

Short Term Public Private Partnerships: A Starting Point for Botswana

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Abstract: Despite the introduction of a Public Private Partnership Policy Implementation Framework a decade ago, Botswana has implemented only a handful projects under the Public Private Partnerships (PPP) arrangement. Known PPP projects include the two office buildings in the capital city Gaborone and pockets of other PPP infrastructure that have been completed within and outside the capital city. One of the concerns in Botswana regarding PPPs is that the PPP Unit in the Ministry of Finance and Economic Development (MFED) has had a very limited and in some instances, no role in the implementation of some of the PPP projects in the country. Another major concern regarding the implementation of PPPs in Botswana is limited knowledge on PPPs, by government officials. The leadership and government officials require adequate understanding of PPPs in order for government to consider fully, PPP as an alternative and viable procurement method of public infrastructure and services. As a central advisor, depository, approver and guarantor of PPPs projects, government should, through the PPP unit always be involved in any PPP project. The unit should be capacitated to function effectively to enable it to take ownership of relevant responsibility towards its mandate. This study advances short term PPPs as a preferred means of public procurement in the government of Botswana's trajectory towards implementing long term PPPs.

Keywords: Public Private Partnerships, Concession, Long term, Short term, Service contracts

1. Introduction

Governments across the world have been experiencing the need to change ways through which they procure public assets and services. Pressure to change the standard model of public procurement arose because of public debt, which grew rapidly during the 1970s and 1980s (Tharun, 2014:56). Responding to this economic demise characterised by continued poor performance of public enterprises, collapse of communism, and advocacy of Structural Adjustment Programs (SAPS) by donor agencies, public sector agencies in developing countries started rolling back leading to a shift of emphasis from public sector to private sector (Obadan, 2008:20-23). These developments led to privatization in its different forms (Sharma, 2008:1) thereby according the private sector a role in the provision of public infrastructure.

By the early 1990s, the private sector had been actively involved with the creation and operation of public infrastructure particularly in the developed economies and this has given rise to yet another the public sector reform namely PPP's (United Nations Conference on Trade and Development, 2009, 2012). In the United Kingdom (UK) for instance, the conservative government of John Major introduced in 1992 the private finance initiative (PFI), a first systematic

programme aimed at encouraging PPPs (Tharun, 2014:56). PPPs are long term contractual arrangements between the government and a private partner whereby the latter delivers and funds public services using a capital asset, sharing the associated risks (OECD, 2012:18). Some PPP projects may be long-term, including new infrastructure investments as in concessions and Build-Operate-Transfer (BOT) projects (Alexandersson & Hultén, 2009:97). To illustrate, a concession typically takes place in a period of 25 to 30 years. This period is long enough to amortize major initial investments fully (World Bank, 2018). While a longer concession period is more beneficial to the private investor, it should be noted that a prolonged concession period may result in loss for government investments (Nasirzadeh, Khanzadi & Alipour, 2014:423, 425, 439).

Because a conventional PPP project constitutes long-term commitment, this can be expensive to change if the needs of government change or were misunderstood in the first place (The World Bank Group, 2019). If well structured and implemented, PPPs offer the prospect of sizable efficiency gains in the construction of infrastructure assets and the provision of associated services. Nonetheless, they can involve significant costs and risks for government over the longer term, and under certain circumstances can even threaten debt sustainability

(International Monetary Fund, 2004:4). Potential constraints that can further be presented by long term PPPs to government may include: insufficient instruments to undertake long-term equity and financial liability required by an infrastructure project and; hindrance in enabling a regulatory framework (Kurniawan, Ogunlana, Motawa & Dada, 2013:66; Government of India, 2012). Additional to these are: inability of the private sector to fit into the risk of investing in diversified projects; lack of credibility of bankable infrastructure projects used for financing the private sector and inadequate support to enable greater acceptance of PPPs by the stakeholders (Kurniawan, Ogunlana, Motawa & Dada, 2013:66; Government of India, 2012).

Conversely, other PPP projects may be more short-term concerning reinvestments only and sometimes, even limited to the task of operating a finished construction (Alexandersson & Hultén, 2009:97). The nature of a PPP project is conservatively determined by a particular government's need. The need for short term PPPs as such, becomes inevitable more especially in emerging economies that do not have much experience and capacity to handle large scale and long-term PPP projects. The advantage for Botswana in implementing these short-term PPPs infrastructure projects is that the country already has a number of these such as: the Ombudsman and Land Tribunal Office (OLTO); the SADC Headquarters building (Tshombe & Molokwane, 2016:310) and Mongala Mall in Kanye Village. Additionally, the country's economic performance in the past few decades also renders it financially able to finance some of the PPP projects where requisite.

Given the foregoing, this study provides an analysis of short term versus long term PPPs. The study begins by placing into context a public procurement debate and describing the privatization reform as a previous method of choice that preceded the advent of PPPs. The study then introduces the PPP debate presenting various PPP options. Succeeding this debate are discussions on long term and short term PPPs, followed by a case for short term PPPs in Botswana.

2. The Role of Government in the Provision of Public Goods and Services

Over the years, the traditional role of the state has been to provide public goods and services. These

included a wide range of basic functions of government namely: provision of economic infrastructure, provision of various collective public goods and services, resolution and adjustment of group conflicts, maintenance of competition, protection of natural resources, provision for minimum access by individuals to goods and services to the economy as well as stabilisation of the economy Hughes (1998:101-104). Earlier public sector reforms targeting provision of public goods and services in the 1950s throughout to the 1980s comprised of public enterprises (PEs) that were popularly used as a vehicle for the provision of public goods and services (United Nations, 2007:25,26,75,76). According to Farazmand (1999:551), PEs have played a pivotal role in building infrastructure, providing operations and enhancing social and economic justice around the world. PEs to that effect had been the engines of economic and social development in both industrialised and developing nations.

It was until the 1980s, that the provision of public infrastructure had pre-eminently been the domain of governments (United Nations Economic Commission for Africa, 2005:98). The same decade saw the introduction of the private sector in the provision of publicly-funded goods and services. This shift in paradigm raised expectations of governments and their people alike as it was believed that the private sector had the potential to bring about change in the delivery of what was previously perceived to be public goods and services. The reform in place now was privatization. According to Cook and Hulme (1998:221-31), this new paradigm found expression in policies of liberalisation. Removing price distortions in product, labour and capital markets, reducing government expenditure, privatisation of PEs and creating a legislative-constitutional environment conducive to the private sector were now the key components of economic liberalisation. In short, proponents of privatisation argued against government involvement in the economy and favoured the market place for services (Farazmand, 1999:553).

As Hughes (1998:52) observes, this paradigm shift had a significant impact on public management where the 1980s and 1990s saw the emergence of a new managerial approach in the public sector. A new trend developed whereby government functions were reduced through privatisation, other forms of market testing as well as contracting out and, in some cases, quite radically. In some cases, privatisation meant selling a state entity to one

private owner, a move that often met with a lot of criticism (Tobin, 2012:3). In this sense, Kay and Thompson (1986:29) argued that the privatisation of large and dominant firms was at best pointless and possibly harmful in the absence of effective competition and where no benefits to economic performance were likely to be achieved. The authors argued further that privatisation of this kind would not, of course, be the first ineffectual restructuring of relationships between government and nationalised industries which had a lengthy history, but was potentially more damaging because it made it difficult for competitive incentives to be introduced in the future. Similarly, Hughes (1998:110) maintained that converting a public monopoly into a private one did not improve competition and could have the additional effect of making future competitive changes more difficult to bring about.

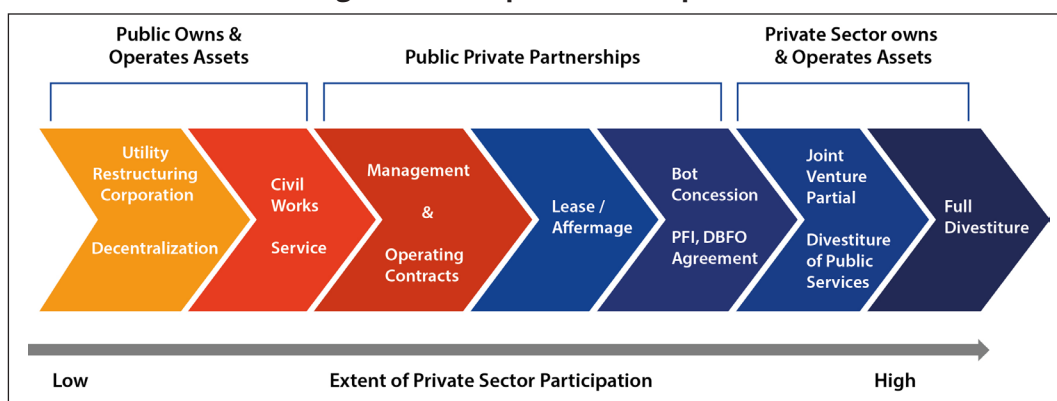
As the involvement of the private sector in the provision of public infrastructure and services in developing countries, particularly in the late 1990s and early 2000s, became evident, some budgetary changes became discernible. For instance, in Uganda, government expenditure on roads and public works went from 8.3% in 1999/2000 to 8.9% in 2001/2002 and the share of government expenditure on water increased from 1.5% in 1999/2000 to 2.8 in 2001/2002 (United Nations Economic Commission for Africa, 2005:98). Senegal continued liberalising and privatising its power and telecommunications sub-sectors, while Ethiopia has removed restrictions on private sector participation in energy generation and eliminated Government monopoly in telecommunications in preparation for privatisation (United Nations Economic Commission for Africa, 2005:98). Despite these positive efforts, African countries have, however, not attracted

as much private investment as other developing regions. Private investment in infrastructure in developing countries rose from \$14 billion in 1990 to \$117 billion in 1997, and then decreased to \$89 billion in 2000 due to reduced demand for infrastructure services that resulted from the economic crises in Argentina, Brazil and East Asia (United Nations Economic Commission for Africa, 2005:98). Only 2% of the total private investment in infrastructure went to sub-Saharan Africa, while 49% went to Latin America and the Caribbean, 29% to East Asia and the Pacific, 11% to Europe and Central Asia, 6% to South Asia and 14% to the Middle East and North Africa. In general, African countries have been slow in adopting policies and putting in place institutions to ensure business competition (United Nations Economic Commission for Africa, 2005:99). These foregoing developments paved way to the evolution of PPPs.

3. PPP Range of Options

According to Partnerships Kosovo (2009:4), there are two basic forms of PPPs: Contractual and Institutional. As indicated in Figure 1, PPPs fall somewhere in between the traditional public sector model of public service delivery and full privatisation. The order of spectrum of options begins from left to right. First, there is the traditional procurement; followed by management contracts; Lease Develop Operate (LDO) agreements; Build-Operate-Transfer (BOT), concession, Private Finance Initiative (PFI), Design, Build, Finance and Operate (DBFO) agreements and divestitures. As one moves across the spectrum from traditional public works and service contracts towards divestitures and privatisations, private sector risks and responsibilities increase. For instance, with management contracts, public

Figure 1: PPP Spectrum of Options



Source: Jeffery (2010)

authorities retain ownership and investment responsibilities, but transfer management and operations to the private partner (Partnerships Kosovo, 2009:5).

Further, along the spectrum (see Figure 1), with concessions, Build-Operate-Transfer schemes and long-term lease arrangements, public authorities retain ownership of infrastructure, but transfer both investment and operations/management responsibility to the private partner. With BOO and divestitures, the ownership, operations and investment responsibilities are all transferred to the private partner, while the public sector only retains responsibility for regulation and strategic sector planning (Partnerships Kosovo, 2009:5). However, in some instances, under the BOO and DBFO, ownership of the asset remains that of the private sector. The Asian Development Bank (2008:27) provides six main PPP options that are available for consideration.

These include service contracts, management contracts, affermage or lease contracts, Build Operate-Transfer (BOT) and similar arrangements, concessions and joint ventures. Examples of PPPs include among others, the Build Own, Operate and Transfer (BOOT), which is commonly used in public works concessions contracts, through which private operators build, own and/or operate a facility for a specified period of time (Republic of Botswana, 2000:13). Additional examples include the Build, Own and Operate (BOO), Build Lease and Transfer (BLT), Rehabilitate-Own-Operate (ROO) (Turner & Hulme 1997:193), Design, Build, Finance and Operate (DBFO) (World Bank, 2009:8). Izaguirre (1998:1) points out that, different countries have undertaken various project types when implementing PPPs. These include among others, greenfield projects, divestitures, management and operations contracts with major capital expenditure.

4. Long Term PPPs

Long-term PPP contracts usually range from 25 to 50 years (Asian Development Bank, 2008: 36). This relationship between the public and private sectors is indeed a long-term one. A typical 'long-term-PPP' is where a concession <https://ppp.worldbank.org/public-private-partnership/agreements/concessions-bots-dbos> – Concessions gives a concessionaire the long-term right to use all utility assets conferred on the concessionaire, including responsibility for operations and some investment. Asset ownership remains with the authority who

is typically responsible for replacement of larger assets. Where assets were under ownership of the private partner, they would then revert to the public authority at the end of the concession period (World Bank, 2018). During the concession period, the operator has sufficient time to recover the capital invested and earn an appropriate return over the life of the concession (Asian Development Bank, 2008:36). As these type of PPPs have long-term implications for future generations, their selection requires especially robust analysis and justification (European Court of Auditors, 2018:35). This circumstance puts managing the partnership at the forefront.

5. Short Term PPPs

Short term PPPs exist to serve the public sector in a comparatively short-term as compared to long term PPPs. These may constitute projects or services ranging typically between 1 to 10 years. Some of the PPP arrangements available for implementation by government include: affermage or lease contracts; management contracts; service contracts and some of the BOT arrangements. The distinction between a BOT-type arrangement and a concession is that a concession generally involves extensions to and operation of existing systems, whereas a BOT generally involves large "greenfield" investments requiring substantial outside finance, for both equity and debt (Asian Development Bank, 2008:27).

Regarding service contracts, the public authority hires a private company or entity to carry out one or more specified tasks or services for a period, typically 1–3 years. The public authority remains the primary provider of the infrastructure service and contracts out only portions of its operation to the private partner. Governments generally use competitive bidding procedures to award service contracts, which tend to work well given the limited period and narrowly defined nature of these contracts (Asian Development Bank, 2008: 38; Molokwane & Tshombe, 2017:162-164). Common among short-term PPPs of less than five years are water and wastewater treatment facilities (Binder, 1997:2). PPPs can help relieve short-term liquidity constraints allowing of introduction commercially viable user-pay PPPs. The extent to which PPPs can help relieve borrowing constraints however depends on the nature of the constraint. (The World Bank Group, 2019). In this context, governments may also take into consideration additional criteria in deciding which potential PPP projects to develop first. Often

at this stage, the priority is to build experience and momentum in the PPP program by achieving project successes in a relatively short time frame (The World Bank Group, 2019). Various PPP mechanisms are congruent with the application of short term PPPs. These include Value for Money (VFM), Risk Sharing (RS), Performance-Based Payments (PBP), Special Purpose Vehicle (SPV), Private Financing (PF) and Output Specifications (OS).

5.1 Service Contracts - A Case in Point of Short Term PPPs

Service contracts are the simplest form of short term PPPs, where the private sector is contracted to perform a specific service for a brief period of time (Asian Development Bank, 2008:29) or to complete a specific project. Examples include consulting assignments, construction contracts, and "contracting out" of services such as pipeline inspection, rehabilitation, laboratory services (Canadian Council for Public Private Partnerships, 2001:5), meter reading, revenue collection and maintenance of equipment (Republic of South Africa, 2007:24). Under service contracts, the "contracts" specify an agreed cost of the service and must satisfy agreed-upon performance standards (Asian Development Bank, 2008:29).

Service contracts can have a significant effect on productivity and can be a means of transferring technology from the private to the public sector. These contracts are short-term (usually 1-3 years) and have low barriers to entry since only a discrete service is required making it easy for private firms to participate. There is also repeated competition since the contracts have short runs. Together, these features of the contract put pressure on the contractor to keep costs down (Canadian Council for Public Private Partnerships, 2001:5). With regard to project financing, under a service contract, the government pays the private partner a predetermined fee for the service, which may be based on a one-time fee, unit cost or another basis. Therefore, the contractor's profit increases if it can reduce its operating costs, while meeting required service standards. One financing option involves a cost-plus-fee formula, where costs such as labour are fixed and the private partner participates in a profit-sharing system. The private partner typically does not interact with the consumers. The government is responsible for funding any capital investments required to expand or improve the system (Asian

Development Bank, 2008:29). In general, service contracts enable governments to accomplish tasks for which there is insufficient demand to develop using internal resources (Canadian Council for Public Private Partnerships, 2001:5).

6. Botswana in the Sub-Regional Context

Botswana's investment climate compares favourably with that of member states in the Southern African Development Community (SADC) region. In 2013, the SADC office conducted a project scan to assess the level of PPP activity in the region. A total of 194 projects were taken from the Short Term Action Plan (STAP) and SADC Regional Infrastructure Development Master Plan (RIDMP) project lists and an additional 30 were identified. A very simple but effective screening method was used to identify the projects that would be most suitable for implementation as PPPs in the short term (SADC PPP Network, German Cooperation & KPMG, 2013a:6). The SADC PPP Network, German Cooperation & KPMG (2013a) SADC 3P Project Network Scan documented PPP maturity of specific member states citing a number of projects by sector. For Botswana, projects indicated included: Platjan Bridge; Tchobanine Heavy Haul Railway (Tchobanine); a heavy haul railway line and a port at Ponta Tchobanine, Mozambique; the extension of Kinshasa- Ilebo Railway Link; Trans Kalahari Railway; TransKalahari/Mamuno One Stop Border Post; Plumtree-Ramokgwebane One Stop Border Post and the Pioneer Gate-Skilpadhek. While some of the projects are new developments, some involve upgrading and extension (SADC PPP Network, German Cooperation & KPMG, 2013a:4,11,12). Projects assessed are all cross border projects. Primarily, the SADC 3P Network aims to assist member states in setting up institutions and frameworks through strengthening the capacity of public-private partnership (PPP) practitioners for defining, managing and implementing PPP policies, programmes, projects and harmonizing processes, institutions and policies across the region.

7. A Case for Short Term PPPs in Botswana

The Government of Botswana (GoB) is one of the few countries in the SADC region to have recognized early, the necessity to create a solid environment aimed at encouraging and attracting the private sector for infrastructure and service delivery—being aware that the country is in competition with others

for similar investments (Axis Consulting, 2013:7). Although not widely utilized, PPPs in Botswana are considered as a substitute in terms of financing investments in provision of economic assets such as roads, railways, social assets and government accommodation (Republic of Botswana, 2009:3). A number of factors give rise to an ardent need for provision of public goods and services through PPPs.

7.1 Ease of Doing Business in Botswana

A number of factors place Botswana in a favourable position for investment through short term PPPs. In terms of protocols, treaties, conventions and agreements, Botswana has ratified bilateral agreements with SACU, SADC, MERCOUR, EFTA, Malawi and Zimbabwe (Republic of Botswana 2016). Negotiations conducted with the European Union on an Economic Partnership Agreement in July 2004 accord the country access to markets in United States under AGOA (Republic of Botswana, 2009). In the same vein Botswana is committed to the Doha Development Agenda and recently signed the agreement on Trade Facilitation. This agreement on trade facilitation aims at reducing both the financial costs and time needed to do business across borders (Neufeld, 2016:2). Further to this, Botswana has a National Trade Policy. Policies and strategies adopted by the GoB have promoted trade and economic diversification. The country has experienced impressive levels of economic growth since 1970 (Maipose, 2008:iv,5,6). Over the last decade Botswana has experienced a notable increase in exports, moving from merely over US\$4 billion in 2005 to close to US\$ 8 billion in 2014. Imports have realized a much larger increase over the same period, moving from around US\$ 4 billion in 2005 to US\$ 8 billion in 2014 (United Nations, 2016:xi).

7.2 Legal Framework

Botswana does not have a dedicated PPP law. The country currently utilizes the PPP Policy and Implementation Framework; the PPAD Act; Sectoral Ministry or Department Legislation and other public procurement legislative provisions in PPP projects. The OECD Investment Policy Review (OECD, 2013) analysis of Botswana's PPP Framework confirms that the policy's broad approach towards scope of PPPs may reduce the clarity of the document for procurement entities wishing to take the PPP route. This will be true especially given that the structure and upstream preparation of PPP contracts are very

different for physical infrastructure as compared to services or movable assets (OECD, 2013; Axis Consulting, 2013:9). Botswana's PPP unit currently needs to be capacitated to handle large-scale PPP projects. Regardless of this deficiency, line Ministries have demonstrated that they are capable of handling relatively large-scale PPP projects however in the short term. A dedicated PPP legislation will be a single source providing PPP legalities relating to among others OS, VFM, risk transfer, project financing and contracts.

7.3 PPPs Provide Relief to Government Fiscus

The majority of developing countries fund their infrastructure expenditures directly from fiscal budgets. Several factors, such as macro-economic instability and growing investments requirements however, have shown that public financing is unpredictable and often does not meet infrastructure expenditure requirements sufficiently. Reinvigorating the supply of infrastructure investments within developing countries requires supplementing traditional sources of official finance with new sources of equity (Andres, Biller & Schwartz, 2016:41) and debt finance because infrastructure projects often have high debt to equity ratios.

Public infrastructure and services provided through PF provide relief to the development budget. Under PF, a private-sector party generally raises project funds both in equity and debt finance for a PPP. An analysis of Botswana's public budget for the years 2008 to 2019 illustrates that the GoB typically raises revenue through conventional means such as taxes, grants, tourism, beef sales and mineral proceeds. Botswana's 2008-2019 national budgets place emphasis on privatisation with the 2009-2011 and 2018 budget speeches mentioning in a rather mild sense, PPPs as a way of enhancing private participation and describing the PPP Policy and Implementation Framework. Nonetheless, all the budget speeches outline government plans and projects for instance, investing in infrastructural development; creating employment opportunities as well as road network and maintenance as some of the activities that can be provided through PPPs. The 2012-2017 budget speeches are silent on PPPs. While these budget speeches do not mention PPPs, the 2016 budget speech has in it the Output and Performance-Based Road Contract (OPBRC), which clearly has strong PPP characteristics however, the contracts under this arrangement were issued

through traditional competitive bidding process. The civil works contracts for two OPBRC packages cover a total of 335 km in the Southern region (Republic of Botswana, 2016).

7.4 Availability of Domestic Capital and Debt Funding

There is substantial capital to finance short term PPPs within Botswana. According to the SADC PPP Network, German Cooperation & KPMG (2013b: 3), the capital markets in Botswana are mature but small with a total market capitalisation of domestic companies of P4.5 billion (USD525 million). That of foreign companies is much larger at P372 billion reflecting the export nature of extractive industries in the country. Further to this, there are eight domestic banks operating in a small but well regulated market, six registered equity funds and the country has a large number of pension funds thus signifying a strong market (SADC PPP Network, German Cooperation & KPMG, 2013b: 3).

8. Lessons Learnt

Various lessons become apparent from this study. Firstly, establishing solid institutional safeguards is imperative. These include: an independent PPP legal framework; avoiding high costs of contract negotiation and building capacity to accept unsolicited proposals; competent and enabled institutions that can appropriately identify, procure and manage PPPs and; efficient oversight procedures as well as proper Legal Frameworks (Axis Consulting, 2013: 10). Botswana has a PPP policy and Implementation Framework, an Anti-Corruption agency namely the Directorate on Corruption and Economic Crime, a Public Procurement body namely the Public Procurement and Asset Disposal board, a Financial Intelligence Agency and a PPP Unit located at the Ministry of Finance and Economic Development. While all these policy and institutional safeguards are present, their effectiveness and independence have often been under scrutiny.

Secondly, there is an impending need for the GoB to introduce a PPP Law in addition to the policy in place. The PPP Law will take precedence over sector laws and will enable government to play an effective role in the PPP process as opposed to what is currently obtaining with some PPP projects having had been implemented without the PPP Unit's active participation. Thirdly, short term

PPPs are a viable starting point for countries with incipient PPP environments such as Botswana. With a very small number PPP projects which have been largely short term i.e. not more than 10 years, the country is still inexperienced on PPPs. The choice to begin experimenting with short term PPPs is the correct one nonetheless; the GoB has to attract more investment on this front. While PPPs may be the answer for many governments, they are not without risk and there are certain challenges thus before PPP projects enter the development phase, they must undergo appropriate suitability checks and prefeasibility processes (SADC PPP Network, German Cooperation & KPMG, 2013a: 5). Lastly, there is firm political commitment and stakeholder dialogue. These factors are important in contributing to the promotion of PPPs in a larger context (Axis Consulting, 2013:10).

9. Conclusion and Recommendations

Short term PPPs a viable means of providing public infrastructure and services by leveraging on private technical expertise, finance and technology. Countries whose PPP environment is still at its nascent stages should prioritise short term PPPs as a starting point and utilize these as foundation towards long-term PPPs. Government authorities need to be capable of developing sector reform policies and assessing fiscal risks associated with PPPs. They should base their decisions about public procurement versus PPP on comprehensive VFM assessments and have impartial transaction advisory at hand to make PPP deals bankable and sustainable (International Evaluation Group, 2012; Ahmad, Khan, & Khan. 2016: 24, 25). To this end, the GoB requires a shift towards implementing in a more robust way short term PPPs as these will be beneficial in this era of scarcity of public finance.

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