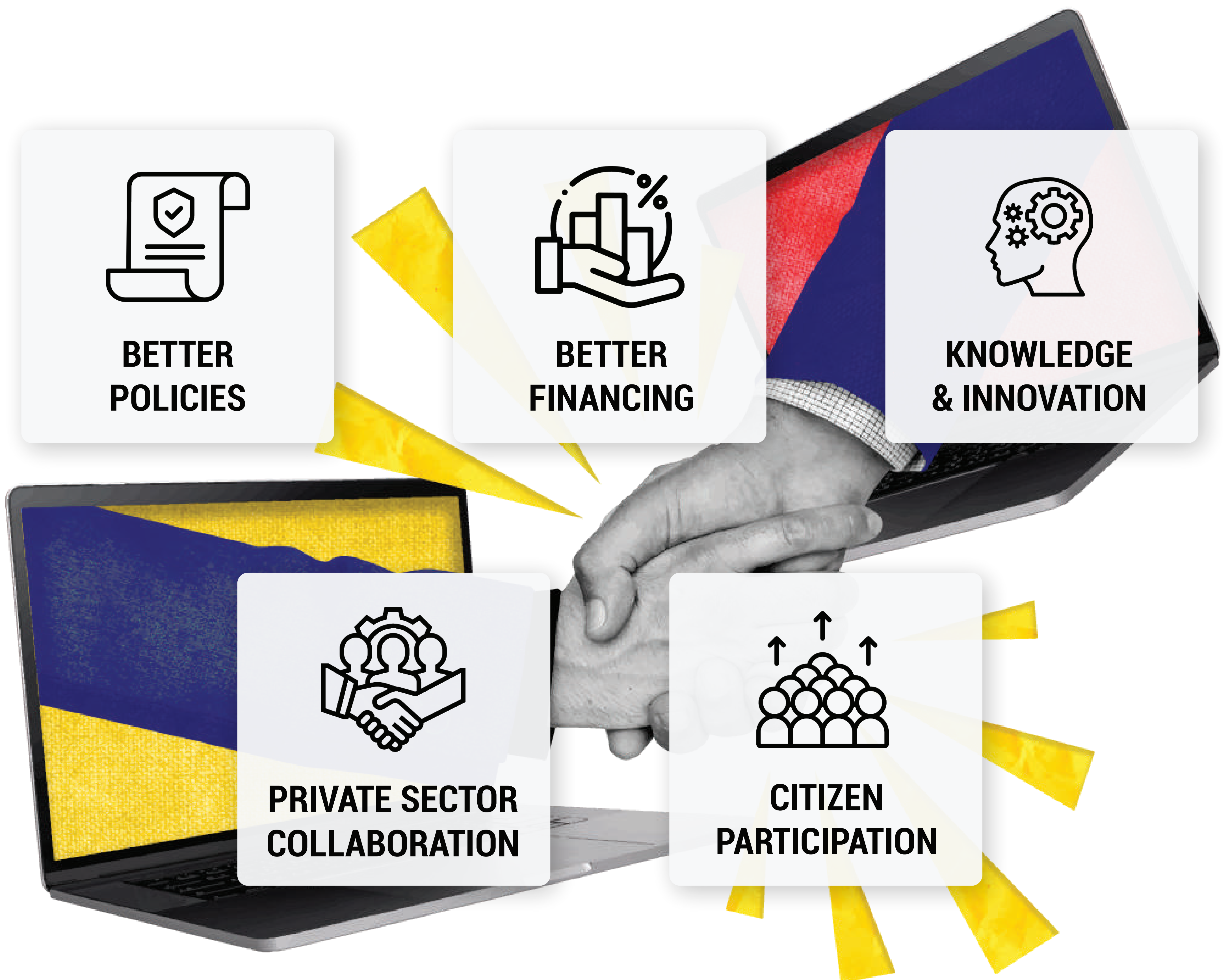




Deepening Private Sector Partnership in Lumbini Province, Nepal



**FOR FREE AND RESPONSIBLE ECONOMY
AND DEMOCRACY IN NEPAL**

Executive Summary

Local governments have resorted to using the Public Private Partnership (PPP) model to meet the gaps in financing and management in infrastructure development in Nepal. The governance mechanisms set for PPP determine the quality of partnership in infrastructure development between the public and private sectors. This position paper inquiries into the practices of operationalizing PPP by local governments in Nepal. The paper adopts an explorative research design. Most of the data was collected through qualitative methods such as mini meetings with stakeholders, in-depth interviews with municipal officials and leaders of the association of private sectors and citizens who were affected by the selected PPP projects, and a Public Private Dialogue (PPD).

This process revealed that there are opportunities for local governments to broaden the avenues of participation of private sectors in PPP projects by addressing their concerns in areas of project identification, project selection, and project prioritization. It is vital to gain trust from all sectors. There is an urgent need to broaden the avenues of participation for the private sector in PPP mechanism decision making platforms. Likewise, concerns of affected populations and general citizens should be given institutional representation while deciding whether to list any projects as potential PPP projects. Adoption of the principle of transparency, open government, collaboration among parties, suitable feedback mechanism, and building trust with affected populations are keys to ensure the sustainability of any PPP project. Ensuring decisions of the municipality are taken based on citizen feedback will definitely reduce disputes and increase trust between the private sector and the municipality. Governance of the PPP process should be approached from a citizen-centric perspective; it should not only be treated as a mere legal and technical point of view. The position paper recommends what course of action local governments must take to ensure that the private sector is involved in PPP projects and make the governance of PPP projects effective.

Key Terms

Public-Private Partnership (PPP): Public-private partnerships involve collaboration between a government agency and a private-sector company that can be used to finance, build, and operate projects. (Investopedia, 2021) In respect to this paper, PPPs are all collaborations between the public and the private sector for development.

Public-Private Dialogue (PPD): Public-private dialogue is a process that involves bringing in members from the government, and the private sector (along with other important stakeholders such as media, academicians and affected citizens in reference to this paper) that helps solve issues between the two bodies and allow for improved collaboration between the government and business with continued feedback.

Citizen-centric: Citizen centric means decisions based on citizen feedback, and making decisions keeping citizens at the center.

Mini-meetings: Thematic meeting conducted with a small number of stakeholders (anywhere between 2 to 20), on a specific topic to identify problems/issues/concerns pertaining to a specific group of people, and receiving their feedback.

Elected Representative: All individuals who have participated during this process are people's representatives elected as local and provincial government of Lumbini Province and federal government.

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1. Background

The partnership between the public and private sectors in local development has received renewed attention after Nepal's move towards federalization. The new constitution has reformed Nepal's system of governance into seven provinces and 753 local governments. The promulgation of the Constitution of Federal Democratic Republic of Nepal 2015 marks a fundamental shift to bring governance closer to the people. The last federal, provincial, and local elections were held successfully, beginning the process of institutionalizing municipal and rural governance in Nepal. As provisioned in the constitution, sub-national governments now have more power to cater to the needs and aspirations of Nepali citizens. The constitution envisages a non-hierarchical relationship between the three levels of government based on the principles of coordination, cooperation and coexistence (Dhungana, 2018). According to the constitutional provision, all three levels of government are autonomous, whole governments with exclusive and concurrent powers. Local governments have enormous powers and responsibilities, holding 22 exclusive powers while sharing 15 concurrent powers with federal and provincial governments. Provincial governments hold 21 exclusive powers and share 25 concurrent powers with the federal government. The federal government has 35 exclusive fiscal, administrative, and political powers^[1]. (Government of Nepal, 2015).

The primary tasks of local governments are to deliver public services to local communities efficiently and effectively, as well as institutionalize a democratic government. Most of the roles related to serving local people are held by local governments. These include planning, implementation of economic development activities in agriculture and livestock extension, cooperative and industrial development, education, environment, health, vital registration, social security allowances distribution, institutional development and certifications, and recommendations (Acharya k. K., 2018). The tasks of certifications, recommendations, and collection of local-level taxes and fees are transferred to the ward level structures, as they are often regarded as the closest governmental institution to the people. Further, the new constitution also empowers local governments to practice legislative and judiciary roles in addition to regular administrative and executive duties. The local governments have the authority to formulate and approve plans, promulgate legislation on health, run primary and secondary education, operate infrastructure development, and manage fiscal resources. They can project their revenue sources, take loans, share resources with provincial and federal governments, and invest in priority projects. Previously, unspent money had to be transferred to the national government. Now, local governments can retain unspent money and decide where to disburse it in the next fiscal year. Local governments operate their own accounts because of the constitutional mandate to invest in their priorities. Under the federal structure, all local governments have equal constitutional authority (Democracy Resource Center, 2019). There are some differences in the allocation of budgets among local governments in Nepal. However, these differences do not emanate from the constitution but rather come from the differences in size, population, and condition of physical infrastructure, as well as economic, technical, administrative, and other capacities between local governments.

¹ Constitution of Nepal 2015

The sources of revenues and taxes are also shared between various levels of Governments according to the constitution.

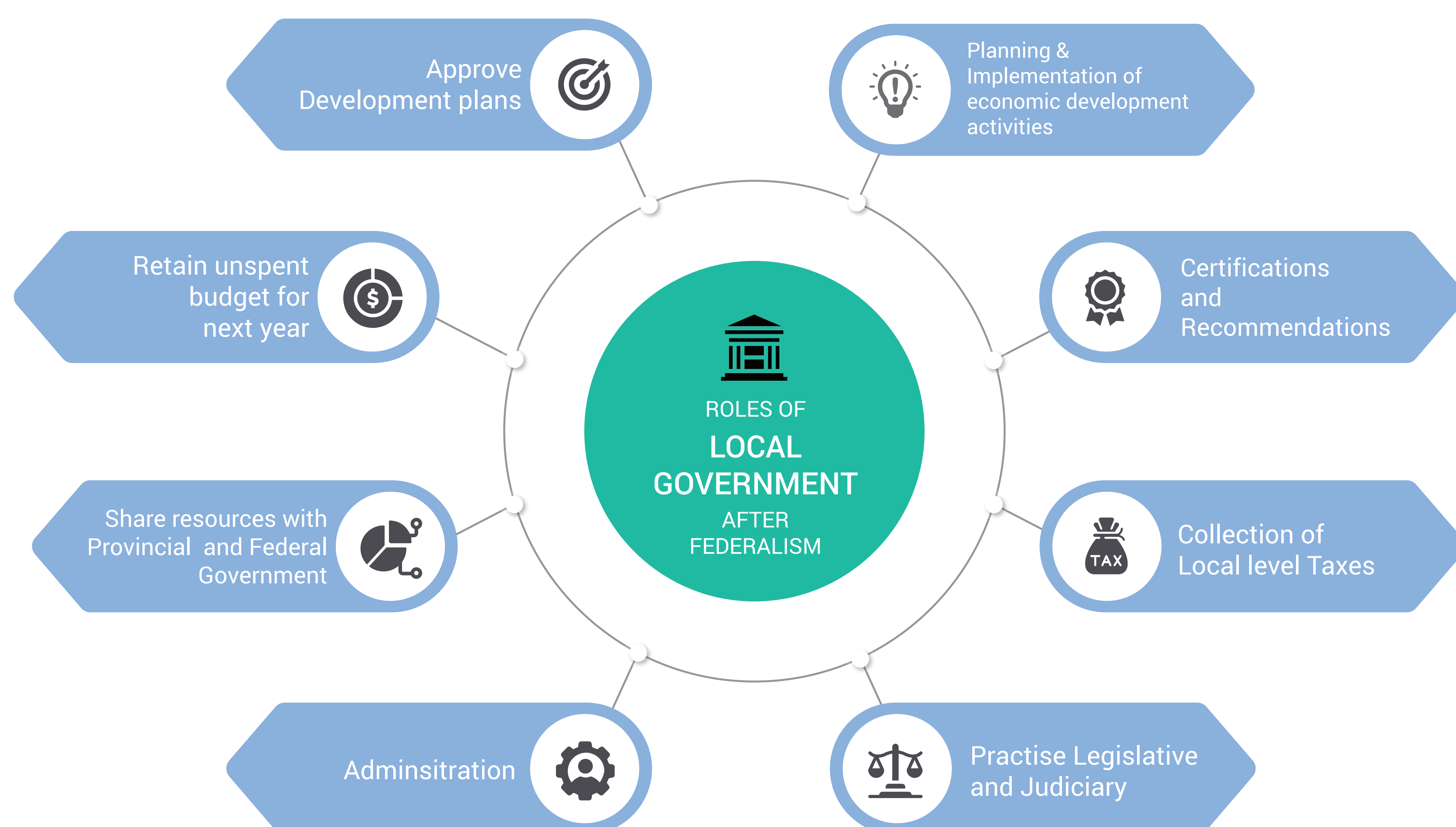


Figure 1: Roles of local government after federalization

Most of the local governments in Nepal can hardly fund their regular expenses—let alone their development priorities- as revenue generated does not match expenses. Some local governments from major industrial hubs have been able to raise 40% to 62% of their annual budget from internal sources while the corresponding figures for other local governments in rural areas are as low as 0.7%^[2]. According to the research conducted by IIDS (2020) in Butwal and Pokhara, the contribution of local taxes to the total revenue is 7% for Butwal and 5% for Pokhara. In contrast, the contribution of grants from the central government is 47% and 60% of total revenue for Butwal and Pokhara, respectively (IIDS, 2020). Municipalities such as Butwal and Pokhara are considered among the best cases of revenue collection but are highly dependent upon central grants to fund their development activities. The contribution of federal grants in total revenue for other municipalities is very high. In some situations, local governments in Nepal have resorted to partner with relevant private sectors to fund their infrastructure development priorities. The local governments must find alternative ways to finance their development needs because of their huge expenditure assignments and community expectations. The practice of Public-Private Partnership (PPP) should be seen in the same respect. For local governments, PPP is not just about ensuring the development of infrastructure, but also responding to the increased expectations of local people. As such, the success of the local governance system in Nepal largely depends upon the management of successful partnerships with the private sector.

² <https://asiafoundation.org/wp-content/uploads/2018/07/Diagnostic-Study-of-Local-Governance-in-Federal-Nepal-07112018.pdf>

1.1 Introduction

Butwal Sub-Metropolitan City is located in Lumbini province, Nepal. Situated on the confluence of two major highways, Mahendra and Siddhartha Highways, Butwal Municipality was formed in 1960 AD and was promoted to a Sub-Metropolitan City by the Ministry of Federal Affairs and Local Development. With an area of 101.61 square kilometers, it is divided into 19 wards. It is one of the fastest-growing cities in Nepal and is famous for its education, infrastructure, highways, health, and safety, communication, trade, and banking facilities. This sub-metropolis is also close to neighboring India and has road connections to the Indian border at Sunauli, Tansen and Pokhara. According to the National Census of 2011, this sub-metropolis is home to 138,742 people. However, the population is rapidly increasing due to its geographical location, growing economic opportunities and developing facilities. Butwal Sub-Metropolitan City is primarily a commercial and trading city. The gross domestic product of Butwal was approximately 1 billion USD in 2018 making it one of Nepal's major economic cities^[3]. The economy of Butwal centers on trade, services, and industries - traders, farmers, and entrepreneurs sell goods and vegetables directly to retail and wholesale customers in a busy market setup; service aspects of the economy are established in banking, education, transportation, and health sectors. Therefore, Butwal is witnessing increasing numbers of people involved in these job sectors. Butwal Sub-Metropolitan City is also an upcoming city for tourism, in addition to being a busy land route to enter Nepal from India for tourism and employment, which lead to increased investment in its tourism and hospitality sectors. To boost up tourism, the government plans to construct an international conference center at Ramnagar in Butwal, which increases the region's potential for economic development.

Butwal Sub-Metropolitan City is one of the few local governments in Nepal which has already created legal frameworks to facilitate private sector participation in local development. The private sector and citizens at large are also positive about the initiatives of the local government. Butwal has a long history of running successful projects through PPP. One of the most successful projects operated through the PPP modality is the integrated auto village in Mainabagar. Other successful PPP projects include multi-purpose commercial buildings, waste management, and parking facilities. Due to previous experience producing multiple large-scale projects using the PPP modality, Butwal Sub-Metropolitan City is trying to develop more critical infrastructures in integrated transport management, tourism development, wetland conservation, waste disposal, and operation of a slaughterhouse. Given the importance of PPP for developing these critical development infrastructures, it is imperative to assess the implementation of the PPP projects so that implementation challenges can be addressed. Accountability Lab seeks to contribute to this and has studied the implementation process of PPP projects to surface lessons. It is an excellent opportunity to ignite discussions on ways to ensure public and private sector partnerships whilst also facilitating meaningful exchange and collaboration between the public and private sectors in Butwal.

³ <https://drive.google.com/file/d/1xn99qtznMHSrg7kyF-vTtMLbDI4kH5Vm/view>

Accountability Lab Nepal is aiming to strengthen the subnational environment for public-private partnerships in Lumbini Province and Province 1, focusing on the subnational level and bringing together key leaders from the private sector, local and provincial government, and civil society to strengthen mechanisms for effective private sector participation in local and provincial governments. Accountability Lab has leveraged its network, relationships, and resources to create feedback loops to foster an enabling environment for the private sector to integrate their voices into policies, programs, and budgets. In the Lumbini province, Accountability Lab's activities are focusing on broadening the participation of the private sector in the PPP projects by helping to strengthen the environment for public-private partnerships. As PPP projects provide a promising avenue for private sector participation in addressing the development needs of the local government, Accountability Lab has focused on PPP projects in Lumbini province. The project activities aim to strengthen bottom-up accountability by enabling effective private sector participation in local and provincial governments. Using Butwal as a reference case, this position paper is conducting a thorough study on the exercise of PPP projects. The rationale for selecting Butwal as a reference case is that it is amongst the few municipalities with a long history of conducting PPP projects and has already developed legislative frameworks to implement future PPP projects.

1.2 Purpose and Scope of the Paper

The paper collects the experiences of different stakeholders who play crucial roles in executing PPP projects within Butwal Sub-Metropolitan City. The purpose of this paper is to inform other local governments in Nepal on the need to develop a citizen-centric perspective when executing PPP projects. Given the urgency to use PPP as an instrument to finance the development needs of local people, none of the local governments can postpone the adoption of PPP as a way to meet the financial needs of the development expectations. The policy paper will document the experiences of Butwal Sub-Metropolitan City so that other local governments can learn from it. The paper will also identify gaps in the PPP implementation process and suggest measures other municipalities should take to reduce such issues.

1.3 Objectives

- To document pertinent issues towards the efforts of local governments to foster partnership with the private sector in selected PPP projects.
- To identify gaps in the management of the PPP projects executed by the local government based on a citizen-centric perspective.
- To recommend strategies to local governments to broaden the avenues of private sector participation.

2. Public-Private Partnership in Nepal

The Government of Nepal enacted the Public-Private Partnership Policy in 2015 and the Public-Private Partnership and Investment Act in 2018. There is general agreement that regulatory and implementing agencies failed to thoroughly analyze previous PPP projects. This led to numerous projects being selected for the wrong reasons. Some experts and leaders in the private sector believe that existing PPP laws are tilted towards the public sector. They cite those contractual conditions are not present for when the private party wants to terminate the contract. In contrast, the legal condition is present when the public entity may wish to terminate the agreement. However, it is essential to note that most PPP experts view recently promulgated legal frameworks positively. Important government agencies such as the Ministry of Finance, National Planning Commission, and Investment Board Nepal have crucial roles in the identification and approval of potential PPP projects, while the respective line ministry is the implementing agency as provisioned in the current PPP legislations. PPP projects include investments, projects, and services that are necessary to fulfil individual responsibilities of implementing agencies while ensuring public interests. The PPP model of investment is used in physical infrastructures and transportation (road, bridge, airports, railways, cable cars, ropeway, and all ports), electricity sector, information and communication sector, solid waste management, drinking water, sewerage and sanitation, education, health-related infrastructure and services, all other sectors of tourism infrastructure except hotels and accommodation and urban amenities (World Bank, 2019).

The Public-Private Partnership and Investment Act 2018 (PPPIA) clarifies the jurisdiction of federal and provincial governments in relation to the approval of PPP-relevant projects. While Investment Board Nepal acts as the approval agency for National level projects, local governments should create institutional arrangements to prescribe procedures for approval. However, projects worth more than 6 billion NRs have to be approved by the Investment Board of Nepal.

Projects are implemented by the respective level of government or ministry depending on the jurisdiction and the schedules of the constitution, except for projects worth more than 6 billion NRs.

As such, the development of infrastructure falls with the ambit of all three levels of government. Because most local and provincial governments have a very limited revenue base, these governments are looking for avenues to raise private funds to provide public amenities. While local governments might still go for the traditional procurement process of contracting for services, local governments



Figure 2: Participants discussing for group activity during PPD in Butwal, Province 1

are also open to PPP investments. However, most PPP at the municipalities is considered for meeting the financing gap of infrastructure rather than considering the efficiency aspect of the private sector (Shrestha et al 2019). Hence, most people involved in PPP discourse still pose a conservative stand of considering PPP as an instrument of meeting the financing gap. PPP projects at local levels do not require their specific prioritization. Techno-economic and market feasibility are deciding parameters for local-level PPP projects. Many experts have stressed the need to identify the shortcomings in the laws related to land acquisition, company regulation, and dispute resolution. Dispute resolution is the most concerning issue of the private sector. For example, the government's ability under the current act to cancel concession agreements without adequate compensation for the concessionaire in Foreign Direct Investment (FDI) and BOOT (build, own, operate and transfer) projects heightens the risk profile for private investors and discourages them from investing in Nepal (ADB 2013). The unpredictability of the legal frameworks at the provincial and local governments levels seems to be the most pressing concern for the private sector. Predictability, coherence, and consistency in legislation across jurisdictions serve to buy the confidence of the private sector by signifying higher levels of political commitment and priority (Harper & Daughters 2007).

3. Methodology

An explorative research design was employed to craft this paper. Accountability Lab Nepal collected most of the data and information using qualitative methods and from a range of primary and secondary sources. Primary data was collected by organizing mini-meetings with separate sets of stakeholders. Additionally, in-depth interviews were also conducted with seven individuals on various aspects of the implementation process of PPP. The methodology also included comprehensive stakeholder mappings in consultation with the local government. Through this stakeholder mapping exercise, Accountability Lab Nepal created a list of critical stakeholders to engage with to better understand the nature of PPP in Butwal. These stakeholders were invited to mini-meetings and asked to list their experiences with PPP projects from their perspective of private sector members, enablers such as local or provincial government members, or affected citizens.

In addition, Accountability Lab Nepal conducted general conversations and informal meetings with local people who were affected by the selected PPP projects. It provided a wealth of information on the consultation process of the pre-feasibility report preparation phase of PPP projects. Lastly, a Public-Private Dialogue was conducted to discuss the experiences of different stakeholders and suggest ways to create an enabling environment for the smooth implementation of future PPP projects. Secondary data was collected from various publications, study reports, feasibility reports, and Butwal Sub-Metropolitan City annual reports.

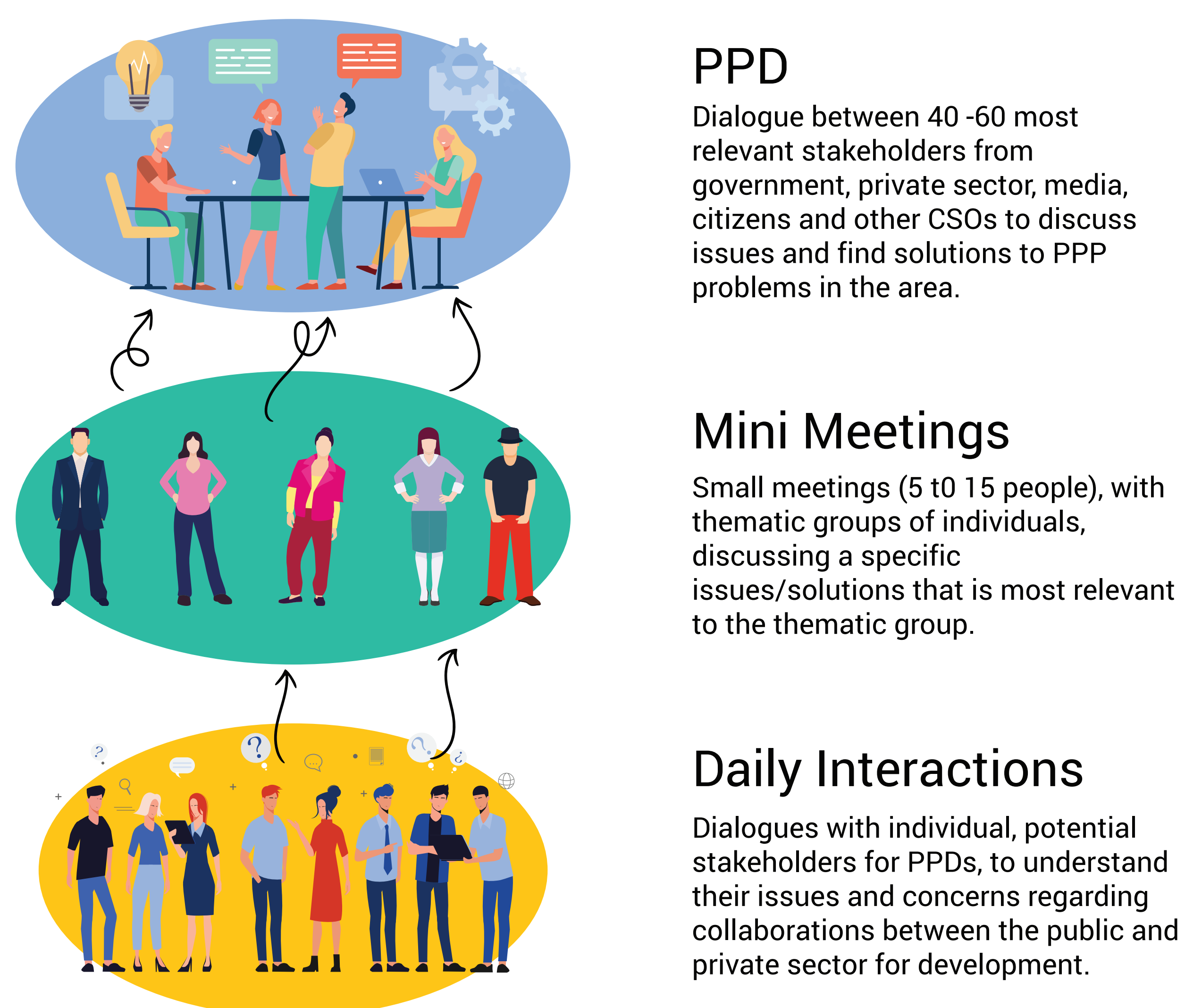


Figure 3: Accountability Lab's data collection methodology

3.1 Mini meetings

Altogether seven mini-meetings were conducted with diverse stakeholders, which provided much-needed information about different stakeholder perspectives on the execution of the PPP projects. Altogether 68 people had participated in these mini-meetings. The figure below provides the details of the stakeholders involved:

Stakeholders reached out during mini-meetings



Figure 4: Stakeholders reached out during mini-meetings

3.2 Informal conversations, interactions and interviews

Informal conversations were conducted with 11 individuals and office bearers. They provided accounts of their involvement with and concern for the PPP projects executed by the Sub-Metropolitan City. The following table displays the stakeholders who were involved:

Individuals	Sector	Number
Office bearers Buwal Municipality	Government	3
Rupandehi Commerce Association	Business Associations	3
NGOs Federation, Lumbini Province	Civil Society	1
University Lecturers	Academia	3
Entrepreneurs	Business	3

3.3 Public-Private Dialogue

The Public-Private Dialogue was conducted to disseminate findings from the mini-meetings as well as informal interactions. The program also enabled the participants to collectively identify problems and propose solutions to the challenges of fostering private sector participation in Butwal Sub-Metropolitan city’s PPP projects. The program also provided an opportunity for the local government to inform the public about various PPP projects. Sixty-five participants attended the program, and the deputy mayor of Butwal Sub-metropolitan city addressed the event.

3.4 Review Meeting

A review meeting was also convened among selected stakeholders. Business sector leaders, local government officials, young entrepreneurs, journalists, and groups involved in PPP projects joined



Figure 5: Participants providing feedback during the review meeting

the meeting to discuss and finalize recommendations that the municipality must implement to strengthen the enabling environment for the private sector and the government sector to partner. Thirty-one individuals had participated in the event. The review meeting accepted the three recommendations and included recommendations related to developing special purpose vehicles (SPV) for financing the projects and creating awareness of the technical feasibility of the PPP projects. The president of the Rupandehi Commerce Association said that “[They] appreciate the efforts of the local government to partner with the private sector but the gap is there. For instance, this program should have been organized by the local government itself”. Another participant representing a private company that entered into an agreement with Butwal Sub-Metropolitan City shared the following:

“We are facing problems of generating adequate equity for the PPP project we are involved in, because the total costs of the project before and after design has doubled and so has our part. We need some financing mechanism to complete the project in time with adequate quality. The review program must suggest to the government to create some mechanism to increase financing of the PPP project.”

The role of associations of businesses is equally important in ensuring that voices of the private sector are included in the government priorities especially in PPP projects. The president of the Butwal Chamber of Commerce and Industry (BuCCI) said that the associations of private businesses should also reflect on their work with regard to PPP projects. He further added, “As associations, we should establish some mechanism with our committees to inform our members of the potential PPP projects floated by the government and use the opportunity of ‘unsolicited proposal’ to suggest suitable PPP projects to the government.”

4. Result/Findings

Butwal Sub-Metropolitan City is one of the few local governments in Nepal that has already established legal frameworks to facilitate private sector participation in local development. Having a long history of running successful projects and experience of executing many large-scale projects through the PPP modality, Butwal Sub-Metropolitan city is striving to develop more projects using the PPP modality to advance critical infrastructures in integrated transport management, tourism development, wetland conservation, waste disposal, and operation of a slaughterhouse.

4.1 Institutional and legal framework

The sub-metropolitan city has already formulated the Public-Private Partnership Policy of 2018, the Public Private Partnership Act and Regulations of 2019. The PPP policy and act emphasizes the importance of private sector participation in developing infrastructures.

3 WAYS TO FOSTER PPP

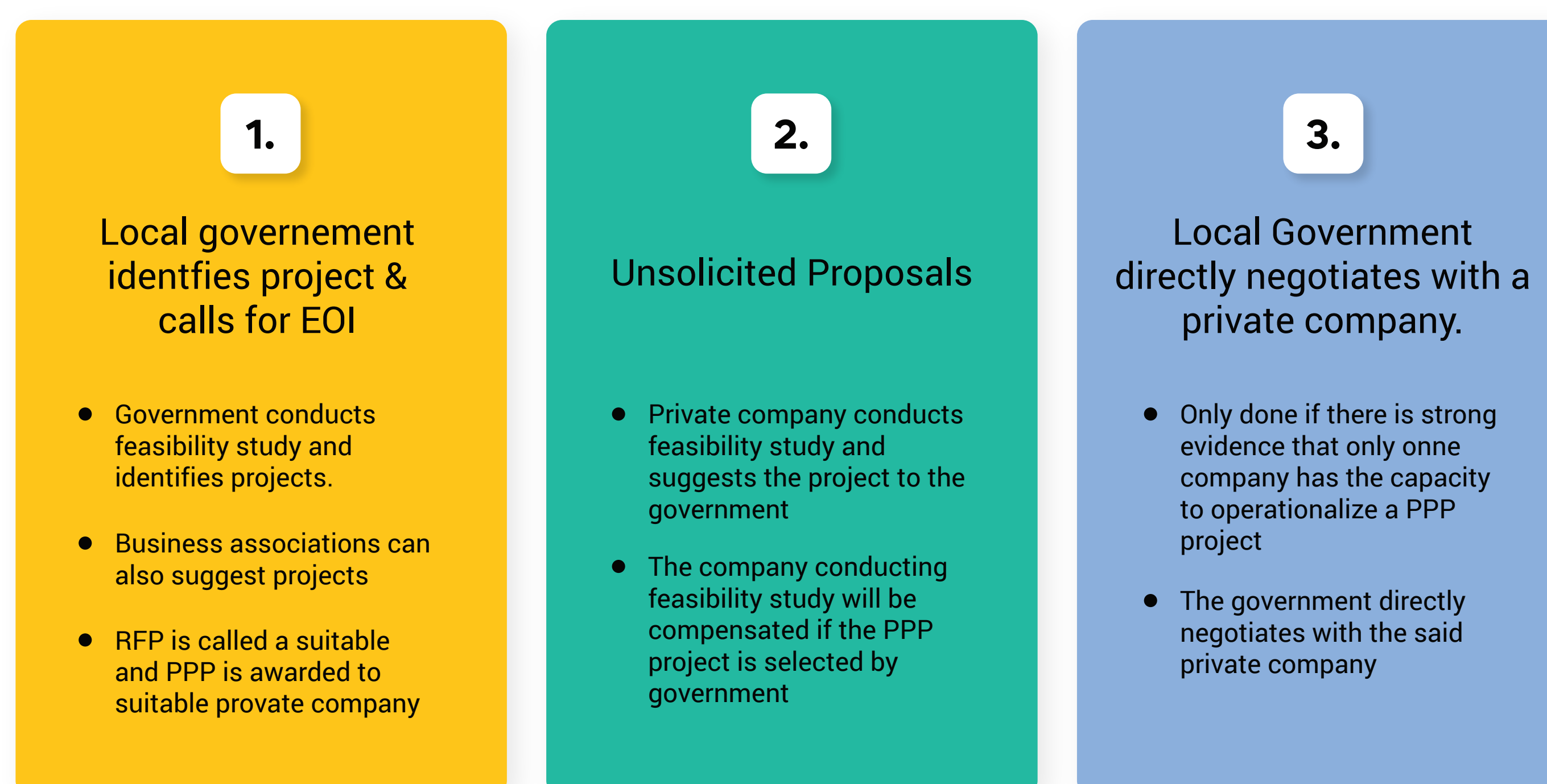


Figure 6: 3 ways to foster PPP according to the PPP Act

The PPP Act provides three different paths to foster a partnership between the public and the private sector. The first route is where the local government identifies a priority project from its usual planning channels, performs the pre-feasibility assessments, and calls for Expression of Interests (EOI) from private companies. There is also space for business associations to identify PPP projects and suggest them to their municipalities. But these suggestions go completely unnoticed as the business associations are part of a small minority, and only larger corporation's proposals are taken into account. Among the qualified parties from the EOI, a Request for Proposal is called and then the award for PPP is entrusted to the private company who is the most suitable for operating the project. There is also a provision for unsolicited proposals for the benefit of the private sector, which is the second path.

Any private company or agency can conduct a feasibility assessment and propose to the local government to submit the project under PPP. If the assessment is approved and selected, but the company itself doesn't get selected as an implementation partner, they will still be compensated financially for conducting the feasibility study. The third path for PPP projects is unique. The local government can directly negotiate with a private agency or company if there is strong evidence that only one company has the capability to operationalize the PPP projects prioritized by the sub-metropolitan city. In such cases, the sub-metropolitan city can directly negotiate with the private agency and award the contract.

Three critical mechanisms have been created to facilitate and govern the process of PPP by the Butwal municipality. The first is the PPP Committee headed by the municipality's mayor and its 11 members. The apex committee awards contracts for projects that cost up to NRs 20 million. For PPP projects with costs more than NRs 20 million, the municipality board must award the contract. The PPP committee includes the deputy mayor, five departmental heads and four nominated members from the private sectors. The PPP Act of 2018 also has provisions for a PPP Unit which is headed by the Chief Administrative Officer of the municipality, has representatives from other departments of the municipality and has a defined PPP focal person. This committee performs the administrative work associated with finalizing the details of the PPP projects, issuing EOI and providing support to evaluate RFP and submit reports to the PPP committee. There is also a *Lekha Jokha* Committee^[4] which produces the assessment report on the project's suitability that is eligible to be listed under the list of PPP projects. *Lekha Jokha* loosely translates to "assessment" in English. The *Lekha Jokha* Committee is also headed by the Chief Administrative Officer and sector experts.

It is compulsory to put all proposals for PPP into a project bank. The concept of the project bank has been derived from the 2019 Federal Public Private Partnership and Investment Act of Nepal. However, suitable projects on PPP are kept in the project bank, and municipalities can choose specific projects from those listed in the project bank. The PPP Act of 2018 has responded to the two demands of the private sector - one of which is related to the provision of 'unsolicited proposals' and the other regarding the availability of land.

4.2 Practice of executing PPP projects

The Butwal municipality has floated seven projects for the fiscal year 2018/19 to be implemented in the PPP modality. The municipality has provisioned that, projects under PPP can be of two types. The first type is related to projects that do not require private-sector capital, except operating the facility. This means that most of the infrastructure will be developed by the municipality, and relevant private sectors will inject capital for the operation of the facility only. The second type is related to the Build, Own, Operate and Transfer (BOOT) modality.

⁴ The Lekha Jokha Committee is formed by the PPP committee for preparing procurement documents and assessing a preliminary feasibility of the proposed PPP projects. The committee is organized at the convenorship of Chief Administrative Officer with 4 additional members from the relevant department

This means that the private-sector can implement PPP projects for infrastructure already built or for projects in which infrastructure should be built. Some of the larger projects being considered by the Butwal municipality to be implemented under PPP are:

- a. Slaughterhouse Operation
- b. Waste disposal management
- c. Transport village management
- d. Tourism for hanging restaurant
- e. Beautification and conservation of wetlands
- f. Street light management
- g. Multi-purpose business complex construction
- h. Integrated commercial and parking complex

The transport village construction project is in the final stage of completion. The municipality has issued an EOI for the slaughterhouse operation and construction of the hanging restaurant. According to the PPP focal person, the municipality has adopted a unique process for selecting projects for PPP. The municipality first discusses with the respective association whose members are likely to have a stake in the PPP project. For example, discussions were held with the Rupandehi Meat Entrepreneurs Association before identifying the slaughterhouse operation as a PPP project. However, this process does not mean the association will get to run the PPP projects, rather involving the respective association only serves to inform relevant stakeholders about the project. The city also conducted a similar discussion with the Transporters Association and Park Management Committee to enlist suitable projects under PPP. The association members themselves establish a private company to bid for the PPP projects. Hence, a private company of transporters got the bid for the construction and operation of the transport village project. This way of garnering support from the relevant stakeholder is important. However, there could also be some backlash. Several academics have raised the issue that this practice promotes a formation of a cartel that forbids other private companies to bid for the projects. One lecturer said that, “the municipality should be cautious to reduce the influence of associations in the design of the projects, as they might propose such a design that benefits private companies established by their members also.” Despite this, the move was appreciated by other private sector players as it ensured that the projects were constructed giving due consideration to the practical experiences of the association members.

4.3 Limited understanding of PPP

It was startling to discover that people associated with PPP and affected citizens had very little knowledge about the Public-Private Partnership, as information regarding the selection and

enlistment of the PPP projects was unknown to the majority of the people. Even entrepreneurs and business association leaders knew little about the various PPP projects floated by the municipality. This was significant considering the institutional provision to include four members from the private sector in the PPP committee headed by the municipality's mayor. Furthermore, private company players, who had undergone partnership agreements with the municipality, had no information on the technical issues of PPP.



Figure 7: PPD participant reading a brief on PPPs

The Advisor to the Association of Transport Entrepreneurs, who is also one of the shareholders of the private Rupandehi Transport Company, said that “[they] lacked understanding on technical issues like rights, risks and obligations while [they] entered into the contract with the municipality”. According to the company's chairperson, the project was initially estimated to cost around 150 million NRs. However, after the design phase fulfilled the safeguarding measures, the project's cost increased to NRs 300 million, meaning the contribution also increased.

Hence, they are not able to raise funds from their investors. Similar remarks were shared by members of the Park Development Committee and Association of Meat Entrepreneurs regarding the inability to understand all provisions of the PPP process.

4.4 PPP projects only pushed by LGs

All of the projects considered by the municipality were developed and pushed forward by the municipality itself. The only case of the private sector proposing PPP projects to municipalities was the slaughterhouse operation. During interviews and discussions, citizens highlighted parking management as a severe concern for Butwal. However, there were no initiatives from the private sector to propose the municipality with suitable PPP projects. The municipality has called for EOI to construct a parking complex, but the private sector has not picked up the idea. Thus, it is seen that the private sector has not utilized the provision of ‘unsolicited proposals’ in the PPP Act 2074. There is a distinct gap between suitable PPP projects proposed by the public sector and the solutions offered by the private sector. The gap presents itself in PPP projects as all PPP projects are pushed by the public sector. In addition, the private sector was found to be discouraged by PPP proposals floated by the public sector.

4.5 PPP limited to projects of physical infrastructure only

Most of the PPP projects floated by the public sector are of great commercial importance. Although it is acknowledged that the commercial viability of the PPP projects is critical to garner support from the private sector, the municipality must also think of developing PPP projects in the service extension sectors of health, education, and agriculture. Many citizens have been vocal about designing PPP projects that extend primary health coverage, enhance education quality, and increase agriculture services. These projects will affect a large number of citizens and contribute to the area's economic development.



Figure 8: Deputy major of Butwal, speaking about the PPP projects pushed by the LG

4.6 Financing for PPP

Another pertinent issue was related to the financing of the PPP projects. The municipality is aware that some financing support is required to push the adoption of PPP projects initially. However, there is a strong need to provide a sustained source of financing for PPP projects. Commercial banks are often not interested in financing the private sector to execute PPP projects. Given the amount of finance required for PPP projects, it is unlikely that private companies can finance the projects with their equity alone. Since the PPP projects are of public concern, the municipality can design some mechanism under which commercial banks take part in financing the PPP projects on behalf of the private sector. Financing is a critical issue that the municipality and private companies must address.

4.7 Trust deficit

The private sector exhibited a trust deficit in their partnership with the public sector for PPP projects. Although a small portion of the private sector agrees that the municipality has done enough to promote partnership between private and public sector, the majority of the private sector, mainly the business association, believe that there is still a need to increase trust. The private sector desires institutional platforms where they can voice their concerns and address them. All leaders who represent the private sector understand the importance of the PPP for infrastructure development. Although the PPP committee has members from the private sector to identify suitable PPP projects, all sections of the private sector, especially business associations and entrepreneurs, feel that the public sector should create a more institutionalized platform.

This platform would support the private and public sectors to discuss, identify and design suitable PPP projects. One of the most important lessons gained from the informal meetings and the Public-Private Dialogue was that the local government needs to invest in mechanisms that promote trust with numerous private sectors in Butwal. Private sectors are represented through diverse sets of business associations in Butwal. Yet, some of the private sectors have not received information regarding Butwal Sub-Metropolitan City's efforts on PPP projects.

A young entrepreneur, who represented the Nepalese Young Entrepreneur Forum, highlighted the trust deficit during the review meeting of the policy paper. He said "There is clearly a trust issue in big projects where the government is involved with regard to implementation pace and decision making of the local government. If this is involved as young entrepreneurs, we are looking for new avenues to partner in building infrastructures." Organizing a Multi-Stakeholder Platform (MSP) to inform all private sector divisions will help generate an environment of trust between the public and the private sectors. The existing practice of selecting projects through a committee formed by the mayor may not be all that encompassing to support the participation of broad private sector divisions. One of the participants in the Public-Private Dialogue suggested that "Since it is clear that PPP provides much needed sources of finance for infrastructure development to municipalities, it is important that identified projects are considered important by all sectors of the private sector as well".



Figure 9: Young Entrepreneur from NYEF, speaking of trust issues between public and private sectors

4.8 Pace of project implementation

The pace of project implementation is considered very slow by the association leaders working to develop suitable PPP projects. One of the primary reasons for the slow pace is the lack of conceptual clarity amongst private companies regarding their role in the PPP projects. Due to the slow pace of the finalization and agreement process, many investors start to question if the project will be conducted or not. Therefore, the public sector must fasten the implementation pace of the agreements.

4.9. Citizens as the missing link

Representatives from civil society and beneficiary groups were very vocal regarding the consultation process of infrastructure projects before starting the partnership. In most PPP and development projects, beneficiary concerns are often overlooked. Discussions with citizen groups and affected populations were found to be the missing link in the design and the implementation phase of the PPP projects. While a meeting was usually conducted with all concerned groups, it focused on informing affected populations on the PPP projects without soliciting their input. Also, no feedback loop was created where the public sector could address citizens' concerns. Furthermore, citizens were often unaware of the PPP projects' effect on them. The affected citizens need a platform to voice their concerns related to PPP projects' design, implementation, and pace.

5. Analysis

Local governments use instruments of Public-Private Partnership (PPP) to arrange for infrastructures and services. The implementation of the existing partnership model between local governments and the private sector is mired with ambiguity in areas of project identification, project feasibility, project prioritization, and information dissemination. Prioritizing projects based on citizens' actual needs is crucial. Need-based projects ensure citizens are happy. They also make it easier for local governments to secure private-sector commitments compared to projects that do not directly address citizens' needs.

Meeting citizens' aspirations for local infrastructure services in partnership with the private sector has its own challenges. Catalyzing private sector investment for public infrastructure is complex, yet vital as public funds are insufficient to finance all local infrastructure needs. While PPP is quite technical, using PPP to finance local infrastructure projects is not. The application of PPP as an instrument to finance local infrastructures is heavily affected by the governance of the process. This section discusses issues in increasing the adaptability of the PPP model to finance local infrastructure needs and designing suitable measures to ensure wider involvement of private sectors in local-level infrastructure projects.

5.1 Improving the governance of PPP projects

The governance process related to the partnership of the private sector to meet financial and management needs for local infrastructure development is well outlined in the Public-Private Partnership (PPP) policy 2074, PPP Acts 2074, and PPP rules 2076. Institutional arrangements focus more on the technical component of the PPP process rather than the governance component. The PPP and the Lekha Jokha Committees are organizational structures created at the local level to govern the PPP process. While certain sections of the private sector commend the local government's efforts on PPP project identification, the local citizen's experience exposes a severe lack of knowledge and ownership of the government's effort to include their voices in PPP governance.

The relatively limited space for participation of citizens and the private sector has created mistrust between the private sector and the government. Lack of trust produces an information and communication gap that manifests itself through contestations, criticisms, unwillingness to partner with local government, and physical resistance in extreme cases. Though these effects are limited to specific projects, greater negative effects can be seen in the distrusting relationship between the private sector and local government, which severely affects the local government's capacity to meet the infrastructure-related development needs of its citizens.

5.2 Building trust with the private sector

The local government needs to invest in a mechanism that creates trust with various private sectors in Butwal. In Butwal, private sectors are represented through diverse sets of business associations, yet some private sectors have not been given information regarding the efforts of Butwal municipality. The existing practice of selecting projects through the mayor's Public-Private Partnership Committee may not allow broad sections of the private sector to participate. The PPP provides much-needed financial resources for infrastructure development to municipalities. Therefore, identified projects must be considered important by all divisions of the private sector. Engaging private sectors to use their finances and management capability depends upon the efforts of the local government to build a trusting relationship with the private sector. The review of the existing process of PPP projects is also vital as it gives much-needed knowledge to augment changes in the implementation course. Inadequate engagements with local development stakeholders to review the process are detrimental to correcting current processes.

Engaging wider sections of associations of business leaders in the initial phase of identifying relevant infrastructure development plans for PPP would surely generate commitments from the private sector to partner in the later phase of building the infrastructure. Business association leaders identified the need to engage their members to prioritize probable infrastructures of concern. Further, representatives from business associations must also conduct discussions to propose suitable local infrastructure projects collectively. The private sector should use the provision of 'non-solicited proposals', under which the private sector can also present relevant infrastructure projects that can be financed through PPP.

5.3 Addressing concerns of the affected citizens

The voices of affected citizens are heard, yet are not considered in the PPP projects. It is essential that affected citizens are informed and thoroughly consulted on PPP Projects and that their concerns are adequately addressed.

Currently simply informing citizens on projects is seen to meet the minimum communication requirements. Citizen groups can create a massive hurdle in the project's implementation phase, which is why the private companies investing in the PPP projects should know their concerns. As such, it is the public sector's responsibility to ensure that the concerns of the affected population are heard and that the feedback loop is completed.



Figure 10: Affected citizen voicing her concern during the PPD

6. Conclusion and Recommendations

Participation of the private sector in local level development has received renewed attention in Nepal due to Nepal's move towards federalizing its government and promulgating the 2015 Constitution of Nepal. Local governments in Nepal have resorted to partnering with relevant private sectors to fund their infrastructure development priorities. Furthermore, the success of the local governance system largely depends upon the management of successful partnerships with the private sector. While there is some clarity on implementing projects using PPP, there are still controversies surrounding project identification, project prioritization, addressing concerns of affected populations, and building an environment of trust among the private sector. The municipality should create spaces to ensure that opinions of affected populations are considered during a project's implementation, which can be done by periodically conducting Public-Private Dialogue on local PPP infrastructure projects. The municipality should also make the project selection process more transparent by incentivizing the private sector to present suitable PPP projects collectively rather than individually. Projects forwarded collectively by private sectors should be given special consideration by the municipality and listed in project banks for future reference. The report on feasibility analysis must also represent the concern of the affected populations. These efforts of the municipality will contribute to building an environment of trust between the public and private sectors, play a pivotal role in catalyzing private sector investment and involvement, and guarantee access to local infrastructure services to citizens.

The following recommendations are suggested from continued dialogue with major stakeholders to improve the scenario of public-private collaborations in Lumbini Province.

6.1 Institutionalize Public-Private Dialogue

The local government should create ongoing opportunities for open dialogue and consultation among diverse stakeholders, conduct periodic reviews of existing PPP projects, and implement appropriate strategies. The municipality should organize a Public-Private Dialogue (PPD) program, or any other institutional mechanism, to review the implementation of current PPP projects. A broad range of stakeholders must be involved in this process, including affected populations, the private sector, municipality, local academia, and media. The municipality must conduct the PPD periodically so that all sections of the society have their voices represented in the PPD. The municipality should create a forum where affected citizens, implementing private entities, and watchdog organizations can raise their voices and provide effective solutions for any problems that emanate during the implementation of PPP projects. This forum will also help establish communication channels between affected citizens, implementing entities, and the municipality. The municipality should institutionalize practices of organizing PPD on issues related to PPP projects. Such provisions will help materialize policy objectives 9.1 and 9.3 of the Public-Private Policy 2074 of Butwal Municipality. PPDs also function as independent assessments of existing projects and suggest ways to take corrective measures. This should be seen as a way for the municipality to broaden the space for the participation of private sectors, establish communication and feedback channels, and institutionalize representation of affected populations' concerns.

The local government needs to include private sectors and citizens and recognize their opinions regarding PPP projects.

6.2 Incentivize the Private Sector

The municipality must create a mechanism to ensure that transformational projects identified by the private sector are included in the project bank and annual programs with resource allocation. The private sector should identify suitable PPP projects and commit their resources. The municipality should take into consideration the priorities expressed by private sectors while it prioritizes projects. The municipality must incentivize the private sector to collectively identify suitable PPP projects rather than individually. The private sector represented by various business associations must jointly work to identify relevant projects and forward them to the municipality. The municipality should prioritize projects that various business associations jointly present to incentivize private sectors. A clear appraisal guideline must be developed for projects which associations of private sectors collectively advance. Such appraisals must assess the potential of PPP projects to contribute to economic growth, reduce business operating costs for the business community, and increase the competitive edge of private sectors in Butwal. The appraisal guideline for special PPP projects submitted by the private sector associations must include assessments of the PPP project's ability in increasing the competitive edge of private enterprises, contribute to economic development, and reduce the logistics costs of business enterprises operating in Butwal.

6.3 Ensure Citizen Participation

Ensure citizen engagements during the feasibility report and Detailed Project report preparation phase of the local infrastructure projects. The municipality prepares a pre-feasibility report and assessment report while facilitating the selection of a PPP project. The information mentioned in these reports forms the basis of selection by the private sector. Therefore, these reports should include and record the voices of affected citizens. This would ensure that both the local government and private companies are aware of the concerns raised by the affected citizens. This provision would allow private companies to contemplate the risks associated with the project to assist them in making their decision. The assessment report prepared by the Lekha Jokha committee should include a section where affected citizens' voices are recorded, and the assessment committee must take into account the voices of the affected citizens while producing the final report.

6.4 Create Special Financing Mechanism

There is a need to create a viable funding mechanism to support private sectors to secure funds for the PPP projects. During discussions, stakeholders identified difficulties in raising funds for the PPP projects. It is recommended that municipalities create a unique mechanism that allows

private companies to access funds from cooperative or commercial banks except for equity investment. In PPP projects, there is the difficulty of collateral. For big PPP projects, municipalities can negotiate with commercial banks or cooperatives and ensure that they partly invest in the PPP projects and consider the municipality's involvement as collateral.

6.5 Increase Knowledge on the Technical Aspects of Operating PPP Projects

The municipality should provide information on the technical aspects of PPP- issues related to risks, rights, and obligations of the private companies in the PPP projects. Municipalities should conduct prior discussions with the interested parties regarding the contractual obligations of the party.

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