

GENERAL INFORMATION

Capital: Abuja	Population: 219,463,862 million (2021)	GDP: USD 475.062 billion (2019 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)
Other Applicable Laws	<ul style="list-style-type: none"> - Sectoral 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, sometimes, concessions” (<i>Art. 2</i>).</p>
General Principles (N4P, 2009)	<p>Principles of transparency, public interest, value for money, competition, risk allocation, capacity to deliver, engaging with the market and output requirements (<i>Art. 8 Key principles</i>).</p>
Tendering and contracting procedures / Choice of the private partnership	<ul style="list-style-type: none"> - Competitive Bidding:

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(N4P, 2009)

(ICRC, 2005)

(PP Act, 2007)

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*)

- 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.

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 and have may develop their own frameworks for PPPs. For example, Lagos state enacted its Public Partnership Law in 2011.

Rights and Obligations of the private partner Obligations related to easements (*Section 13 of the ICRC*), Lender step-in right (*Art. 4.4 Contract Close of the N4P*)

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