

UNITED REPUBLIC OF TANZANIA

MINISTRY OF WATER



**ACTION PLAN FOR ENHANCING PRIVATE SECTOR
PARTICIPATION IN THE
WATER SECTOR**

2018 - 2025

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Dodoma

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Abbreviations and Acronyms

AP	Action Plan
ACCT	Association of Citizen Contractors Tanzania
ACET	Association of Consulting Engineers Tanzania
AG	Attorney General
CATA	Contractors Association of Tanzania
COSTECH	Commission of Science and Technology
CRB	Contractors Registration Board
CTI	Confederation of Tanzania Industries
DPP	Department of Policy and Planning
EPZA	Export Processing Zone Authority
ERB	Engineers Registration Board
LGA	Local Government Authorities
M&E	Monitoring and Evaluation
MITI	Ministry of Industry, Trade and Investment
MoFP	Ministry of Finance and Planning
MoW	Ministry of Water
NAWAPO	National Water Policy
NDC	National Development Corporation
PE	Procuring Entity
PFS	Prefeasibility Studies
PPP	Public – Private Partnerships
PSP	Private Sector Participation
RWSS	Rural Water Supply and Sanitation
TACECA	Tanzania Civil Engineering Contractors Association
TBS	Tanzania Bureau of Standards
TIC	Tanzania Investment Center
UWSS	Urban Water Supply and Sanitation
WASH	Water, Sanitation and Hygiene
WSDP	Water Sector Development Programme
WSSAs	Water Supply and Sanitation Authorities

Executive Summary

The implementation of the Water Sector Development Programme (WSDP) is guided by the National Water Policy (NAWAPO, 2002) which covers water resources management, improvement of rural and urban water supply and sanitation coverage and water sector institutional strengthening. The aspirations of the NAWAPO, 2002 are in line with the global Sustainable Development Goal 6, which ensure availability and sustainable management of water and sanitation for all by 2030; and is in line with the Tanzania Development Vision 2025, which envisions, achieving universal access to water supply and sanitation and sustainable water resource availability by 2025. The Tanzania development agenda is guided by the Five-Year Development Plan 2016/17-2020/21 which envisages private sector as playing key role in mobilizing investments in the priority areas, such as water sector.

The NAWAPO, 2002 implemented countrywide, recognizes the contribution of the private sector investment and service provision in water sector. As well, the WSDP views the private sector as an overarching partner in realizing its objectives of providing water and sanitation to all. Nevertheless, the contribution of the private sector in the water sector investment portfolio remains diminutive. However, private sector participation can address the key challenges to providing universal and sustainable water service access.

The objective of this action plan aims at engaging and promoting the participation of the private sector in the water sector investment process, so as to accelerate the achievement of the national and international goals. Aim is for private sector to engage fully in the financing, developing and managing water systems which is resulting to ultimately universal access to water services for all.

The Public Private Partnership (PPP) Forum held at Julius Nyerere International Conference Center in Dar es Salaam on 19th – 20th July, 2018 came up with declaration with 11 articles which requires action plans. The taskforce with 12 members was formed to prepare the action plan for the articles. The taskforce attended the assignments and came up with action plan with three broad objectives as follows: (i) strengthen the relationships between the government and the private sector; (ii) promote private sector to participate effectively and efficiently in implementation of water projects countrywide; and (iii) address constraints in economic policies, such as taxation, procurement, production and local content promotion. The work was developed through desktop study, consultations and targeted stakeholder meetings.

1 BACKGROUND

1.1 Introduction

The water sector plays a major role in the Tanzania's social and economic development process touching all sectors of the economy, including domestic, agriculture, livestock, fishery, wildlife, tourism, industry, mining and energy. The development of the water sector in Tanzania is guided by the Water Sector Development Programme (WSDP), which is a 20 Year programme (2006-2025) which is now now in the second phase of implementation. WSDP aims to "enhance water resources management for socio-economic development and sustainable environment; and ensure that all social groups in rural, peri-urban and urban areas have access to adequate, clean and safe water and sanitation services".

The implementation of the Programme is guided by the National Water Policy (NAWAPO, 2002) and covers three main components, including water resources management; improvement of rural and urban water supply and sanitation coverage; and water sector institutional strengthening. The aspirations of the NAWAPO, 2002 are in line with the global Sustainable Development Goal 6, which commits countries to ensure availability and sustainable management of water and sanitation for all by 2030. It is also in line with the Tanzania Development Vision (TDV 2025), which envisions, among other pillars, achieving universal access to water supply and sanitation and sustainable water resource availability by 2025.

WSDP is implemented countrywide by the Government of Tanzania in collaboration with Development Partners through a Sector Wide Approach to planning (SWAp) arrangement. The key implementing agencies of the WSDP include Rural Water Supply and sanitation Agency (RUWASA), Basin Water Boards (BWBs), and Water Supply and Sanitation Authorities (WSSAs).

Furthermore, the WSDP views the private sector as an overarching partner in realizing its objectives. Additionally, NAWAPO identifies the private sector as the main partner and driver of water sector investment. Nevertheless, hitherto, the contribution of the private sector in the water sector investment portfolio, as well as participation in water projects implementation remains diminutive.

In fostering collaboration with the private sector, the Ministry of Water (MoW) in collaboration with the Ministry of Industry, Trade and Investment (MITI) organized stakeholders a Forum to discuss the Agenda of Private Sector Participation (PSP) in the

provision of services to improve social and economic welfare in the country. The Forum took place at Julius Nyerere International Conference Center in Dar es Salaam in July, 2018. The Forum, focused to engage and promote the participation of the private sector in the water sector investment process including water projects execution so as to accelerate the achievement of the WSDP goals. At the end, the Forum came up with a Declaration with 11 articles for actions. A Taskforce of 12 members was formed to prepare Action Plan for the Articles.

The taskforce attended the assignments and came up with an Action Plan with three broad objectives as follows: (i) strengthen the relationships between the government and the private sector; (ii) promote private sector to participate effectively and efficiently in implementation of water projects countrywide; and (iii) address constraints in economic policies, such as taxation, procurement, production and local content promotion. The work was developed through desktop study and consultations with targeted stakeholder meetings.

1.2 Rationale for PSP/PPP Forum

The Tanzania development agenda is guided by the Five-Year Development Plan (FYDP II) 2016/17-2020/21. This plan underscores four main priority areas, namely (i) fostering economic growth and industrialization; (ii) fostering human development and social transformation; (iii) improving the environment for business and enterprise development; and (iv) strengthening implementation effectiveness. Within the second priority area, fostering human development and social transformation, water supply and sanitation have been earmarked as among the key interventions to achieve it.

The FYDP II envisages private sector as playing key role in mobilizing investments to drive the priority areas. Thus, the Government is working hard to provide a conducive policy and regulatory framework to facilitate private sector participation in the development agenda.

Like other aspects of social and economic development in the country, WSDP banks on the private sector participation as a hallmark of its success. Nevertheless, the private sector engagement and contribution in the water sector development remains patchy and this is the premise that the Ministry thought of organizing a national forum of July 2018 to discuss pathways for promoting participation of the private sector in the water sector development process as a strategy to accelerate the realization of the WSDP II

targets¹ towards 2020/2021. The forum brought together Government and private sector participants to discuss and share challenges and opportunities associated with private sector participation in the water sector development process. The aim of the forum was to have clarity and promote conducive policy environment to enable the private sector play an active role in the water sector development process.

2 OBJECTIVES OF THE FORUM

The objective of the forum was to enhance Public Sector Participation in the water sector development process with the following specific objectives: -

- (i) Promotion of local content² in the implementation of water projects. It was expected that government and the private sector to have developed clarity on the challenges that constrain local industries and manufacturers, as well as consultants and contractors to participate in the implementation of water projects. Because of this clarity, the Government will commit to facilitate conducive environment for the private sector to take part in the implementation of water projects. The private sector, in turn, will commit to strive to become proactive and responsive in meeting the water project standards so that they become more competitive in winning tenders alongside international players.
- (ii) Promotion of Public-Private-Partnership (PPP) in investing and operation of water projects. By the end of the forum the expectation was the private sector to have developed a broad understanding of the available opportunities in water sector investment, especially with regard to PPP investment model in the water sector.
- (iii) Demonstration/show casing of water sector projects that the private sector can participate. The Government will provide a synopsis of water projects that have a potential for PPP with a hope that this will entice some private sector players to consider investing.

2.1 Expected Outputs

The Forum laid a foundation for strengthening the relationships between the private sector and the government in order to promote local consultants, contractors, manufactures and suppliers in a way of enabling them to participate effectively and

¹ WSDP II targets improving water supply coverage to 95% in urban areas and 85% in rural areas and sanitation to 30% by 2020/2021

² Local Content Guideline

efficiently in implementation of water projects countrywide by exploring means for addressing hurdles in business policies such as taxation, procurement systems, production capacity and cost, product market; and at the same time sensitizing on promoting local content during implementation of water projects/programs. The forum highlighted the ongoing initiatives in capacitating private-sector. Ultimately, the Forum exchanged experience and to provide propositions discussed and addressed in government cycles for future undertakings. The Forum came up with the following expectations:-

- (i) Increase in number of private companies participating and partnering in the water sector development process;
- (ii) Improvement of quality of works and increase the speed of implementation of water projects;
- (iii) Increase in use of local content in the water sector; and
- (iv) Increase in contribution of water sector in country's GDP.

These expectations constitute a Declaration with 11 Articles which formulated into the action plan to be used by main players (government, manufacturers, contractors, consultants and suppliers). The Action Plan constitute of five objectives (derived from the three broad objectives recommended by the Task Force) as follows: -

- (i) To increase the number of private sector players investing in both capital and operation of water and sanitation services;
- (ii) To strengthening relationship between private sector and MoW;
- (iii) Ensure effective regulations of private sector participation in WASH sector to provide profitable and affordable water and sanitation services;
- (iv) To promote local consultants, contractors, manufacturers and suppliers to participate effectively in implementation of water sector projects;
- (v) To address constraints in economic policies such as Taxation, Procurement System and Production Capacity

3 SITUATIONAL ANALYSIS

3.1 Review of Legal Frameworks

Implementation of this Action Plan is undertaken within the context of the Nation Water Policy (2002), Water Sector Development Programme (WSDP), Public Private Partnership Policy (2009), PPP Act 2010, Public Procurement Act (2011), Sustainable Industrial Development Policy (SIDP, 1996), and the Five Year Development Plan II (FYDP-II).

NAWAPO, 2002 identifies private sector as main partner and driver in water sector investment and it has been involved in the implementation of water projects countrywide. WSDP views private sector as an overarching partner to achieve its objectives.

The PPP Act, 2010 and its 2018 amendments, provide sound legal framework for establishment of Public Private Partnership in various sectors which have a potential to generate more benefit. Its main objective is to promote private sector participation in the provision of public services through public private partnership projects in terms of capital investment, managerial skills and technology. It also gives provision for establishment of the PPP teams within Ministries implementing the policy. From the provision, MoW will establish a desk under Policy and Planning Department and appoint a Technical Assistance (TA) team to provide technical advice and stimulate more coordinated actions of actors and broaden the participation of various actors in the implementation of action plan.

Furthermore, Public Procurement Act, 2011 and its Regulations of 2013 provide National and Exclusive Preference Scheme to local persons or firms which allow them to procure works, goods, consultancy or non-consultancy services with a value not exceeding the amount prescribed in Regulations Schedule.

3.2 Ongoing PSP Initiatives in the Water Sector

3.2.1 Water and Sanitation Sector

In water sector, involvement of private sector is mainly involved in the provision of capacity building, consultancy service and development of water and sanitation infrastructure. Local and foreign consultancy and construction firms and individuals are involved in the development of more than 2,000 water nature projects including water

resources management and development projects; water supply and sanitation projects in rural and urban settings; and capacity building. However, in case of operations of water projects the private sector has been involved to a lesser extent.

The development of water and sanitation infrastructures includes upstream facilities as well as distribution and sewerage networks. The Water delivery systems involve the following cycle: -

- (i) Capture of the water resource;
- (ii) Treatment to ensure adequate quality for use;
- (iii) Transportation (primary network: aqueducts and mains);
- (iv) Delivery to users (secondary network: pipelines and taps);
- (v) Wastewater capture (provision for waste removal, emptying transport and Transfer facilities); and
- (vi) Wastewater treatment and re-use to capture the economic value of liquid waste.

In Tanzania, among the above mentioned components of the water cycle, the downstream activities of wastewater capture involve significant private sector activity. These activities may appear more attractive to the private sector as they can be more easily ring-fenced (notably in terms of revenue) and their specific outputs are more easily defined. Whereas, private ownership and management of the main networks remains insignificant. The development and management of water networks are perceived as much more risky by private operators. In such activities, the private actors have to rely more or less, depending on the contractual arrangements, on tariffs as the basis for their revenue. Currently, all the capital investment in water sector is mainly done by government.

As the government strives to improve access to water and sanitation, involvement of private sector is deemed crucial. There is need for both parties to push the agenda on the need to change attitudes and perceptions on the side of private sector to reorganize and grab business opportunities in the areas of water production, distribution chain and customer care. Also MoW to realize burden relief from private sector participation in provision of the water services.

On the other hand, significant private sector participation has also developed in the country for service delivery in the poorer and isolated areas in the form of small-scale, often informal operators. In a bid to keep pace with rapid population growth, urban

sprawl and migration to urban centers and to some complementing the gap resulted from deficiencies in operations of conventional public service provision, small-scale local actors have made up for the deficiencies in public service provision. They provide water and sanitation service to large sections of population (notably to the poorest and the isolated).

3.2.1 Development Partners Support for WASH PSP

The PSP approaches provide a robust and flexible framework for managing private sector to participate in water sector service provision. It provides one way to scale-up WASH programs. It is proposed that the design of such PSP now be prioritized. In the water sector, PPP project preparation would commence with preparation of a concept notes then a pre-feasibility study. Preparation of these documents would be the responsibility of participating contracting authorities under the oversight of the MoW and the PPP Unit under the Ministry of Finance and Planning. In promoting water sector PSP, Development Partners have joined hands and remarkable PSP initiatives have been realized under the following organizations: -

(a) World Bank

World Bank operations are strengthening water resources planning and management across the country and improving access to water supply and sanitation services in an operationally efficient manner. Support is targeting implementation of Water Sector Development Programme and includes support for rural water supply and sanitation services in 17 out of Tanzania's 26 regions. Activities are being implemented in collaboration with MoW, MoHCDGEC, MoEST, PO-RALG, DAWASA and other water utilities, with operations also providing for collaboration with the private sector. Key operations are: -

- (i) Second Tanzania Water Sector Support Project (2017-2022, US\$ 225 million);
- (ii) Sustainable Rural Water and Sanitation Program (2018-2024, US\$ 350 million);
- (iii) Tanzania PPP Support Program (2016-2021, funded by a DFID grant of US\$ 27 million); and
- (iv) Public-Private Infrastructure Advisory Facility (PPIAF) projects.

Several WASH projects will be procured in 2018-19 with World Bank support with a key role for the private sector:-

- (i) A performance-based contract (PBC) to reduce non-revenue water (NRW) in Dar es Salaam. This will benefit 1 million people;
- (ii) A design, build and operate (DBO) project for the new Mbezi wastewater treatment (WWT) plant in Dar es Salaam. World Bank will provide financing of US\$67 million for construction of the 16,000 m³/day WWT plant and associated sewers;
- (iii) The Singida Pilot Water PPP. A private partner will maintain and operate a bundle of rural water schemes; and
- (iv) A drinking water pumping pilot. This will replace diesel pumps in up to 165 rural communities.

In addition, a pilot of water and sanitation PPPs is being pursued. Potential PPPs are being sought through PPIAF-supported process for screening a pipeline of water PPPs. A long-list of 34 PPP opportunities was prepared by the advisors Planet Partnerships in collaboration with the Ministry of Water and the relevant water utilities. The PPIAF study applied a screening tool to short list the best PPPs, then narrowed this down to up to 4 projects that had prefeasibility studies (PFSs) were prepared.

Two of the short-listed projects with PFS were found to be viable: the Chang'ombe and Swaswa Off-Grid Sanitation in Dodoma. These are for a short service agreement-type PPP that will collect (and possibly treat) septage from pits and septic tanks. Under the scheme, a private-sector hauler or haulers would bid for, or be awarded, an exclusive concession by the public utility for a defined service area, to be operated under a service contract. With minor alterations, the proposed sanitation schemes are adaptable to other regions in Tanzania, which paves for replication potential. World Bank is now working with the WASH utilities to review and then complete the viable projects that secure approval of a PFS.

Project-level support is being backed up by a strengthened PPP framework and institutional capacity for private sector engagement. This will allow the scale-up of successful pilots to: (i) provide a sustainable improvement to the quality of water and waste water management in urban areas, (ii) enhance water scheme management models in rural areas and (iii) introduce new technology and management practices.

(b) GIZ

EWURA through GIZ support prepared PPP Guidelines (2017). The preparation of the guidelines considered Gape Analysis Report prepared earlier before the guidelines. The aim of the Guidelines is to deliver improved services and better value for money, primarily through optimal risk transfer, efficient management, innovation, and integrated whole-life asset management. The guidelines also, provide a framework that enables the public and private sectors to work together to improve water supply and sanitation service delivery through private sector provision of infrastructure and related services.

Furthermore, the Guidelines consolidate relevant sectoral and national legal and regulatory provisions into a unified document that provides guidance to water supply and sanitation authorities (WSSAs), including small utilities. The Guidelines lead its users to the critical steps of the implementation of PPPs and recommend operational procedures and tools for each step. The final document is waiting Ministry's endorsement to make it operational.

Other initiatives through GIZ support include, but not limited to capacity building measures to MoW's PPP Desk officers and the National Water Fund (NWF).

(c) WaterAid(Tz)

WaterAid(Tz) believes that the private sector have a key role to play in local capacity building, technological upgrading and investment promotion activities. Effective Public Private Partnerships (PPPs) can help to deliver affordable and quality WASH services. For the past couple of years, has been collaborating with the Government of Tanzania to improving PPPs in the WASH sector.

WaterAid is supporting PSP in the water sector and remarkable efforts are noticed including capacity building to the MoW PPP Desk and contracting authorities (CAs – Local Government Authorities and Water Utilities), support CAs in the preparation of PPP projects concept notes, facilitate a study on *Achieving Universal Access to Adequate, Sustainable and Equitable Sanitation Services in the Cities of Tomorrow* for Babati Town Council. The findings of this research provided for development Business Plan for engaging private sector to invest on sanitation and hygiene services in Babati town. Furthermore, WaterAid is already joined hands with several private sector organisations, such as eWATERpay Ltd, and microfinance institutions are now having projects in Dar es Salaam, Babati District and Arusha.

WaterAid did facilitate the Forum on Enhancing PSP in the WASH sector. A declaration was signed by development partner's group, the government and private sector demonstrating their commitment to improve PSP. This Action Plan is outcome of the Declaration.

(d) Ministry of Industry, Trade and Investment On-going Initiatives (MITI)

Water sector is among the sectors that contribute much to the development of industries in any growing economy. Access to water supply is one of the major factors that might ensure efficient production and supply in the industry sector. Either development of water sector needs different stakeholders' especially private sector.

The government recognizes the role of private sector as a principal engine in carrying out direct investments in the sector. MITI has been implementing through engaging private sector in engineering the industrial sector. MoFP coordinates all projects that are undertaken using the PPP type of procurement. Either, each Ministry has been advised to provide all projects that are undertaken using Public Private Partnership.

The concept of PPP to the MITI is new and has been taken care under Department of Policy and Planning. There are different projects under the MITI that are undertaken by using PPP type of procurements. Examples are on-going construction of Export Processing Zones and Special Economic Zones, like Bagamoyo EPZ, building of Kurasini Logistic Center etc. The MITI through its institutions like NDC, EPZA, and TIC continues with effort to welcome investors to collaborate in PPP in some big projects.

In line with that, the MITI continues to advice on change of Fiscal Policies, and different measures have been taken through tax and tariff regime to ensure that utilization of local inputs is favored against imports. The Ministry as a member of Tax Task Force Reforms which always sits between March and April every year, it make sure local manufacturers receive incentive to enhance competitive of their products.

3.3 Policy and Legal Frameworks Supporting PSP

Table 1: Situational Analysis on Policy and Legal Frameworks

No.	Supportive document	Areas Mentioned the PSP	Page/Section
1.	Water Sector Development Program Phase II	The document has mentioned Private Sector is among the stakeholders for implementation of WSDP II	viii
		Sanitation and Hygiene; Expected to engage private sector (through appropriate PPP arrangements) to leverage investments and delivery of improved sanitation infrastructures in public areas	39
		National Sanitation Campaign part, whereby promotion is needed to participate in the pit emptying services.	2
		In the implementation of Component 2 projects, Private sector participation in design and implementation of Rural Water Supply projects.	36
2.	Sustainable Industrial Development Policy (SIDP 1996-2020)	The government recognizes the private sector as the principle vehicle in carrying out direct Investments in Industry	SIDP Section 3.2 Page 12
		Improvement of Investment Promotion Act to effect the following:- Encourage development of private sector including measures appropriate for both local and foreign Investors. Allow private firms into areas previously reserved for the public	SIDP section 3.4.6 Page 19 & 20
		Establishment of EPZA, whereby 80% of products produced under EPZA are for exports to improve balance of trade as well as employment creation	SIDP Section 3.4.6 C Page 22.
		Promotion of standard and quality assurance In order to improve competitiveness of industrial products	SIDP section 3.4.7 Page 22
		Establishment of TBS and Weight and Measures Authority (WMA to promote standard and quality assurance and improve competitiveness of industrial products	
3.	Five Years Development Plan II	Emphasize the role of local actors in planning and implementation	Objective (Viii); page 2
		The Plan embodies a "business unusual" approach not only for fostering implementation effectiveness but also for embracing strategic partnership with the private sector, facilitating its development and competitiveness, and creation of conducive environment for its operations to thrive	Salient Features of the Plan (iii) Page 2
		Envisages an important role for the Private Sector to lead investments to drive industrialization	Areas of Interventions
		To support manufacturing through the provision of an enabling environment for manufacturing activity and promotion of local content and productive capacity	
		Fostering human development and social transformation focus on education and skills development; health delivery systems; Water Supply and Sanitation	
		Concerted efforts to build and organize the domestic productive capacities in a more orderly manner while also ensuring	Overall Assessment Page 17

No.	Supportive document	Areas Mentioned the PSP	Page/Section
		<p>availability of a conducive environment for doing business and investment</p> <p>The private sector remains as the engine of growth, poverty reduction and the driver of economic transformation. The three roles can effectively be delivered if conducive business and investment environments are provided</p> <p>Construction is one of key activities of Tanzania's economy and is increasingly growing. The sector is, however in terms of value, dominated with foreign companies. Plan will focus on strengthening the participation of domestic companies in the sector share</p>	<p>FYDP II Strategic Interventions for Industrialization Construction sectors Page 32</p>
4.	PPP Policy 2009	<p>The implementation of PPPs should take into consideration the National Empowerment Policy and other relevant policies to ensure empowerment of Tanzanians in all socio-economic aspects is adequately taken into consideration</p> <p>All parties involved to ensure that PPPs undertakings provide for necessary supporting environment to attract participation of local investors through inclusion in various socio-economic opportunities</p> <p>Ensure that PPPs contribute to the economic empowerment of all citizens</p> <p>(a) The Government Will facilitate implementation of the PPPs by putting in place appropriate enabling environment. This includes favorable policies, implementation strategy, legal and institutional framework</p> <p>(b) The Private Sector The Private Sector will take the leading role in identifying and implementing PPPs including carrying out of feasibility studies, mobilizing resources, risk sharing, monitoring and evaluation, and providing technical expertise and managerial skills</p>	<p>Section 3.2/page 13: The policy recognize the empowerment of citizen</p> <p>Roles of Government and Public sector</p>
5.	Public Procurement Act, 2011	<p>54(2) The procuring entity shall, when procuring goods, works or services by means of international or national tendering, or when evaluating and comparing tenders, grant a margin of preference for the benefit of tenders for certain goods manufactured, mined, extracted or grown in the United Republic, for works by Tanzania contractors or services provided by Tanzania consultants</p> <p>54(3) Tanzania contractors or consultants shall be eligible to be granted margin of preference as provided for in (2) only if they meet criteria stated from clause (a) - (c)</p>	<p>National preferences Section 54 (2),(3)</p>
6.	PPP Act (2010)	<p>The objectives of this Act shall be to promote private sector participation in the provision of public services through public-private partnership projects in terms of investment capital, managerial skills and technology</p>	<p>Part II Section 4 clause 1 provides the objectives of the Act about the inclusion of private sector</p>

No.	Supportive document	Areas Mentioned the PSP	Page/Section
		<p>The public sector shall facilitate the implementation of the public private partnership projects by identifying projects, monitoring and evaluation and putting in place enabling environment</p> <p>The Private sector shall play the role of identifying and implementing public-private partnership projects by carrying of feasibility studies, mobilizing resources, risk sharing, monitoring and evaluation, technical expertise and managerial skills</p> <p>Other stake holders, and public in general, shall support the implementation of public-private partnership projects through monitoring and evaluation, and dissemination of information</p> <p>55(1) Where financial resources are exclusively provided by a Tanzanian public body, each procurement of works, goods or services that have a value not exceeding a threshold specified in the Regulations shall be reserved exclusively for local persons</p> <p>55(3) Where procuring entity receives only one acceptable offer from a responsible local person or firm in response to procurement set-aside, the procuring entity may consider to make an award to that person or firm</p>	<p>Part II Section 5 clause</p> <p>Part II Section 5 clause b explains the role of private sector</p> <p>Part II Section 5 clause c explains the role of other stakeholders</p> <p>Section 55 provide Exclusive preference to local persons or firms</p>
7.	The Public Procurement Regulations, 2013	<p>39(1); The procurement of works, goods, consultancy or non consultancy services with a value not exceeding the amount prescribed in the 9th and 13th schedules, shall be reserved exclusively for local persons or firms</p> <p>39(2); A JV or association between a foreign and local firms in which the contribution of the local firm is greater than 75%, shall also be eligible to participate in the exclusive preference scheme</p> <p>39(4); The Minister may, on the advice of the Authority, grant special consideration for procurement of goods, services or works for the purpose of promoting the growth of local companies</p>	Section 39 Exclusive Preference scheme to local persons or firm
8.	Public Private Partnership Regulations, 2015	<p>34 (5) Tenderers who are citizens of Tanzania or associations between local and foreign firms shall be eligible to be granted a margin of preference only if they meet the criteria provided in these Regulations, and are registered by TIC</p> <p>34 (6) A contracting authority shall, when procuring solicited or unsolicited public private partnership projects by means of national and international competitive tendering or selection, grant a margin of preference of up to ten (10) percent for the benefit of local investors or association between local and foreign investor as prescribed in the Sixth Schedule to these Regulations</p>	Section 34 (5) Section 34 (5)
9.	The Water Supply and Sanitation Act 2019	<p>Objectives & Principles: Promotion of public sector and private sector in partnership in provision of water sector services</p> <p>Responsibility of the Minister responsible for Local Government: Community and private sector participation in development, operation, management of water supply and sanitation services</p>	4.1.j 6 (a)

3.4 Stakeholders Consultation

The stakeholder consultation process serves to collect information and insights from a wide range of stakeholders to feed into the Private Sector Participation Action Plan, as well as further raise awareness of the AP among relevant stakeholders. The objective of the stakeholder consultation process is: (i) to collect information, ideas, opinions and insights from a wide range of stakeholders to complement the secondary research; and (ii) to raise awareness of the PSP-AP among relevant stakeholders. The focus of the stakeholder consultation process assesses whether the objectives set by the PPP Forum Declaration are capable to be achieved.

Efforts have been taken to do stakeholders mapping to establish list of organizations and individuals. Taskforce consultative meetings were conducted to identify relevant stakeholders in the following: (i) MoW, MoFP and MITI Management; (ii) CRB, CIT, and ACET; (iii) COSTECH, TBS, TRA, and PPRA; (iv) Development Partners. Therefore, the list involved the government ministries and institutions, umbrella organizations for private sector and research institutions.

This list as a database contained suggested stakeholders and refined throughout the work of the Taskforce in consultation with MoW Management and private sector bodies. The consultation involved consultative meetings and workshops, interviews, online consultation.

Strategic Consultative Meetings

(i) PPRA

Taskforce team paid a visit to PPRA to find out the mechanism to protect the local private sector from competition for tendered contracts by foreign firms. During the consultations, it was revealed that there is no direct mechanism to shield the local contractors and consultants vying for contracts in the water sector from foreign companies. However, there are preferential policies enshrined in the clauses of the PPA (Amendments) Act, 2018 and PPP Act, 2010 and Regulations to safeguards interests of local firms during the tendering process. These include the national preference clause and exclusive preference clause which put in place thresholds for protection of local firms. Of which, the PSP Action Plan Taskforce Team is recommending to institute a clear monitoring and evaluation mechanism for water sector to safeguard the interests of local firms in lieu of competition in tendering and execution of water projects.

(ii) COSTECH

Taskforce members paid a visit to COSTECH as important stakeholder in water sector to get their views and input to the action plan. At COSTECH, it was revealed that private sector is the main partner in driving out technology and they collaborate with them in research and development of new products. Every research and innovation done by the commission focuses on developing capacity of the private sector.

Currently, the institution is developing people with innovative ideas through clusters, incubate and create conducive environment for them to start up. The institution has established BUNI platform which encourages young people to come with innovative ideas and get opportunity to develop a product/service and commercialize. In case of ongoing innovative technology in water sector it was revealed that, currently there are no new ideas related to water sector, but the Commission is planning to take inventory of water related innovation technology from universities and other research institutions, fund and develop some of them which are commercially viable.

(iii) TBS

TBS is working close with manufacturers to develop new standard that meet local and international standards. It makes sure water pipes manufacturers produce products that conform to quality and market needs. In water related equipment, no small entrepreneurs who trying to manufacture some of the water related products (pipes) due to the nature of the industry, which is capital intensive. But the institution in collaboration with SIDO has created conducive environment for start-up companies and entrepreneurs who want to engage in manufacturing of products to acquire quality certification of their products. Currently, small start-up companies and entrepreneurs are encouraged to pass their application through SIDO, so that they can receive quality certification without pay.

4 THE ACTION PLAN

4.1 *The objective of the Action Plan:*

The overall objective of the action plan is to advance deliberations of the PPP Forum and achieve water sector PSP objectives by:-

- (i) To increase the number of private sector players investing in both capital and operation of water and sanitation services;
- (ii) Ensure effective regulations of private sector participation in WASH sector to provide profitable and affordable water and sanitation services;
- (iii) To strengthening relationship between private sector and MoW;
- (iv) Proposing a practical way forward in promoting local consultants, contractors, manufacturers and suppliers, in such a way that they will be able to participate effectively and efficiently in the implementation of the water projects countrywide; and
- (v) Addressing constraints in the economic policies such as taxation, procurement systems, production capacity, costs, product market and overall promotion of the local content clause in the implementation of water projects/programs.

4.2 Action Plan

The Action Plan describes the implementation of objectives resulted from the PSP/PPP Forum. The objectives are as shown in the table under ***Annex 1***.

5 MONITORING AND EVALUATION OF ACTION PLAN

Monitoring and Evaluation (M&E) is necessary for evidence-based decisions, performance improvements and accountability in any sector program, such as the WSDP-II. The value of M&E is realized when its data and information are used in prioritization and quality control of activities. The level of M&E effectiveness and efficiency can be measured if proposed remedial actions are implemented including positive and negative incentives. Monitoring is a continuous function of providing regular feedback on the program performance against planned activities, and on the internal and external factors affecting results. Data and information from the monitoring of the PSP activities for decision making especially at national level via the established sector dialogue mechanism; program-monitoring tools and frameworks will be utilized. It should be noted that, monitoring of the PSP activities will be done on the context of

the WSDP and existing legal frameworks, such as, PPA, 2016 (*See Annex 2*) and PPP Act, 2010.

6 CONCLUSION

The formulation of the Private Sector Participation Action Plan is a milestone in strengthening of cooperation and collaboration between the government and private sector. This action plan has five objectives with 24 activities focuses on strengthening the relationship between the government and private sector; engaging local private sector on implementing water projects; and addressing constraints that denied local actors in engaging fully in water projects in the country. The Action Plan expects to meet the government and private. The Action Plan intends to meet government and the local private sector expectations in addressing constraints that were slowing down implementation to water programs with ultimate goal of ensuring optimal access of water supply and sanitation country wide.

Annex1: The Action Plan

Operational Objective	Activity	Implementation period	Target	Lead Implementers	Expected Results	Possible Funding Source
To increase the number of private sector players investing in both capital and operation of water and sanitation services	Undertake inventory/ database and mapping of existing private sector players in water sector	Nov. 2019–Jun 2020	Inventory/database of private sector players established	MoW, RUWASA & Water Utilities (WUs)		All actors for this activity
	Support existing private sector players to improve water quality, tariff setting, coverage and management	Mar 2020-Sept. 2020	<ul style="list-style-type: none"> • Water quality and water supply and sanitation services improved • Affordable water supply and sanitation services 	MoW, EWURA, RUWASA, UWSAs		All actors for this activity
	Promote PSP Models and mobilize new investments	Ongoing	Performance in water sector improved	MoW, WUs, DPs		MoW, WUs, DPs
	Disseminate information to all water sector actors	Ongoing	Performance in water sector improved	MoW, WUs, DPs		MoW, WUs, DPs
Ensure effective regulations of PSP in WASH sector to provide profitable and affordable water and sanitation services	Provide regulations for recognition of private sector invested in the areas not covered by Water Utilities	Jun 2020-Sept. 2020	Secured private sector invested in areas with no utility services	MoW, WUs		MoW, WUs, DPs
To strengthening relationship between private sector and MoW	Incorporate PSP/PPP in Water resources management during	Nov. 2019–Mar 2020	Water resources management issues	MoW		MoW

Operational Objective	Activity	Implementation period	Target	Lead Implementers	Expected Results	Possible Funding Source
	NAWAPO review		incorporated in NAWAPO			
	Build capacity to MoW and implementing agencies (IAs) staff on PSP/PPP and contract management	Sept. 2019-Jun 2020	Capacity improved on PSP/PPP contract management	MoW, MoFP, DPs		MoW, MoFP, DPs
	MoW and implementing agencies disseminate information to private sectors regarding upcoming PSP/PPP water projects	Ongoing	Information on upcoming water project disseminated	MoW, IAs		MoW, DPs
	Establish PPP Desk in MoW to deal with all PPP matters relating to water projects	July 2019–Sept 2019	PPP Desk established	MoW		MoW
	Support PPP Desk with proper equipment for monitoring and implementation of PSP/PPP water projects	Ongoing	PPP Desk equipped	MoW, DPs		MoW, DPs
To promote local consultants, contractors, manufacturers and suppliers to participate effectively in implementation of water sector projects	Ensure local private sector (PS) team up with foreign PS in big water projects	Ongoing	Local firms involved in the water projects	MoW, AG, CRB, ERB, PPRA, AQRB		All actors for this activity
	Encourage private sector to enhance existing technologies and develop/adopt new ones in water sector	Continuous	Private sector encouraged	MoW, MITI, MoEST		MoW, MITI, MoEST
	Promote investment opportunities that will attract Foreign Direct Investments (FDI) and joint venture (JV) partnerships with local actors by easing procedures (permits, visas, incentives) for such	Ongoing	FDI and JV promoted	MoW, MoFP, MITI and PPRA		MoW, MoFP, MITI and PPRA

Operational Objective	Activity	Implementation period	Target	Lead Implementers	Expected Results	Possible Funding Source
	partnerships					
	To identify specific projects in water sector to be through Joint Venture Arrangements	Nov. 2019-Jun 2020	Specific projects for local players identified	MoW, Private Sector		MoW, Private Sector
	Identify coming project needs and allow local private sectors to access information and act	Continuous	Project needs identified and information disseminated	MoW, Private Sector		MoW, Private Sector
	Increase awareness on nationals and Exclusive Preference Scheme to local persons or firms as stated under PPRA Act Section 55(1), (3) and its regulations section 39(1)(2)	Continuous	Awareness raising campaign conducted	MoW and PPRA		MoW and PPRA
	To emphasize consideration of local content clause of PPA Act and its regulations when preparing water projects contracts	Continuous	Local content clause emphasized	MoW, MITI and PPRA		MoW, MITI and PPRA
	To break project into lots to provide avenue for local players to participate, get experience and knowledge	Continuous	Local players participation in the implementation of projects	MoW, PPRA		MoW, PPRA
	Develop appropriate guidelines to engage private sector	Continuous	Guideline developed and disseminated	MoW, EWURA		MoW
	Formulate mechanisms for Private Sector engagement into PPP in water sector	Continuous	Guidelines/manuals developed	MoW, DPs, Private sector		MoW, DPs, Private sector
To address constraints in economic policies such as:	Collect information regarding tax issues from local private sector and	Continuous	Tax issues presented to Tax Taskforce reform	MITI, MoFP, MoW		MITI, MoFP, MoW

Operational Objective	Activity	Implementation period	Target	Lead Implementers	Expected Results	Possible Funding Source
i) Taxation ii) Procurement system iii) Production Capacity	submit to Tax Taskforce Reform for consideration					
	Simplify and streamline existing levies, permits and licensing procedures	Continuous	Permits, levies and licenses streamlined	MoFP, MoW, MITI, PMO		MoFP, MoW, MITI, PMO
	Creating awareness through meetings, roundtables and workshops find solution on prevailing constraints	Continuous	Awareness through meeting and workshop conducted	MoW, MITI		MoW, MITI
	To conduct annual assessment meeting to evaluate the performance of cooperation between Government and Private sector	Continuous	One evaluation meeting within a year conducted	MoW, MITI, Private sector and DPs		Contribution from Stakeholders

Procurement Issues under PSP

Tanzanian government has several policy objectives related to the promotion of growth of local businesses, such as PPP and public procurement policies. Public procurement is the formal process through which official government agencies obtain the necessary goods, services and works to carry out government activities. Procuring entities sometimes make use of the preferential procurement policies, which are measures used to encourage local development by means of domestic content or investment requirements. These are legitimate tools to stimulate domestic production in a country, of which the government can push forward policies to promote industrial development and introduce innovation technologies in the water sector.

As aforementioned, the government institutions utilize preferential treatments as provided in the PPA Act, 2016 which include:-

- (i) National Preferences:** *Principal Act, sect. 54(2)-(3)* for granting margin of preference; *54(4)* for encouraging foreign firms to team up with Tanzanian tenderers in the form of Joint Ventures or subcontracting. and *Regulations, sect. 33* for goods, works or services; *sect 34* (up to 10%), *sect. 35* for inclusion of local experts and firms in consultancy; *sect. 36* for use of local experts in goods, works or non-consultancy services; *sect. 37* for preference to local goods-margin of up to 15%; and *sect. 38* for Applicability-9th schedule.
- (ii) Exclusive preference to local persons or firms:** *Principal Act, sect. 55(1)* where financial resources are exclusively provided by a Tanzanian public body. *Amendment; 16(55A)* where Foreign firms shall include local experts and firms in non-emergency consultancy services; *sect. 16(55B)(a)* for inclusion of key local staff in case of Joint Venture in goods, works and non-consultancy services; *sect. 16(55B)(b)* for the extent of use of locally manufactured materials; *sect. 55D* for setting aside contracts for capacity building of local firms); *sect. 55E* where share capital wholly owned by citizens of Tanzania; and *sect 39* for Applicability of 9th & 13th schedules).
- (iii) Commitment of funds:** *Regulations Section 75(1)* provides that, Procuring entities shall ensure that funds are allocated or committed before commencing procurement proceedings; *Sect. 75(2)* provides that, notwithstanding the provision of sub-regulation (1), the procuring entity may commence procurement

proceedings for scheduled or routine activities if the procuring entity is certain of funds availability in its budget for such activities.

However, in order to ensure timely payment to the supplier of goods, works or consultancy services, the PE shall provide payment guarantee in the form of bank guarantee as soon as it enters into a contract with the successful tenderer.

Scope of Monitoring

Monitoring by the Authority (Regulations)

(i) Within the procuring entity: Section 86(1)

The head of internal audit unit of the each public body shall prepare and submit to the accounting officer a quarterly report which shall include a report on whether the Act and these Regulations have been complied with. In the event of no such report, no recommendation thereof is given.

(ii) Continuous monitoring: Section 87(1)

For the Authority to continuously monitor procurement activities and contract implementation, procuring entities shall submit to the Authority annual procurement plans, information on tender notices, invitations for quotations, request for proposals, contract award, contract termination and monthly, quarterly and annual procurement implementation reports in the prescribed format and through systems developed by the Authority. In the event of no such report, no recommendation thereof is given.

(iii) Procurement, contract and performance audit: Section 88(1)

Subject to the criteria as may be prescribed by the Authority, the Authority may, at any time and where circumstances require, select a procuring entity, project, or contract for audit.

(iv) Procurement investigation: Section 89(1)

The Authority shall conduct investigation on any matter it considers necessary or desirable or on any submitted application for retrospective approval or any matters stipulated in the Act.

(v) Cooperation with other authorities: Section 90

In the course of, or after conducting an investigation, or procurement, contract and performance audit, the Authority may cooperate with the law enforcement organs, and for that purpose the Authority may establish a mechanism for sharing of information

relating to the investigation or procurement, contract and performance audit, or enforcing the findings.

**(vi) Actions to be taken in the course of monitoring procurement activities:
Section 91(1)**

The Authority shall, after conducting an investigation or procurement, contract and performance audit, produce a written report containing its findings and recommendations to the competent authority. Section 91(2) enumerates the possible recommendations by the Authority.

General Comments:

From the above; the public procurement regulations do not establish monitoring mechanisms to check on the implementation of the preferential clauses in the Act. However, it provides measures or recommendations under Review of procurement or disposal decisions and disputes settlement. This applies after the aggrieved tenderer had submitted its claims that it had suffered or may suffer loss or injury as a result of breach of a duty imposed on a procuring entity or an approving authority by the Act or these Regulations. Then the administrative review of such a submission by the aggrieved tenderer shall be done by the accounting officer as per section 106. In the event that the complainant is not satisfied with the decision/action of the accounting officer then the former shall submit its complaint to the Appeals Authority. The appeals Authority shall determine the submitted complaint as per section 107. In general, the procedure is long and sometimes bureaucratic in such a way that the tenderer ends up disappointed.

Procuring entity should include preferential condition to the tender document; and the condition should be indicated in the tender advertisement. In case, the condition is not stipulated in the tender document or advertisement, PPRA (Monitoring section) shall cause the procurement process to halt and demand for explanations from the procuring entity as to why the regulations were not complied with. Remarkably, the PPA is not staffed to such an extent that it can truly/effectively discharge its obligations in dealing with such matters.

Therefore, there is a need to strengthen the existing mechanism or preferential policies to safeguard the interests of local firms by ensuring the close follow ups of the procurement process.