

PUBLIC PRIVATE PARTNERSHIPS

SAFMA WEBINAR – 19 August 2021

Contracts

Bouwer Kleynhans

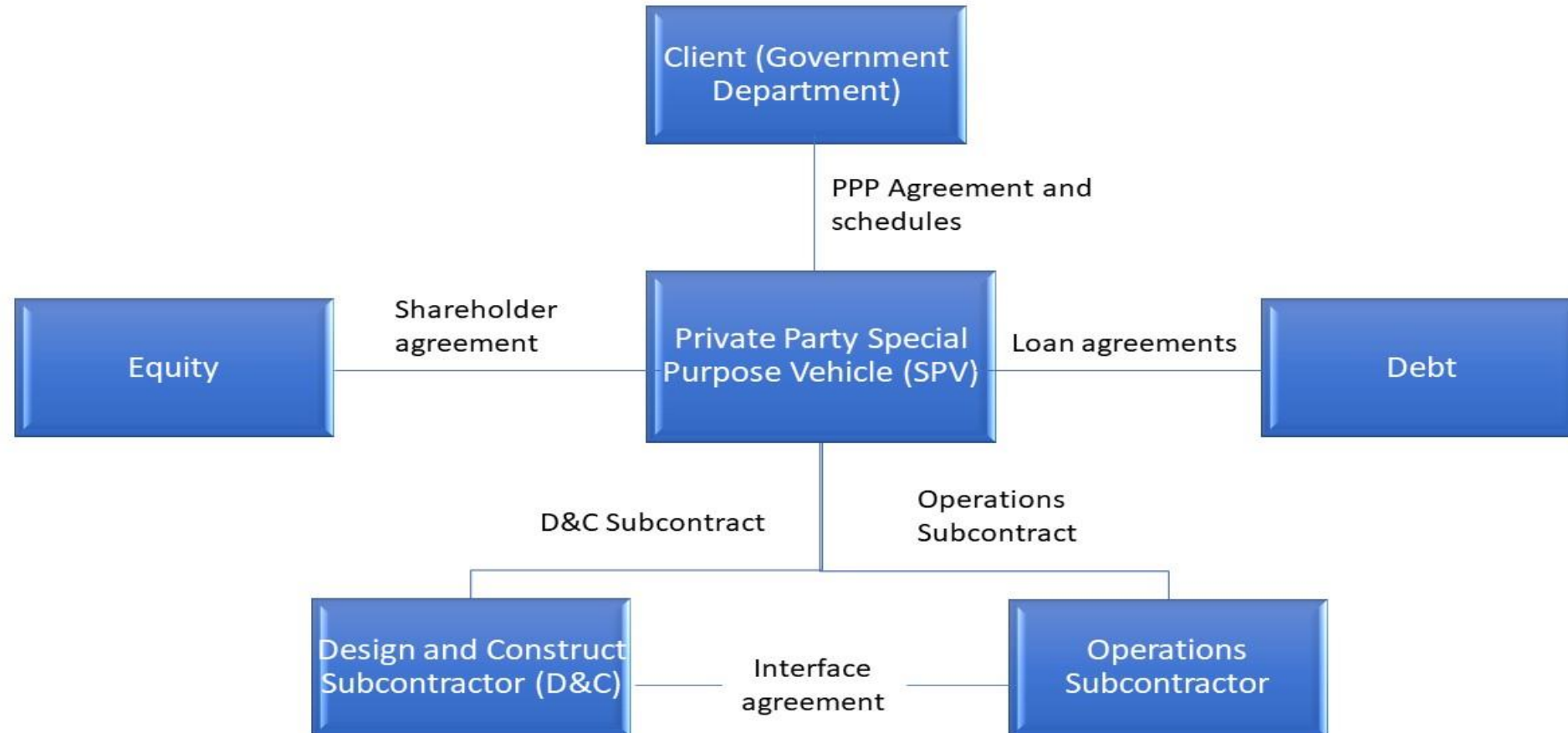
TSEBO

WE **DEVELOP** PEOPLE, TO **SERVE** PEOPLE, TO **UPLIFT** SOCIETY

REGULATORY FRAMEWORK AND FUTURE

- Regulation 16 of the PFMA which regulates PPP's (MFMA for Municipalities)
- PPP unit with National Treasury – PPP Manual
- Test for a PPP
 - Can the institution afford the deal?
 - Is it a value-for-money solution?
 - Is substantial technical, operational and financial risk transferred to the private party?
- DPWI: National Infrastructure Plan 2050 “NIP 2050”
 - Infrastructure finance gap till 2050, third will be through PPP's
 - Regulation 16 to be revised to simplify approval processes, standardize models and speed up process
 - “National Treasury is presently revising the frameworks for on-budget and PPP procurement to facilitate an increased flow of PPPs.”

PPP STRUCTURE AND AGREEMENTS



AGREEMENTS

- PPP Agreement and Schedules (± 25)
 - Payment mechanism – Incl. penalty mechanism
 - Insurance
 - Relocation principles
 - Final Maintenance Survey
- Loan Agreements (± 10)
 - Common Terms Agreement
 - Subordination Agreement
 - Shareholders Cession and Pledge Agreement
- Shareholders Agreement
- D&C Subcontract and Schedules
 - Design, space requirements, furniture at fixed quality, price and period
- Operations Subcontract and Annexures (± 12)
 - Similar as PPP Agreement
 - Service Level Agreements (Performance specs, measurement, reporting)
- Interface Agreement
 - Specify FM involvement in design acceptance and construction commissioning
 - Defects mechanism

OPERATIONS SUBCONTRACTOR



Hard
Services



Soft
Services



Business
Support

FOR



Office
Accommodation



Healthcare



Student
Accommodation

Risks

- Fixed price (Inflation adjusted) for concession period
- Asset deterioration and replacement
- Defects