

GENERAL INFORMATION

Capital: Abuja	Population: 182,201,962	GDP: USD 486,793 Million
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LEGAL AND INSTITUTIONAL FRAMEWORK

PPP Law and other applicable texts - The Infrastructure Concession Regulatory Commission Act 2005 (ICRC)

- The National Policy on Public Private Partnerships 2009 (N4P)

Other Applicable Sectoral Laws - The Public Procurement Act 2007 (PP Act)

PPP Unit

- The PPP Division, Technical Services Department, Ministry of Finance
- Infrastructure Concession Regulatory Commission (ICRC)
- Ministries, Departments and Agencies (MDAs) PPP Units

Definition (N4P, 2009) The National PPP Policy defines a public private partnership as:

“A wide range of contract forms—in turn represented by numerous acronyms (BOT, DBFO, BOOT, etc.)—falls within the scope of the term ‘public private partnership’. It can be said to include: outsourcing and partnering; performance-based contracting; design, build, finance and operate (or build operate transfer) contracts; and, sometimes, concessions.” (*Art. 2*)

General Principles (N4P, 2009) Principles of transparency, public interest, value for money, competition, risk allocation, capacity to deliver, engaging with the market and output requirements (*Art. 8 Key principles*)

Tendering and contracting procedures / Choice of the private partnership (N4P, 2009) - Competitive Bidding:
Competitive bidding is the general process governed by the N4P, the ICRC and the PP Act (*Art. 24 and Art 25 to Art. 38 of PP Act; Art. 4 of ICRC*)

(ICRC, 2005)

(PP Act, 2007)

- Special and restricted methods of procurement:
 - o Unsolicited offers (*Art. 3, Part II of N4P*)
 - o Two stages tendering (*Art. 39 of PP Act*)
 - o Restricted tendering (*Art. 40 of PP Act*)
 - o Direct procurement (*Art. 42 of PP Act; Art 5 of ICRC*)
 - o Emergency procurement (*Art. 43 of PP Act*)

Project Evaluation

(N4P, 2009)

(PP Act, 2007)

The Project evaluation shall comprise several stages (*Art. 9 of N4P*)

- (i) identification of need, (ii) a systematic appraisal of technical solutions to the identified need, (iii) preparation of economic, social and environmental cost benefit analysis, and an Environmental Impact Assessment, if required, (iv) value for money (VfM) and affordability testing of different procurement options, (v) preparation of financial analysis - the pre-feasibility study, (vi) budget allocation within the National Development Plan and, subsequently, the Medium-Term Expenditure Framework (MTEF) and (vii) the approval of Outline Business Case (OBC) prior to the commencement of procurement.
- Procurement Planning (*Art. 18 of PP Act*)

Negotiation and Signature of PPP Contracts

(N4P, 2009)

- Signature: The Accounting Officer of the MDA will have authority to sign the PPP contract or concession (*Art. 3.4, Art. 4.4 Contract Close, N4P*)

Rights and Obligations of the public partner

No provision in the N4P, the PP Act and the ICRC.

Rights and Obligations of the private partner

Obligations related to easements (*Section 13 of the ICRC*), Lender step-in right (*Art. 4.4 of the ICRC*)

Obligations of both public and private partners

No specific provision in the N4P, the PP Act and the ICRC.

Applicable Law

No specific provision in the N4P, the PP Act and the ICRC.

Dispute resolution

(PP Act, 2007)

All procurement contracts shall contain provisions for arbitral proceedings as the primary form of dispute resolution (*Art. 16 (26) of PP Act*).

An administrative review systems for complains arising during the implementation of the contract is provided by the PP Act (*Art. 54 of PP Act*).

EXAMPLES OF PROJECTS STRUCTURED AS PPP

Port	Onitsha, Baro, Oguta & Lokoja River Ports
Health	Cross River Hospital PPP
Infrastructure	Lagos Murtala Muhammed Airport PPP