

Public-Private Partnership (PPP) as an Alternative Model to Public Infrastructure Development and Service Delivery: The Case of PPP-Public Markets in the Philippines

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Abstract

The study examined the internalization of core-values of New Public Management (NPM) among Local Government Units (LGUs) in the Philippines in their effort to reform the management and operation of public markets. Using Public-Private Partnership (PPP) as a framework of NPM for infrastructure development and service delivery, the study assessed the performance of PPP/BOT Public Markets in addressing the perennial problems of public markets in the Philippines. It inquired whether or not PPP as an instrument of reform has improved the management and operation of public markets.

To substantiate the assessment, five pioneering PPP public markets in the country were examined, namely; Mandaluyong Public Market in Mandaluyong City, Carmen and Cogon Public Markets in Cagayan de Oro City, Suki Market in Quezon City, and Bocaue Public Market in Bocaue, Bulacan. It used *organization and management, the scope of facilities and services, LGU-revenue income and expenditures, and income of market vendors*, and *client satisfaction on the quality of facilities and services* as performance indicators. The data of the study were obtained through combined research methodologies such as case study, content analysis, ocular inspection, and interviews with the city and municipal administrators, market administrators, market vendors, and officers of market vendors associations.

The study shows that while PPP has improved the performance of public markets during the early years of operation, these gains and all advances were not sustained by the LGUs when management and operation of public markets were turned over to them from the private project proponent-operators. The study argued that in order to sustain public-private partnerships in the operation of the public market, it is imperative to institutionalize reforms in the structure, processes, mindsets of the leaders, and stakeholders. The institutionalization of NPM's core values can be carried out effectively through localization of PPP as a policy so that the necessary legal and institutional frameworks for PPP will be anchored based on the need, strength, and weaknesses of the LGU concerned.

The study makes a positive contribution to the on-going discourse on public sector reform in the Philippines particularly at the local level using PPP as a model. It enriches not only the literature of Public Administration but also provides valuable lessons in the praxis of governance.

Keywords: New Public Management, Reinventing Government, Public Sector Reform, Public-Private Partnership (PPP), PPP-Public Markets in the Philippines, Republic Act 6957 - Build Operate Transfer (BOT) Law

1. Introduction

New Public Management (NPM) has placed a new emphasis on the importance of management and “production engineering” in public service delivery (Hood, 1989); (Pollitt, 1993). It advances public service reform directed primarily on the “managerial aspect” of public organizations that underscore what management could and should do to the quality and efficiency of public services. It provides mechanisms that cut public-sector expenditures, encourages delegation of responsibilities to the private sector, and fosters voluntary engagement of the private sector aiming at providing public goods. NPM is said to be the combination of market mechanisms, private sector management ideas, and techniques in the public sector that implies institutional reform (*by introducing market mechanism*) and administrative reform (*by improving management*) to make the government work faster, cheaper, and more effective (Mitchell, Weaver, & Manning, 1991).

Just like privatization and deregulation, PPP is considered as another reform mechanism of New Public Management and Reinventing Government. In fact, some authors claimed that PPP is a new term invented to replace the failed *deregulation and privatization* reform concepts. The Public-Private Partnerships' (PPP) popularity as a tool of public policy across the world for infrastructure development in the 1990s is an outcome of the NPM era where its paradigm refocused management of public organizations from public service to service delivery. It encouraged the management of public organizations to venture into private mechanisms in the delivery of public services (Osborne, 2000). The fiscal constraints and increasing complexity of public services have led governments to search for alternative service delivery mechanisms. The public-private partnership (PPP) is one type of service arrangement in which the public and private sectors enter into a long-term cooperative relationship for the purpose of delivering a public good or service (Kang, 2019).

PPP for infrastructure development and service delivery is an emerging public management reform and development strategy among developed and developing countries around the world. Many governments opted to adopt PPP to address poor infrastructure facilities and inefficient public service delivery as an alternative to traditional public procurement of infrastructure, goods, and service delivery. But caveat must be taken into consideration in adopting PPP as market reliability, political will, and social will, as well as regulatory regimes, may be necessary but not sufficient conditions for PPP market performance. The

lack of market transparency appears also to be far less problematic for PPP market performance than what has been assumed previously (Casady, 2020). In another study, it shows that successful PPP projects are predicated on well-designed contracts, a stable economy, good governance, and sound regulations, and a high level of institutional capacity to handle PPPs (Deep, 2019).

On the other hand, *Reinventing Government* as a reform concept highlighted its advocacy on entrepreneurial management of public organizations by encouraging the government to let go of program implementations (rowing) to the private sector and focus itself on policymaking (steering). The popularity of PPP in the Philippines has generated interests among practitioners and academicians to conduct studies because of its promised infrastructure development and improved public service delivery, as well as the surrounding issues on transparency, accountability, and the challenges it poses to public governance. While the concept of PPP has been in the literature of development for a long time, its popularity has recently gained momentum in the Philippines.

In the Philippines, private sector participation in infrastructure development and service delivery has been made possible through the Build Operate Transfer (BOT) scheme, a variant of PPP which became known as early as in the 1970s when it was used in the construction and operation of two toll road systems, the Manila Cavite Toll Expressway and Manila North Luzon Toll-way. It is considered the pioneer-arrangement for private sector participation in infrastructure development and service delivery in the country. BOT drew public attention again when President Benigno C. Aquino III, during his inauguration, made a policy pronouncement that he is going to use PPP as his main vehicle in pushing national development agenda geared towards poverty reduction and inclusive growth. President Aquino not only underscored the adoption of PPP but also highlighted the important role of the private sector in nation-building.

1.1 Application of PPP/BOT at the Local Level

At the local level, there is an increasing number of infrastructure projects that have been designed, financed, constructed, and operated through PPP particularly under the BOT scheme. This is an offshoot of Section 302 (a) of Republic Act No. 7160 otherwise known as the Local Government Code (LGC) of 1991 which expressly provides that:

“Local Government Units may enter into contracts with any duly pre-qualified individual contractor for the financing, construction, operation, and maintenance of any financially viable infrastructure facility under the Build-Operate-Transfer agreement subject to the applicable provisions of Republic Act No. 6957, an act authorizing the financing, construction, operation and maintenance of infrastructure projects by the private sector and the rules and regulations issued thereunder and such terms and conditions provided in this section (Local Government Code of 1991)”

According to the PPP Center, among the common local infrastructure projects undertaken via PPP include public markets, slaughterhouses, integrated bus terminals, and commercial centers. With these four infrastructure facilities, public market reconstruction, renovation, and operation are becoming more attractive for PPP particularly through BOT arrangement. This may be because a public market is seen as a profitable economic enterprise if managed properly. Public Market is one basic service facility that the Local Government Code of 1991 has mandated to be established and maintained by Local Government Units (LGUs) (Section 17, LGC of 1991). Aside from being an essential service facility, public markets also play an important role in the local economy as they serve the *infrastructure needs* of small-scale enterprises that propel local economy.

Public markets have been in existence and long been part of the lives of many Filipinos since the pre-colonial period. They served as the center for the exchange of goods and services between and among local folks in the community. In the Philippines, every town and city has at least one public market. They are typically constructed and managed by local governments and found almost everywhere, from the sitios of the barangays to the modern and complex urban places. They are considered as the central nerve of the social and economic life of the local community as if public life would not be complete without them.

A new model of public market construction and operation emerged as a result of the increasing private sector participation in local governance. Before the crafting of the Implementing Rules and Regulations (IRR) of Republic Act 6957 otherwise known as Build Operate Transfer Law, Mandaluyong City had already used PPP through the Build Operate Transfer scheme in reconstructing their public market after it was gutted by fire. Then years later, many LGUs followed in using this new model. PPP/BOT arrangement continues to gain support at the local level not only for public market development and operation but also in other public utilities and service delivery.

In many LGUs, public markets remain an important social structure and economic public enterprise for the realization of socio-economic goals. Being a basic service facility, the public market serves as a social structure in integrating people from different walks of life. According to the Project for Public Spaces (PPS), public markets come in many types and in various settings to offer a wide range of products. At their most basic concept, public markets host micro-small and medium-sized vendors or merchants who gather at the same place on a regular basis to sell fresh and prepared food items. PPS viewed that public markets can offer ample fresh food items to full course meals year-round and serve as primary grocery stores that offer seasonal and non-seasonal products such as fresh meat, fish, seasonings, prepared sauces, herbs, and dry goods for the daily and weekly needs of households (Spaces, 2003).

Being such, public markets remain relevant through the years despite the emergence of supermarkets and other convenience stores established and operated by private entities. Since then, Philippine public market operation has been challenged by financial problems, dilapidated building structures, poor facilities, inefficient services, congested traffic, and poor sanitation. So that when public clamor was felt for an improved, cleaner, and more efficient and orderly operation of public markets, local governments are forced to find ways to address the problems. These prompted many local officials to start looking at the private sector for investment.

The passage of Republic Act 6957 or BOT Law as amended by Republic Act 7718, paved the way for the entry of more private sector investments in infrastructure development and service delivery. Under an improved legal framework, many LGUs are hopeful that their respective development plans will now be realized despite financial constraints. The belief is that by incorporating private sector's expertise, efficiency, innovation, business sense, risk-sharing, and financing into public projects, the quality of public service and facilities will be enhanced. Through the BOT Law, the private sector is also expected to invest in local projects and service delivery. In addition, the size of the infrastructure needs in the country requires the expansion of both budget spending and public-private partnerships (PPP). In parallel to direct public spending, there has also been increased emphasis on PPP arrangements as a way for the government to tap private sector expertise and resources, and at the same to leverage the limited public budget (Schuster, 2017).

Today, there is an increasing number of public markets all over the country that are designed, financed, constructed, and operated by the private sector under the PPP/BOT scheme. The

participation of the private sector in government infrastructure development and service delivery at the national and local levels can be traced back to the influence of neoliberalism. PPP which aims to promote competition and market efficiency (Carino, 1999) has consistently gained momentum at the local level and has been enthusiastically adopted by progressive local officials who are convinced that by allowing the private sector and other interest groups to participate in governmental and proprietary affairs, brings local government closer to its people and promotes democracy and good governance. Figure 1 shows how PPP can help achieve local government infrastructure development and improve service delivery.

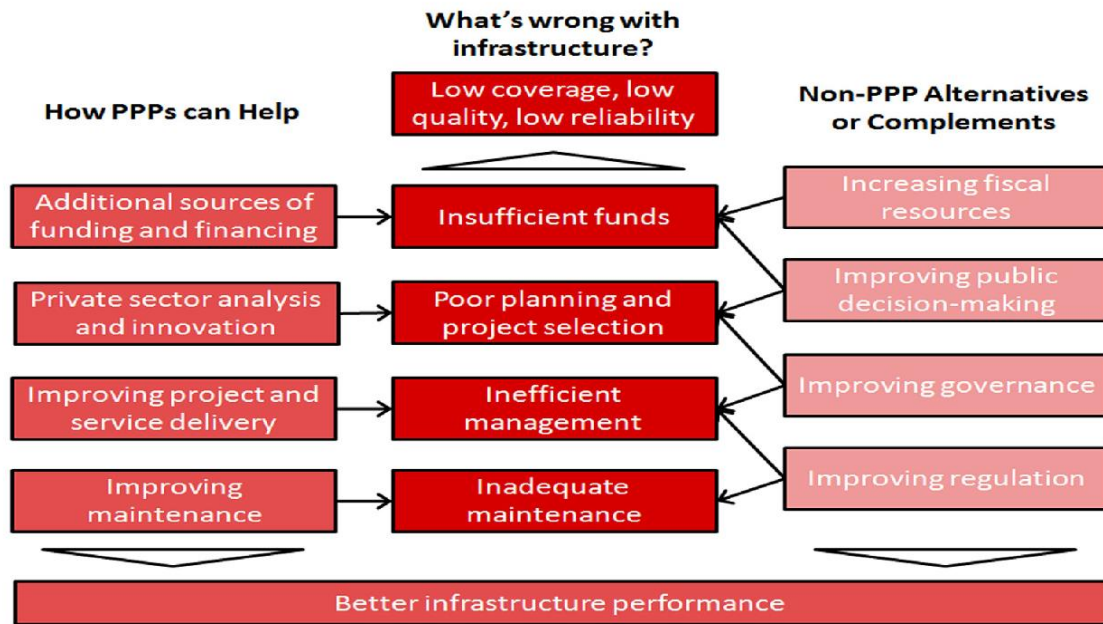


Figure 1. What's wrong with infrastructure and how PPP can help?

Source: World Bank Institute: Public-Private Infrastructure Advisory Facility (PPIAF, 2012)

In the Philippines, the mechanisms of NPM and Reinventing Government like privatization, deregulation, and now PPP is getting a stronghold at the local level. Their underlying principles and values are continuously embedded in local policies, ordinances, procedures, processes, structures, and practices in local governance. The popularity of these public administration reforms continues to rise as they remain common topics in various fora, conferences, seminars, debates, and researches in the academe, business, and government sectors, particularly among local officials who unceasingly quest to find ways on how to improve their service delivery. The efforts of LGUs to improve their facilities and service delivery through private participation are consonant to the contention that local governments should not only function as basic service providers to the people but should also serve as enabling authorities in providing the right kind of environment conducive for private investment and economic enterprise in the locality (Legaspi, 1996). This means that local governments should take a proactive stance in attracting investors by providing the necessary policy, legal, and institutional frameworks for private sector participation in infrastructure development and service delivery and by promoting economic enterprises and other related activities.

2. Statement of the Problem

Local Government Units (LGUs) as representatives of the national government at the grassroots level should not just confine themselves to the provision of basic services to their

constituencies but also serve as enabling authorities in providing a local environment conducive for private investment, the participation of civil society, and other interest groups in the affairs of local government. This requires LGUs to take a proactive role in facilitating the effective participation of all stakeholders in government by providing them with necessary policy, legal, and institutional frameworks that ensure their optimum and genuine participation in running the government (Legaspi, 1996).

With the continuing application of Public Administration approaches particularly New Public Management (NPM) and Reinventing Government at the local level through Public-Private Partnership (PPP) and as institutionalized by policy and legal frameworks, PPP/BOT public markets as a specific strategy adopted by a number of LGUs in the country to modernize public market and improve its management and operation, require a serious inquiry to find out the extent to which PPP as a mechanism of NPM and Reinventing Government addresses the problems of local governments in maintaining and operating public markets.

As pointed out, the public market is not only a social structure and economic enterprise for many local government units but also a service facility that houses small and locally owned enterprises that normally occupy the edge of roads, streets, and sidewalks. As a service facility, a public market does not only provide shelter to small merchants who cannot afford to rent in private markets and shopping malls but also ensures the safety of both the vendors and the buying public by providing them a safe and convenient place where they can exchange products, goods, and services. Thus, public markets champion small entrepreneurs who cannot compete with big and influential business enterprises.

The public market as an essential service facility mandated by the Local Government Code of 1991 refers to a facility or area more or less permanent where vendors gather to sell fresh and prepared foods from stalls and whereby consumers are attracted by the wide variety of locally produced food items. Traditionally, public markets are established, organized, managed, and operated exclusively by the LGUs themselves. But as small local enterprise increases, demands for more business space also increases thus, some LGUs started to allow private individuals and juridical entities to operate markets under the franchising authority of the local governments. Since many small market vendors operate on limited capital, they have difficulty in paying higher rentals that constrained many LGUs from increasing rates of rentals of market stalls. This usually resulted in operational losses of many public markets thus hindering many LGUs in improving their public markets. Despite losses, LGUs cannot abandon nor stop public market operations because of their essential public service character.

Since many Local Government Units (LGUs) in the Philippines have financial difficulties in meeting the demands of their constituents for new infrastructure facilities and improved delivery of basic services, PPP as an alternative approach to the traditional procurement of infrastructure and services has provided the LGUs with an opportunity to acquire their much-needed infrastructure facilities and improve their service delivery with less cost or no cost at all. Under PPP, LGUs seek not only financing but also the private sector's management expertise in performing service delivery functions of government. It has broadened the areas of participation of the private sector in local governance which now covers not only the grant of financial assistance to LGUs but also the design, construction, and operation of facilities like public markets.

With the increasing number of LGUs adopting PPP in modernizing public market structures and operation, the study inquired into the reform efforts of New Public Management (NPM) and Reinventing Government at the local level through the application Public-Private Partnership (PPP) as a tool for infrastructure development and service delivery. It assessed

the performance of PPP/BOT Public Markets in addressing the perennial problems of public markets in the Philippines.

2. Scope, Limitations, and Methodology

To substantiate the assessment, five pioneering PPP/BOT Public Markets in the Philippines were examined, namely; *Market Place* in Mandaluyong City, *Carmen*, and *Cogon Public Markets* in Cagayan de Oro City, *Suki Market* in Quezon City, and *Bocauae Public Market* in the Municipality of Bocauae in Bulacan (*Table 1*). It covered only those PPP/BOT public markets that were constructed or renovated primarily for public market purposes and excluded those public markets constructed as secondary projects or as an attachment to a bigger project like a commercial complex, shopping center, or integrated bus terminal.

Table 1. The Philippine Public-Private Partnership (PPP) Program-Public Markets Summary List of Operational Projects (Projected Status for December 2013)

Project Title	Site/Location	Estimated Cost (in US\$ Million)	Private Proponent	IA/LGU	Scheme
1. Bocauae Public Market	Bocauae, Bulacan (R3)	1.20	Meditech, Inc. (Phil.)	Bocauae, Bulacan Municipal Gov't	BOT
2. Carmen Public Market	Cagayan de Oro City (R10)	2.36	UKC Builders, Inc.	Cagayan de Oro City Gov't	BOT
3. Cogon Public Market	Cagayan de Oro City (R10)	4.00	UKC Builders, Inc.	Cagayan de Oro City Gov't	BT/BOT
4. Dapitan Public Market	Quezon City (NCR)	1.30	Ithiel Corp. (Phil.)	Quezon City Gov't	BOT
5. Mandaluyong Market Place	Mandaluyong City (NCR)	23.00	Market Realty Dev't. & Credit Funder's, Inc., (Phil.)	Mandaluyong City Gov't	DOT/BT

Source: <http://www.dbm.gov.ph/wp-content/uploads/BESF/BESF2013/12.pdf>.

Legend: DOT-Develop-Operate & Transfer

BOT- Build-Operate & Transfer

BT-Build & Transfer

JV-Joint Venture

It used organization and management, the scope of facilities and services, LGU-revenue income and expenditures, and income of market vendors, and client satisfaction on the quality of facilities and services as performance indicators. The data of the study were obtained through combined research methodologies such as case study, content analysis, ocular inspection, and interviews with the city and municipal administrators, market administrators, market vendors, and officers of market vendors associations. It analyzed the data using quantitative and qualitative tools of analysis.

3. Findings

3.1 Improved Market Operation under the Management of Private Operator

The study shows that during the period of operation by the private contractor of these PPP public markets, three of them showed improved performance in operation as compared before when these were managed and operated by the local government units concerned particularly in the maintenance of facilities and efficient delivery of market services. These are the Public Markets in Carmen and Cogon in Cagayan de Oro, Bocauae Public Market, and Suki Market in Quezon City.

3.2 Low Management Operation Under Local Governments

However, when the management and operation of Bocauae, Carmen, and Cogon Public

Markets were transferred to their respective local government units, the latter failed to sustain the maintenance of facilities and the efficient delivery of market services. In the case of Suki Market, it continues to be under the management and operation of Ithiel Corporation which consistently maintained its good performance in the maintenance and delivery of market services. While the Mandaluyong Public Market which remained under the management of the City Government since its construction was completed, shows deterioration in the maintenance of facilities and delivery of services in the market. The failure to sustain the good performance was primarily linked to the low level of “efficient-managerial” consciousness of local officials, poor maintenance-culture, and the continued denial of local officials that their public markets are poorly managed.

3.3 Absence of “Operational Management” Provision in the Contract

The low level of efficient-managerial consciousness, poor maintenance-culture and the denial of some officials that their public markets are poorly managed have resulted in the absence of vital “operational management” provision in all PPP/BOT contracts that the local governments have entered into with the private project proponent-operator which would institutionalize the values of the reform concepts and facilitate the transfer of managerial skills, values, traits, and other expertise of the private sector in handling business enterprises to the government sector as envisioned by NPM and Reinventing Government. Likewise, the implementation of PPP/BOT projects have been greatly affected by local partisan politics, ill-prepared LGUs, and the sudden shift of project proponents’ interest from managing and operating public market to the operation of commercial shopping centers, which are usually major components of PPP/BOT public market projects.

3.4 PPP/BOT Failed to Address Perennial Problems of Philippine Public Market

Contrary to the expected results, the study showed that PPP/BOT public markets failed to address the perennial problems of public markets in the Philippines. It only succeeded in providing LGUs with their much needed new building infrastructures but not in addressing public market problems primarily due to partisan politics, ill-prepared LGUs, and the shift of project proponent’s interest from managing and operating public markets to the operation of commercial shopping centers, which are usually the major components of PPP/BOT public market projects. The study also shows that PPP/BOT public markets have facilitated the transformation of typical Philippine public markets into “*market malls*,” a combination of “public market and commercial shopping centers”.

This transformation has placed local market vendors at the disadvantage because of the difficulty in competing with gigantic franchise holders and retail trade corporations who were favorably given much bigger market space and support services by the LGUs and had dominated the quality, volume, and prices of goods and services. This also led to the conversion of the nature of the Philippine public market from being a service facility designed purposely to cater to the needs of marginal small enterprises into a franchise and retail trade facility that favors big time and influential foreign businessmen who are now allowed to engage in retail trade business in the country pursuant to the Retail Trade Liberalization Act of 2000. Consequently, the needs of small local market vendors were given less attention in favor of the interest of bigger commercial establishments.

Out of five PPP/BOT public markets, only Suki Market in Quezon City is actually constructed and until now operated by the project proponent. The rest were turned over to the local governments. Furthermore, four of the project proponent-operators preferred to operate commercial shopping centers than to manage and operate public markets. Even in the case of Suki Market where a commercial shopping center is not included in the project, almost half

of its market space is still designed and allocated to franchise and retail trade businesses. It came out that the “strategic location” of public markets for franchise and retail trade business is what enticed project proponent operators in entering into partnerships with LGUs. Project proponent operators capitalized on the strategic location of the public market by establishing and operating commercial shopping centers which are more profitable than operating public markets.

3.5 Lack of Mechanisms to Facilitate the Transfer of Managerial Skills

In terms of “organization and management,” all of the PPP/BOT contracts for public market reconstruction and operation have failed to incorporate “operational management,” a mechanism that would facilitate the transfer of managerial skills, values, techniques, and other best practices in handling business enterprise and delivery of services from the private sector to the local government personnel as envisioned by New Public Management and Reinventing Government. The failure to include the mechanism in the contracts can be attributed to the lack of *efficient-management consciousness* among local officials and their continued denial that their public markets are poorly managed. The study further revealed that the primary objective of LGUs in entering into PPP/BOT agreements with the private sector is mainly focused only on acquiring new infrastructure facilities such as public markets, slaughterhouses, and commercial shopping centers and not on other equally important capacities or expertise of the private sector.

3.6 Limited Facilities and Services

As to the “scope of facilities and services”, PPP/BOT public markets have provided typically basic facilities and services essential to an ordinary public market in the Philippines such as parking lots, escalators, fire prevention equipment, comfort rooms, slaughterhouse, and ventilation. While market services include telephone, janitorial, security, traffic and parking management, weights and measures, electrical, lighting, water, and sanitation.

It lacked those public spaces or multipurpose halls intended for public convergence. The absence of these facilities lies with the limited land area of the public market, the huge capital requirement, and the uncertainty of return of investment.

3.7 Increase Local Revenue

In terms of “revenue and expenditures”, PPP/BOT public markets have brought a positive impact on the revenue of LGUs. Likewise, the income of market vendors, and the economic activities in the area also increases. The presence of PPP/BOT public markets increases the business activities of the place that dramatically contributed to the increase in LGUs’ tax and non-tax revenue potentials. However, while LGUs’ income increases annually, the public market remains as one of those basic service facilities with very low budget allocation for their improvement, operation, and maintenance. On the other hand, though the income of market vendors in the PPP/BOT public market increases annually before, during, and after the public market management was turned over to the LGUs, market vendors claimed that such increase was not significant enough to alleviate their economic conditions.

3.8 Satisfaction of Market Vendors

In terms of “market vendor’s satisfaction” on the quality of facilities and services provided by the PPP/BOT public markets, market vendors claimed that market facilities and services were satisfactorily maintained and delivered during the brief period of management and operation by the project proponent operators. This however was not sustained under the LGU’s management. Security and sanitation problems emerged as recurring problems in PPP/BOT public markets. In addition, the imposition and collection of “goodwill money” continue to

cause rifts between LGUs who imposed it and the market vendors. Many market vendors also resented LGUs' new policy of requiring mandatory renewal of lease contracts over their respective market stalls and spaces every year. They asserted that since they have already paid the “goodwill money” at the very start, such a requirement is unnecessary. They expressed willingness only to renew business permits annually but not to the annual renewal of lease contracts.

4. Conclusion

With the foregoing findings, the study concluded that the major reasons why LGUs adopted PPP/BOT Model in redeveloping public markets are because of the (1) “*lack of public funds*” on the part of the LGUs to redevelop or reconstruct a new public market. It is followed by the belief that (2) “*the private sector can better manage*” the public market, and that through PPP/BOT (3) “*LGUs can generate more income revenues.*”

In terms of facilities and services provided by PPP/BOT public markets in the Philippines, most of these are essential to a typical Philippine public market. They lack facilities such as “public spaces” for public convergence, parking buildings, and/or basement parking as envisioned in Western and European public markets. The sizes of parking lots were not calculated in relation to the volume of customers and were constructed depending only on the availability of space for a parking area.

All PPP/BOT contracts for the redevelopment and operation of public markets lacked the mechanism that would facilitate the transfer of managerial skills, techniques, values, and processes from the private sector to the employees of local government as envisioned by NPM. While PPP/BOT Public Market projects increased the tax and non-tax revenue income of LGUs in general, this is not impressive. In the same manner, the income of market vendors increases annually during and even after the management of the public market was turned over to the LGUs though the increase was not significant to improve their economic conditions. Although market vendors have rated satisfactorily the quality of facilities and services provided by the PPP/BOT public market, this, however, does not show that problems of public markets were satisfactorily addressed.

The study shows the recurrence of problems of public markets particularly in terms of sanitation, security, ventilation, and worst, they are now suffering in terms of stiff “market space” competition with gigantic franchise holders and retail trade businesses dominantly owned by big-time and influential Chinese nationals. The lack of local experts on PPP and the ill-prepared local officials and employees in the adoption of PPP contributed to the cases of cancellation and termination of PPP/BOT public market projects.

This resulted in reimbursement and payback of huge amounts of money to the project proponents, which in effect also compelled LGUs to take untimely bank loans for said purposes. Political partisans at the local level and the lack of basic understanding of local officials and concerned administrative employees about PPP/BOT was also found to have contributed to the failure of some PPP/BOT projects at the local level. This conclusion finds basis in the case of Bocaue PPP/BOT Public Market, which project was partially implemented but eventually terminated because of local political partisan, and in the case of Carmen and Cogon Public Market in Cagayan de Oro, where the City decided to take back the full control and operation of public markets and commercial shopping centers based on the strong belief that it can maximize its income by operating them by themselves as compared to the BOT scheme it entered into with the project proponent operator.

5. Recommendation

With the findings and conclusions above, the study recommends that “safeguards” for the protection of small market vendors must be institutionalized amidst the proliferation of “market malls”. While franchise and retail trade businesses will surely bring more economic activities in town, local governments should ensure that small market vendors will be fully protected from unfair space competition in the market. While there is nothing wrong with establishing commercial shopping centers, local governments must see to it that these centers will not deprive market vendors of their space in the original market. Commercial shopping centers may be established in other locations of the community to minimize stiff business competition that could harm micro and small enterprises. The study also recommends that in order for PPP/BOT projects to succeed at the local level, it is required to have an “*LGU-PPP Champion*” who will take the lead in getting the consensus of local officials and community stakeholders to adopt the PPP model.

In order to minimize the negative impact of a local political partisan on PPP projects and to avoid harassment committed against private investors particularly every time there is change of local leadership, the “*creation of a council*” is necessary. The council will be composed of three members, one to be appointed by the project proponent operator, one from the local government to be appointed by the local chief executive, and the other from the local academic sector to be chosen by both contracting parties. The council will be primarily tasked to resolve disputes that may arise between contracting parties during the implementation of the PPP/BOT projects. It will take primary jurisdiction to resolve disputes relating to PPP/BOT projects. Parties shall be enjoined first to exhaust all available administrative remedies at the council level before resorting to regular courts of justice for litigation. The creation of the council may be included in the contract itself and should be vested with authority to protect and preserve the interest of stakeholders of the PPP/BOT project. The main goal therefore of the council is to maintain, preserve, and protect the trust and confidence of the private sector in the local governments, thereby attracting more investments for local projects via PPP.

In addressing the mismanagement and abuses of local officials in handling economic enterprises, LGUs may also venture into “corporatization” of public markets into locally-owned and controlled enterprises to insulate and protect them. By corporatization, public markets and other local enterprises will be managed by an independent board, whose members had professional training and educational background in managing business enterprises be protected by ensuring their security of tenure. Its respective income will then be controlled by the board, with mandatory annual income sharing percentage to the local government and income percentage for their maintenance, improvement, and expansion of business or services. The personnel will be selected by the board based on professional training and educational backgrounds and no longer based on political affiliations. This is an option in effecting professionalism in managing economic enterprises at the local level as envisioned by NPM and Reinventing Government.

LGUs must likewise ensure that an “operational management” mechanism will be included or required as a standard contract provision in every PPP/BOT contract to facilitate the training of LGU personnel and ensure the transfer of values, techniques, policies, and processes in handling business enterprises and service delivery. And finally, the study recommends that research on the impact of “market malls” and retail trade liberalization in the country to local market vendors and entrepreneurs shall be conducted in order to formulate more concrete policies for their protection.

It further recommends that in order for PPP to succeed at the local level, LGUs must in themselves undertake complementary preparations particularly in changing the mindsets of

local officials in their understanding of PPP, capacity building for personnel, and reorganization of offices directly involved in the negotiation, adoption, and implementation of PPP/BOT projects. To minimize the negative impact of local partisan politics on the PPP projects, a “council” should be created which will serve primarily as a body responsible for resolving disputes between parties that may arise from the implementation of the projects. Finally, “operational management” mechanisms should be required as a standard contract provision in all PPP/BOT contracts to ensure the smooth transfer and institutionalization of managerial skills, values, and other experts from the private sector to the government sector.

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