

GENERAL INFORMATION

Capital: Abuja	Population: 219,463,862 million (2021)	GDP: USD 440.8 billion (2021 est.)
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LEGAL AND INSTITUTIONAL FRAMEWORK

PPP Law and other applicable texts	<ul style="list-style-type: none"> - The Infrastructure Concession Regulatory Commission Act 2005 (ICRC)¹ - The National Policy on Public Private Partnerships 2009 (N4P) - The Fiscal Responsibilities Act 2007 (on contingent liabilities) - The ICRC Public Private Partnerships Regulations, 2014 (ICRC PPP Regulations)
Other Applicable Laws	<ul style="list-style-type: none"> - The Public Procurement Act 2007 (PP Act) - The National Planning Commission Bill (2018) - The Public Enterprises (Privatisation and Commercialisation) Act (1998) - The Public Enterprises Regulatory Commission Act (1996) - The Nigerian Ports Authority Act (1999) - The Nigerian Railway Corporation Act (1990)
PPP Unit	<ul style="list-style-type: none"> - The PPP Division, Technical Services Department, Ministry of Finance - Infrastructure Concession Regulatory Commission (ICRC) - The Bureau of Public Enterprises (BPE) - Ministries, Departments and Agencies (MDAs) PPP Units
Definition (N4P, 2009)	<p>The National PPP Policy defines a public private partnership as:</p> <p>“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,</p>

¹ When assessing PPP law in Nigeria, it is equally important to review the applicability of a particular states’ law as Nigeria is governed by both federal and state law. The ICRC for example, does not apply to states where infrastructure projects are undertaken by state governments and where no federal assets or ministry is involved. States may have to develop their own frameworks for PPPs. For example, Lagos state enacted its Public Partnership Law in 2011.

General Principles

(N4P, 2009)

sometimes, concessions” (*Art. 2*).

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)

(ICRC, 2005)

(ICRC Regulations, 2014)

- Competitive Bidding:

Competitive bidding is the general process governed by the N4P and the ICRC (*Art. 4 of ICRC*)

Under the ICRC Regulations, the PPP procurement process is to take one or more of the following forms:

- Competitive bidding (which is the default form of procurement);
- Non-competitive bidding (if only one project proponent qualifies);
- Unsolicited proposals;
- In case of PPP projects involving funding sourced from International Financing Institutions, such additional procurement procedures as may be prescribed by such institutions; and
- Direct Negotiations (if recommended by the ICRC) (*Reg. 12*)

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

ICRC PPP Regulations

The Public Infrastructure Entity shall be responsible for the identification, prioritization, planning, negotiation, execution and implementation of PPP Agreements. (*Reg. 6*)

Rights and Obligations of the private partner	Obligations related to easements (<i>Section 13 of the ICRC</i>), Lender step-in right (<i>Art. 4.4 Contract Close of the N4P</i>)
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) (ICRC PPP Regulations)	<p>All procurement contracts shall contain provisions for arbitral proceedings as the primary form of dispute resolution (<i>Art. 16 (26) of PP Act</i>).</p> <p>An administrative review systems for complaints arising during the implementation of the contract is provided by the PP Act (<i>Art. 54 of PP Act</i>).</p> <p>The Commission may, in appropriate circumstances, mediate in a dispute between a Public Infrastructure Entity and the Project Proponent. (<i>Reg. 39</i>)</p>

EXAMPLES OF PROJECTS STRUCTURED AS PPP

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