Common Market for
Eastern and Southern Africa

Potential Constraints for Public-Private-Partnership in Africa

Special Report

By Ibrahim A. Zeidy,
Director, COMESA Monetary Institute

This paper presents the potential constraints for Public-Private- Partnership (PPPs) and makes recommendations which will contribute for the success of this model in Africa.

Introduction

While the exact definition of Public-Private- Partnership (PPPs) differs between countries, in general they refer to long term contractual relationships between public and private parties, awarded through a competitive tendering process. Under this arrangement, the private party delivers over the contract duration public infrastructure and services, where (part of) the financing required is provided by the private partner, and where (sufficient) risks are transferred to the private partner and its remuneration is linked to its performance[1].

PPPs have emerged as one of the ways to overcome the constraints faced in developing countries and especially in Sub-Saharan Africa (SSA) to develop infrastructure projects such as roads, schools, or hospitals. This is due to scarcity of public funds, corruption, poor planning, poor project formulation as well as inefficient capacities. PPPs enable governments to tap into private sector finance and ingenuity, and finance critical infrastructure, improve project preparation, execution and management and deliver efficient services to the citizens. They are, therefore, critically important in meeting the challenges of implementing Sustainable Development Goals (SDGs) which encourages and promotes effective public-private partnerships in target SDG-17.

Despite their benefits, however, PPPs have their fair share of critics. According to such critics, PPPs come with costs such as the lack of transparency and accountability, and they potentially contribute to badly designed contracts (Bettignies & Ross, 2002). Despite the criticisms, there is overwhelming support for PPPs in the public sector,

1 UN Economic Commission for Asia & the Pacific (ESCAP)"Public-Private-Partnership for Sustainable Development in Asia and the Pacific" Version 1. https://www.unescap.org/sites/default/files/PPP%20and%20SDGs%20Draft%208%20December%20-%20Low%20Resolution.pdf

private sector, and international community and the benefits far outweigh the costs.[2]

An independent World Bank Evaluation Report (2012) has demonstrated a rise in PPPs in the last two decades, including in developing countries mainly in infrastructure and delivery of public service. According to the report, in developing countries, private capital has contributed between 15 and 20 percent of total investment in infrastructure. Over the last 10 years, PPP investments increased by US$ 79 billion per year on average during 2007-2011 compared to USD 30 billion during the 2002-2006 period. These partnership have now spread across the globe with 134 developing countries having implemented new PPP projects in infrastructure alone.[3]

The objective of this paper is to present the potential constraints for PPPs and make recommendations which will contribute for the success of this framework in Africa. The first part discusses Public Private Partnership Models, Section two deals with experiences in African countries. Section three presents key factors which could constrain the development of PPPs. The final section provides recommendations.

I. Public-Private-Partnership Models

PPPs can take on very different models which include the following:[4]

(i) **Service Contracts** are a model where the government contracts the private sector to conduct specific tasks such as revenue collection for 1-2 years. The model is used when services are already well managed and commercially viable.

(ii) **Management Contracts** give the responsibility for operation and maintenance

2 UNDP, Development Brief, "Prospects of Public-Private-Partnership (PPP) in Ethiopia, UNDP Ethiopia No. 1/2015.p2
3 Independent Evaluation Group (2012). World Bank Group Support to PPPs; Lessons from Experience in Client Countries. http://ieg.worldbank.org?data/report/ppp_eval_0.pdf.
4 UNDP, Development Brief, "Prospects of Public-Private-Partnership (PPP) in Ethiopia, UNDP Ethiopia No. 1/2015.pp 6-8

of publicly owned business to the private sector. The objective of management contracts is to rapidly enhance public provider core technical capacity and efficiency.

(iii) **Lease agreement** is a process where the private sector leases assets from government, provides services, and maintains assets for 8-15 years. Lease agreements are used when there is scope for gains in operating efficiency but limited need for investment.

(iv) **The Franchise** is a model where the private sector invests in operation and maintenance equipment and maintains built assets. This includes the collection of user charges and the payment of a surcharge (% of user charge) to government. The model is used when financial resources, operation, maintenance expertise, and effective revenue mobilization is needed.

(v) **Joint Venture** is when both the government and private sector jointly own a utility either through sales of some of the shares in the existing utility, or through the creation of a new utility. Joint ventures are utilized in strategic sectors where the government wants to closely monitor the activities of the private sector and provide management inputs to service providers.

(vi) **Concession** is a model where the private sector operates and maintains public assets and investments, but ownership remains with the government. The role of the government is then confined to regulating price and quantity. Concessions are used where large investment is needed to expand coverage.

(vii) **The Build-Operate-Transfer (BOT)** model is one where the private sector builds and operates a public service company such as a waste treatment plant for 20-30 years, after which ownership reverts to the government. In this model government usually commits to buying part of output so that the government is both a customer and a regulator of the service. BOT is used where the existing public service provided cannot meet the projected demand and where projects require significant finance. Factors that determine the choice of PPP model a government may adopt include the degree of control desired by the government, the government's capacity to provide the desired services, the legal framework for monitoring and regulation, and the availability of financial resources from public or private resources.

(viii) **The Build-Own-Operate-and Transfer scheme (BOOT)** is a model where the private sector company finances, constructs, owns and operates the infrastructure for a fixed term. The ownership company is allowed to make any decisions it sees fit during the ownership tenure, with minimal or no government interference. The company is also allowed to recover its total investment with reasonable returns. This would be done through the collection of tolls (in the case of highways) or fees, rentals, and charges. At the expiry of the fixed term, the infrastructure is handed over to government, which would then takeover all responsibilities.

(ix) **The Rehabilitate-Operate and Transfer (ROT)** is a model that involves rehabilitation of existing infrastructure, where the infrastructure is handed over to the private sector player for refurbishing, maintenance, and reconditioning.

The private player is allowed to operate the infrastructure for a period, and recoup investment costs at reasonable return before handing over to the government.

II. Public Private Partnership in Africa

Public-Private-Partnership arrangements can play a vital role in driving economic growth by providing well-planned, well-funded and well maintained infrastructure and public services. This is particularly important for the implementation of the African Continental Free Trade Area and achievement of the 2030 Sustainable Development Goals (SDGs). PPP arrangements are implemented in a number of African countries in toll roads, ports, prisons, telecommunications, eco-tourism and water and electricity provision). Some of PPPs with great degree of success in Africa include, water provision in the Dolphin Coast/Llembe District Municipality/ South Africa, Toll Road from South Africa to Mozambique, Maputo port, Mozambique, Multi-Utility Provision in Gabon, Taints Power Purchasing Agreement in Tanzania, and Eco-tourism Concession in South Africa.[5]

The following are some of the factors which contributed for the successful implementation of PPPs, in some of the above mentioned PPP projects in Africa.[6]

(i) More accurate information for feasibility study;
(ii) Policy clarity and transparency;
(iii) Risk sharing between a range of partners;
(iv) Good skill on the part of public sector partner on negotiation and industry specific skills as well as experienced service provider from the private

5 UNDP ' Prospects of Public- Private Partnership in Ethiopia" Development Brief,pp10-11 UNDP Ethiopia, No. 1/2015
6 P. Farlan, The South African Institute of International Affairs" Working Together-Assessing Public Private Partnership in Africa" NEPAD Policy Focus Series, file:///C:/Users/user/Desktop/npad%20ppp.pdf

sector;

(v) Strong commitment from public sector;

(vi) Efficient and timely procurement of materials and equipment;

(vii) Use of efficient project specific technology;

(viii) Allocation of enough financial resources;

(ix) Aligning well-trained workers for a specific tasks; and,

(x) Good project planning and controlling, conflict resolution during project implementation.

III. Potential Constraints on the PPP

Some potential constraints on PPPs are the following:[7]

(i) Accounting laws and practices, laws governing construction contracts, public works laws and conventions and so on may be inappropriate for private sector participation. Where this is the case, such laws and practices should be reviewed carefully and, if necessary, amended or modified to accommodate and encourage private sector involvement;

(ii) Distortions in the overall incentive environment (the tax regime, import restrictions, labour laws, along with banking, foreign exchange, and foreign investment restrictions) and excessive regulation and restrictions can also inhibit private sector participation;

---

7 UNDP” PPP Development Stage-Identifying constraints. http://pppue.undp.2margraf.com/en/05_2.htm

(iii) Deregulating, implementing new structural reforms and managing private entry are both politically and technically difficult, particularly as many infrastructure services such as district heating, electricity and water are heavily subsidised. Although governments recognise the long-term economic need to raise tariffs to allow for cost recovery and long-term sustainability, it is frequently politically impossible for them to raise tariffs quickly. As a consequence, governments may wish (in the short-term) to provide subsidies to support cost recovery in some of projects;

(iv) An imbalance in the capacities of the public, private and community partners is the most common limitation on successful PPP arrangements;

(v) Absence of a cost-benefit analysis which itemises all costs and benefits and enables a proper comparative assessment of alternative delivery approaches.

IV. Recommendations

The following are recommendations on Principles for Public Governance of Public-Private-Partnerships adopted by OECD on 4th May 2012 based on the proposal of the Public Governance Council:[8] The recommendations are also relevant for successfully implementing PPPs in developing countries.

1. **Establish a clear, predictable and legitimate institutional framework supported by competent and well-resourced authorities.** This requires the following:

   a) Procuring authorities, Public-Private—Partnership Units, the Central Budget Authority, the Supreme Audit Institution and sector regulators need to be

8 OECD "Recommendation of the Council on Principles for Public Governance of Public-Private- Partnership" 2021 egalinstruments.oecd.org/public/doc/275/275.en.pdf

entrusted with clear mandates and sufficient resources to ensure a prudent procurement process and clear lines of accountability.

b) Ensure that all significant regulation affecting the operation of Public-Private Partnerships is clear, transparent and enforced. Red tape should be minimised and new and existing regulations should be carefully evaluated.

2. **Ground the selection of Public-Private Partnerships in Value for Money: This requires doing among others, the following:**

a) Carefully investigate which investment method is likely to yield most value for money.

b) Transfer the risks to those that manage them best. Risk should be defined, identified and measured and carried by the party for whom it costs the least to prevent the risk from realising or for whom realised risk costs the least.

c) Government should ensure there is sufficient competition in the market by a competitive tender process and by possibly structuring the Public-Private Partnerships program so that there is an ongoing functional market. Where market operators are few, governments should ensure a level playing field in the tendering process so that non-incumbent operators can enter the market.

3. **Use the budgetary process transparently to minimise fiscal risks and ensure the integrity of the procurement process: This involves among others, the following:**

a) The budget documentation should disclose all costs and contingent liabilities.

b) Government should guard against waste and corruption by ensuring the integrity of the procurement process.

c) The necessary procurement skills and powers should be made available to the relevant authorities.

d) For PPPs to become an effective instrument through improvements in service delivery, efficiency and development impact over and above those attainable through public procurement, it is important that the public sector is able to: (i) correctly identify and select projects where PPPs would be viable, (ii) structure contracts to ensure an appropriate pricing and transfer of risks to private partners, (iii) establish a comprehensive and transparent fiscal accounting and reporting standard for PPPs, and (iv) establish legal, regulatory and monitoring frameworks that ensure appropriately pricing and quality of service. In other words, it is necessary that countries have in place the institutional capacity to create, manage, evaluate and monitor PPPs.

4. To incorporate PPPs in the existing development policy as one of the development strategies for development

COMESA SECRETARIAT
COMESA Center
Ben Bella Road
P.O. Box 30051

+260 211 229 725

www.comesa.int

info@comesa.int

facebook.com/COMESA/

@twitter.com/comesa_lusaka