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WASH INVESTMENT ENABLING ENVIRONMENT DIAGNOSTIC TOOL

USAID Expanding Water and Sanitation

June 24, 2022

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USAID EXPANDING WATER AND SANITATION

Program Title: Expanding WASH
Sponsoring USAID Office: USAID/Zambia
COR: Mundia Matongo
Contract Number: 72061122C00004
Contractor: RTI INTERNATIONAL
Sub-Contractor: PLANET PARTNERSHIPS, LLC
Date of publication: June 24, 2022

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ACRONYMS

AfDB	African Development Bank
GIZ	Deutsche Gesellschaft Für Internationale Zusammenarbeit
JICA	Japan International Cooperation Agency
PACRA	Patent and Company Registration Agency
PPD	Public-Private Dialogue
PPP	Public-Private Partnership
PSE	Private Sector Engagement
USAID	United States Agency for International Development
WASH	Water, Sanitation, and Hygiene
ZEMA	Zambia Environmental Management Agency

SECTION NO. I

INTRODUCTION

United States Agency for International Development (USAID) has launched the Expanding Water and Sanitation project (Expanding WASH) in Zambia to support the professionalization of water, sanitation, and hygiene (WASH) services, promote accountability for reliable and high-quality WASH services, and to enhance the enabling environment for private sector engagement (PSE) in WASH service delivery.

Planet Partnerships is supporting the execution of this mandate through the design and implementation of PSE strategies to facilitate private sector-driven and sustainable access to safe WASH services in the Northern, Western, Southern, and Muchinga Provinces. Specifically, Planet Partnerships' scope includes the following technical areas:

- **Policy:** Conducting diagnostics and assessments of the enabling environment for investment and private sector participation in the WASH sector and supporting reform efforts to strengthen the framework.
- **Pilots:** Identifying, screening, and piloting projects and transactions to introduce and strengthen private sector participation in the WASH sector.
- **General PSE and Partnerships:** Facilitating public-private dialogue (PPD), strengthening PSE strategies, and supporting the project team in PSE and partnership development.

This Report lays out the **WASH Investment Enabling Environment Diagnostic Tool**, which will be used to assess the prevailing investment enabling environment in the WASH sector in Zambia and develop corresponding recommendations for potential short- and long-term reforms.

SECTION NO. 2

TOOL OBJECTIVE AND METHODOLOGY

The **WASH Investment Enabling Environment Diagnostic Tool** is designed to provide a systematic and objective assessment framework for evaluating the quality and effectiveness of the status quo governance systems for investment in the Zambian WASH sector.

The Tool will not only allow for a rapid assessment of the existing enabling environment, but also allow for the identification and development of short- and long-term recommendations for reform. Given the structure of the Tool, the Expanding WASH project can refresh the analysis to assess progress across key interventions aimed at enabling environment reform during the life of the project.

The Tool is composed of three primary analytical phases described as follows:

1. Business Climate Benchmarking

This component benchmarks international best practices in the investment climate and economic development by deconstructing the Global Competitiveness Index.

2. Investment and Public-Private Partnerships Benchmarking

This component benchmarks two international best practice PPP appraisal indices, including the Infrascope Index and the World Bank Benchmarking Infrastructure Development report.

3. Diagnostic Assessment

This component entails a diagnostic assessment framework for the objective and standardized analysis of two key elements of the national PPP system: i) the Legal and Regulatory Framework and ii) the Institutional Architecture.

Each of these analytical stages feed into recommendations and key take-aways to inform both short- and long-term enabling environment reform.

TOOL TEMPLATE

OVERVIEW

The Team will complete three core analytical steps to conduct the enabling environment diagnostic:

1. Business Climate Benchmarking
2. Investment and PPP Benchmarking
3. Framework and Institutional Architecture Diagnostic Assessment

The process for these three stages is outlined below.

1. BUSINESS CLIMATE BENCHMARKING

Before focusing on the specific investment framework for the WASH sector in Zambia, it is important to undertake a broader benchmarking review of the business enabling environment. A permissive investment climate empowers commercial enterprise while eliminating ineffective regulatory procedures. The broader business climate is critical to understand when considering how to best attract investment in WASH infrastructure development and service delivery.

To undertake a rapid assessment of this broader context, the Team will deconstruct the findings from the Global Competitiveness Index. This international best practice index scrutinizes, scores, and ranks a diverse range of socio-economic indicators that materially impact on the ability of private enterprise to advance economic development through commercial exchange, livelihood creation, and market development.

Given the context of the WASH sector in Zambia, the Team will specifically focus on the following criteria covered under the index while reviewing the full results of the Global Competitiveness Index assessment:

- Institutions, which focuses on the capacity of key actors that will be involved in the transaction development process
- Infrastructure, which provides context on the current state of infrastructure in-country as well as existing needs
- Macroeconomic Stability, which focuses on the broader macroeconomic environment within which we will be operating and that will be impacting key aspects, such as currency valuation and economic cycles
- Labor Market, which assesses the human capital available in-country
- Market Size, which determines the broader demand base that the transactions may be tapping into
- Business Dynamism, which assesses the innovation and ability to grow for existing enterprises in-country

These are the criteria that have the greatest relevance to the analysis. Both high and low scores are important to discuss in the context of the country and project in question.

To present the findings in a way which enables for swift interpretation of findings and streamlined refreshes of the study, the Team has designed the following matrix for analysis:

Table 1: Business Climate Benchmarking Assessment

BUSINESS ENABLING ENVIRONMENT ASSESSMENT			
Index	Indicator	Score	
Global Competitiveness Index	Overall Score		100
	Institutions		100
	Infrastructure		100
	ICT Adoption		100
	Macroeconomic Stability		100
	Health		100
	Skills		100
	Product Market		100
	Labor Market		100
	Financial System		100
	Market Size		100
	Business Dynamism		100
	Innovation Capability		100
<p>Interpreting the Results</p> <p>The <i>Global Competitiveness Index</i> presents a rigorous analysis of 12 diverse factors that drive economic competitiveness and human development. This index presents a complex analysis of socio-economic dynamics in Zambia. Key take-aways in the focus criteria include the following:</p> <ul style="list-style-type: none"> · Institutions · Infrastructure · Macroeconomic Stability · Labor Market · Market Size · Business Dynamism 			

This analysis will take place first before moving forward with the Investment and PPP Benchmarking analysis.

2. INVESTMENT AND PUBLIC-PRIVATE PARTNERSHIPS BENCHMARKING

Building on the broader enabling environment assessment, the Investment and PPP Benchmarking analysis deconstructs the Infrascopes and World Bank Benchmarking Infrastructure Development Index to establish an overarching perspective on the

prevailing PPP framework. These indices each scrutinize, score, and rank a diverse range of indicators related to the effective and efficient functioning of PPP regimes.

The Team prepared the following matrix to capture the key take-aways from this analysis:

Table 2: Investment and PPPs Benchmarking

PUBLIC-PRIVATE PARTNERSHIPS REGIME ASSESSMENT			
Index	Indicator	Score	
Infrascopes Index	Regulations		100
	Institutions		100
	Maturity		100
	Investment & Business Climate		100
	Financing		100
<p>Interpreting the Results The <i>Infrascopes Index</i> evaluates the ability of 67 countries to implement sustainable and impactful PPPs in key infrastructure sectors, namely water, waste, transport, and energy. The results are detailed as follows:</p> <ul style="list-style-type: none"> · Regulations · Institutions · Maturity · Investment & Business Climate · Financing 			
Index	Indicator	Score	
Benchmarking Infrastructure Development	Preparation		100
	Procurement		100
	Contract Management		100
	Unsolicited Proposal		100
<p>Interpreting the Results The <i>Benchmarking Infrastructure Development</i> report examines the regulatory frameworks governing the preparation, procurement, and management of infrastructure projects in 140 countries through both PPPs and traditional public investment. The results are detailed as follows:</p> <ul style="list-style-type: none"> · Preparation · Procurement · Contract Management · Unsolicited Proposal 			

Following the completion of the PPP benchmarking analysis, the Team will proceed to undertake the deconstruction of the legal and regulatory framework in Zambia governing investment in the WASH sector, as well as the institutional architecture.

3. FRAMEWORK AND INSTITUTIONAL ARCHITECTURE DIAGNOSTIC ASSESSMENT

The Team will conduct a diagnostic assessment of the primary legal, regulatory, and policy instruments that establish the governance framework for PPPs and water sector investments in Zambia, as well as the institutional architecture. This two-stage analysis is laid out below.

I. LEGAL AND REGULATORY FRAMEWORK

This analysis will focus predominately on a core set of legislation, regulations, and policies, but will also include review of a secondary set of pertinent framework components to harmonize findings. The table below provides an overview of the legislation, regulations, policies, and other documents to be assessed:

Table 3: Legal and Regulatory Framework for Analysis

Category	Legislation, Regulations, and Policies
Primary Focus of Analysis	<ul style="list-style-type: none"> · The Public-Private Partnership Act, 2009 (PPP Act) · The Public-Private Partnership Act (Amendment), 2018 · The Public-Private Partnership (Amendment) Act, 2021 · The Public Procurement Act, 2020 · Seventh National Development Plan · National Water Sector Policy 2010 · Water Supply and Sanitation Policies · Water Supply and Sanitation Act No. 28 of 1997 · Public Financial Management Act 2018 · Water Resources Management Act 2011 · The Constitution
Secondary Contextual Review	<ul style="list-style-type: none"> · Local Government Act No.2 of 2019 · The Environmental Management Act of 2011 · Environmental Management (Licensing) Regulations No. 112 of 2013 · The Zambia Development Agency Act of 2006 as amended by Acts Nos.5 of 2009,1 of 2010,12 of 2012 and 17 of 2013 · Public Health Act · National Environmental Policy · National Gender Policy · The National Water, Sanitation and Hygiene (WASH) Communication Strategy 2019-2030

The Team understands from stakeholder consultation during the May mission to Lusaka that legislation governing small-scale partnerships and transaction is currently under consideration. This development will be taken into consideration when completing the legal and regulatory framework.

The analysis will focus on determining how the current framework meets the following evaluation standards, determined by what is considered good practice in enabling successful PPPs, as well as other forms of transactions, in the WASH sector:

- Eligible PPP sectors, structures, maximum /minimum deal sizes, and contract terms are clearly defined
- Procurement procedures define mandatory methodologies for transaction development, feasibility testing, and risk identification/allocation

- Regulations, guidelines, and/or manuals provide detailed procedural guidance to institutional stakeholders on the implementation of the PPP framework
- Defined methodologies and formula to regulate the setting of tariffs and fees for commercial utilities and infrastructure
- Fiscal commitments and contingent liabilities are identified and analyzed according to a defined and thorough methodology
- Commitments and requirements related to sustainability and social inclusion are clearly defined and enforced

In each of these areas, the Team will identify:

- The extent to which the Zambian framework defines each area in accordance with best practice and contextual appropriateness
- Impediments or obstacles created by the existing framework
- Opportunities for further enhancement of the existing framework
- Mapping of existing gaps or areas of ambiguity in the framework

These findings will feed into recommendations for a short-term and long-term reform action plan.

II. INSTITUTIONAL ACTORS

Critical to the overall enabling environment is the ability for the institutional architecture to support the framework in practice. As such, the second stage of this analysis will focus on key institutional actors. The following key actors have been identified as the basis of this assessment:

Table 4: Institutional Actors

Type	Legislation, Regulations, and Policies
Government/Public	<ul style="list-style-type: none"> · Ministry of Water Development and Sanitation · Water Resources Management Authority · Local Authorities · Commercial Utilities · Ministry of Local Government and Rural Urban Development · National Water Supply and Sanitation Council · Zambia Environmental Management Agency (ZEMA) · Ministry of Health · Zambia Development Agency · Ministry of Community Development and Social Services · Ministry of Education, Vocational Training and Early Education · Ministry of Finance and National Planning · Office of the President · Patent and Company Registration Agency (PACRA) · Water Trusts in Communities · Ward Development Committees
Non-Government	<ul style="list-style-type: none"> · Donor agencies, such as Japan International Cooperation Agency (JICA), Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), African Development Bank (AfDB), USAID, and others · Formal private sector operators

Type	Legislation, Regulations, and Policies
	<ul style="list-style-type: none"> · Informal private sector operators

In undertaking this evaluation, the Team will focus analysis of the institutional architecture in assessing whether the following evaluation standards that are considered good practice are in place:

- Hierarchical decision-making authority, distinct responsibilities, and reporting requirements characterize the institutional apparatus
- A PPP Unit or equivalent institution provides technical assistance to implementing agencies, promotes and mainstreams PPP development, and/or advises government
- Established processes dictate institutional coordination and cooperation throughout project identification, preparation, packaging, procurement, and implementation

The Team will then determine existing gaps, areas for improvement, and the need for reform within the prevailing institutional architecture.

SUMMARY OF RESULTS

Following the completion of the benchmarking analysis and diagnostic, the Team will then present an overview of the key findings and recommendations for future short- and long-term reforms. Specifically, the Team will organize and synthesize results in four key sections:

- Overview of Findings
- Areas for Improvement and Existing Barriers
- Opportunities
- Take-Aways and Recommendations

SECTION NO. 4

NEXT STEPS

In terms of next steps, the Team will proceed to the following stages of the Investment Enabling Environment tasks (which align with Tasks 3.1.2 and 3.2.1 in the Year 1 Work Plan). These steps include the following:

- Conducting the assessment using this WASH Investment Enabling Environment Diagnostic Tool and sharing the findings.
- Interpreting the findings and developing recommendations for short-, mid-, and long-term investment enabling environment reform, which will form the basis of the Year 1 Task 3 Roadmap.
- Supporting the design of the WASH Investment Enabling Environment discussion and validation sessions, which will feed into the policy and regulatory reform component of the PSD long term strategy and action plan.

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