PUBLIC PRIVATE PARTNERSHIP
IN BURKINA FASO

NATIONAL PLAN FOR ECONOMIC AND SOCIAL DEVELOPMENT (PNDES) 2016-2020

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INTRODUCTION

The resources mobilization strategy to finance the National Plan for Economic and Social Development (PNDES) will focus on the diversification of sources and will draw from Public Private Partnership (PPP) to implement development projects and programs.

The PPP appears to be a modality for mobilizing private financing and expertise toward effective implementation of investments in infrastructures (ports, airports, railways, motorways, power plants, water supply, etc.), as well as other inclusive growth boosting sectors, including tourism, agriculture, health, education and vocational training. In this regard, Burkina Faso has put in place a PPP legislative and regulatory framework.

This note is prepared in reference to Burkina Faso Partners’ Conference for the Financing of the PNDES. It focuses on Public Private Partnership in Burkina Faso. It is structured around PPP concept, PPP issues, and PPP legislative, regulatory and institutional framework, requirements for using PPP modality, implementation and monitoring-evaluation of PPP as well as Burkina Faso experience with respect to PPP.
The PPP concept in Burkina Faso is defined in its governing legislative and regulatory mechanism. PPP is defined as a “form of collaboration involving a public authority and a private legal entity with a view to providing goods or services to the public, while optimizing public and private sectors respective performances, in order to conduct within the shortest deadlines and terms, projects with social purposes or infrastructures development and public services”.

The PPP is subject to a contract through which a public authority awards a private partner, on the basis of a given period of time in accordance with investments depreciation time or agreed financing modalities, full or partial responsibility to build infrastructures or design equipment required for public service, financing, construction, transformation of structures or equipment, care or maintenance and operation or management.

Other provisions of services to enable public authority fulfill its public service mission, may also be conferred upon a private partner through a contract. Therefore public private partnership is a (relative) long term collaboration as part of an objective to provide a public service as defined by public authority. The definition of service as required by public authority, underscores the nature of public procurement strongly associated with PPP. In Burkina Faso, PPP has a general scope and concerns almost all development domains and sectors.

The PPP is governed by principles of equity, transparency, risks sharing and long term viability. Selection modes of a partner for a PPP contract are the invitation to tender with pre-qualification and direct agreement as an accepted exception under certain conditions. Selection of a private partner is subject to complying with principles of freedom of access, equal treatment of bidders, competition, objectivity of procedures and transparency.

Spontaneous proposals by private partners may be accepted in Burkina Faso and shall be considered while complying with intellectual property rights, professional confidentiality or other exclusive rights as contained in the proposal or deriving from it.

The private partner brings assets or services usually provided by public authority, and shall perceive counterpart payment from public authority or service users. Such counterpart payment shall be spread out throughout the duration of the contract or service which is rendered.
PPP ISSUES
FOR BURKINA FASO

In its current form, the PPP is quite an innovative way to finance and conduct development projects in Burkina Faso. It makes it possible to optimize performances and to realize in shortest terms and conditions, projects presenting a character of complexity or urgency for the public authority. Therefore, it offers many advantages to public authorities.

Burkina Faso may draw several advantages from PPP, including better allocation of public resources, effectiveness of public expenditure, acceleration of projects realization, optimal distribution of risks and responsibilities among public and private partners, and sustainable quality of public service.
The current PPP legislative, regulatory and institutional framework in place aims to safeguard universally accepted principles in public procurement, including freedom of access, equal treatment of bidders, competition, objectivity of procedures and transparency.

Other additional texts are being designed. These include among others, standard invitation to tender package for realization of projects under PPP, sanctions envisaged against contraveners in contractualization procedures and limits or thresholds of contractualization with public administrations under PPP.

The National strategy for PPP development, adopted in September 2011, constitutes the basis of reference for PPP institutional framework set up as from July 2012, with the creation of the department in charge of PPP. This department is within the General Directorate for Cooperation (DGCOOP) in the Ministry of Economy, Finances and Development. It is operational since April 2013.
This institutional framework governs planning and contractualization procedures of PPP projects. Each year, the Department in charge of PPP within the Ministry of Economy, Finances and Development, identifies projects which may be financed under PPP modality. A commission, chaired by the Prime Minister, reviews and adopts, after arbitration if applicable, the list of PPP projects to be submitted to the Council of Ministers. The Council of Ministers approves the official list of PPP projects. The graph below describes the PPP projects planning process.
After Government’s approval of PPP projects list, the public authority responsible for PPP project oversees the private partners’ selection process for projects realization under PPP. The public authority carrying PPP projects (Ministries, local Governments authorities and other entities of the State) is the entry point for receiving, reviewing or analyzing offers from private investors. This public authority is specifically in charge of analyzing offers from bidders as well as spontaneous offers. The following graph describes contractualization procedures with private partners.

PPP projects from other State entities may be implemented apart from government authorized PPP program, provided that the State budget is not directly required to finance, guarantee or serve as exceptional treatments with respect to taxation or customs duties, and that they are in accordance with PPP legislative framework in force.
PPP IMPLEMENTATION AND MONITORING-EVALUATION

One condition for a PPP project implementation is its enrollment with the program of PPP projects authorized by the Government. PPP projects implementation is conducted in accordance with a project life cycle, starting from the project initiative, financing, realization and monitoring-evaluation.

In Burkina Faso, public procurement actors and public organizations involved in projects identification and realization, intervene in the process of implementation and monitoring-evaluation of PPP projects. This process includes project initiative and formulation, project financing and project realization.

Formulation of any PPP type project is under the responsibility of the public authority undertaking the project contract (Government departments, local Governments authorities or other State entities). Formulation includes identification, preparation, technical and financial evaluations, any other stage required in project feasibility study, as well as the decision to carry out the project under PPP.

Once the PPP Program is adopted by the Council of Ministers, authorization is granted to the public authority carrying the project to start the procedure of search for funding in accordance with regulations governing PPP modality in force.

A call for national or international tenders, in one or two stages, is preceded by a pre-qualification phase during which the public authority makes available to each pre-qualified bidder, an invitation to tender package comprising selection criteria as well as tender submission deadlines.

For direct agreement, subject to approval by the Council of Ministers or the decision-making body of the State entities, the public authority carrying the project is authorized to negotiate a PPP contract, in accordance with relevant regulations in force (article 27 of Decree n°2014-024 PRES/PM/MEF of February 3rd, 2014). These provisions authorize direct agreement in one of the following conditions: urgent and justified need to ensure continuity of public service, only one company is able to provide requested service, an invitation for pre-qualification procedure or an invitation to tender was unfruitful.

For a spontaneous proposal, the public authority is authorized to examine this proposal in accordance with relevant provisions (articles 30 to 34) of the enforcement decree of Law n°2014-024) and provided that this proposal does not refer to a project for which a procedure of selection was announced or initiated. Selection of private partners leads to the conclusion of a PPP contract to serve as a basis for the project realization.

The realization of PPP projects is conducted in accordance with the provisions contained in the signed contract. Monitoring of the contract or project execution falls, in the first place on the public authority carrying the project. PPP Projects implemented in Burkina Faso shall comply with the types of control in force in public structures. They are subject to periodic report submitted to the Minister in charge of Finances.
BURKINA FASO
EXPERIENCE ON PPP

Burkina Faso has a very recent experience of project financing under PPP mode. However, the experiences undertaken so far are convincing. As of today, signed PPP contracts relate to the following projects:

- Contract signed on August 1st, 2013 with a Turkish company DECOTEK GROUP (Turkey) for the construction of the House of Burkina in Abidjan, for an amount of 25 billion CFA francs,
- Contract signed in 2013 with SNEDAI for Consular ID cards production in Cote d’Ivoire,
- Contract signed on May 20th, 2015 with SOGEA-SATOM Group (France) for construction of the North Grade Separation, for an amount of 70 billion CFA francs,
- Contract signed on October 16th, 2015 with NAANGE Company for development in BOOT (Build, Own Operate and Transfer) of a photovoltaic solar power plant of 6.24 Megawatts in Ouagadougou,
- Contract signed on March 16th, 2016 with OBERTHUR TECHNOLOGY SA Company for modernization, security of transport documents and renewal of vehicles’ number plates, for an amount of 15 billion CFA francs.
CONCLUSION

For Burkina Faso, PPP constitutes a way of financing and implementing development projects. It gives the private sector an opportunity to contribute to a structural transformation of the economy and thus affirms its role as a driving force for growth. As a way of provision of public services and goods, the PPP is in one hand a response to the need for ‘better State’ and in the other serves as a recourse to private sector’s capital and know-how leading to ‘customer-oriented approach’ of public services.

Projects conducted under PPP mode contribute to meeting social demand and greater effectiveness of public expenditure. This justifies the adoption of PPP as a public policy instrument in general and in particularly for the PNDES implementation.

Burkina Faso has adopted legislative, regulatory and institutional framework conducive to efficient development of PPP as demonstrated by positive experiences notably in the transports and energy sectors.
CONTACTS

For further information on the conference, please visit the following web site: www.conferenceburkina2016.gov.bf

MINISTRY OF ECONOMY, FINANCE AND DEVELOPMENT

395, Avenue du 11 Décembre
03 BP 7012 Ouagadougou 03
Burkina Faso

Tél : +226 25 33 30 95 / 25 32 43 06
Fax : +226 25 31 27 15

www.finances.gov.bf
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