SEATINI

Strengthening Africa in World Trade

TRANSPARENCY & ACCOUNTABILITY IN PUBLIC PRIVATE PARTNERSHIPs- CASE OF UGANDA

NAME: PENINNAH MBABAZI

POSITION: PROGRAMME OFFICER, DEBT AND AID

Southern and Eastern Africa Trade Information and Negotiations Institute (SEATINI) - Uganda

www.seatiniuganda.org

+256-414-540856
+256 707 481 726

INTRODUCTION

- PPPs 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.

- PPPs are typically focused on several key objectives: sound design that benefits from a balanced regulatory environment; good governance and transparency; financially sustainable structures; and ultimately, better and more efficient delivery of public services and infrastructure.

- In 2019, private investment commitments to public-private partnership (PPP) projects within low and middle-income countries amounted to <u>$97 billion across 409 projects in 62 countries</u>. Africa's share of these private investment commitments—approximately $7 billion—represented a small portion of the total.

- Since the 1990s, the development community has recommended the use of public–private partnerships (PPPs) for improving infrastructure services in the poorest countries. The interest in PPPs is now stronger than ever because they are widely perceived to be critical to the achievement of Sustainable Development Goals (SDGs) or on the provision of transformational regional infrastructure, as envisioned by the G20.

Some of Uganda PPP Projects:

Project	Sector	Financial close	Investment (USDm)
Bujagali Hydro Project	Electricity	2007	86.0
Kampala-Jinja Expressway-Phase 1	Roads	2021	229
Namanve Power point	Electricity	2008	88.00
Kikagati Hydro Power Plant	Electricity	2019	87.00
Umeme Limitied	Electricty	2005	84.00
Kinyara Cogeneration Plant	Electricity	2009	59.00
Kakira Coegneration Plant	Electricity	2006	43.00
Bugoye Hydro Electric power project	Electricity	2008	35.00
SAEMS Nyamwamba SHPP	Electricity	2012	34.00

Uganda's PPP Policy and Institutional Framework

PPP Policy -The current legal and institutional framework governing PPPs can be traced to the Public-Private Framework Policy of 2010.

Legislative Framework -The legislative framework for PPPs in Uganda is the Public Private Partnerships Act, 2015, which became effective on 12th August 2015. The purpose of the Act was to put in place the necessary institutional framework and provide guidelines on how PPPs are to be conducted in Uganda. The purposes of the Act include to:

- Provide for the role of the private sector in PPPs
- provide for project inception and feasibility studies for PPPs
- To provide guidelines to be used in evaluating bidders for PPP projects
- To provide guidelines for agreements and monitoring of the projects
- To outlining bidding methods, procurement procedures and types of PPPs to be implemented.

Institutional Framework

The Public Private Partnerships Unit (PPP Unit) The regulatory institution that plays a close interaction with PPP projects is the PPP Unit. The PPP Unit is established under section 10 of the Act and is an independent body under the oversight of the Ministry responsible for Finance

Public Private Partnerships Committee (PPP Committee) - composed of critical government institutions which have a role to play in PPP projects.

Contracting authorities Contracting authorities, who should identify, appraise, develop, procure and monitor a PPP. The contracting authorities can also participate in the financing of the project by making a monetary contribution to the capital or concessioning its asset to the private sector. The contracting authority might also participate in the implementation of the project, although the specific role to be played needs to be specified in the invitation to tender.

Umeme Electricity Distribution PPP project

SEATINI
Strengthening Africa in World Trade

Umeme PPP is a 20 year concession that commenced in 2005. It involved a process where Uganda Electricity Distribution Company Limited (UEDCL), who owns the electricity distribution network on behalf of government, leased to Umeme Ltd the electricity distribution system in Uganda.

The government committed; **i)** to providing subsidies by meeting part of the energy costs incurred by the consumers. **ii)** Umeme also received tax waivers on qualifying imported material inputs, with a full lease of the distribution and supply network **iii)** In addition, all the stock of materials that was prevailing at the time of the concession was transferred to UMEME **iv)** At the inception of the Concession, the government also took on all the liabilities, including UEDCL loans that were outstanding.

The role of the firm: **i)** UMEME was to supply electricity within 1.0 km beyond the existing grid **ii)**the firm also had to make 60,000 new connections in the first five years and 25,000 new connections per year thereafter **iii)** The firm was also tasked with the repair, upgrading and expansion of the electricity distribution system within Uganda and collection of revenues from customers based on a tariff set by the Electricity Regulatory Authority.

Cont….

Successes: i) UEDCL used to have high electricity system losses (35% to 40%); now losses were reduced to 27%; **ii)** UEDCL used to have low revenue collection rates (less than 70% prior to the concession), but now revenue collections are at almost 100%; **iii)** UEDCL had high accounts receivable (7 months of sales in 1997), now accounts receivable are only at 1 month of sales; **iv)** Frequent power outages and system breakdowns in past. This has reduced substantially **v)** Electricity accessing population was at only 5%; now over 10% of population are accessing power.

Challenges: i) Just one month after the agreement was signed, in April 2005, Uganda's Electricity Regulation Authority approved a 24% increase in domestic tariffs, to enable Umeme to make a return on the substantial investment it was making into the sector – this led to a high cost in power for Ugandans. **ii)** In 2006, the major investor, Globeleq indicated that it would terminate the concession as it was becoming unprofitable, which saw a further 37% increase in tariffs for domestic users and 58% for businesses. **This led to citizens petitioning to the Auditor General to hold investigations on UMEME.**

Gov't potentially owes UGX 1.5 trillion to Umeme on concession loss

The Independent   May 14, 2021   NEWS
Leave a comment

> *Umeme operates, maintains, upgrades, and expands the electricity distribution system within Uganda*

Kampala, Uganda | THE INDEPENDENT | Electricity distributor Umeme Ltd is owed by government close to US$400 million (1.5 trillion Shillings), equivalent to a whole month's national revenue, as investment costs that are yet to be recovered by the company.

If Umeme was to close business today either due to

UGANDA -LUBOWA HOSPITAL

- The government issued a promissory note, (a document promising to pay a certain amount to an entity/individual) for US$397 million was given to the Italian firm Finasi.
- *No procurement process* was done for the construction of the hospital; it was awarded to Roko construction (a local firm).
- A Finasi/Roko Special Purpose Vehicle was created, with Finasi owning 95% of the shares and Roko owning 5%.
- The hospital will cost $397 million, making it the most expensive hospital built in Uganda. Despite this, members of parliament are unsure on the purpose of financing the hospital. Although it was endorsed by the review committee to see whether it was achieving value for money. For comparison, a local hospital built on similar terms cost $25 million.
- The Lubowa hospital is costing approximately 16 times more than the other hospital. And with the likely upcoming issues, it is highly likely that the project will cost sustainably more.

Concerns on Transparency & Accountability

- **The PPP concept Vs the reality -** predicated on "value for money" and adequate returns for private sources of capital to take on—and mitigate—risk, **the end objective of "value for people" projects is should focus on increased capacity to render higher quality services that are needed by the entire public.** However, this isn't reflecting for all PPP projects.

- The approach to 'blended financing' **does not fully seek to optimize returns in an economic, financial, and social sense simultaneously.**

and cover the revenue shortfall.

More so legitimate questions remain in terms of;

- **Hidden Debt** – through Contingent liabilities and guarantees. Government has offered guarantees on loans acquired by the private investors within the PPP projects as a form of incentive aimed at lowering risk taken on by these parties

- **The state is forgetting its role** –Government is willing to pay on behalf of the investor if they do not have the capital to invest in some of these projects. Government is then forced to step in

- **The role of parliament's oversight role is also being undermined**, their oversight role is now no longer deemed worthy when these projects are being implemented
- **PPPs are contributing to Illicit financial flow**; tax evasion and tax avoidance

Cont…..

- **Each sector has unique attributes and requirements such that applying the PPP Act across all sectors without due regard to some specific issues could be counterproductive.** The experience in the electricity sector, where it is the government that had to bear much of the costs through subsidies is a case in point.

- **There is also too much dependence on external financing for PPPs.** There is need for government to also try to mobilize local investment, which would be less costly. Local investors would also be easier to deal with and regulate without threatening to terminate the project as was the case with the Umeme main investor.

- **Revision of PPP legal and institutional frameworks that favor People-First** PPPs combined with a more prominent role of the domestic private sector will improve prospects for achieving these objectives.
- **Need to deepen the involvement of the domestic private sector:** There is need to focus on developing domestic financial markets and integrating them across the continent to provide cross-listings and to enrich investment options.

Cont…

- **Limited compliance of use of the procurement process** There are five stages in the procurement process; Planning, Planning initiation, Award, the Contract and implementation. Had the Lubowa project gone through Open contracting processes, the planning stage may have raised the issue of whether the hospital was needed, or that it was value for money.

- **Unstructured contracting process which has limited competition from other firms, international and local hence no value for money.** The promissory note was given to Finasi without any competition – no other companies had the opportunity to submit a bid. Within the awarding process there would have been an opportunity for an open evaluation of the bids.

- **No monitoring by the government:** to hold the company to account regarding whether funds are being appropriately spent and the timeline for the works.

Had Open Contracting been implemented, this case could have been avoided and the risks to corruption would have been reduced.

- **Limited transparency and accountability:** The aim of the Open Contracting is to make the process more transparent and to ensure tax payers get value for money. Unfortunately for taxpayers in countries around the world, stories like this continue to reinforce the need for greater transparency in procurement.

RECOMMENDATION

There is need to prioritize investments so that they can boost growth and resilience while achieving the quality of life and social objectives that are at the heart of sustainable economic development.

There is need to use the budgetary process transparently to minimize fiscal risks and ensure the integrity of the procurement process: This involves among others, the following:

- The budget documentation should disclose all costs and contingent liabilities
- 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.
- 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.

CONCLUSION

- As SEATINI Uganda, we have shared our concerns and positions on the use of PPPs. We have collaborated and partnered with other organizations to ensure to advocate for the revision of the PPP legal framework and emphasized the need to be people centered and demand for value for money.
- As we look ahead to Africa's needs, PPP projects will continue to be necessary for public services, modernized infrastructure, connected financial markets, and regional integration to achieve the critical mass and scale needed for continent-wide resilience in the face of exogenous shocks.

However this can only happen as long as they are well structured, appropriately supported, and carefully monitored and evaluated.


SEATINI

PUBLIC PRIVATE PARTNERSHIPS:
AN EMERGING FORM OF HIDDEN DEBT WITHIN THE EAC?

www.seatiniuganda.org
+256-414-540856
info@seatiniuganda.org
Plot 806, Block 213, Bukoto
Kampala, Uganda
P.O Box 3138,Kampala, Uganda

SEATINI

Strengthening Africa in World Trade

Thank you

ASANTE