

Boosting private sector investment in Zambia's infrastructure

The role of an improved PPP Department

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August 2021



One of Zambia’s ambitions is to become a hub of economic development in the Southern Africa region. The government is, however, keenly aware that its infrastructure and service delivery need major improvements to make it possible for business and enterprise to thrive and boost economic growth. Like most countries around the world, the Zambian Government recognises that complete reliance on its own financial resources is inadequate to meet the country’s infrastructure needs. In light of this, the government sees the private sector as a critical partner to achieve its economic development objectives, thereby acknowledging public-private partnerships (PPPs), as a viable way to finance essential public infrastructure development. In addition to providing an alternative source of financing, PPPs also offer a means to reduce fiscal pressure on the country’s treasury and leverage private sector innovation, expertise and efficiency.

A critical success factor in the implementation of PPPs is the need to put in place an effective regulatory framework, which is fit for purpose and boosts investor confidence. An effective regulatory framework is critical to establish governance standards and ensure transparency in the PPP project procurement and implementation process. This, in turn, helps to ensure that PPP projects are delivered in an efficient, consistent and sustainable manner.

Also crucial to the successful implementation of PPPs is the ability to attract credible private investors especially in the context of constrained fiscal space. The increased competition for limited global resources and the impact of the COVID-19 pandemic has also put additional pressure on Zambian coffers. These factors, among others, have contributed to the government’s renewed focus on the effective utilization of PPPs for infrastructure development, and sharpened its resolve to strengthen the capacity of its PPP Department in order to secure and deliver successful PPPs.

Box 1: PPP law and policy in Zambia

Zambia adopted its current PPP policy framework in 2008. This framework sets out the country’s goals and strategic direction for leveraging private sector investment in infrastructure development and delivery of social sector services. The following year, the Public-Private Partnership Act (“PPP Act”) was enacted, which is the principal legislation regulating the development and implementation of PPPs in Zambia. The Act was subsequently amended in 2018 and 2021.

In addition, Zambia’s 7th National Development Plan for 2017-2021, also known as 7NDP, is geared towards achieving the country’s aspiration of becoming a prosperous middle-income country, as articulated in the country’s Vision 2030. These key documents emphasise the need to harness the financing potential of the private sector through PPPs, especially in infrastructure projects. Furthermore, the country’s recent 2020-2023 Economic Recovery Plan (ERP) also emphasises the government’s commitment to transform PPPs into a major financing mechanism.

The strategic role of the PPP Department in supporting Private Sector Investments

In line with its institutional mandate, the PPP Department has renewed its focus on delivering projects that are technically sound, economically feasible, commercially viable and socially acceptable. To this end, the Department has taken a number of key steps to increase the efficiency of the country's PPP programme. Some of these are set out below.

Strengthening the PPP legal and regulatory framework

As a starting point, the need for legislative reform to strengthen the PPP legal framework has been acknowledged to deliver sustainable PPP projects. The necessary steps to do this include: improving the PPP governance process; strengthening the Department's oversight functions and enforcement mandate; bringing efficiencies into the various stages of the project cycle; and boosting local participation in PPPs. The PPP Act was amended in March 2021 to, amongst other things, change the composition of the PPP Technical Committee, which plays a technical advisory role to both the PPP Council and the Department, including making recommendations to the Council on the approval of projects and on awarding agreements. It is envisaged that this change will enhance the decision-making process and provision of technical knowhow to both the Department and the PPP Council.

The Department has also undertaken an extensive review and deep-dive of the PPP Act to assess possible areas for improvement. This has included a country benchmarking exercise to draw on regional and international best practices, while taking into account Zambia's specific needs and challenges. This exercise has resulted in the development of a comprehensive proposal outlining the key areas for further amendments to the PPP Act. The OPF Fellow supported the PPP Department in undertaking the various comparative analysis/country-benchmarking activities and preparation of proposals.

Improved processes, procedures and ways of working

The Department has taken concrete steps to ensure that the PPP processes and procedures are streamlined. For example, it is currently working with the International Senior Lawyers Project to develop a set of national PPP guidelines. The team has also developed a number of critical tools and templates, including: ready-to-use materials to create project concept notes and proposals; project evaluations; terms of reference for transaction advisors; and guidelines for undertaking feasibility studies. Keen to optimise its ways of working, the Department has also improved its project appraisal, screening and procurement processes, including its contract negotiation, review and management support activities to ensure that all relevant sections, such as finance, legal and technical, are actively involved in the development and delivery phases of a project.

Standardizing documents and processes

Developing PPP standard bidding documents and contract templates is critical to enhancing transparency, fairness and competition in the project procurement process. The Department has created standardized PPP contract and bidding templates, which are specifically tailored to Zambia's requirements. These templates were developed in line with international standards and best practice. Having documents of this nature in place not only ensures predictability but also helps boost investor confidence in Zambia's PPP program.

The Department has also put in place a comprehensive monitoring and evaluation (M&E) framework to keep track of PPP projects under implementation. Along with the processes and materials described above, this framework will help ensure that intended project outcomes are achieved, contractual obligations are fulfilled and contingent liabilities are better monitored and managed. The OPF Fellow supported the review of the M&E framework and the development of the contract profiling template and database.

Aligning PPPs to the 7NDP

The Department has also put in place measures to align and coordinate PPP projects with Zambia's national development plan. To this end, it has improved its collaboration with other government departments and agencies. For example, it is currently in consultation with the Public Investment Planning Department of the Ministry of National Development Planning, which is responsible for reviewing and appraising public investment projects, to enhance collaboration and improve ways of working. This collaboration will help to ensure that PPP projects are better planned, appraised and selected from the public investment plan. This will improve the quality, prioritization and development of projects, while also maintaining a healthy PPP project pipeline, which focuses on projects that provide value for money and real socio-economic benefits to the Zambian people.

"The OPF fellow's ability to think outside the box played a critical role in setting up strategic collaboration as a way to foster wide use of PPPs in the country"

Ireen Musonda-Habasimbi
Director of Public Private
Partnership Department, Ministry of
finance

Aligning the PPP pipeline with the 7NDP also shifts the focus to other key economic sectors. For example, the Department is now looking into developing effective PPPs in the agriculture sector, which is the country's largest contributor to employment and fourth largest to national GDP, accounting for 8.7%.

Advocacy, public awareness and stakeholder engagement

The Department developed a communications plan aimed at key stakeholders and the general public. As part of its advocacy and sensitization activities, the Department developed PPP project flowcharts for both solicited and unsolicited proposals, formulated a PPP communications strategy, which also included the planned launch of the Department's interactive online platform. In addition, the OPF Fellow supported this process by developing the first ever PPP Act Frequently Asked Questions.

"Thanks to the OPF fellow, the PPP Act Frequently Asked Questions provides a simplified understanding of the PPP regulatory framework for any stakeholder"

Ireen Musonda-Habasimbi

Director of Public Private Partnership Department, Ministry of finance

Strategic focus on capacity enhancement in PPPs

The limited understanding of PPPs and their suitability for the procurement of public infrastructure projects has been a major challenge for growing the project pipeline. In October 2020, the Department, in collaboration with the World Bank, organised a PPP introductory course for its staff and other civil servants across the key government institutions. Further PPP certification courses (IP3), for different levels, have also been provided to all staff in the Department.

To complement these formal training programmes, the Department has also put in place an in-house training programme relating to the critical area of work and role of the Department. The OPF Fellow developed a training module on Zambia's PPP Legal Framework and rolled-out the very first training on this subject in March 2021.

To further optimise the available resources on technical expertise as it relates to PPPs, the Department successfully entered into two major strategic collaborative partnerships: one with the International Senior Lawyers Project to tap on technical assistance on legal matters; and one with Musika for capacity enhancement and support to facilitate PPP projects in the agriculture sector. The OPF Fellow supported the Department to formalise these collaborative partnerships through the signing of the Memoranda of Understanding between the Ministry and these organisations. This set off the new and much needed work stream to move the PPP agenda forward. The Department is also working in collaboration with the Ministry of Agriculture and the Food and Agriculture Organisation (FAO) to develop PPP guidelines specifically for the agriculture sector.

A dive-in on some progressive stories in PPPs

The Zambian government has made the development of public infrastructure projects a priority, particularly in the power sector and in road construction. For this reason, the Department has played an active role in supporting the procurement and negotiation of a number of critical PPP infrastructure projects, including an EU-supported rural electrification project on renewable and efficient energy in the Chunga, Chishi areas and Lunga District. These projects are demonstrative PPPs and are critical in contributing to Zambia's ambition of increasing access to electricity in rural areas from below 10% at the time of writing to 51% by 2030. This PPP rural electrification project, once signed, is expected to provide an additional capacity of approximately 420Kw – 450Kw through mini-grids and solar home systems. The OPF Fellow supported the PPP Department in facilitating the project approval process under the PPP framework, including providing negotiation support to the Rural Electrification Authority team.

In addition, the PPP Department has supported the Road Development Agency in the negotiations surrounding a number of key infrastructure projects, such as the PPP project to upgrade the Chingola to Mutanda via Solwezi road in the Copperbelt/North Western Provinces of Zambia into a Dual Carriageway. The project involves the construction, operation and maintenance of a dual carriageway of about 205km and other ancillary infrastructure and facilities. The project is expected to improve the country's core road network and connectivity (international and provincial linkages), so as to reduce travel time, improve road safety, and enhance trade and agricultural activities.

"The Oxford Policy Fellow truly understood our business operations. We trusted her judgement and advice. We cannot recommend her enough to anyone looking to improve their capacity in PPPs"

Mukupu Kapasa-Musonda

Director Legal Services, Road Development Agency

Fellow reflection

At the time of my posting to the PPP Department in the Zambian Ministry of Finance, there was no legal counsel in the team. This posed a challenge as well as a motivation for me to demonstrate leadership, professionalism and resilience, as I had to formulate a clear roadmap to achieve my deliverables for the job. The unwavering support of my boss and team spirit within the Department afforded me the opportunity to contribute meaningfully to the progress made so far by the Department. Although we have made strides in bringing more efficiency to Zambia's PPP framework and improved the ways of working, there is still a lot to be done in positioning Zambia as the investment destination of choice for PPPs. Crucially, the Department requires the continued support of OPF, particularly with regards to the proposed PPP legislative reform process, amongst other needs.

I must say that my time at the PPP Department has been an extremely enriching experience from a professional and personal standpoint. Also, I think OPF has successfully demonstrated to the Ministry that it is a credible development partner and, as such, should continue building on this goodwill by deepening its relationship with, and providing the required technical assistance to, the Government of Zambia.

Eniye Ogbebor

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