Public-Private Partnerships (PPPs) in Kenya, & Cytonn Weekly #20/2022

Focus of the Week

The trend towards Public-Private Partnerships (PPPs) has continued to take shape with numerous developing nations across the world realizing that economic development should not be limited to the framework of either public or private sector, that the two can work together to accelerate economic development. PPPs continue to play a crucial role in improving efficiencies in delivering public services, especially narrowing the infrastructure gap. Kenya as a developing nation, has witnessed the pros of PPPs in different thematic Real Estate sectors including infrastructure, tourism, and, housing among others. This has been made possible due to shifting the development, maintenance, and operational risk on to the private sector often resulting in higher quality and overall better results as the government capitalizes on private sector expertise.

We have previously covered a topical on PPPs dubbed '*Public Private Partnerships in the Real Estate Industry in Kenya*' where we looked at the status of PPPs in Kenya with an aim of giving recommendations on what can be done to make them more efficient. This week, we shall update the progress of PPPs in Kenya and offer recommendations on strategies that can be adopted to ensure effectiveness of PPPs by looking into:

I. Overview of Public-Private Partnerships (PPPs)
II. Public- Private Partnerships (PPPs) in Kenya
III. Case Study: Canada Public-Private Partnerships (PPPs)
IV. Recommendations for Success of PPPs in Kenya
V. Conclusion

Section I: Overview of Public-Private Partnerships (PPPs)

A Public-Private Partnership is an agreement between the public sector and the private sector for the purpose of designing, planning, financing, constructing, and/or operating projects that would traditionally be regarded as falling within the remit of the public sector. PPPs became popular due to the increasing demand by citizens of different countries, for quality and affordable services in sectors such as transport, water and sewerage, telecommunications, power, social services. These demands could not be fully met by the public sector alone hence the adoption of the arrangements. There are different types of PPP arrangements which include:

- **Build Operate Transfer (BOT):** the private sector institution finances, builds, maintains and operates a facility for a given period of time and recoups its investment by collecting tolls during the concession period,
- **Build Own Operate (BOO):** the private entity will finance, build and operate the project but there will be no transfer back to the government,
- **Build Own Operate Transfer (BOOT):** the private sector builds, owns, operates and eventually transfers the PPP project to the public sector after an agreed period of time,
- **Build Transfer Operate (BTO):** the private organization finances, builds and upon completion,

transfers the ownership to the public sector agency. The public sector agency then leases the facility back to the private developer under a long term lease. During the lease, the private developer operates the facility and earns a return from user charges, and,
- **Design Build Finance Operate (DBFO):** the private sector is responsible for financing, designing, construction and operation of the project and is compensated by service payments from the government during the life of the project.

According to World Bank PPPs are presented not only as a way of bringing needed additional investment to public infrastructure but also as a mechanism for improving infrastructure planning and project selection. It is also a mechanism for enhancing project management and guaranteeing adequate maintenance, avoiding cycles of construction followed by persistent neglect and then high-cost reconstruction. The International Finance Corporation (IFC) as part of the World Bank Group, advises governments implementing PPPs by providing advice on technical, legal, and regulatory requirements; building capacity; addressing social and sustainability issues; and devising the strategies necessary to deliver successful PPPs, and this has helped governments leverage the expertise and efficiency of the private sector, raise capital, and spur development.

a. **Global Overview**

Globally, PPPs have emerged as the main contractual vehicle to facilitate private participation in economic development. In developed nations such as the Canada, Australia, Japan and the United Kingdom, there are dedicated and specialized PPP units that act as a policy tool to facilitate projects and attract capital for development. Canada has managed to have one of the best models having a total of 291 active projects worth USD 134.5 bn. This has been supported by the fact that Canada established a national not-for-profit non-partisan, member-based organization in 1993 with broad representation from across the public and private sectors named Canadian Council for Public-Private Partnerships (CCPPP). The agency’s aim has been to facilitate the adoption of international best practices, and educates stakeholders and the community on the economic and social benefits of public-private partnerships and encourage PPPs.

b. **Sub-Saharan Region Overview**

PPPs in SSA are still in a developmental phase although there are indications that their uses are increasing. South Africa PPP sector leads in Africa, as the country has a strong legislative framework implemented by its National Treasury, which manages risk and helps to stabilize returns for private investors having been in existence since mid-2000. As at 2021, 34 PPP projects valued at USD 5.6 bn had been completed in sectors including health, transport, tourism, water and sanitation, and office accommodation. Other countries that have embraced PPPs include; Uganda with 28 projects worth USD 1.9 bn reaching final closure as of 2018; Rwanda with 10 PPP projects worth USD 694 mn in the same period and Kenya with 23 projects worth USD 2.9 bn reaching final closure as of 2018. We will now look into PPPs in Kenya which has a pipeline of over 70 projects at different stages of approval and in different economic sectors.

Section II: Public Private Partnerships (PPPs) in Kenya

PPPs in Kenya were established under PPP Policy Statement 2011, and later revised in Act 15 of 2013 titled ‘Public Private Partnership Act’, which stipulates that**;** i) the government retains total strategic control on the service, ii) the government is mandated to secure new infrastructure which will become the government’s assets at the end of the contract period, and, iii) allocation of project and performance risks is to the party best able to manage or mitigate. Kenya has one of the more mature PPP markets in Africa with a comprehensive legislative framework where recently in December 2021, the Public Private Partnerships (PPP) Bill 2021 was signed into law. The purpose of the Act was to address the shortcomings of the PPP Act 2013 by including a framework for streamlined project processes with clear timelines, expanded procurement options and robust processes for Privately Initiated Investment Proposals (PIIP). They key take outs from the Act are;

i. Establishing the Directorate of Public Private Partnerships to replace the PPP Unit under 2013 legislation, and conferred broad but separate functions from those of a PPP Committee. The directorate shall be the lead institution in the implementation of PPP projects. Some of the activities under the directorate of PPPs include; guiding the selection of PPP projects, overseeing project appraisals as well as contract management frameworks for projects. This is in an aim to establish open, efficient and equitable processes for the implementation, management and monitoring of projects,
ii. Concession period for investors involved in State-owned Build-Operate-Transfer (BoT) projects to be capped at 30 years. The timeline set is assumed sufficient for investors to recoup their major initial investments. However, in setting timelines within this range, the contracting authorities must take into account the lifespan of the technology used, investment standards required, economic and financial viability, and, the consideration for maintaining delivery standards,
iii. The new law expands the role of the private sector in PPP initiatives beyond financing to include construction, operation and maintenance of the projects. It also adds a number of permissible contract structures, including public-private joint ventures and strategic partnerships. The effect of these changes is to broaden the scope of what is classed as a PPP, funnelling more contracting arrangements between the public and private sector, and,
iv. The County Governments can enter into PPP agreements with a private party and shall be responsible for administration of the entire project after conducting a feasibility study. After approval by the county assembly, the counties are expected to submit a list of projects to the Directorate of Public Private Partnerships for inclusion in the published national list of projects. The counties will be operating under an expanded procurement process with the inclusion of direct procurement and a greater clarification on timelines. This includes the period within which bids must be evaluated and for appeals by bidders. An example of this is the planned Laikipia County Infrastructure Bond analysed in the Real Estate section in this topical.

Other regulatory changes to support PPPs development in Kenya include the addition of debt instruments for financing of infrastructure or approved affordable housing projects under the PPPs Act' as an allowable investment class under the Retirement Benefits Regulations. In effect, Pension schemes can invest up to 10.0% of their assets in PPPs. Moreover, in support of the above, the government in the FY'2022/23 Budget Statement mentioned that;

- It has elevated the PPP Unit to a Directorate in the National Treasury,
- It is putting in place a joint Public Investment Management and Public-Private Partnership planning framework and strengthening the coordination between Public Debt Management Office and the Public Private Partnership Directorate for effective control of fiscal exposure, as envisioned in the new PPP Act 2021, and,
- It is planning to fully operationalize the Public-Private Partnership Project Facilitation Fund to support activities of the PPP Directorate and those of the contracting authorities in the preparation phase of projects during the tendering processes and project appraisal.

With this enabling environment, the government is signalling high confidence in PPPs and its internal processes. We therefore expect the trend towards PPPs to be on the rise with the PPP Directorate having already reviewed the priority sectors for PPP Project implementation in the country with the main ones including;

- Transport and Infrastructure,
- Health Solutions including Telemedicine,
- Green and Blue Solutions including, Forestry, Fish Processing and Wildlife Conservation,
- Water and Sanitation,
- Housing including Student Hostels,
- Industrial Parks and Manufacturing, and,

- ICT including Intelligent Traffic Management System

a. **PPPs in Kenya's Real Estate Sector**

The Kenyan Real Estate sector continues to make significant contribution to GDP which currently stands at 8.9% as at 2021, according to the Kenya National Bureau of Statistics. The improved performance in the sector has been supported by focus on housing, continuous infrastructural development in terms of roads, water, electricity and sewerage systems, and, good performance of the tourism industry boosting the hospitality sector. Initiatives to support this good performance has not only been facilitated by the government but also complementary efforts by the private sector through PPPs and PIIPs, which have catapulted numerous development projects.

We have witnessed progress of PPPs in Kenya by numerous projects attaining financial closure and confirming the benefit of the partnerships in project delivery. In early May 2022, the government launched the 27.1 km Nairobi Expressway on a trial basis, a PPP road project between the National Government through the Kenya National Highways Authority (KENHA) and the China Road and Bridge Construction Corporation (CRBC) on a Build-Operate-Transfer (BOT) model. The road in addition to Thika Road, Southern, Northern, Eastern, and Western Bypass, which is 99.0% complete, have put the Nairobi on the map as one of the cities in Africa enforcing industrialization. In the housing sector, a number of PPP projects in affordable housing are ongoing with the most anticipated one being the Pangani Affordable Housing Project which was expected to be completed in May 2022, however, the government pushed the expected completion date to June 2023.

In the Real Estate sector, the Kenyan government has PPP projects mainly in infrastructure, affordable housing and student housing, hospitality and Privately Initiated Investment Proposals (PIIPs) i.e;

i. **Infrastructure and Housing**

The main PPP projects in Kenya are infrastructure and housing as highlighted below,

Major Real Estate Public-Private Partnership Projects in Kenya

Theme	Project	Partnership	Project Start Date	Project Status	Expected Date of Completion
Infrastructure	Nairobi Express Way	National Government and a Private Company	October 2020	Completed	-
	Lamu Port South Sudan Ethiopia Transport-3 berths (LAPPSET)	National Government and other East African Countries	June 2018	Completed	-
	Nairobi-Western By Pass	National Government and China Exim Bank	February 2020	Ongoing	August 2022
Affordable Housing	River Estate, Ngara	National Government and Edderman Property Limited	March 2019	Ongoing	-
	Pangani Housing Project	National Government and Tecnofin Kenya Limited	May 2020	Ongoing	June 2023

Major Real Estate Public-Private Partnership Projects in Kenya

Theme	Project	Partnership	Project Start Date	Project Status	Expected Date of Completion
Student Housing	Kenyatta University Hostels (10,000 beds)	Africa Integras (Kenya LLC), EPCO Contractors, Triad Architects and Broll Kenya Facility Managers	2015	Ongoing	2035
	University of Embu Hostels (4,000 beds)	Meridiam, JV Unicamp and PDM-Roko-CBA Capital and JV Unicamp	2018	Pre-Qualification	2038
	Moi University Hostels (15,000 beds)	Kesa, Meridiam, JV Unicamp and PDM-Roko-CBA Capital and Chinese Overseas	2018	Pre-Qualification	2038
	South Eastern Kenya University Hostels (5,400 beds)	Kesa and PDM Roko-CBA Capital	2018	Pre-Qualification	2038

Source: Online Research

Other fast mover PPP projects in the pipeline include;

Project Title	Sector
Nyali Bridge, Mombasa	Transport/Roads
Nairobi- Thika Road (O&M)	Transport/Roads
Two sections of Mombasa – Nairobi – Malaba Road (Mombasa – Mariakani, Naivasha-Mau Summit)	Transport/Roads
Nairobi Commuter Rail	Transport
Kisumu Sea Port	Transport/ Airport
Nairobi Jomo Kenyatta Airport Expansion	Transport/ Airport
2nd Container Terminal Mombasa	Transport/Ports
Housing for Security Forces	Accommodation
Mombasa Conventional Centre	Tourism

ii. **Hospitality**

The hospitality sector consists of the following PPP projects;

Project Title	County	Sector	Contracting Authority	Value (Kshs mn)
Mombasa Conventional Centre	Mombasa	Tourism	Tourism Finance Corporation	24,000
Nairobi International Convention and Exhibition Center (NAICEC)	Nairobi	Tourism, Trade and Industrialization	Bomas of Kenya	8,023

iii. **Privately Initiated Investment Proposals (PIIP)**

PPP projects can either be solicited or Privately Initiated Investment Proposal (PIIP). PIIP are a form of unsolicited PPP where the private party makes a proposal to undertake a PPP project at their own initiative by submitting the proposal to the government. In any event, the proposal should be developed to such level of empirical detail including assessment of the value-for-money proposition, the affordability proposition, and the risk transfer proposition. Examples of PIIP projects in the pipeline in Kenya are highlighted below;

Project Title	County	Sector	Contracting Authority	Value (Kshs mn)
KCB Usalama Housing Program (KUHP)	Nairobi	Housing	KCB Bank	160.2
Likoni Crossing Aerial Cable Car	Mombasa	Transport and Infrastructure	Kenya Ferry Services Limited (KFSL)	14,377.8
Lamu Port (Fist Three Berths)	Lamu	Transport and Infrastructure	Kenya Ports Authority	18,900
Lamu-Garissa-Isiolo Highway	Lamu	Transport and Infrastructure	Kenya National Highways Authority (Ken	62,160

b. **Benefits and Challenges facing PPPs in Kenya**

Benefits

The Kenyan government's consideration to use PPPs to deliver development projects has proven to be beneficial as they capitalize on the private sector's capacities and the public sector's ability to incentivise private sector investments. Some of the major benefits experienced by the government include;

i. **Access to Finance for Projects:** PPPs have granted the government access to private capital to carry out various development projects that would otherwise have taken a long time to implement. With the government having to focus on different sectors of the economy, priorities may shift to specific sectors and therefore lead to sluggish development of others. The private financing therefore allows the government to concentrate on important matters such as regulation, policy and planning and support the private sector in implementing development projects,
ii. **Risk Transfer to Private Sector:** The private sector has helped the government deliver projects by mitigating risks such as budget overruns, project completion times and other risks such as operational and maintenance risk. The strict adherence to contractual stipulations by most PPPs has assured the government of efficiency in delivery of projects,
iii. **Government Access to Private Sector Efficiencies:** The government has been able to acquire new and improved technology as well as expertise of professionals through PPPs as a result of undertaking projects by contracting foreign expatriates from countries such as China and Japan, who are more organised as they have worked on similar construction projects in their countries,
iv. **Large Scale Investment and/or Development:** PPPs have facilitated large-scale development projects in areas such as housing and infrastructure that would cause financial strain to taxpayers if implemented by the government. Citizens only have to pay subsidized prices over a flexible period of time to enable the investors gain return on their investments as opposed to a tax burden,
v. **Enhancement in Ease of Doing Business:** PPPs have promoted passing of regulations that have improved the ease of doing business in Kenya due to the establishment of regulatory guidelines that have given a roadmap on procedures to be followed thus boosting foreign investor confidence in undertaking Kenyan projects. The PPP Act of 2021 has a clearer framework on concessions and hence investors are not left in limbo on the arrangement of the PPPs, and,

vi. **Institutional Grade Projects:** Through PPPs the government has been able to deliver projects of high quality with international standards. These developments are expected to boost investor confidence in the country thus enhance international relations and position Kenya as one of the well developed nations in Africa.

Challenges

Despite the benefits, PPPs have fallen short in achievement of development initiatives attributed to:

i. **Inadequate Planning for PPP Projects:** There is a challenge in identifying suitable projects and gauging the risks involved, as well as testing the likelihood of success. In addition, selecting the most qualified project developer for a specific project has always been a tricky task when the pool of investors with capacity for PPPs is limited. PPP projects without sound plans have therefore led to lack of value for money due to ineffective implementation,
ii. **Lengthy and Irregular Procurement Processes:** Part of the delays in the PPP process are as a result of delays in the procurement of transaction advisors, which eventually affects the kicking off of projects. Additionally, cases of corruption in and irregular awarding of tenders raise speculation, hence causing loss of public confidence in the contracted parties,
iii. **Insufficient Bulk Infrastructure Required to Support Development:** Kenya has limited supporting bulk infrastructure, e.g. the insufficient sewer lines and drainage systems and poor road networks in areas the development projects are being undertaken, meaning that developers often have to incur costs to develop the infrastructure themselves and this discourages the private sector due to the huge amount required,
iv. **Differing Goals Between the Private and Public Sector:** While the private sector mainly focuses on obtaining a return on investment, the public sector's main interest is on protecting the interests of its citizens by enacting regulations and engaging in projects that benefit the public such as affordable housing PPPs, for example, the price ceilings on affordable housing units discourage the private sector from investing as total returns may be relatively too low compared to the normal market rates for residential units,
v. **Bureaucracy and Lengthy Approval Processes:** Bureaucracy in government systems has led to delays in approvals as applications require to go through different channels, some taking up to 6 months, in order to be granted a green light. Furthermore, some delays in responding to bidders are blamed on the failure to achieve quorum at the various levels required to provide approval, which hampers expeditious decision making,
vi. **Inadequate Risk Mitigation Strategies:** There is no specific project implementation team tasked with handling PPP projects from start to finish hence the ineffective monitoring and auditing of finances in PPP projects in Kenya has led to lack of accountability for allocated funds and imprudent utilization of finances as funds end up being spent without consideration of the budgetary allocations, and,
vii. **High Transaction Costs**: In the case of unsolicited PPPs, there are high costs involved in retaining consultants to assess the environmental, social and financial implications of a project given the time, data and analytical expertise required for this, with there being no guarantee that the proposal shall be approved and this can discourage them.

Section III: Case Study- Canada Public-Private Partnerships (PPPs)

The Canadian model of Public-Private Partnerships is considered one of the most successful in the world. The Canadian Council for Public-Private Partnerships (CCPPP) defines their PPPs as relating to the provision of public services or public infrastructure and necessitating the transfer of risk from the public to the private sector. There has been a clear recognition of the benefits of PPPs by the Government of Canada in recent years, and the model has been adopted for long-term infrastructure plans which have been introduced by successive governments in the country. However, it is governments at the provincial level that have assumed the leadership role in driving forward the

Canadian PPP market. Some examples of PPP agreements in Canada include:

- **Operation & Maintenance Contract (O&M):** A private operator, under contract, operates a publicly-owned asset (e.g. water/wastewater treatment plant) for a specified term. Ownership of the asset remains with the public entity,
- **Build-Finance:** The private sector constructs an asset and finances the capital cost only during the construction period and gets returns depending on agreement with the government,
- **Design-Build-Finance-Maintain (DBFM):** The private sector designs, builds and finances an asset and provides hard facility management or maintenance services under a long-term agreement,
- **Design-Build-Finance-Maintain-Operate (DBFMO):** The private sector designs, builds, finances and provides hard facility management or maintenance services under a long-term agreement. Operation of the asset is also included in projects such as bridges, roads and water treatment plants, and,
- **Concession:** A private sector concessionaire undertakes investments and operates the facility for a fixed period of time after which the ownership reverts back to the public sector.

Canada so far boasts of a total of 291 active projects worth USD 134.5 bn in sectors such as Health, Transport, Water, Accommodation, Energy, among others with 68 on the pipeline.

a. **Success Factors of PPPs in Canada**

i. **Clear Legislative Framework and Public Support**

Among the general public in Canada, there has been a growing public acceptance of a greater role for the private sector in the delivery of infrastructure services across the country. Polls conducted on behalf of The Canadian Council for Public-Private Partnerships (CCPPP) have shown growing public support having realized benefits such as enhanced quality of public infrastructure and services; capacity of PPPs to drive Canadian employment and economic growth; opportunities for smaller, local companies, who frequently sub-contract with larger firms to take on specialized components of PPP projects. Legally, under the Canadian approach, PPPs are pursued only when;

- The procuring authority can demonstrate through a robust appraisal process that doing so will generate economic benefits (value for money), over the life of the contract. By maintaining focus on value for the taxpayer, Canada has established credibility for PPPs purely as an innovative asset delivery mode as opposed to its international counterparts that rely on different accounting standards to employ the PPP model as a means of providing additional investment,
- A project goes through a screening process where it is scored against identified criteria and only proceeds to the procurement stage if the weighted score is high, and,
- There is preparation of a procurement options business-case analysis that identifies a delivery model that best suites the project.

The clear legislative framework has gone a long way in fostering trust between the public and private sector have helped to foster a stable, competitive and efficient market environment, which are fundamental to securing the risk-sharing and good, balanced, contractual relations that are at the heart of good project delivery.

ii. **A Stable Pipeline of Projects**

The PPP market in Canada has seen strong growth in terms of the number of new projects that have entered the market since 2009. While only nine PPPs entered the procurement phase in 2009, this more than doubled to 20 in 2013 and currently 291 projects are active. The strong pipeline has benefited all players, and, helps to maintain efficient capacity on both the demand and the supply side of the market. This capacity is now being used to expand the use of PPPs into untapped provincial and municipal areas of Canada markets. The stability has had advantages such as;

- Interest by prospective operators are better able to allocate their resources and maintain a presence in the market,
- Securing efficient contract prices and high quality bids due to attracting a high number of bidders, with the public sector benefiting from the stable base of PPP expertise that is established and nurtured with a stable pipeline and level of deal-flow,
- Diversification in management as lower levels of government embrace the PPP concept, and,
- Demand for a wider range of assets, including water and wastewater treatment facilities, public transit infrastructure, and solid waste management assets from its citizens.

iii. **Government Support Through Budgetary Allocation and Specialized Funds**

The Canadian government created a PPP fund in 2007 to be coordinated by a specialized PPP office that ultimately evolved to be named 'PPP Canada'. It has remained supportive and committed to PPPs by ensuring that there is budgetary allocation to the fund over the years. The fund is currently named 'New Building Canada Fund' with USD 10.9 bn supporting more than 20 projects in infrastructure, and facilitate rigorous implementation of PPP projects promoted by government as a matter of routine. Other ways in which the Canadian government showed its support for PPP in previous years include;

- Reaffirming its strong commitment to PPPs in a long-term infrastructure plan since 2013 which envisaged a USD 546.1 bn infrastructure financing over a 10-year period leading to 2023,
- Enabled leveraging of capital expenditure of the projects which lie within six provinces and territories and 13 municipalities thus showing support to the private sector players involved in the projects,

iv. **Effective Procurement Processes**

Of the mature PPP markets around the world, Canada is acknowledged to have one of the most efficient procurement processes. The median procurement time over the whole programme period is approximately 18 months, compared to the average procurement time for the UK at 34 months. Strategies used in Canada have clearly played a key role in improving the efficiency of the procurement process and have greatly reduced bid costs. These include;

1. Rigorous adherence to project timelines and the disciplined avoidance of further bid stages after the Request for Proposal (RFP) stage,
2. Fewer information requirements, relying more on the preferred bidder developing their proposal (before and after commercial close) and on protections within project agreements,
3. Rapid and transparent bid processes necessitating that a bidder submit proposal which includes full financing. Because the financiers are unable to hold their debt financing commitment for a long time, that provides a strong incentive for the private sector to agree to quick and firm deadlines for procurement, and,
4. Greater discipline in avoiding extended project timeline especially after the selection of the preferred bidder through continuous monitoring and evaluation of projects,

These have provided an enabling environment for operations as there is reduced bureaucracy supported by the minimal set of standards to be reinforced.

v. **Diverse Market of Project Finance:**

The Canadian PPP market, attracted numerous international private firms funding their projects since previous years, owing to the firms benefitting from relatively good performance of the country's banking sectors coupled with diversified sources of funding for projects in the following ways;

- Both Canadian and foreign banks continued to be active in financing Canadian infrastructure conservatively despite the financial crisis of 2008, as they took a more cautious approach to infrastructure lending (typically making only shorter-term loans, up to five-to-seven years),

- There exists flexible financing method for PPPs such as capital markets, and hybrid financing which incorporates a combination of bank debt and long-term bond financing. As at 2015, 30.0% of projects had been financed through these methods. Additionally, the PPP bond markets in Canada, are often structured to be investment grade, as opposed to monoline bond insurance model which covers only one project line, and,
- Canada's pension funds have spearheaded direct investments in infrastructure since the early 2000s, with one of the highest asset allocation dedicated to infrastructure by pension funds at 5.0% compared to the global average of approximately 1.0%.

This diversification has become a boost to projects hence ensuring that projects can easily kick off and therefore supporting increased developments.

vi. **Decentralized Management of PPPs**

The governments at the provincial and municipal level have assumed the leading government role in driving forward the Canadian PPP market. In particular, the provinces of Alberta, British Columbia, Ontario, and Quebec have developed and refined the Canadian PPP model, by establishing their own specialist agencies, and collectively these have helped to create a distinctively Canadian approach to PPP project and programme management. The work of these agencies has benefitted the Canadian market significantly, providing;

- A steady pipeline of well-structured economic and social infrastructure projects;
- Standardized procurement processes, including consistent project agreements and payment mechanisms, evaluation methodologies, and financing requirements, and,
- Fostering a collegiate approach both among and within the provinces, including the sharing of lessons learned and new approaches.

These strategies have enabled provinces and municipalities focus on complex infrastructure delivery thus making their services and expertise available within their respective jurisdictions, and increasingly being an important source of demand for PPPs in Canada.

a. **Challenges to PPP Projects in Canada**

i. **High Costs**

Despite the fact that Canada has risk analysis and value-for-money accounting used to justify PPPs, the method is sometimes flawed hence leading to excess project costs. This forces governments in Canada will to rescue or bail out a growing number of PPP projects. There are also higher PPP transactions fees associated with longer and more complex contract negotiations, and the private sector's required return on investment, usually paid by the government.

ii. **Poor Risk Evaluations**

The intensiveness of how Canada invests in many PPPs projects underestimates the risk that it poses to the government when the governments will always be ultimately accountable for delivering public services and infrastructure. Canada may need more investment enhance their economy, but they cannot afford more expensive, unaccountable, and risky public-private partnerships considering they have experienced cases of unsuccessful PPPs.

Section IV: Recommendations for PPPs Success in Kenya

Public Private Partnerships have enabled Canada to deliver numerous development projects that have industrialized the country, and Kenya can emulate Canada's success in delivery of PPP projects in the following ways:

1. **Regulatory Framework:** The government of Kenya has made a great stride in improving regulatory framework for PPPs through the PPP Act 2021, especially in matters of concession period**.** It should now consider ensuring that all the processes are clear in regulations to ensure that projects undertaken ensure value-for- money just like the Canada model which has a clear framework for procurement and risk analysis of projects before implementation. It can also consider amending regulations and legislation to exempt smaller projects from onerous requirements, taking specific conditions into consideration.
2. **Decentralization of PPPs:** In future, the government should consider decentralizing PPPs from the National Government to County governments as seen in Canada where management of PPPs is decentralized to provincial and municipal governments. This will encourage uptake of PPP projects and enhance development activities at the county level. In this line;
   i. It will reduce the bureaucratic processes for getting contracts at the national level and provide options for investment in different counties, and,
   ii. It will ensure that county governments are more involved economic development of the county.
3. **Financing for Projects:** The government should incorporate provisions for supporting PPPs for example ensuring that there is budgetary allocation to the Kenyan Project Facilitation Fund which supports Contracting Authorities in project preparation, supports funding gap and offers contingent liability support. This will help make projects commercially viable for private investors for example just as the case for Canada where the PPP fund has budgetary allocation. The option of diversification through bond issuance should also be supported to increase the financing pool.
4. **Housing Related Recommendation:** Given Housing as a Big Four Agenda item, we have the following recommendations:
   i. The government should focus on intensifying the role of the enabling the private sector in construction through implementing incentives to meet project delivery timelines; since announcing the Big Four agenda about 4 years ago, the government has delivered less than 1,000 houses so far thus falling short of the annual 500,000 target. Private sector players with the right incentive will accelerate delivery,
   ii. The government should focus on financing and infrastructure incentives such as diversifying the role of capital markets in pooling resources for private developers instead of looking at land as an important component. There is no shortage of land, as there is a lot of private land looking for Joint Venture partners,
   iii. Provide housing infrastructure incentives in areas such as roads, sewer, water and power, either through delivering them or providing rebates for developers who put them up, and,
   iv. Expedite statutory approvals for developments that are registered as part of the Housing Agenda.

Section V: Conclusion

Public-Private Partnerships (PPPs) in Kenya are becoming an emerging trend in facilitating economic development and completion of various projects. With the launch of numerous infrastructure projects such the Nairobi Expressway, the anticipated completion of Nairobi Western Bypass and Pangani Affordable project, we expect to witness increased public-private partnership agreements. In our view, the country will benefit from these partnerships by enforcing a regulatory framework that supports private sector engagement, ensuring strict adherence to the project timelines and streamline procurement processes. We therefore expect that PPPs will continue enhancing development in the country and thus fast track achievement of industrialization. Additionally, the funding of the government’s ambitious development agenda through Private Public Partnerships (PPPs) does not necessitate the incurring of additional debt, and will help with the ongoing fiscal consolidation efforts and allow the government to refinance other critical sectors, such as agriculture, resulting in increased revenue. Capital expenditure should be restricted to projects with a high social impact or a high Economic Rate of Return (ERR), indicating that the economic benefits outweigh the costs.

Liason House, StateHouse Avenue
The Chancery, Valley Road
www.cytonn.com