting activities that were earmarked for implementation by subcontractors”.

***The Code of conduct for PPPs indicates that “the BEE component of a PPP bid will constitute 10% of the bid evaluation weighting”. Was this requirement met?***

All participants indicated that this is a mandatory requirement and thus was met on all PPP projects they were involved in.

#### 4.3.8.3. CSF of PPPs

***What are the critical success factors attained in PPPs by developing subcontractors?***

DEA 1 (2016) mentioned that “the goods and services were procured from local providers as per the stipulations of the PPP agreement. Procuring services from black women-owned companies and this requirement was monitored closely and the service provider complied".

More specifically, DEA 2 (2016) indicated the following success factors were attained by the DEA project:

- Job creation;
- Skills development, knowledge and experience transfer to the contracting entities;
- Opportunities;
- Creation of sustainable black owned entities due to the enterprise development plan;
- Demand for black equity in PPP projects; and
- Community upliftment through socio-economic endeavours.

DEA 3 (2016) indicated the following success attained by the DEA project:

- Engagement by the developing and developing entities; and
- Structured approach.

According to DEA 4 (2016), the following successes were attained by the DEA project:

- Access to PPP market, which is a bidding condition;
- Improvement in terms of CIDB grading; and
- Skills transfer.

***What measures are there to assess, if the proper skills are transferred to the PDI subcontractors in PPPs?***

DEA 1 (2016) said that in the PPP agreement, "there are targets to be met and the project team meets quarterly to asses compliance with this requirement".

According to DEA 2 (2016), “setting targets was part of the PPP agreement. Administrative systems were put in place for monitoring performance”.

DEA 3 (2016) merely stated that “reporting when contractors re-grade at CIDB”.

According to DEA 4 (2016), “the monitoring regime is set out in the PPP agreement and its schedules”.

DEA 5 (2016) elaborated that “the Balanced Scorecard that is set with key achievements, quarterly reporting mechanism to assess if the key area is attained and contractual obligation to ensure that the key success factors are met, if not they are penalised”.

***At what stage of the project cycle does the PDI subcontractor benefit from the transaction?***

All participants indicated that subcontractors benefit during the construction period.

**CHAPTER 5**

# 5. DATA ANALYSIS

## 5.1. Introduction

The aim of this study was to establish the economic advancement occasioned by Public Private Partnerships on PDI subcontracting. In an effort for the research to meet the intended aims and objectives, two case studies were conducted and analysed in terms of the projects' compliance levels with BEE and other parameters related to this study. The rationale behind opting for only two cases was the time constraint of this study and compounded with the fact that some of the identified participants were always re-scheduling the interviews due to their hectic schedules. However, because data was elicited through interviews, the participants were also reporting on their experiences of other PPP projects they were involved in. Data was collected through semi-structured interviews from participants, who were involved with the selected projects. The interviews were conducted as per the stipulations of Saunders, Lewis, and Thornhill (2012:128) that "the researcher will have a list of themes and some key questions to be covered and omit some of the questions in particular interviews, given a specific organisational context that is encountered in relation to the research topic".

Two projects were identified for the purpose of undertaking a cross-case analysis; namely, the Department of Environmental Affairs head office accommodation project and the Statistics South Africa head office accommodation project. The two selected projects were similar in terms of scope; however, they varied in terms of size and compliance parameters. The selected projects were both head office accommodation for government departments within the City of Tshwane Metropolitan Municipality. The analysis of the two (2) projects was undertaken individually. A cross-case analysis will be presented in this chapter in an effort to garner differences in terms of compliance levels with the BEE codes and answering the research questions.

The first section of each case outlined the timeframes for each of the project. The subsequent section dealt with the BEE compliance level outlined to the prospective tenderers/SPV compositions during the procurement stage. The last section outlined how the SPV appointed for the project met the criteria set during the procurement phase and what other benefits were provided by the SPV to the developing entities involved on the project. Taylor, Dossick, and Garvin (2009) suggested that case study research should attempt to achieve depth by including multiple, polar cases and including multiple, analytically similar cases. Twenty years earlier, Eisenhardt (1989) had stated that what is achieved through this approach is the element of verification or testing of theory as it shifts from deductive to inductive or the need to apply replication logic. The last section outlines the questions and answers section for individual cases, which will be analysed in detail in this chapter.

## 5.2. Discussion of Results

### 5.2.1. BEE compliance

During the tender stage, the requirements for the two-projects differed and their requirements were as depicted below:

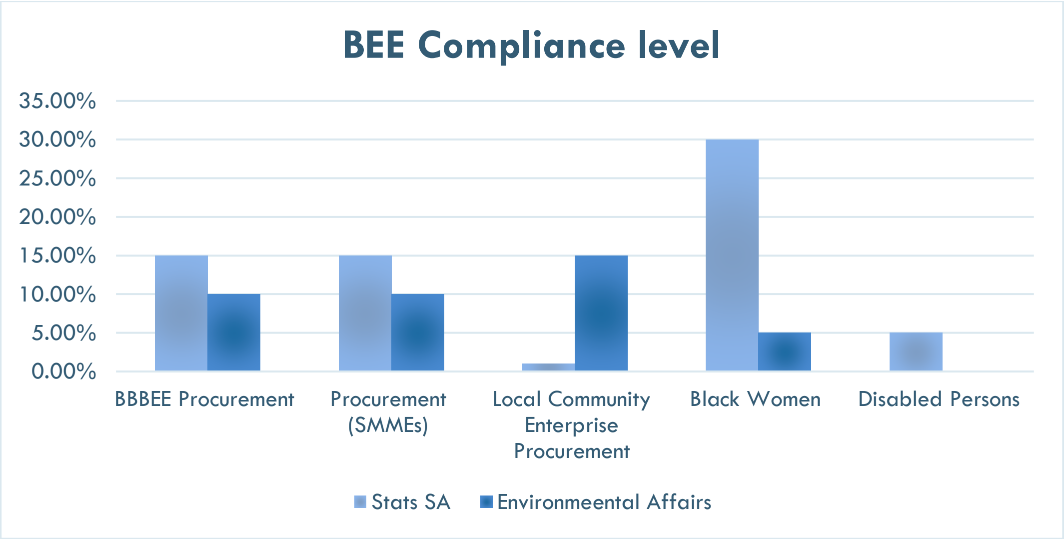


**Figure 7 BEE compliance level**

Figure 7 above indicates the parameters that were set by the procuring entities during the Request for Proposal (RFP) stage. Both projects are in the City of Tshwane and fall within the same municipal and ward boundaries; however, they differ in terms of compliance with requirements. The thresholds set by the two departments were almost similar, which might be attributable to the fact that both projects were signed off by the National Treasury’s PPP unit, as a result of enforcing compliance with BEE requirements. The Stats SA project set higher targets in terms BEE procurement and empowerment of black women. The Environmental Affairs project, on the other hand, was silent in terms of empowering disabled persons during the RFQ stage; however, according to Stats SA 1 (2016), provision was made during the construction period by the Department. The Stats SA project stipulated high requirements in terms of local community enterprise procurement.

***Do you think PDI subcontractors are developed in PPPs?***

Out of the nine participants interviewed, eight agreed that PDI subcontractors are developed in PPP projects. However, the success of this development is dependent on the structure of the SPV composition. The BEE Code of Good Practice is specific and is a mandatory requirement to be met. The BEE schedule of the PPP Agreement should also be specific as to how the PDI subcontractors should be developed and the penalty regime should be clear and enforceable, according to Stats SA 3 (2016). All participants involved in the Stats SA project confirmed that the PDI subcontractors involved on PPP projects will attain a development benefit. On the other hand, all but one (1) of the participants involved in the Department of Environmental Affairs agreed with the statement that PPPs are good for subcontractor development.

National government has put in place measures to ensure that PPPs have a lasting benefit to PDI subcontractors, primarily local businesses, where the projects are undertaken. It is a requirement by law for an SPV composition to allocate a portion of the equity to a PDI subcontractor and this requirement is mandatory. The National Treasury’s PPP unit also monitors compliance with the requirements and will not grant

Treasury Approval IIB, which authorises the project to reach financial closure, if the regulatory compliance have not been met.

***What impact does PPPs have on the development of sustainable organisations?***

There was consensus amongst the participants from both projects that PPPs have the ability to develop sustainable organisations. However, they believe that it is incumbent upon the subcontractor to put in the work, effort and be willing to learn as much as possible from the main members in the SPV composition. All participants alluded to the fact that PPPs can have a lasting impact in terms of developing sustainable organisations. PPPs are a specialised vehicle for project delivery and the majority of the PPP projects are mega projects. As a result, the construction period is often longer than that of conventional projects. PPP projects have a BEE requirement, which puts emphasis on enterprise development and in such initiatives, PDI subcontractors are developed by industry giants with enormous experience (Stats SA 1, 2016).

According to Stats SA 4 (2016), "PPPs have a massive impact on the development of sustainable organisations as a result of a project lifecycle of 25 years. Systems are put in place for organisations to be able to stand on their own post-project delivery". The platform for participating organisations is there, it is up to the organisations to utilise the platforms and eventually undertake other projects / work outside of the projects.

***What is your opinion on the notion that says PPPs only benefit the "black elite" or the "politically connected"?***

Based on figure below, 8 of the 9 respondents agree with the notion and only 1 respondent disagree with the notion. PPPs are highly capital intensive and in an SPV composition, PDI subcontractors should raise 20% to 30% equity as part of their contribution in the PPP transaction. As a result, only a few of the smaller companies can participate (DEA 1, 2016). According to DEA 4 (2016), for a typical building PPP of the same size and magnitude as the Stats SA project, just the bid costs were already approximately R15 million, which are not reimbursable by the losing bidders. Only established entities have such a high appetite for risk and PDI subcontractors are usually entities with a low balance sheet, thus making it difficult for them to participate.

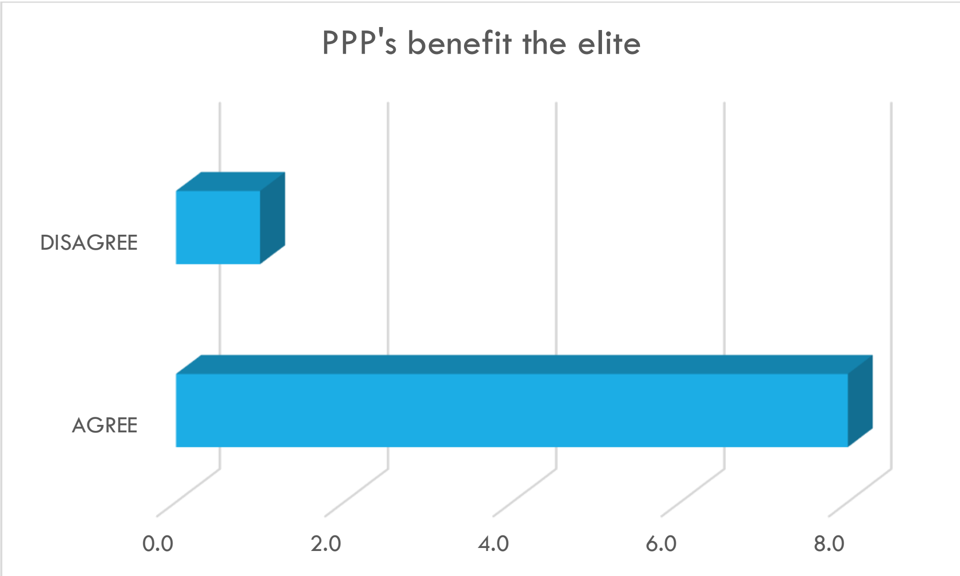


**Figure 8: Who does PPP’s benefit**

PPPs are highly experience driven. In a PPP project, 10 points are awarded for BEE, conversely 20 to 30 points are awarded for experience in similar projects, thus companies with PPP experience will score higher than new entrants into the PPP market. As a result, entities with PPP experience will score higher. The PPP market is still developing in South Africa; however, barriers to entry are extremely high due to high capital requirements to participate in the transaction and participants already in the PPP market are using the experience and exposure gained from previous projects to their advantage. This therefore creates an impression – often correct - that PPP projects only benefit a selected few, those who have lots of funding or can easily raise the necessary money.

Government used to have a Black Equity Fund through the Development Bank of Southern Africa (DBSA), which was used as an aid to PDIs participating in projects that required equity funding for BEE. However, in 2013, the fund ceased and currently there is no government institution providing equity funding for the PDIs to participate in projects. The closure of this fund created a gap in the black equity funding space, and Royal Bafokeng used this gap to their advantage as they are participating in the majority of PPPs as the BEE partner. This creates an impression that Royal Bafokeng are using their political links to participate in PPPs. Royal Bafokeng is a community-based investment company, which provides equity funding to feasible and bankable projects.

***In an SPV structure, what skills are transferred to the PDI subcontractors?***

According to Stats SA 1 (2016), government institutions undertaking PPP projects should be deliberate in terms of skills required on a particular project to make it easy to measure the type of skills transferred. On the Stats SA project, the BEE compliance schedule was detailed in terms of the skills to be transferred to the subcontractors and the amount of the project funds which should be spent on subcontractors. Setting out clear requirements from the onset will assist in the monitoring of the requirements. According to DEA 2 (2016), skills development is undertaken at two (2) levels; at an employee level and enterprise development level. PPP targets are set at the RFQ stage and the prospective bidders will be evaluated based on their compliance with the targets.

On the Stats SA project, the following skills were stipulated in the PPP agreement schedule and transferred to the PDI subcontractors:

- Project Finance;
- Bidding techniques and strategy;
- Legal negotiation;
- Budgeting and cost projections throughout the project;
- Project planning, in terms of activities to be undertaken; and

- Technical skills (during construction).

According to DEA 1 (2016), in PPP projects some skills are transferred to the PDIs. However, the level of skills that is transferred needs to be evaluated; e.g., the PDI subcontractors' scope was only limited to brickwork and plastering, it did not focus on developing key skills and trades to the subcontractor. In the DEA project, there were no PDI subcontractors involved in the installation on air conditioners and lifts nor was there training in that regard. Notably, the following skills were claimed to have been transferred to PDI subcontractors on the DEA project:

- Management;
- Technical construction activities;
- Financial – Tendering, cash flow projections;
- Lifeskills training;
- Day-to-day running of a business;
- Leadership programmes, which was through CETA-accredited training providers, awarding certificates at the end of the programme.

***What percentage of the scope and cost is generally allocated to PDI subcontractors in PPP projects?***

According to the figure depicted below, the majority of the respondents cite that 30% of the scope and cost is generally passed down to PDI subcontractors. Conversely, 22% of the respondents cited that the percentage of scope and cost varies from project to project and is dependent on *inter alia* variables like location of the project, SPV structure and type of project undertaken. According to the Preferential Procurement Framework, all service providers involved in construction activities are mandated to subcontract at least 10% of the construction activities to developing entities; meeting or exceeding this requirement is dependent on the requirements set by the procuring government agencies and the goodwill from the procured SPV team.

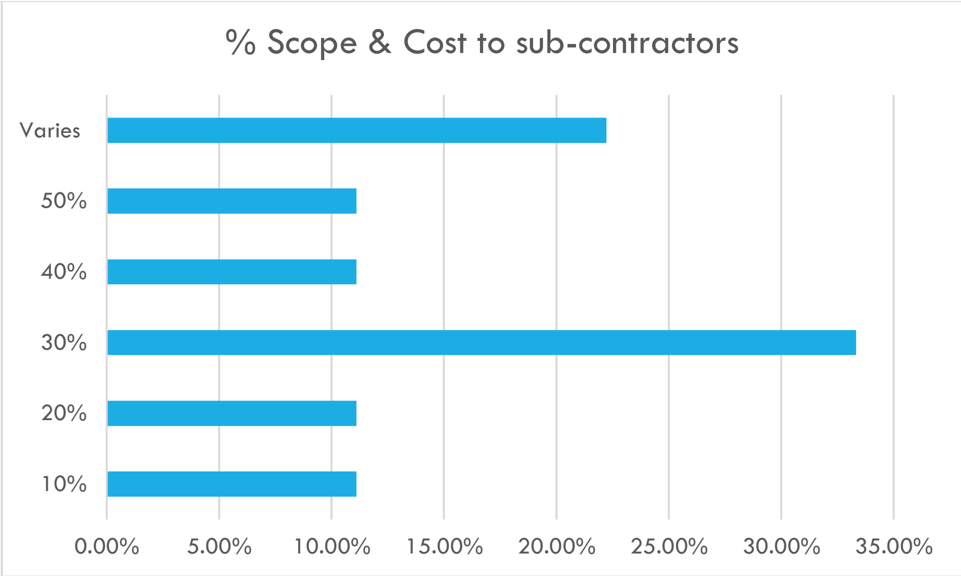


**Figure 9: Subcontracting opportunities**

***In your opinion, does the PDI subcontractor/s graduate to being standalone company/s post project delivery?***

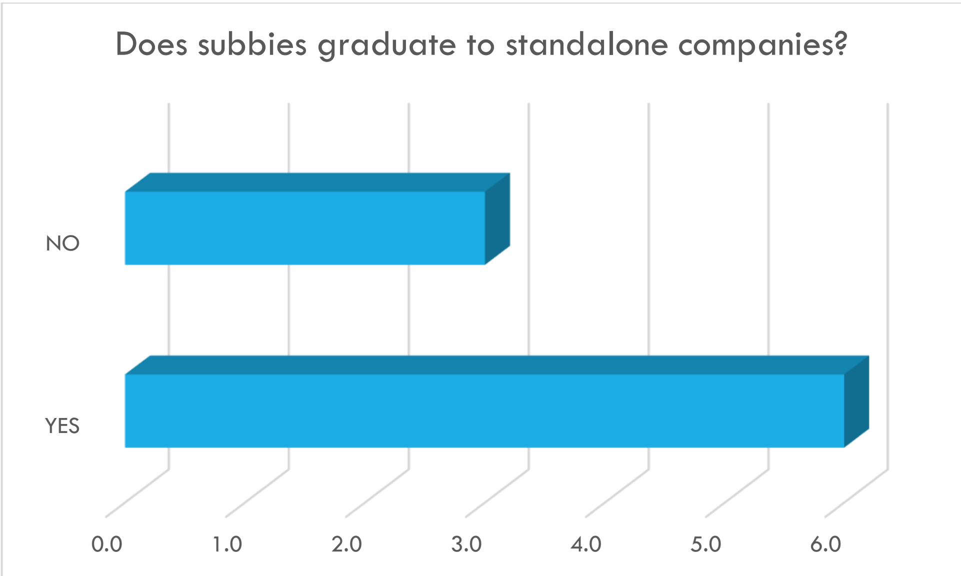


**Figure 10: PPP's graduate to standalone companies**

The majority of the participants indicated that post project completion, PDI subcontractors can use the experience gained in the project to create sustainable entities. According to DEA 1 (2016), there have been instances, where PDI subcontractors have managed to graduate from the emerging PDI subcontractors to entities performing independently in the mainstream commercial market. However, “all subcontractors seemed to be committed and determined to create sustainable organisations, observed from the effort they were putting in”. Stats SA 2 (2016) articulated that the majority of PPP projects have a component of enterprise development; the programme is developed to impart as much knowledge and value to the participating PDI subcontractors for them to be able to run sustainable organisations post project delivery. The respondent further articulated that due to the scarcity of PPP projects, the majority of PDI subcontractors from the Stats SA project, especially those in the construction sector, use their PPP exposure and experience to upgrade their CIDB status, and post project closure, they are able to bid for construction projects, which are not necessarily PPPs.

Of the total of 9 respondents, 3 disagree with the notion that says “PDI subcontractors graduate to being standalone companies post project delivery”. Stats SA 3 (2016) confirmed that PDIs would have graduated to become standalone entities only if there were enough projects for them to participate in; however, the PPP process does not allow for the enhancement of skills and providing the PDI subcontractors with the platform to leverage on the lessons learnt from previously closed projects.

### 5.2.2. BEE Code of Good Practice

***Why are PPPs good for BEE?***

BEE is an empowerment regime aimed at improving the livelihood of all the participants on the project, conversely PPPs are a project delivery method that leverages on the private sector skills and finance to implement government projects. PPPs are long-term in nature and have the ability to empower and develop sustainable organisations. According to DEA 3 (2016), PPPs are good for BEE in that they provide the following benefits, which are not available from delivering projects in a conventional method:

- Long-term job creation;

- Skills development, knowledge and experience transfer to the contracting entities;
- Opportunities that were not accessible due to apartheid;
- Creation of sustainable black owned entities due to the enterprise development plan;
- Demand for black equity in PPP projects; and
- Community upliftment through socio-economic endeavours.

There was a general consensus amongst participants that the advantage of utilising PPPs as a model to advance the BEE agenda is that from the RFQ stage, project participants are made aware of the requirements from the onset and they can balance the competing constraints in terms of time, cost, risk, quality *inter alia* and come up with a mechanism to empower BEE participants. The respondents alluded to the fact that compliance with the BEE requirement is mandatory and as a result, companies put effort into ensuring compliance; as a result, the majority − if not all − PPP projects are subject to inclusion and a high development rate of the BEE participants.

***What challenges are experienced on PPPs in terms of complying with the BEE code?***

There is a general consensus amongst participants that there are various challenges in terms of complying with the BEE Codes of Good Practice in PPPs. The majority of the participants indicated that compliance with the codes is not compulsory; however, that they are only serving as a guideline. The majority of the participating entities cited that is does not make commercial sense to comply with the codes as they are not aligned with the Preferential Procurement Policy Framework Act, of which compliance is law and was passed by parliament. Therefore, for established entities to comply with the code becomes costly as a result of the entities pricing the risk on the total cost, which in turn, will render PPP projects expensive.

Another challenge raised by the participants was that the codes should be specific in terms of compliance with the requirements, i.e. the percentage of scope that should to be subcontracted to PDIs. However, due to the lack of experienced PDI subcontractors in specialist trades, some of the targets cannot be met and non-compliance to requirements results in fronting. For this requirement to be efficiently met, the main contractor / SPV with the procuring entity and government, during the procurement stage, should identify what elements of scope are to be subcontracted as per the BEE codes and expand on those requirements in detail on the RFQ and RFQ documents. By so doing, the bidders will be aware of the requirements and will be forced to comply with the requirements.

***The code requires that PPP projects have a "local socio-economic impact". Did the previously closed PPP projects you were involved in meet this requirement?***

There was a general consensus amongst participants that the majority of the PPP projects they were involved in met the requirements. Projects had been identified by government as a tool to create jobs and achieve poverty alleviation and thus, every project − especially government funded projects and PPPs − are not excluded from this due to the partnership being between the public- and the private entities. The figure below depicts that all participants agreed with this requirement being met on the Stats SA and Environmental Affairs projects. Some participants further commented that all the PPP projects they were involved in met this requirement.

One of the participants cited that due to PPP projects being mega projects, spanning over multiple years during construction and having being of a high value, there are always people or entities, i.e. political, NGOs and community members, looking closely into them and thus, it is imperative for the project team − through the facilitation of the project officer from the procuring entity – to ensure that the SPV complies with requirements set in the PPP agreement and all its schedules.

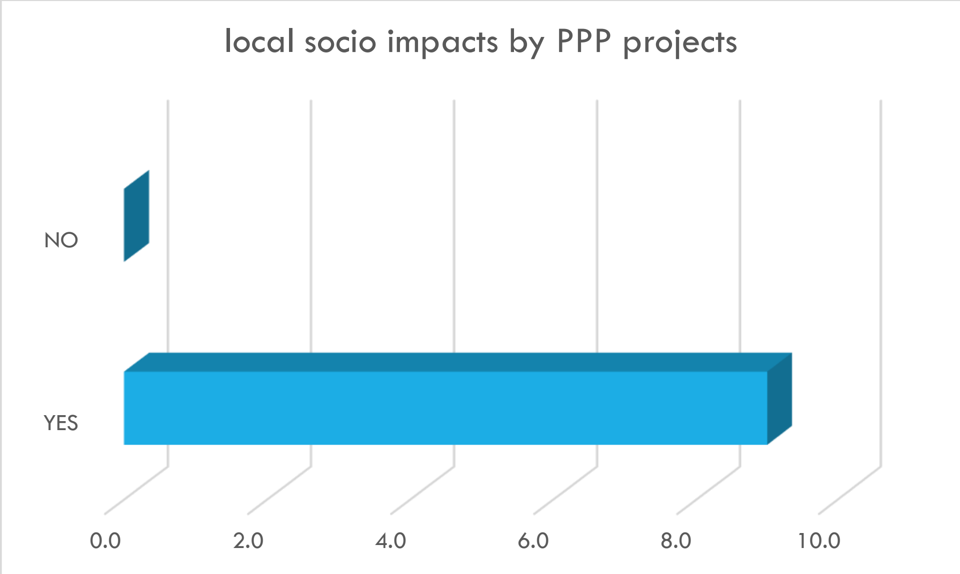


***Figure 11: Local socio impact***

***The Code of Conduct for PPPs indicates that "the BEE component of a PPP bid will constitute 10% of the bid evaluation weighting". Was this requirement met?***

All participants indicated that this is a mandatory requirement and thus was met on all PPP projects. This requirement is mandatory, enforceable by law and noncompliance with this requirement usually results in the disqualification of the service providers. By virtue of this requirement being part of the PPP Agreement, it is monitored and controlled throughout the contract validity period and should the appointed service providers default on this requirement, they will be penalised, based on the penalty regime outlined in the PPP Agreement.

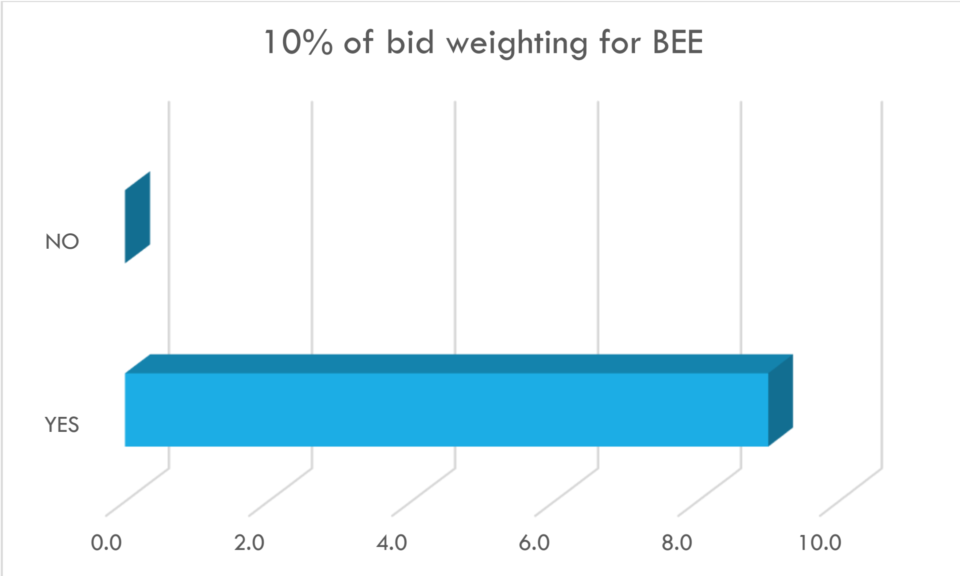


**Figure 12: % of bid weighting**

### 5.2.3. CSF of PPPs

***What are the critical success factors attained in PPPs by developing subcontractors?***

Participants provided a wide range of views in this regard; however, they all alluded to the fact that PPPs indeed develop subcontractors. There was a general consensus that the stipulations of the PPP Agreements in terms of target groups were met for both the Stats SA and Environmental Affairs projects since it was mandatory and closely monitored throughout the entire project cycle. The respondents also made comments about the previous projects they were involved in and alluded to the fact that compliance of subcontracting in PPPs is improving and seems to be iterative from one project to the other. Some responses related to the critical success factors in the construction industry, where participants alluded to the fact that PDIs will participate in the mainstream commercial market post project closure and in turn, will contribute to the economy by creating jobs and improving livelihoods for the people they would employ.

The respondents gave their rationale behind the possible success in developing subcontractors through PPPs, with some indicating that South Africa has a dedicated unit (PPP unit) within the National Treasury to administer PPPs. This helps in terms of governance of the process and that they draw lessons learnt from previous PPP projects to benefit the next projects to be implemented. The following factors were highlighted by the majority of the participants as the key benefit of adopting PPPs with an empowerment arm to PDI subcontractors:

- Job creation;
- Skills development, knowledge and experience transfer to the contracting entities;
- Opportunities that were not accessible by marginalised groups due to apartheid;
- Creation of sustainable black owned entities due to the enterprise development plan;
- Participation of black equity holders in PPP projects; and
- Community upliftment where PPP projects are undertaken through socio-economic endeavours i.e job creation, skills development.

***What measures are there to assess if the proper skills are transferred to the PDI subcontractors in PPPs?***

The participants provided different views in this regard; however, all views relate to the PPP Agreement and its schedules. Most participants cite the transactional advisors as rendering advisory services to the procuring department / entity during the RFQ and RFP stage, and that they must ensure that relevant and realisable enterprise development criteria are included in the BEE schedule, with a realizable infringements stipulated in the monitoring regime. The performance monitoring regime should be specific in its stipulation regarding, which aspects will be monitored and over what period (monthly, quarterly, yearly, *inter alia*).

Some of the participants indicated that lack of detail in the PPP Agreement stifles performance of requirements, and they proposed that the detail to be included in the compliance schedules should not only be limited to enterprise development, but clearly outline, which requirements should be achieved.

***At what stage of the project cycle does the PDI subcontractor benefit from the transaction?***

There was a consensus amongst participants in this regard, with all participants indicating that the PDI subcontractors will realise a benefit after submission of the first claim during construction. There are instances, where the procuring department will deposit a lump-sum capital contribution to the transaction in an effort to reduce the monthly or yearly unitary fees in the transactions, then the PDI subcontractors will not await the submission of the first payment claim to realise benefit; however, the benefit will be realised immediately after the project reaching financial closure. This highlights that ‘benefit’ is being equated to monetary reward only.

## CHAPTER 6

# 6. CONCLUSIONS AND RECOMMENDATIONS

## 6.1. Introduction

This chapter presents the findings of the study, comprehensive conclusions and recommendations. This chapter is linked to the objectives of the study, the questions this research is undertaking to answer and encapsulating the aims of the study. The findings were based on data that was collected from participants, who are subject matter experts within the PPP market and have at some point in their careers been involved in one or more PPP projects.

The conclusions are drawn from the results of the data collection chapter. Key elements from the common contents will be discussed in detail and linked to the literature review chapter. The structure of this chapter is linked to the research questions attached as Annexure 1 of this document.

## 6.2. Summary of Research Findings

The aim of the study was to establish the economic upliftment occasioned by Public Private Partnerships on PDIs through subcontracting. In ensuring that the achieved aims and objectives are attained, three (3) sections were evaluated through soliciting information by means of a qualitative approach.

### 6.3. PDI Subcontracting

#### I. Alignment of the BEE Code of Good Practice in PPPs and construction sector codes

The research identified that to be able to measure if PDI sub contractors are developed in PPPs, there should be an alignment between the BEE Code of Good Practice in PPPs and the construction sector codes. This will assist in measuring if the targets stipulated in the project PPP Agreement and its related documents are achieved. The Code of Good Practice is aimed at achieving a broad-based and sustainable BEE outcome in every PPP project undertaken in terms of Treasury Regulation 16 of the PFMA. This is a key requirement in appointing the SPV with the subcontracting targets. On the other hand, the majority of PPP projects are related to infrastructure development within the construction environment, which is aimed at transforming the construction sector to address the inequalities and enhance human potential by means of developing previously marginalised individuals.

Both documents are important in terms of the development of subcontractors; however, during the preparation of PPP project documents, it was deduced by the respondents that the construction sector codes are not taken into consideration. This is considered a disadvantage because the BEE codes are specific in terms of what elements should be complied with, enhancing capacity and increasing the productivity. Alignment of the two (2) documents during RFQ and RFP stages of the PPP process will facilitate proper development of PDI subcontractors, whilst redressing historical and social inequalities. They will have to be specific in terms of what elements should be enforced when developing subcontractors.

#### II. Skills transfer

The research has identified that there is a gap in terms of skills transfer in PPP projects. This is as a result of the PPP Agreement and its schedules not being specific in terms of the skills to be transferred during the implementation of the project.

Participants from both projects cited that subcontracting opportunities undertaken by PDI subcontractors were limited to brickwork, plastering or plumbing, *inter alia* non-critical activities. PPP projects are mega projects and with highly specialised activities, thus the SPV should use the opportunity to develop PDIs either in terms of shadowing or on-the-job training on specialised services such as lift installations, HVAC installation, Building Management Systems, security, *inter alia*.

The research identified that the PPP Agreement and its related schedules are not specific enough in terms of what skills should be transferred to the PDI subcontractors. The BEE Code of Good Practice for PPPs is deliberate and specific in that 1% of the payroll for the SPV should be spent on skills development, without stating which skills. It was also realised that this requirement was not specified in the PPP Agreements for the Stats SA and Environmental Affairs building projects. This is an important requirement, which should be clearly stipulated in the PPP Agreement and be linked to a monitoring regime, whereby the SPV management will report to the procuring department on an annual basis.

### III. PPPs good for BEE

The research has indicated that PPPs are a good project delivery mechanism for infrastructural projects. PPPs are considered long-term project delivery mechanisms aimed at transferring risks to parties better suited to manage those risks. The advantage of linking PPPs with BEE is the skills development component mandated on the majority of PPP projects, which is aimed at empowering small companies, creating jobs and community upliftment through socio-economic endeavours.

Although there were participants, who did not agree with this achievement, the majority of participants agreed that “PPPs are good for BEE” and the literature reviewed on this study also advocated that BEE is an important component in PPPs and is a mandatory requirement for all projects implemented and registered through the National Treasury’s PPPs unit to meet this requirement.

## IV. Compliance with the BEE Code of Good Practice for PPPs

The research identified that the majority of the PPP projects implemented are compliant with the BEE Code of Good Practice for PPPs. Participants alluded to the fact that PPPs offer real opportunities to new PDI ownership in long-term sustainable businesses; however, this is dependent on the project team's ability to detail the project specifications to reflect specific compliance requirements outlined in the code. The building projects for Stats SA and the Department of Environmental Affairs were a success in terms of compliance with the Code of Good Practice for PPPs because the project documents were specific in terms private party equity (specific to provision of cash flows and timing of the payments to black partners), private party management and employment (specific in terms of black management control and skills development), subcontracting (where the SPV was required to submit capital and operational cash flow projections to demonstrate what percentage of the capital and operational budget will be paid to subcontractors and local socio impact (it is a requirement of the code that every PPP project should produce local socio impact through integrated developmental plans).

The study also revealed that lack of experienced subcontractors at a local level hinders compliance with the code in terms of the 30% indicative target of the project that should be allocated to local subcontractors. The code is clear and specific in terms percentage of participation by PDIs and their enterprises in the capital expenditure forecast to be incurred by the private party under the subcontracts. As a result of the lack of experience and due to time constraints, the scope of PDIs is limited to non-specialised trades and thus projects do not transfer key skills to subcontractors as indicated in section II above.

## 6.4. Conclusion of the Study

Public Private Partnerships (PPP) are gaining popularity in South Africa due their ability to leverage skills and funds of the private sector. The most prevalent type of PPP is the Finance Design Build and Operate (FDBO), which is the most efficient method for revenue and non-revenue generating projects. The study analysed two (2) case studies of projects, which were delivered through the FDBO PPP type. The two cases were analysed in terms of their compliance with the BEE Code of Good Practice for PPPs. The data collection analysis has revealed that PPPs in South Africa are mostly compliant with the BEE Code of Good Practice. However, the study revealed that the compliance regime set during the RFQ and RFP by the procuring entities, are not deliberate but vague and open to interpretation. The majority of the respondents indicated that there is a misalignment between the construction sector codes and the BEE Code of Good Practice for PPPs. The said participants indicated that based on lessons learnt from the previous projects, the PPP agreement should be drafted to detail which requirements are to be complied with and include a high level of specificity.

The report also looked at the types and quality of skills transferred to the BEE partners in the SPV composition during the construction period. Participants in their majority indicated that the types of skills transferred to the BEE partners should be looked into. The substandard skills transfer is a result of the PPP Agreement not being specific on the type and quality of skills with a penalisable regime for noncompliance. PPPs are long-term and highly capital intensive, and have a potential of creating sustainable jobs and entities, if the gaps on the PPP Agreement and its related schedules are closed.

According to Ponte et al. (2007), organisations undertaking business in South Africa are assessed in terms of seven criteria, namely: ownership, management representation, employment equity, skills development, preferential procurement, enterprise development and corporate social investment. The said requirements should be clear and specific in the PPP Agreement. PPPs are still gaining in popularity in South Africa, and having a dedicated PPP unit to administer and facilitate how PPPs are undertaken is advantageous for the growth of PPP opportunities due to drawing from lessons learnt in previous projects and applying best practice on new projects.

## 6.5. Recommendation for Future Studies

The study was limited to investigating BEE compliance during the construction period of PPPs. However, the PPP process has various elements ranging from predevelopment to development and operations. After a comprehensive review of the available literature, collection of data from industry experts and analysis of the data, it was deduced by the researcher that the following are recommended for future research:

- Compliance of PPP projects with the BEE Code of Good Practice for PPPs during the operations period;
- BEE levels of PPP projects with the BEE Code of Good Practice for PPPs in revenue generating projects, i.e. the Gauteng Freeway Improvement Project (GFIP) and compared with the building/construction PPPs;
- Undertaking the same study; however, analysing more case studies with an increased sample population; and
- As the study was limited to projects undertaken in Gauteng, undertaking the same study with cross-provincial comparisons.

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## Annexure 1: Research Questions

| Research Questions |
|---|
| **Section 1: PDI Subcontracting**<br><br>Question 1: Do you think PDI subcontractors are developed in PPP projects?<br><br>Question 2: What impact do PPPs have on the development of sustainable organisations?<br><br>Question 3: What is your opinion on the notion that says PPPs only benefit the “black elite” or the “politically connected”?<br><br>Question 4: In an SPV composition, what skills are transferred to the PDI subcontractor?<br><br>Question 5: What percentage of the scope and cost is generally allocated to PDI subcontractors in PPP projects?<br><br>Question 6: In your opinion, does the PDI subcontractor/s graduate to being stand-alone company/s post project delivery?<br><br>Question 7: Elaborate on the challenges experienced by PDI subcontractors on PPP projects? |

**Section 2: BEE Code of Good Practice**

Question 1: Why are PPPs good for BEE?

Question 2: What challenges are experienced on PPPs in terms of complying with the code?

Question 3: In the previous projects you were involved in, what was the percentage of the black equity in the SPV composition?

Question 4: The code requires that PPP projects have a “local socio-economic impact”. Did the previously closed PPP projects you were involved in meet this requirement?

Question 5: The Code of Conduct for PPPs indicates that “the BEE component of a PPP bid will constitute 10% of the bid evaluation weighting”. Was this requirement met?

**Section 3: CSF of PPPs**

Question 1: What are the critical success factors attained in PPPs by developing subcontractors?

Question 2: What measures are there to assess, if the proper skills are transferred to the PDI subcontractors in PPPs?

Question 3: At what stage of the project cycle does the PDI subcontractor benefit from the transaction?

Question 4: Is there any other information that I did not address that you feel might pertinent for the study?