

**CONTRIBUTION BY HON. ELMA DIENDA, MP
ON SECOND READING
OF THE PUBLIC PRIVATE PARTNERSHIP BILL (2016)**

16 NOVEMBER 2016

Hon. Speaker, Hon. Members,

I rise to contribute to the discussion on the Second Reading of the Public Private Partnership Bill (2016).

From the Mid-Year Budget Review and Re-appropriation Bill that were tabled in this House recently by the Hon. Minister of Finance, there is no doubt that Government will not be able to finance needed capital projects and provide certain essential services by itself.

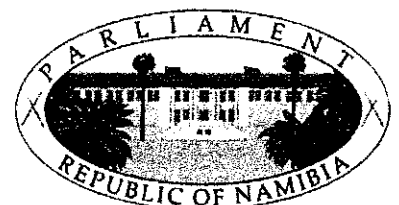
The public will be the one to suffer if Government is not able to fund important projects like servicing of land and providing basic services like health care and education.

Public Private Partnerships (PPPs) are intended to fill the financial gap which Government alone cannot finance due to, as the Hon. Minister likes to say, "limited fiscal space."

It is therefore obvious that if utilized and implemented properly PPPs can be of great help to implementing the capital projects that the Government cannot finance.

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Hon. Speaker,

CONTROLLING PRICE OF SERVICES/GOODS FROM PPPs

It is no secret that government procurement is surrounded by a lot of controversy. I don't have to remind the Hon. Members about the many government tenders where allegations of corruption and conflict of interest have arisen. *We need to give clear instructions to bidders to prevent manipulation or abuse of the process and the requirements of the bidding documents under this Act.*

Whilst I know that this is not the same type of procurement as with the Public Procurement Act, it remains public procurement, so it is important that the process is fair and transparent.

But before I go into those aspects, I want to just raise a few general concerns on how these partnerships could affect the price of public goods.

We have already seen how Municipal Councils outsourcing land servicing through PPPs has lead to a huge increase in the costs of serviced plots. The same could be true for any other future PPPs. What measures will be put in place to ensure that this venture does not just end up in the privatization of public services and goods? For example, where a PPP is entered into for a private company to provide health services, what will be done to ensure that the service will remain affordable to the public and not become too expensive? Because if the service becomes completely privatized, then it could mean that those members of the public who cannot afford it, will have no access to it all. This has been the case with the PPPs used by the Municipalities to service erwen. Erwen have simply become unaffordable and the PPPs have done more harm than good.

This is my biggest worry with PPPs which will effectively see PPPs take over a part of Government's work. From the Bill, I do not see that there are any genuine measures in place to ensure that these services still remain affordable to the public.

Hon. Members,

PPPs are not unique to Namibia. The strange thing however is that in our PPP Bill, there is no provision made for the Auditor General to audit all PPPs entered into by Government. I would like to believe that this was just a mistake and that the Bill will be corrected for the Auditor General to audit all PPP agreements and to table the audited reports in this House for consideration.

I have also noticed that there is no fixed time period placed on the length of PPPs. We have previously seen many Government M/O/As outsource certain functions through PPPs and enter into very long-term or open-ended contracts with private companies that do not say when the contract will terminate. Will there be any time limits placed on PPP?

Hon. Members,

COMPOSITION OF PPP COMMITTEE

The PPP Bill creates a Unit under the Ministry of Finance to be known as the Public Private Partnership Committee.

I would like to raise various concerns with regard to how this body will be constituted.

Firstly, Section 8 of the Bill only states that the PPP Committee must be composed of between 5 and 10 people. The section further only says that the Minister of Finance must appoint the Chairperson of the Committee, the Attorney General must appoint one person to the committee, the Director-General of the National Planning Commission (NPC) must appoint one other person to the Committee and then the Minister of Finance may appoint "such other persons" as they please.

There are no professional requirements provided that members of this Commission must satisfy in order to be appointed, the numbers of the members of this Commission can range from anywhere between 5 and 10, with the Minister of Finance potentially directly appointing 7 out of the 10 members of the Commission.

The current phrasing of Section 8 is too vague and puts the Minister of Finance in a position where he/she could unfairly be accused of appointing members to the Commission so as to control the procurement process. This is especially true where there are no direct guidelines as to professional qualifications and experience that is required from members of the Commission. Even where there is no intention to control the decisions of the Commission by the Minister, it is always best that the composition is in such a way that such an impression is not wrongly created.

For example, in the case of the Employment Equity Commission, members of the Commission are appointed from different stakeholders in society. Doing this with the PPP Commission would be a much better and more transparent way.

Hon. Members,

Just as with the Employment Equity Commission, I would also suggest that the appointment of these members be subject to the approval of Parliament or even a specific parliamentary Standing Committee.

I say this because whilst Section 8(5) states that the Minister must publish the names of persons who have been appointed to the Commission in the *Government Gazette*, the next section then proceeds to say that even if the names are never published and made public, such appointments are still valid. Section 8(6) indirectly invalidates section 8(5), and in effect means that Section 8(5) is just a suggestion, but does not really need to happen.

When you consider, as I already said before, that the Bill does not make provision for the Auditor General to review and audit PPP agreements, this could create secrecy around this Commission.

Additionally, Section 11 of the Bill limits the Term of Office of Members of the Commission to 3 years, but then states that members may be re-appointed again after expiry of the 3 years. The section does not tell you how many times someone can be re-appointed. A provision needs to be added to this section which states exactly to how many terms each member of the Commission is limited to e.g. 2 or 3 terms.

Lastly, section 14 gives the Minister complete and unguided powers to determine the allowances of members of the Commission. This once again puts the Minister in a position where he given vague and open powers which could see him being accused of corruption, merely because

of how the Bill is phrased. It would make more sense to state that a specified Committee or the Public Service Commission will determine the allowances of Members of the Commission.

Hon. Speaker, Hon Members,

The Public Private Partnership Commission is effectively the executing body that this Bill tries to create. However, under its current composition, I have many reservations.

Therefore, whilst I support the creation of the PPP Unit and PPP Commission under the Ministry of Finance *in principle*; it's current configuration which lacks gender sensitivity and due to the lack of in-built auditing and accountability, I retain very strong reservations about the Bill.

THANK YOU.