

# Urban Improvement: A Public-Private Partnership Strategy

## ICBE POLICY BRIEF

### By

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## EXECUTIVE SUMMARY

This study developed a conceptual framework for managing Public-Private Partnerships (PPPs) in urbanised areas for improvement of the business environment by:

- I. Identifying and documenting experiences of sample partnerships between local authorities and private sector groups for PPP service delivery in Nairobi;
- II. Documenting different effective communication strategies for promoting dialogue between the City Council and its businesses and citizenry; and,
- III. Recommending a framework for implementation of PPP projects.

Key findings demonstrated that, on average, PPPs were initiated by the private sector with the goal of providing public service. Most participants were local organizations than international and the partnership agreements were by formal contracts with some through informal collaboration.

In general, the PPP concept could become a solution to some of the problems in Nairobi but it needs a more effective approach and management process. The major challenge is unilateral and conflicting decisions by the city and the problems seemed to persist with little effort to mitigate them.

Based on stakeholder feedback and review of best practices, the study highlights several policy implications. With respect to PPP projects, the study recommends publicising and clarifying PPP policies to reduce uncertainty, establishing a clear legal framework and ensuring consistency.

In terms of public involvement, the study recommended distinguishing public involvement from public relations, an inclusive process of proactively seeking out affected stakeholders and the decision process to be defined, structured, and transparent. A specific improvement was the creation of a one-stop-PPP office with similar offices for each city council in the country.

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## INTRODUCTION

During the 1960s and 1970s, Nairobi gained a popular title as the “Green City in the Sun.” However, by the 1990s, this had changed and residents referred to it as “City in the Garbage” in reference to heaps of uncollected garbage on streets. And to underscore the high crime rate, especially carjacking and robberies, its name was corrupted to “Nairobbery.”

In just 20 years, Nairobi had tumbled into socio-physical decay and businesses suffered tremendously, with several closing or opting to relocate to alternative investment destinations.

The private sector, alarmed by this growing trend, formed alliances and sought partnerships with City Council of Nairobi to reverse with the decline. And from this desire to rehabilitate social amenities and improve the business environment, the concept of Public-Private Partnerships (PPPs) was born.

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## THE CHALLENGE

While PPPs are critical for enhancing the public sector’s provision of efficient and quality service, the private sector felt the structure was neither systematic nor transparent enough to encourage private participation.

Because of inconsistencies and lack of transparency, there was private sector resentment towards partnerships with the political leadership under the existing structures. There was also a mystery and misunderstanding of the role of the private sector in society. Consequently, some PPP projects were blocked through court injunctions because of lack of trust among stakeholders while others were torn between city council departmental jurisdictions. In other instances, players would accuse each other of profit seeking rather than public service provision.

## NEED FOR GOVERNMENT ATTENTION TO PPPS

The fundamental role of PPPs is to supplement the public sector through supply of resources that the public sector requires for providing public service. Without such resources, service levels are likely to deteriorate, leading to customer refusal to pay for such services, which would lead to low revenue collections.

Low revenues would lead to city council budget cuts, followed by cuts in new asset investments and maintenance. It could also lead to layoffs and in turn loss of employee morale and hence further deterioration of public service that would set in another vicious cycle.

## PUBLIC POLICY OPTIONS

Alternative sources for providing public service may include direct funding from taxes, which is the most widely common practice. However, this faces the challenge of a small number of people that pay taxes (limited tax base) and citizen refusal to pay for deteriorating service as evidenced in the Karengata (an association for Karen and Langata residents – two neighbouring residential areas south of Nairobi CBD) decision to withhold their rates until city council provided commensurate services.

Other challenges include high interest rates that come with loans advanced to Government institutions by local and international financials. While foreign aid from the willing donor community is an option, it also tends to be unreliable and comes with strings attached that may also threaten some vested interests that are expensive to fight.

The use of PPPs might lead to loss of autonomy and possible layoffs in affected departments. However, some employees might be rehired by the private sector as they have expertise in implementing public sector projects.

## METHODOLOGY

This study used a documentary case study approach to analyse factors affecting PPP operations within the city of Nairobi and developed a framework for enhancing partnership strategies. Both primary and secondary sources of data were used.

Sixteen existing partnerships were sampled for interviews. The data was compiled in the form of interview scripts, identifying pertinent factors for content analysis. A frequency matrix was therefore created at three different levels, i.e., general analysis of responses, analysis of success factors, and analysis of failure factors.

## SUMMARY OF FINDINGS

For general findings;

- 92 percent of projects have been implemented by partnerships between governmental entities and local private organizations; and,
- 61.5 percent of partnerships were initiated by the private sector with the objective of providing public service at 50.1 percent and community support at 23 percent.
- For factors that enhance success, high (risk) cost of the project and private sector initiative were each at 84 percent. The high cost of a project makes it risky to abandon and hence the stakeholders tend to be more committed;
- Shared interests in projects were at 76 percent;
- Formal contract agreement and local context strategies were at 69 percent each, and,
- Honouring contracts was at 61 percent.
- In terms of inhibiting factors, 50 percent indicated problems that were never mitigated;
- Lack of supportive legal structure at 38 percent (which has since been addressed with the enactment of the public private partnership Act 2012);
- Distrust of the governmental entity at 38 percent;
- Corruption at 38 percent;
- Vested interest at 38 percent; and,
- Opposing goals and political interference were each at 31 percent.

## IMPLICATIONS OF RESEARCH FINDINGS

The findings were divided into three categories, i.e., general findings, factors contributing to the success of PPPs and factors hindering the success of PPPs.

In terms of general findings and analysis of responses, this research found that on average a PPP project was initiated by the private sector with the goal of providing public service. Most of the participating stakeholders were local private sector organisations.

The agreement of partnership tended to be either by formal contract or simply grew out of an on-going collaboration. The major challenges to the partnership were unilateral and conflicting decisions by the governmental entity. These problems seemed to continue without significant efforts to mitigate them.

The study also sought to identify some of the least likely situations for partnerships. These included initiation of partnership by simply joining an existing partnership, partnering for the purpose of generating more revenue, involvement of foreign NGOs or provision of public service for profit.

With respect to success of partnerships, it was evident that factors that were more likely to be associated with success included the high cost of a project (risky to pull out), private sector initiative and shared interest in the project. Other success factors that were frequently mentioned were formal contract agreement and local context strategies, honouring of the contracts, consultative process, good organisational reputation and history of project.

The final analysis examined factors that contributed to failure of PPP projects. It was clear that partnerships were susceptible to failure when the legal structure was inadequate, such as lack of a supportive legal structure, poor procurement laws, no contract transparency and political problems. Also, problems such as corruption, entrenched vested interests, opposing goals within the partnerships, and political interference were the key factors contributing to the weakening of partnerships.

These findings and respective analysis presented a need for a framework through which partnership projects draw common objectives among participants. It also called for openness and tolerance of critical views, on-going consultation and public participation, transparency and a one-stop-PPP office at City Hall.

Similarly, while it was important for government entities to support partnerships where there was an established framework or effort to alleviate the problem, there was even more need to strengthen partnerships where there was less governmental structure or effort, and especially where the private participants in the partnership may have appeared antagonistic to the situation.

## CONCLUSIONS

This study found the solution to the vicious cycle crisis rested with policy makers to not only woo the private sector into partnership but to also harness a culture of public participation among private companies.

- a. PPPs were initiated by the private sector to provide public service. The public sector should proactively develop initiatives in line with their vision and planned investments. Creation of a one-stop PPP office is therefore critical.

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- b. Most participants were local. There is need to encourage involvement of international entities. This will bring increased foreign direct investments to the country.
- c. Some partnerships were through informal collaborations. All PPP contracts must be formally developed by tendering since public resources are involved.
- d. City Council's unilateral and conflicting decisions continued without mitigation.
  - i. Partnerships should be participative and based on pre-established guidelines, transparent agreements, publicized and clarified PPP policies, a clear legal framework and ensuring consistency to reduce uncertainty.
  - ii. Council needs to distinguish public involvement from public relations, proactively seek out affected stakeholders and apply a transparent decision process.

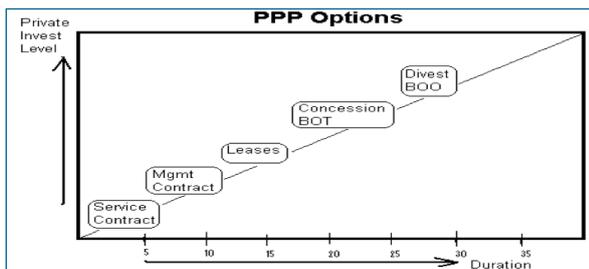
## POLICY RECOMMENDATIONS

### i) Guidelines for PPP projects:

Based on best practices, the study recommended that time and effort must be spent laying the foundations for successful public-private partnerships. The basic guidelines for this process would include but are not limited to:

- Setting up a central PPP office within the ministry of local government, as well as PPP offices or desks within each of the city councils;
- Establishing and clarifying the policy framework, as the private sector needs to understand the drivers that lie behind the projects;
- Establishing a clear legal framework, as PPPs depend heavily on contracts that are effective and enforceable;
- Ensuring consistency, as well as clarity, of the policy and legal framework, because this reduces uncertainty for investors;
- Considering involvement of private sector companies that are engaged in other investment activities in the delivery and management of infrastructure projects at different levels (as guided by the figure 1).

Figure 1 – Public Private Partnerships Options



Adapted from the Institute for Public-Private Partnerships

### ii. Guidelines for public involvement process:

Several principles were identified to be critical for the success of the public participation process. Some of the most common ones included:

- The need to distinguish public involvement from public relations (whose goal is to promote a particular policy or solution) and public information (a one way campaign to inform the public about on-going issues or developments).
- The process should be inclusive, involving decision makers and all interested stakeholders by

proactively seeking out groups and individuals who will be affected.

- Communication with participants should be respectful by perfecting the art of listening to constituents with each opinion given serious consideration with prompt response.
- Activities should allow enough time, be proactive and on-going throughout the project development, and public notices given for all decisions.
- The decision process should be defined, structured, and transparent.
- Provide appropriate leadership to public outreach efforts, with an agency spokesperson articulating agency policy, perspectives, and operating procedures and ensuring adequate resources for public involvement including staff and budget for information materials.

**The study recommended distinguishing public involvement from public relations, an inclusive process of proactively seeking out affected stakeholders and the decision process to be defined, structured, and transparent. A specific improvement was the creation of a one-stop-PPP office with similar offices for each city council in the country.**

### iii. Guidelines for specific improvements:

Based on primary data collected from key PPP participants in the city of Nairobi, it was clear that some work was needed in the areas of procedural and legal process, proactive government initiation of PPPs, cultivating openness and supportive environments for creativity, and other pertinent practices such as the legal process.

With respect to procedural and legal process, there is need for strengthening formal processes for PPPs as well as streamlining and entrenching the respective legal processes. First, it was gathered that the current PPP guidelines were neither comprehensive nor widely understood. Therefore the suggestion was to develop comprehensive guidelines. Secondly, it was gathered that the current PPP practices tend to be inconsistent.

There was therefore a need to apply practices consistently based on established and enforced guidelines. Finally, concerns were expressed about lack of a “One-Stop-Office” for PPPs. Given the

significance of PPPs in city development, there was need to set up a “Central Office” for PPPs across government ministries and a PPP office at each of the City Councils.

To initiate and oversee the implementation of these PPP activities in coordination with other relevant ministries, the Ministry of Local Government and other state agencies will need to set up an oversight board chaired by a champion and senior official from the ministry.

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## Further Readings

1. The Institute for Public Private Partnerships, Inc. (IP3) at <http://www.ip3.org>
2. United Kingdom National Audit Office Publications at <http://www.nao.org.uk/publications.aspx>
3. Urban Regeneration Publications at [http://scholar.google.com/scholar?q=urban+regeneration+public+private+partnership&hl=en&as\\_sdt=0&as\\_vis=1&oi=scholar](http://scholar.google.com/scholar?q=urban+regeneration+public+private+partnership&hl=en&as_sdt=0&as_vis=1&oi=scholar)