GAPS IN PUBLIC PROCUREMENT PROCESS IN SRI LANKAN CONSTRUCTION INDUSTRY

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ABSTRACT

Procurement Process is back bone of the country to achieve the economic development. Accordingly, since 2006, government of Sri Lanka has made significant efforts toward to reform and develop the Public Procurement Process (Public PP) in construction industry with the assistance of the Ministry of Finance and Planning (MOFP), the Construction Industry Development Authority (CIDA), foreign funding agencies, and relevant institutions and practitioners. Current regime is in process of formulating a sustainable framework to the Public PP not only to the construction industry but also to the entire industries.

Thus aim of this paper is to carryout comprehensive diagnosis to identify the gaps in Public PP in Sri Lankan construction industry and propose remedial measures to bridge the gaps in order to facilitate the government endeavour. Paper is based on secondary data and opinions of experts. The gaps are identified as absence of procurement strategy and legislative framework, lack of integration with governance, unavailability of procurement regulatory body, and Incapable Capacity Development.

Further paper presents the remedial measures and provides recommendations to bridge the gaps that will enable to the GOSL to initiate the Sustainable Public Procurement Process (SPPP) to the construction industry. Findings revealed that establishment of procurement strategy and legislative framework, integration with governance, establishment of procurement regulatory body, and capacity development as the remedies in line with the short term, medium term, and long term measures to initiate and implement contemporary version of Public PP to the Sri Lankan Construction industry.

Keywords: Public Procurement Process; Construction Industry; Sustainable Public Procurement Process; Gaps; Remedies.

1. Introduction

Public Procurement Process (Public PP) identified as integral part to achieve the sustainable development (World Bank, 2012). The activities of the Public PP identified as continues processes from planning and risk assessment, selection of source, evaluation of alternative solutions, contract award, payment, and management of a contract up to the end of defect liability period (Murray, 2009; World Bank, 2010; Zheng *et al.*, 2008). However, late delivery, cost overrun, low efficiency and poor quality have been discovered as widespread challenges in existing construction projects of developing or developed countries as a result of gaps and deficiency of the activities of the Public PP (Weisheng *et al.*, 2013). Absence of procurement strategy and legislative framework, lack of integration with governance, absence of procurement regulatory body, and incapable capacity development are the main gaps in Sri Lankan context for these challenges (World Bank and Asian Development Bank, 2012). To bridge these gaps governments of Sri Lanka is searching for innovative solutions that can help construction projects in a more efficient way to achieve the value for money thus truly deliver value to society (World Bank and Asian Development Bank, 2012; Brammer and Walker, 2011).

Accordingly, in order to bridge the gaps, contemporary version of the existing procurement process is identified as cost effective alternative solution that link with requirement of external environment as per the global needs and which identified as sustainable procurement. Hence, Sustainable Public Procurement

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Process (SPPP) is in line with the triple bottom line indicators of economic, environmental and social to achieve the present global needs and uplift the economy and living standards of the country (Brammer and Walker, 2011; World Bank, 2012). However, government of Sri Lankan still try to initiate preliminary actions to bridge the gaps of the Public PP by formulating Legal and Regulatory Framework, enhancing capacity of Institutional Framework and Management, and establishing Electronic Government Procurement (e-GP) System to the Sri Lanka not only to the construction industry but also to the entire industries in the country through the 19th amendment of the constitution of Sri Lanka.

Thus, aim of this paper is to identify the gaps in Public PP in Sri Lankan construction industry and propose remedial measures to bridge the gaps through the literature and opinions of the experts in the field of procurement. Five numbers of procurement experts having more than 15 years of experience of the funding agencies, government ministries, and private institutions were interviewed. Consequently, scope of this paper includes Public PP in Sri Lankan construction industry, prevailing gaps of the existing Public PP in Sri Lankan Construction industry, remedies to the gaps of the Public PP in Sri Lankan Construction industry, and conclusion and way forward.

2. PUBLIC PROCUREMENT PROCESS OF CONSTRUCTION INDUSTRY IN SRI LANKA

The reigning political party has taken major steps to regularise the procurement process of the country in line with the 19th amendment to the constitution. This involved several inter related initiatives to enhance the procurement process of the country by increase the transparency and accountability of the Public PP, improve its effectiveness and efficiency in the delivery of projects, strengthen ability to incorporate public participation in policymaking, and reduce opportunities for corruption in Public PP. Accordingly Public PP in the country has been shown transition features since 2015 (CIDA, 2015a).

The government investment for major projects through the Public PP in the field of infrastructure has directly contributed to economic growth in Sri Lanka. In the early period of 1948-77, there was insufficient investment in infrastructure. During 1956-77, it was the public sector that undertook most of the investments. A number of state owned enterprises established proper procurement process to produce manufactured goods, including steel, mining, and chemicals. Hence, the incentives for private investment were limited, and public investment was restricted by resource constraints. However, in Sri Lanka overall investment rate was only 6.2% (Central Bank of Sri Lanka, 2014) of Gross Domestic Product (GDP) during the period from 2009 to 2010. Following the liberalization of the economy in 1977, investment was raised from 14.4% of GDP in 1977 to 33.8% in 1980, with an average of 27.6% during 1978-84 and in 2010 to 2012 the average of 30%. This was due to the ambitious of Public PP accompanying with reform after the 30 years of war (Central Bank of Sri Lanka, 2012; Central Bank of Sri Lanka, 2014; World Bank, 2010).

Further statistical figures of the Central Bank of Sri Lanka (2015) revealed that total expenditure of the government increased by 7.6% to Sri Lankan Rupees (Rs.) 1,796 billion in 2014 from Rs.1,669 billion in 2013. Furthermore, real gross domestic production (GDP) grew by 7.4% in 2014, in comparison to the growth of 7.2% in 2013. Moreover, Public Procurement expenditure is approximately 10 % of the GDP. Specially the construction sectoral growth, 20.2% of the GDP in 2014. Hence, Public PP in construction industry of the country will be an integral part in order to achieve desired aim of the economy. Therefore, enhancement and improvement of the activities of Public PP in Sri Lankan construction industry will be directly benefitted to the nation in order to achieve the economic development of the country.

Central Bank of Sri Lanka (2014) found that the Public PP in construction sector was the main driver of economic growth in Sri Lanka. Further author mentioned that it makes the most significant contribution, reflecting the massive public investment programmes and several private sector projects. Furthermore, it was identified that Public PP of construction industry in Sri Lanka hold major share of the Gross Domestic Products (GDP) as developing country. Moreover, noted that interest of the stakeholders has grown to moderate the existing process. Hence, contemporary version of the Public PP of the construction industry should be substantiated and will have to be met by both the public and private sectors requirement to optimum alignment with the vision of the medium term development plan of the country in line with the global needs (Central Bank of Sri Lanka, 2014). Accordingly, improvement of existing

Public PP in line with the global needs and requirements has positive impacts on the sustainable development of the country.

Administrative process of the Public PP of the country is implemented under the three authority levels: (i) Central Government, (ii) Provincial Councils, and (iii) Local Government in order to ensure effective public expenditure. Hence, effective and efficient improvement of activities of the Public PP positively affected to uplift the economy of the country (Central Bank of Sri Lanka, 2012). Elaborating in this regard further emphasised that government is major client and regulator in the construction procurement in Sri Lanka (CIDA, 2015b).

Therefore, the Public PP in construction industry should give equal weightage not only to the dimensions of time, cost and quality but also to the dimensions of social, environmental and economic when acquisition of goods, works and services with consideration of value for money in line with the requirements of the stakeholders and the global needs (Mohan, 2010). Accordingly, establishment of Legislative and Regulatory Framework, enhancement of capacity of Institutional Framework and Management, and establishing Electronic Government Procurement (e-GP) System will facilitate to bridge the existing gaps (World Bank and Asian Development Bank, 2012).

Accordingly, Institute for Construction Training and Development (ICTAD) was restructured and established as Construction Industry Development Authority (CIDA) as the prime institution to facilitate to the activities in construction industry in Sri Lanka. Further, Chamber of Construction Industry (CCI) Sri Lanka and Institute of Engineer's in Sri Lanka (IESL) play assistance role in order to facilitate to streamline the procurement activities in construction industry (CIDA, 2015a).

Towards that vision, the government development policy framework expressed that procurement process in national and provincial should be upgraded inter alia with formulate Legal and Regulatory Framework, enhancing capacity of Institutional Framework and Management, and establishing Electronic Government Procurement (e-GP) System (World Bank and Asian Development Bank, 2012).

3. PREVAILING GAPS OF THE "PUBLIC PP" IN SRI LANKAN CONSTRUCTION INDUSTRY

Many authors have identified gaps in the Public PP in deferent ways. The key areas of identification not limited only for the construction industry but also valid to the entire industries of the country. However, in this paper findings mainly focus to the Sri Lankan construction industry.

3.1. ABSENCE OF PROCUREMENT STRATEGY AND LEGISLATIVE FRAMEWORK TO THE CONSTRUCTION INDUSTRY

The country does not have the well-defined national public procurement strategy to measure the performance of the questions of what, when, how procure in terms of economy and efficiency. Further the absence of mechanism to identify the staff professionalization and capacity development needs. Furthermore, policy and regulatory framework not available to monitor and evaluate the performance other than the general accounts and audit aspects. Moreover, some important provisions of the government Procurement Guidelines are not enforced in the absence of a procurement act or law of the country. Accordingly, lesson learnt through the previous activities in construction sector will not be practised (World Bank and Asian Development Bank, 2012). However, developed countries clearly articulated the government's vision and long-term objectives for the implementation of national activities in sound, transparent and efficient manner. The existence procurement strategy not contributes to a sound Public PP to the construction industry and also to a more positive image to the foreign investors to invest in the country (Ey et al., 2014; Eriksson and Westerberg, 2011). Thus, absence of national and public procurement strategy for the country is identified main gaps in the industry. Further, the Public PP in Sri Lankan construction industry is not regulated by a law. Accordingly, Legal and Regulatory Framework in line with the global standards shall be enacted.

3.2. LACK OF INTEGRATION WITH GOVERNANCE

In global context, Governance will be a crucial part of the Sustainable Development Goals of the country. However, there are also different ways of integrating key aspects of governance into the construction industry. Good governance (the processes of decision-making and their institutional foundations), effective governance (the capacity of countries to pursue sustainable development), and equitable governance (distributive outcomes). These three different aspects have a number of inter connections between each other and require separate political efforts to achieve the outcome (Foresti et al., 2014; Sustainable Development Solutions Network, 2014). Accordingly, when consider the Sri Lankan context it was revealed that the integration of procurement reform actions were not being conducted between relevant public and private institutions. Activities for reform the industry had been conducted in ad-hoc manner including planning, budgeting, implementation, delegation, approval, monitoring and evaluation of activities in construction projects (CIDA, 2015a). However, good governance refers broadly to a set of qualitative characteristics relating to processes of rulemaking and their institutional foundations in construction industry. The good governance encapsulates values such as enhanced participation, transparency, accountability, and public access to information. It also helps to combat corruption and secure both basic human rights and the rule of law (Foresti et al., 2014). Accordingly, activities of the construction industry and relevant institutions in national and provincial level shall be interlinked to formulate the broad agenda of the good governance in construction industry.

3.3. Unavailability of Procurement Regulatory Body

National Procurement Agency (2006a, 2006b); World Bank and Asian Development Bank (2012) noted that Ministry of Finance and planning (MOFP) is conducting prime role of the country regulating procurement actions. The CIDA, CCI, IESL facilitate to the MOFP to formulate the procurement regulations in construction industry. However, the country doesn't have regulatory framework between the MOFP, CIDA, CCI, and IESL effective and sustainable reform of construction industry except issuing supplements to the procurement guidelines and manuals with some procurement activities in the Public PP, develop Standard Bidding Documents (SBDs) and technical specifications, and conduct training programmes and workshops for the activities in construction industry (CIDA, 2015b; World Bank and Asian Development Bank, 2012). Hence, initiate and develop the sustainable network between regulatory bodies in construction industry in line with the good governance agenda is one of the prevailing gap.

3.4. INCAPABLE CAPACITY DEVELOPMENT

Available human resources with up to date knowledge of current trends in procurement in construction industry and support from the top management also identified as major gaps to implementation of activities of the Public PP in line with global needs requires reforms in the areas of policies and investments in technology, research, education and information. Further functions of the public procurement process not yet professionalize and officers involved in the activities of the procurement process does not fulfilled the requirement of procurement professionals in construction industry (World Bank, 2010; Biller and Nabi, 2013). Further, need assessments and formulating the capacity building strategies in construction industry are not identified by the any of the government institutions other than the ad-hoc trainings of the Sri Lanka Institute for Development Administration (SLIDA), Ministry of Public Administration (MPA), Academy of Financial Services (AFS), CIDA, CCI, and IESL. Accordingly the funding agencies have taken actions to analysis the existing Public PP in Sri Lanka in order to upgrade and enhance the process in line with global needs. Thus the actions are revealed by the government and funding agencies to bridge the existing gaps of Public PP in Sri Lankan construction industry (World Bank and Asian Development Bank, 2012; Biller and Nabi, 2013).

E-Government Policy approved by the cabinet of ministers in Sri Lanka by 2009 in order to facilitate to upgrade the infrastructure capacity of information technology to improve the efficiency and effectiveness of Public PP. However, Lee *et al.* (2007) pointed out that valid Information Technology act and Law should be in acted in advance to implement the procurement activities of of e-procurement. Accordingly, implementation of e-Government procurement actions are limited to publish the invitation for bid (IFB)

on the website in addition to the paper advertisement published in national newspapers (World Bank and Asian Development Bank, 2012).

Thus literature revealed that number of gaps of the Public PP in construction industry as obstacles to deliver the desired outcome of the stakeholders in compatible with the global needs and requirements. Moreover it was identified that the interest to upgrade the Public PP in construction industry has been increased by the stakeholders in line with the 19th amendments of the constitution of Sri Lanka. Further, the funding agencies has given consent to provide financial assistance to upgrade the existing procurement system together with the capacity development of the industry.

4. REMEDIES TO THE GAPS OF THE "PUBLIC PP" IN SRI LANKAN CONSTRUCTION INDUSTRY

4.1. ESTABLISHMENT OF PROCUREMENT STRATEGY AND LEGISLATIVE FRAMEWORK TO THE CONSTRUCTION INDUSTRY

Establishment of a national public procurement strategy for procurement reform in construction industry that sets out the goals of social environment and economic those to be achieved in line with the national strategy is vital requirement of the sustainable development of the economy. Hence, it is imperative to formulate clearly defined national and provincial procurement strategy on public procurement in construction industry. The procurement strategy shall clearly articulates the government's vision and long term objectives for the implementation of a sound, transparent and efficient public procurement system in construction industry. However, in accordance with the 19th amendments of the constitution initial actions are being taken to formulate the strategy which contributes to a sound procurement system and also to a more positive country business image toward foreign funding agencies and investors. Accordingly, implementation of initial actions are identified as remedies to establish the national procurement strategy (CIDA, 2015b; World Bank and Asian Development Bank, 2012).

The enactment and implementation of procurement law for the construction industry is the remedy on establishment of legislative framework as described by the World Bank and Asian Development Bank, 2012. Review the existing bidding documents in construction industry and extend the procedure for construction dispute in line with the enhancement of procurement law and build-up relationship between the relevant institution and authorities are the key remedies to formulate the legislative framework for construction industry (CIDA, 2015b).

4.2. Integration with Governance

Good governance, effective governance, and equitable governance were identified major elements of the developing path of the economy (Raymond, 2008). Further Raymond (2008) and World Bank and Asian Development Bank (2012) explored that internal and external arrangement shall be made to address the gaps of the existing Public PP to achieve the desired outcome. Accordingly, actions are being identified by the government of Sri Lanka to integrate the governance under the 19th amendments to the constitution as remedy the existing gaps of the procurement process in construction industry (CIDA, 2015b). Hence, better integration of procurement reform of the institutions in line with the broader governance reform agenda that shall link with the external environment of public administration, civil service reforms, and audit is identified as possible remedies to bridge the gaps. Further, actions for integrate the activities of the individual institutions on procurement planning, budgeting, delegation, and approval mechanisms in line with broad objectives of the institution also identify remedies for the prevailing gaps (Raymond, 2008; Williams *et al.*, 2007; World Bank, 2012).

4.3. ESTABLISHMENT OF PROCUREMENT REGULATORY BODY

Since 2008, the procurement regulatory body has not been existed in the country from the date of dissolved the National Procurement Agency (NPA). Further World Bank and Asian Development Bank (2012) noted that Procurement Department of the Ministry of Finance and Planning (MOFP) need to be

strengthen in terms of both status and capacity, in order to effectively perform as a regulatory body. Biller and Nabi (2013) highlighted that establishment of regulatory body will facilitate to provide advice to the institutions in construction industry, to make improvement to the legislative and regulatory framework, to monitor and review the public procurement performance, to provide information and reports to the relevant parties, and to provide support on training and capacity development of procuring entities. Accordingly, the actions are being explored to established independent authorised body by the government of Sri Lanka under the purview of national procurement commission as a remedy in collaboration with the foreign funding agencies (CIDA, 2015b; World Bank and Asian Development Bank, 2012).

4.4. CAPACITY DEVELOPMENT IN LINE WITH NATIONAL PROCUREMENT STRATEGY

CIDA (2014) revealed that lack of sufficient human resources and organizational capacity in construction industry for ensuring the efficient and effective implementation of the rules, regulations, and procedures of the procurement process shall be addressed through sustainable capacity building programmes. Moreover World Bank and Asian Development Bank (2012) noted that strengthening the government institutions for initiate and implement capacity building programmes on construction industry policy and public procurement regulatory function facilitate to formulate the public procurement development agenda in line with the construction industry policy. CIDA (2015b) noted that establishment of independent national commissions will stream line future activities of capacity development as a remedy to the existing gaps of the procurement process in construction industry. Accordingly national strategy on capacity development in the field of procurement is formulated by the government of Sri Lanka with the coordination of MOFP, MPA, SLIDA, AFS, CIDA, CCI, and IESL.

4.5. CAPACITY DEVELOPMENT IN INFORMATION TECHNOLOGY AND INTRODUCTION OF E-GOVERNMENT PROCUREMENT

Brammer and Walker (2011) highlighted that e-government procurement used by the countries as successful tool to bridge the existing gaps of the procurement process and it will facilitate to take initiatives towards the sustainable public procurement process (SPPP) in construction industry. E-government procurement process to be considered by the government of Sri Lanka to implement with the assistance of the foreign funding agency with the approval of the cabinet of ministers on e-government policy in 2009 (World Bank and Asian Development Bank, 2012).

Hence literature revealed gaps and remedial measures to the Public PP in construction industry under the key elements to identify the initiatives to take appropriate actions to bridge the gaps in order to facilitate to formulate the SPPP to the Sri Lankan construction industry. Moreover, it was identified that the interest to upgrade the Public PP in construction industry has been increased by the stakeholders in line with the 19th amendment of the constitution of Sri Lanka and concept of sustainable development as per the global needs and requirements. Hence, findings of the literature revealed that implementation actions of formulation of SPPP shall be done through the short term, medium term, and long term measures by bridging the gaps of the existing Public PP towards the development objectives of the country with the assistance of the funding agencies.

5. DISCUSSION

As a result of the findings through the opinions of the experts justify and reconfirm the significant gaps of the existing Public PP in the Sri Lankan construction industry in line with the 19th amendments to the constitution of Sri Lanka. Though, the findings through the literature confirmed by the experts to bridge the gaps through the short, medium, and long term measures.

The experts in the construction industry pointed out that the construction industry is an open system, hence, which is very sensitive to change with the needs and requirements of the stakeholders; further, its characterisation throughout the world is determined by the operating external environment, which consists of subsystems such as economic, political, financial, legal and technological. Further, emphasised

that this has leaded the industry to be in a challenging state in addressing the gaps of the subsystems in an efficient and effective manner to achieve the target of contemporary version of the Public PP.

Thus, the practitioners pointed out that the construction industry in Sri Lanka is striving to tackle current improvements of the 19th amendments of the constitution of Sri Lanka through the innovative ways of construction, efficient resource utilization and better organisation of projects to bridge the identified gaps through the explored remedies of the literature.

Consequently, the findings through the literature and opinions of the experts confirmed that; the Public PP in the Sri Lankan construction industry also subject to changes resulting in adopting many newly innovated procurement systems through the short, medium, and long term measures that could be used to meet contemporary requirements. Further, the experts explained that the governments should take the full range of economic, social and environmental costs and benefits of public procurement into account for the sustainable improvement of the economy. Sustainability means the capacity to maintain the entity, outcome, or process over the period of time. The concept of sustainability came to public attention after the 1972 based on the report of "Limits of Growth" that issued by the international think tank Club of Rome. The SPPP is contemporary version of the existing Public PP and affected to potential saving of costs of the procured goods, works and services (CIDA, 2015b; Brammer and Walker, 2011; World Bank and Asian Development Bank, 2012). However, the experts argued that enactment of sustainable national procurement strategy to the country and change the attitude of the officers and stakeholders will be critical tasks to establish the SPPP.

Moreover, findings revealed that well regulated Public PP has direct impact to expedite the sustainable development of the country since the Public PP contribute to the budget of the developing nations is often large (about 20% of the GDP). This will be expanded and visible in terms of short, medium, and long term measures as shown in Figure 1.

According to the findings through the literature and opinions of the experts following recommendations are offered to implement the short term, medium term, and long term measures in order to initiate the activities of the contemporary version of Public PP to the Sri Lankan Construction industry as shows in Figure 1.

Establishment of regulatory and legislative framework shall be initiated through the preparation of national procurement strategy and update the procurement guidelines and manuals, bidding documents, rules and regulations in line with sustainable elements as short and medium term measures in line with Figure 1. Further as highlighted in Figure 1 introduce and implementation of sustainable public procurement act also identified as long term measure in accordance with the point of views of the experts,

Integration with Governance shall be done by introducing the initial activities of the good governance, effective governance, and equitable governance to the construction industry as short term. Further as medium term measures integrate the internal and external strengths to implement the activities of the good governance, effective governance, and equitable governance to the construction industry. Furthermore, as long term measure establish the institution to sustainable reform the procurement process of the country in line with the broader governance reform agenda that link with the perspectives of external environment of public administration, civil service reforms, and audit in line with the identification of Figure 1.

Establishment of Procurement Regulatory Body shall be implemented by initiating preliminary actions to establish the independent authorised division or department under the Ministry of Finance and Planning to inspect, monitor, and control the procurement activities of the construction industry in national and provincial levels under the purview of national procurement commission as short and medium term measures in line with Figure 1. Moreover, Figure 1 shows as long term measure to carry out an in-depth review and analysis on entire institutions involved in activities of procurement and establish sustainable integration between the institutions and authorities. Further establishment of empowered independent authorised national body as main pillar to initiate and implement the SPPP to the country.

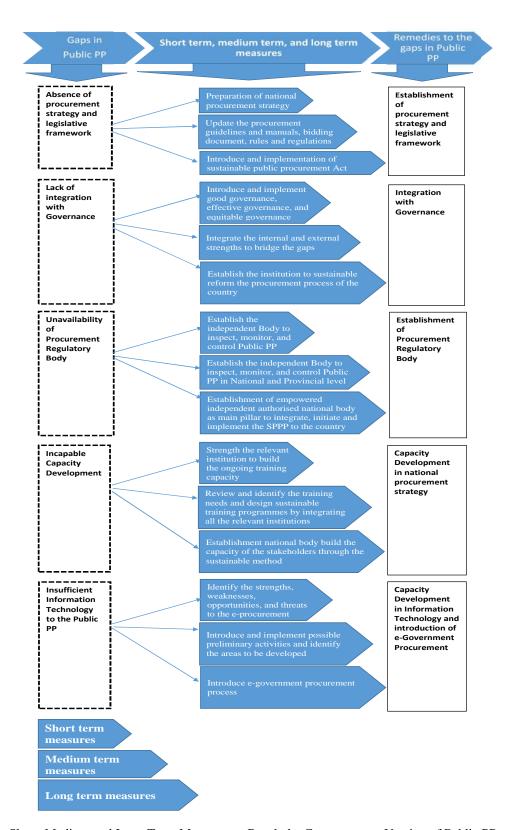


Figure 1: Short, Medium and Long Term Measures to Reach the Contemporary Version of Public PP

Capacity development in line with national procurement strategy shall be executed by strengthening the institutions of MOFP, MPA, SLIDA, AFS, CIDA, CCI, and IESL to provide regular capacity building programmes to cater the demand of the industry and identify the training needs through the diagnosis review of the existing Public PP to avoid the repetitions and minimise the waste of government funds as

highlighted in Figure I under the short term measures. Further as long term measure to establish national body to build the capacity of the stakeholders in the field of procurement, and finally.

Introduction of e-government procurement shall be commenced by conducting the diagnosis review to identify the strengths, weaknesses, opportunities, and threats towards introduce and implement the e-procurement process to the construction industry as short term as shows in Figure 1. Further as medium term measures introduce and implement possible preliminary activities on e-government procurement process and identify the areas and infrastructure to be developed to implement entire framework of e-government procurement process. Furthermore, Figure 1 indicates that introduce e-government procurement process to the construction industry as long term measure as per the opinions of the experts.

6. CONCLUSION AND IMPLEMENTATION

The aim of this paper is to identify the gaps in Public PP in Sri Lankan construction industry and propose remedial measures to bridge the gaps. The objective of the paper is to discuss critically on prevailing gaps with special attention to the areas on policy and practices, and government of Sri Lanka's (GOSL) ongoing efforts for the future development of Public PP in line with the identified remedial measures towards the desired achievements of the 19th amendments of the constitution of Sri Lanka in order to fulfil the requirement of the stakeholders of the Public PP in Sri Lankan construction industry in line with the global needs.

As mentioned, Figure 1 findings revealed that how to address the identified gaps through the short term (within 03 years), medium term (within 05 years), and long term measures (more than 05 years) to implement the contemporary version of Public PP to the Sri Lankan Construction industry. Hence through the literature and the opinions of the experts in the field of procurement identified the feasibility of adopting those measures to the Sri Lankan construction industry. Further, measures to bridge the gaps were explored through the in-depth analysis in line with the identified data.

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