PUBLIC PRIVATE PARTNERSHIP – AN IMPERATIVE FOR NIGERIA’S DEVELOPMENT

ACTING DIRECTOR GENERAL/ CEO
INFRASTRUCTURE CONCESSION REGULATORY COMMISSION
November, 2017
Keywords and Sentences from Video

- Traditional public procurement cannot meet all needs
- PPP offers a way out
- Share financing, design and operations with the private sector via PPP
- PPP is not privatization, Government leads on a PPP
- Competitive Tender
- Costs recovered by fees paid by government or users
- Lifecycle planning, Risk Sharing and Allocation
- Complex legal and financial arrangements
- Good governance principles
- Economically warranted, All Stakeholders
- Environmental protection and transparent procurement
- Football Game !!!!
Outline

1. Nigeria….Challenges & Opportunities; Extensive Intro to PPPs

2. Nigeria’s PPP Experience

3. Nigeria’s Legal and Regulatory Framework for PPPs

4. PPP Procurement Routes and Case Studies

5. Potential PPP Pipeline

6. Key Actions and Conclusions
Small scale IPPs supplied by China
Higher Education Housing in Some Places

Prisons are better than our Hostels.....We need better accommodation....We need better rest rooms
Herdsmen & Farmers Clashes – Transportation Infrastructure Problems
"If Nigeria was a three legged stool, I would say its stability and future depends on how well and how fast we tackle the infrastructure problem - the shaky leg of the stool."

World Bank Official

1% increase in infrastructure stock results in a 1% increase in GDP - World Bank

If you want to grow rich - build a road first (Chairman Mao)
Introducing...Nigeria centre of the world
Infrastructure Procurement Options
PPP represents a balance between state ownership and privatisation as indicated below:

- **Conventional procurement**
  - The procurement of assets by the public sector using conventional funding
  - Design, build, finance and transfer (DBFT)
    - Build, operate and transfer (BOT)
      - Build, operate and own (BOO)
    - Design, build, finance and operate (DBFO)
      - Publicly regulated but privately owned in perpetuity

- **Public Private Partnership**

- **Full privatisation**

Source: KPMG, KLegal
A Public-Private Partnership is a **contractual agreement** between a **public agency** (federal, state or local) and a **private sector entity**. Through this agreement, the **skills and assets** of each sector (public and private) are shared in delivering a service or facility for the use of the general public. In addition to the sharing of resources, **each party shares in the risks and rewards** potential in the delivery of the service and/or facility (Nat. Council on PPP USA).

The goal is to combine the best capabilities of the public and private sectors for mutual benefit.
**PPPs are Fundamentally Different**

**Formal contract** between public and private partner (over the years duration the service will be provided) – usually multiple years duration
Entered through **competitive procurement**
Using **output specification** – government specifies ‘what’, private sector can define ‘how’
With suitable **risk allocation** between parties
Putting **private investment at risk**
With **regulation or contract management of performance** of the private partner

**Example**

**Government defines output = connection to let 1,000 vehicles p.d. travel between islands**
**Government tenders for best solution over 30 years – e.g. ferry, tunnel, bridge??**
**Government enters 30-year contract with private company**
**Private company designs, builds, finances bridge, then operates and maintains it for 30-years**
**Private company receives payment if the bridge works and is available for traffic**
**Government checks on safety and availability**
**If the bridge is closed, or unsafe, the private company looses money**
7 Essential Conditions That Define Public Private Partnerships

1. **Arrangement**
   - Between public & private

2. **Provision**
   - Of services for public benefit by private partner

3. **Investments**
   - In and/or management of public assets by private partner

4. **Time Period**
   - For a specified time

5. **Risk Sharing**
   - Optimally between contracting parties

6. **Standards**
   - Focus on quality of service / performance

7. **Payments**
   - Linked to performance

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**BOT-Toll Road Project**

**GRANTING AGENCY**

**FINANCIERS**
- Equity Investors, Lenders, Guarantors, Insurers

**SPV**

**Design Risk**
- Design Consultant

**Construction Risk**
- Construction Contractor

**Operational Risks**
- Traffic/Revenue & O&M
- Tolls
- Service

**ROAD USERS**

The final responsibility for service delivery continues to remain with the public sector agency.
Why PPPs?
Why Public Private Partnerships

- PPPs fill a critical resource and expertise gap in infrastructure procurement, delivery and operation
- PPPs engender accelerated procurement of infrastructure and services
- PPPs also promote faster implementation of projects, and reduced lifecycle costs due to private sector efficiencies
- PPPs provide for better risk allocation between public and private sectors, thus offering a better and sustainable incentive to perform
- PPPs engender accountability in resource utilization and also improve the overall quality of service
- PPPs often lead to the generation of additional revenue and overall value for money for the entire economy
Key Parties in a PPP Procurement

- **Private Partner**: The private sector partner selected through a competitive procurement process to provide the contractual service to the Public Partner. The Private Partner might be known as Project Company, Consortium, Special Purpose Vehicle, Concessionaire or Contractor.

- **Public Partner**: The public sector entity which enters into the Project Contract. This may be a federal, state or local government, ministry, department or agency, or an end user such as a hospital or school board.
The underlying elements of public-private partnerships are as follows:

- The public sector contracts with the private sector to deliver services on its behalf
- A new special purpose vehicle/entity (SPV/E) is formed, and is financed and owned by the private sector
- The SPV/E develops, finances and completes the infrastructure necessary to deliver the service
- The SPV/E delivers the service and receives agreed-upon compensation
- Compensation can be in the form of tariffs paid by service users or directly by the government, or a combination
- Title to the asset remains with the public sector
- Full operational control is transferred to the public sector at the end of the agreed “concessionary” period
What a PPP is & what it is not

1. PPP is not privatisation or disinvestment

2. PPP is not about borrowing money from the private sector

3. PPP is more about creating a structure

... in which greater value for money is achieved for services
... through private sector innovation and management skills
... delivering significant improvement in service efficiency levels

4. This means that the public sector

... no longer builds roads, it purchases kilometres of maintained highway
... no longer builds prisons, it buys custodial services
... no longer operates ports but provides port services through world class operators
... No longer builds power plants but purchases power
Domestic financial depth: The low performance across key categories of money supply translates to a low domestic financial depth.

**Broad Money**

### Broad Money in % of GDP

- **China**: 208.3%
- **Malaysia**: 130.6%
- **Brazil**: 100.2%
- **Egypt**: 98.2%
- **UAE**: 95.7%
- **India**: 79.1%
- **Saudi Arabia**: 74.6%
- **South Africa**: 72.8%
- **Russia**: 59.2%
- **Turkey**: 56.0%
- **Indonesia**: 40.3%
- **Nigeria**: 20.1%

**Government Bonds**

### Government Bonds in % of GDP

- **Egypt**: 68.8%
- **China**: 65.7%
- **Brazil**: 60.1%
- **Malaysia**: 55.5%
- **India**: 41.1%
- **South Africa**: 35.6%
- **Turkey**: 27.8%
- **Indonesia**: 24.0%
- **UAE**: 17.6%
- **Nigeria**: 13.3%

**Stock Market Capitalization**

### Stock Market Capitalization in % of GDP

- **South Africa**: 322.7%
- **Malaysia**: 121.4%
- **Saudi Arabia**: 69.4%
- **India**: 69.2%
- **China**: 65.4%
- **UAE**: 61.1%
- **Russia**: 48.5%
- **Indonesia**: 45.7%
- **Brazil**: 42.2%
- **Turkey**: 20.0%
- **Egypt**: 9.9%
- **Nigeria**: 7.4%
Domestic financial depth: Nigeria fairs poorly on domestic savings, investments and government spending vs peers.
“…..We also have a huge infrastructure deficit for which we require foreign capital and expertise to supplement whatever resources we can marshal at home. In essence, we seek public private partnerships in our quest for enhanced capital and expertise.”
Excerpts of speech of His Excellency
Vice President Yemi Osinbajo
AT 10th Year Anniversary Lecture of Crescent University,
Abeokuta, Ogun State
June 11, 2016

..........the Buhari Administration will tackle corruption in all sectors of the economy and establish a sufficient tax culture. The Administration will encourage Public-Private Partnerships ensuring a transparent framework that reduces the bottlenecks in doing business.
Myth Bursting
Money is not the problem?

The world invests $2.5 trillion annually in transport, power, water, and telecom.

Today

The world needs to invest $3.3 trillion annually just to meet growth forecasts to 2030.

How can the world bridge its infrastructure gap?

Find a way to attract the

$120,000,000,000,000,000

under management by banks and institutional investors to infrastructure finance through...

A better pipeline of well-developed projects

Changes to regulation and risk mitigation

Market facilitation and standardization

Solid cross-border investment principles
World Bank surveys of investors have repeatedly shown that the issue of 'protection of legal rights' is the primary concern in making decisions as to where to undertake major infrastructure projects.

### Legal Framework Key

**General Principles – Focus on Addressing Killer Risks**

- **Legal Protection of Investors**: 3.57
- **Consumer Payment Discipline**: 3.11
- **Government/Multilateral Guarantee**: 3.11
- **Government Efficiency**: 2.98
- **Judiciary’s Independence**: 2.91
- **Clear Rules for Exit**: 2.83
- **Investment Grade Debt Rating**: 2.83
- **Transition to Competitive Market**: 2.68
- **Corruption Index Ranking**: 2.66
- **Domestic Borrowing**: 2.49
- **Competitive Selection**: 2.43
- **Possibility of Vertical Integration**: 2.00

**“Deal-breaker”**
Types and features of PPPs
| **FINANCIALLY FREE STANDING PROJECTS** | 1. Role of public sector - planning, licensing & statutory approvals  
2. No financial support/ payment is made by government  
3. Revenues are through levy of user charges by the private sector |
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<td><em>Examples</em> - Toll Roads/ Bridges, Telecom services, Port projects</td>
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| **PROJECTS WHERE GOVERNMENT PAYS FOR SERVICES** | 1. Private sector paid a fee (tipping fee), tariff (shadow toll) or periodical charge (annuity) by Government for providing services  
2. The payment is made against performance  
3. There may be demand risk transfer – either in part or whole |
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<td><em>Examples</em> - Roads - annuity/ shadow tolls, power - under PPAs. In UK - prisons, education, health services, defence related services</td>
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**Note that:** In both cases, the design, financing, construction and O&M risks are fully that of the private partner

| **HYBRID STRUCTURES** | 1. Combine the financially free standing nature – levy of a user charge – with payment by the public entity  
2. Payment could be as a viability gap subsidy or an annuity payment |
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<td><em>Example – toll road project with either viability gap payment by government or annuity payment based road contract with tolling rights</em></td>
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Forms of PPP

- **Service contracts:**
  - Private sector contracted for specific tasks
  - Capital investment and ownership of the asset is by the public sector
  - Public entity pays the private company for provision of services but retains the commercial risk

- **Management contracts:**
  - Private sector manages the utility but does not finance it
  - Capital investment and ownership are retained by the public
  - Public entity pays private manager a fixed management fee
  - Commercial risk is held by the public

- **Lease:**
  - Private sector manages the utility and finances the O&M
  - Capital investment and ownership are retained by the public
  - Private operator collects revenues and pays to the public entity a fixed fee
  - Commercial risk is shared
Forms of PPP (Cont…)

- **Concession:**
  - ✓ Private operator manages the utility and finances new investments as well as O&M
  - ✓ Capital investment is made by the private operator but ownership is retained by the public
  - ✓ Private operator collects revenues and may pay a concession fee to the public entity
  - ✓ Commercial risk is borne by the private operator

- **BOT (and other variations e.g. BOOT, BTO, DBOT, DFBOT, etc)**
  - ✓ Private operator builds new infrastructure, operates it for fixed period and transfers it to public sector
  - ✓ Capital investment is made by the private operator, but ownership is by both at different points in time
  - ✓ Public utility pays private operator for services provided by the new asset
  - ✓ Commercial risk is usually private, but could also be shared
Types of PPP’s – Alphabet Soup

- **BOT** – Build Operate Transfer
- **BOO** – Build Own Operate
- **BOOT** – Build Own Operate Transfer
- **DBF** – Design Build Finance
- **DBFO** – Design Build Finance Operate
- **DBO** – Design Build Operate
- **BLT** – Build Lease Transfer
- **BTO** – Build Transfer Operate
- **DBFOM** – Design Build Finance Operate Manage
- **Leasing**
- **Operations or Management Contracts**
- **Cooperative Arrangements**
- **LROT** – Lease Renovate Operate Transfer
- **DCMF** – Design Construct Manage Finance
- **BOOR** – Build Own Operate Remove
Key Technical Benefits of PPPs Procurement

1. Rigorous project preparation – since the focus shifts to developing bankable projects

2. Delivery of a whole life solution – going beyond asset creation and including Operation and Maintenance (O&M)

3. Focus shifts to service delivery – construction responsibility is integrated with O&M obligations and together with appropriate quality monitoring and service delivery-linked payments such an arrangement could enhance the levels of service delivery

4. It is possible to adopt a programmatic approach to infrastructure development and service delivery – various time bound projects can be integrated under a programme and have a time-bound implementation plan

5. Can lead to better overall management of public services – transparency in selection and ongoing implementation
PPP Advantages (1)

• What each party brings to a PPP

Public Sector
- Land
- Legislation
- Subsidies & Guarantees
- Rights of way
- Long term vision

Concession (SPV)

Private Sector
- Design & Build innovation
- Operation & Maintenance
- Financing
- Capital
- Access to the market

Revenue

Users
PPP Advantages (2)

- What each party gets from a PPP

<table>
<thead>
<tr>
<th>Public Sector</th>
<th>Private Sector</th>
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<tbody>
<tr>
<td>Taxes</td>
<td>Design &amp; Construction Contract</td>
</tr>
<tr>
<td>People</td>
<td>Operation Contract</td>
</tr>
<tr>
<td>Mobility</td>
<td>Servicing of Debt</td>
</tr>
<tr>
<td>Economic development</td>
<td>Incomes</td>
</tr>
<tr>
<td>Social function</td>
<td>Profit</td>
</tr>
<tr>
<td>Associated benefits</td>
<td></td>
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</table>

Concession (SPV)

- Time/cost saving
- Environment protection
- Service Quality

Users
Advantages of PPPs

- Maximizes the use of each sector’s strength
- Reduces development risk
- Reduces public capital investment
- Mobilizes excess or underutilized assets
- Improves efficiencies/quicker completion
- Improves service to the community
- Improves cost effectiveness
- Shares resources
- Shares/allocates risks
- Mutual rewards
1. Mobilizing private sector’s money, expertise and capacities for infrastructure development
2. Long-term relationship between government and private sector (usually > 10 years)
3. Sharing of Risks and Rewards (no lop-sided agreements - privatizing the profits, nationalizing the loses)
4. Private sector performs to agreed KPIs
5. Life cycle focus (operations and maintenance)

Government is moving from role of Developer & Operator to Facilitator
Suitable Candidates for PPP’s

► **Transport** (road, rail, ports, airports)
► **Fixed links** (bridges, tunnels)
► **Water resources** (filtration plants, irrigation, sewage treatment, pipelines)
► **Tourism** (facility development)
► **Health** (hospitals and specialized health services)
► **Specialized accommodation** facilities (courts, police stations)
► **Educational facilities** (schools, museums, libraries)
► **Correctional services** (prisons, remand and detention centers)
► **Arts, sport and recreational facilities**
► **Convention centers**
► **Government office accommodation**
► **Social housing**

Experience is transferable - “Lessons learned from one . . .”
### Public procurement: Traditional v/s PPP

<table>
<thead>
<tr>
<th>Characteristic</th>
<th>Public procurement</th>
<th>PPP</th>
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<tbody>
<tr>
<td><strong>Focus</strong></td>
<td>Procuring Assets</td>
<td>Procuring Services</td>
</tr>
<tr>
<td><strong>Project management</strong></td>
<td>Public sector is responsible for all project management roles</td>
<td>Private sector manages overall project - design, construction, operations and maintenance. Focus on project life cycle expected to bring efficiency.</td>
</tr>
<tr>
<td><strong>Service Delivery</strong></td>
<td>Public sector directly responsible for service delivery to users</td>
<td>Private sector directly responsible for service delivery to users</td>
</tr>
<tr>
<td><strong>Financing</strong></td>
<td>Public sector responsible for financing the project. Thus financing impacted by budgetary allocations and then actual disbursements</td>
<td>Private sector may contribute finance through debt and equity issuances</td>
</tr>
<tr>
<td><strong>Risk Sharing</strong></td>
<td>Public sector bears all project risks. Risk sharing limited to the extent of warranties.</td>
<td>Risks allocated to parties which can manage them most efficiently</td>
</tr>
<tr>
<td><strong>Contractual Arrangement</strong></td>
<td>Short term, generally segregated contracts for asset creation (BOQ based) and maintenance.</td>
<td>Long term contracts- Public sector/users pay for services linked to performance.</td>
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**PPP:** The public sector procures a service, not an asset, from the private sector.
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<thead>
<tr>
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<th>Privatisation</th>
<th>PPPs</th>
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<tbody>
<tr>
<td>Accountability/</td>
<td>Responsibility and accountability for <strong>delivery</strong></td>
<td>Responsibility and accountability for <strong>service</strong></td>
</tr>
<tr>
<td>Responsibility</td>
<td>and <strong>funding</strong> service rests with the private sector</td>
<td>delivery lies with the public sector</td>
</tr>
<tr>
<td>Ownership</td>
<td>Ownership rights and associated costs and benefits are sold <strong>to the private sector</strong></td>
<td>Legal ownership of assets retained by government</td>
</tr>
<tr>
<td>Nature of Service</td>
<td><strong>Private sector</strong> determines the <strong>nature and scope</strong> of services</td>
<td>Both public (govt.) and <strong>private sector</strong> contractually determine the nature and scope of services</td>
</tr>
<tr>
<td>Risk and Reward</td>
<td>Private sector assumes all inherent risks</td>
<td>Public and private sector share risks and rewards</td>
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## PPPs: Common Myths/Concerns

<table>
<thead>
<tr>
<th>Myth/Concern</th>
<th>Clarification</th>
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<tr>
<td>Profit motive of private sector is incompatible with the service motive of public sector</td>
<td><strong>No.</strong> The key is to harness private sector’s profit motive, by incentivizing them to provide better quality service and earn <em>reasonable return</em>.</td>
</tr>
<tr>
<td>PPPs increase user tariffs</td>
<td><strong>Not Necessarily.</strong> When appropriate safeguards like effective regulation and/or adequate competition are in place. However in sectors where existing tariffs are inadequate to cover costs of specified level of service tariffs may initially require some upward adjustment. Over time efficiency gains expected to rationalize tariffs.</td>
</tr>
<tr>
<td>Money for PPPs comes from private sector “pockets”</td>
<td><strong>Initially, YES.</strong> But private sector would make those investments provided they can recover those investments either from users or the government with reasonable return.</td>
</tr>
<tr>
<td>Once a private sector partner is brought in, there is little or no role for the public sector</td>
<td><strong>No.</strong> Public sector’s role changes from direct involvement in construction and service provision, to ensuring that the PPP delivers value for money for the government and better services for users.</td>
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Small Pro Poor PPP Procurement

Public Conveniences
Some PPP Experience From Nigeria
BOT contract agreement between the Federal Airports Authority of Nigeria (FAAN) and Bi-Courtney Limited (BCL)

- Original agreement signed in April 2003 (mainly granting concession to BCL)
- A supplementary agreement signed in June 2004 (mainly increasing construction period from 18 months to 33 months)
- An addendum Agreement signed in February 2007 (mainly extending concession period from 12 to 36 years)

**Main areas of Dispute:**

- Operation of the GAT by FAAN
- The Tenure of the Concession (36 Years)
- The Exclusivity Clause in the agreement

**Lessons**

- Inadequate Experience in Public and Private sectors
- Political Involvement at the implementation level.
- Asymmetry of knowledge between concessionaire and Government; No financial model and traffic risks not properly evaluated
- Not enough due diligence by contracting authority
- Project Development not thorough
Client: FCT Health and Human Services

Sector: Social Infrastructure- Health Sector

Year the project was signed: 2007

This was concession to NISA Premier Hospital Ltd in 2007 for a period of fifteen years (15yrs).

The introduction of a public private partnership (PPP) arrangement in the hospital has been very effective in the delivery of services. The hospital performed its first successful heart surgery in July 2013 and also performed three (3) successful kidney transplants on the same day in November 2013. The hospital ranks in the top 50 of all evaluated hospitals in Nigeria.
Pre PPP Theatre
PPP Theatre: One Of Our 3 Theatres (June 2015 Cardiac Surgery)
Pre PPP Radiology
PPP Radiology (CT Scanner)
Pre PPP Laboratory
PPP – One of our laboratories
**Ports**

- Major Ports reform in 2004, to improve clogged, inefficient, and very expensive ports.
- Experienced private operators engaged through Concessions to rehabilitate and Manage 26 ports.
- Months after the concession of the Apapa-Lagos container terminal, delays for berthing space had dwindled, and shipping lines reduced congestion surcharge from $525 to $75, saving the Nigerian economy an estimated $200 million a year.
- Goal of concession yet to be fully achieved due to external factors and actors

**Lessons**

- Transaction activities should not be targeted at the signing of concession contracts
- Risk allocation should consider Government Capacity to deliver (channel depth, wrecks, RoW)
- The transaction lead agency should be the grantor who remains accountable for services
- “Political Clock” not the same as Project time
- Success requires an integrated approach (Roads, Customs, Rail, Security, State Govts)
General Lessons Learned: Project Development

- **Project Preparation:** A well prepared project will attract funding and support during implementation. A poorly prepared project will ultimately fail, no matter how well funded.
  - There is Need for *experienced transaction advisers* and thorough project Preparation (time spent in preparation is always regained during smooth and effective implementation)

- **Operating Environment:** Only a conducive, transparent, and competitive environment can attract the right partners

- **Data:** Technical and Economic data are critical for thorough project preparation. Data gathering must be a continuous programme

- **Transaction Management:** Agency responsible for implementation must take *Ownership and Responsibility from inception to completion*

- **Stakeholder Consultation:** Engagement should include all stakeholders that will be directly or indirectly affected throughout the life of the project
General Lessons Learned: Project Procurement & Contracts

- **Procurement** is **Most Critical** to ensuring a vibrant PPP market. Procurement processes must be **Transparent and Competitive**

- Govt. must **understand, in totality**, what they are committing to, with clear roles and responsibilities (conditions of contracts)

- In-depth **due diligence** (Legal, Technical, Financial, Environmental and Social) must be captured at the OBC level of all potential PPP projects

- **Risks** must be thoroughly assessed and shared between parties, with clear **Understanding of the responsibilities**

- Public partners must understand that PPPs imply a **Loss of Management Control** to the Private sector

- True **Partnership** implies **equality in the relationship**. Govts must appreciate and imbibe the qualities of partnership in a PPP environment

- **PPP Procurement** can be **Lengthy and Costly**. MDAs must appreciate this fact, and exercise **Patience and Discipline**, to maintain best practices
Nigerian Legal and Regulatory Framework for PPPs
The Infrastructure Concession Regulatory Commission Act (Establishment Etc,) Act 2005.

In 2009, the Federal Executive Council (FEC) approved a National Policy on PPP which provides guidance on PPP project structuring.

Presidential Circular of September 2013 directing All MDAs to engage with the FMoF and ICRC PRIOR to commencing PPP projects. MDAs to establish PPP units

Annual Report to the President presented every year in June.

Transparency and Competition
ICRC’s Functions:

- Regulate Public Private Partnership (PPP) procurement by:
  - a. Guiding MDAs in structuring PPP transactions for both green field and brown field infrastructure – Pre Contract regulation
  - b. Taking custody of all executed agreements and ensuring compliance - Post Contract Regulation

- Issue PPP regulations and guidelines
- Collaborate with state governments to develop a sustainable national framework
What others do:

- Initiate PPP projects – **MDA responsibility**
- Develop the Projects – **MDA responsibility**
- Approve PPP projects – **FEC approves**
- Enforce court judgments over PPP transactions – **Courts’ Mandate**
The PPP Process:

- Knowledge, experience and skills required to go through PPP phases:
  1. PPP Project Initiation,
  2. PPP Project Development,
  3. PPP Project Procurement,
  4. PPP Project Implementation,
  5. Asset return
PPP Lifecycle in line with National Policy

Preliminaries

Development Phase
- Project Identification
- Project Prioritization
- Project Selection

Procurement Phase
- Transaction Adviser
- Needs Analysis
- PPP Options Appraisal
- Value for Money
- Affordability
- Sustainability
- Prelim Risk Matrix
- Viability/Bankability
- VGF
- OBC
- OBC Approval by FEC

Implementation Phase
- Independent Engineer
- Monitor Design and Construction
- Commissioning Test
- Verify Output Requirements
- Contract Management

Preparing and Implementing Efficient and Effective PPP Transactions
PPP Projects must be Bankable & Affordable

- IRR > Weighted Average Cost of Capital
- RoE > Shareholders Requirement
- Debt Service Cover Ratio > Bankers or Lenders Requirements
- Loan Life Cover Ratio > Bankers or Lenders Requirements

Focus on not just comparative but competitive advantage !!!

Ideas don’t get funded bankable projects get funded.

You must take to market projects with robust cash flows and cost reflective returns
N4P Principles

- **Value for Money**
  Ensure project appraisals take into account not only cost but also risks and service quality.

- **Public interest**
  Adequate and prior consultation with stakeholders.

- **Output requirements**
  The Concept of “verifiable service standards” to be used as basis for output or performance based specifications.

- **Transparency**
  Transparency in all procurements is key requirement of the law.

- **Risk allocation**
  Risks allocated to the party best able to manage them.

- **Competition**
  The law requires that no project is procured without subjecting it to competition.

- **Capacity to deliver**
  Ensure Project Proponents wishing to partner with government to deliver and operate infrastructure have the capacity to handle the responsibility.
Traditional Risk Allocation

Public Sector

- Construction
- Design
- Technology
- Operation
- Maintenance
- Finance
- Market Demand/Price
- Residual Value
- Approval Process
- Regulatory Process
PPP - Risk Allocation

Public Sector
- Design
- Construction
- Regulatory Process
- Approval Process
- Market Demand/Price
- Residual Value

Private Sector
- Technology
- Finance
- Operation
- Maintenance
- Procurement Process

Demand/Price
Residual Value
Approval Process
Regulatory Process
PPP Procurement Routes
SOLICITED ROUTE

- Well prepared bankable projects to Market
- Transparent and Competitive Bidding
- May Require Government Funding Support
- Timely Financial Closure Required

UN_SOLICITED ROUTE

- Bankable Business Case by Project Proponent
- Must be part of strategic plan of government
- Indicative Funding Available
- Negotiate or Subject to Competition via Swiss Challenge etc
- No Government Funding Support
Initiated by Private Party (must be full proposal with development phase complete or nearly complete ie, bankable OBC)

- (Unsolicited proposals means moving straight into PPP procurement phase)
- Contracting Authority Receives and Makes Preliminary Review
- Does proposal certify requirements
- Decision to use Swiss challenge to introduce competition
- Counter proposals requested for
- Review and Award
PPP Structure
...Structure of a Typical Large PPP Project

PPP Contract

Public Sector Authority

Construction Contractor

Facilities Management Operator

Construction Agreement

Facility Management Contract

Consortium (Special Purpose Vehicle)

Public Agency Consultant

SPV’s Consultant

Debt Provider

Debt Finance

Equity Finance

Construction Investor

Facilities Management Investor

Third Party Equity Investor

Operation

Finance
Cash Flow Waterfall

- Income
- Taxes → Income Tax Department
- OpEX → Employees and Suppliers
- Debt Service → Banks
- Profit and dividends → Shareholders
Sample PPP Experience From Other Regions
Lesson from Senegal

Multi Modal and Connected

The Bank financed EUR 185m directly, facilitating EUR 1.3 billion in investment
Lesson from Senegal ... Cont’

Senegal

Synergies & Catalytic Effects on Economic Development

- Transport of Goods Complementarity
- AIRPORT Blaise-Diagne International Airport
- Power Supply
- PORT Dakar Container Terminal
- Linkage between the city and the Airport
- Coal Transport and Power Supply
- POWER PLANT Sendou Power Project
- Transport Corridor (e.g., Coal)
  Connection with Free Economic Zone
- HIGHWAY Dakar Toll Road
- Coal Transport Improved accesses
Lessons from Malaysia


Presentation by Plus Berhard to Engr. Chidi Izuwah November 2015

Source: Plus Malaysia Berhad, 2015
Lesson from Malaysia ... Cont’

AVerage GDP Growth of States
Along North-South Expressway (NSE)

<table>
<thead>
<tr>
<th>States</th>
<th>Before</th>
<th>After</th>
</tr>
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<tbody>
<tr>
<td>Kedah</td>
<td>4.7%</td>
<td>7.5%</td>
</tr>
<tr>
<td>Penang</td>
<td>4.5%</td>
<td>7.5%</td>
</tr>
<tr>
<td>Perak</td>
<td>4.7%</td>
<td>7.3%</td>
</tr>
<tr>
<td>Selangor</td>
<td>5.4%</td>
<td>7.7%</td>
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<tr>
<td>N. Sembilan</td>
<td>3.9%</td>
<td>7.1%</td>
</tr>
<tr>
<td>Melaka</td>
<td>4.5%</td>
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<tr>
<td>Johor</td>
<td>5.0%</td>
<td>7.7%</td>
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</tbody>
</table>

Source: Plus Malaysia Berhad, Nov 2015

Presentation by Plus Berhard to Engr. Chidi Izuwah November 2015
Lesson from Malaysia ... Cont’

NEW TOWNSHIP, INDUSTRIAL PARK, BUSINESS CENTER AND RESIDENTIAL ALONG NSE

RESIDENTIAL AREAS >200
- Bandar Dato’ Onn
- Bernam Jaya
- Taman Kempas Utama
- Setia Tropika
- Bandar Puteri Jaya

INDUSTRIAL PARKS >20
- Kawasan Perindustrian Bukit Minyak
- Senai Industrial Park
- Southern Industrial & Logistics Clusters
- Tanjung Pelepas
- Kulim Hi-Tech Park
- Proton City

NEW TOWNSHIPS >44
- Nusajaya
- Setia Alam
- Putra Mahkota
- Amanjaya
- Putra Heights
- Stargate
- Bandar Indahpura

BUSINESS CENTRES >9
- Medini
- Bukit Merah Laketown Resort
- I-City
- Johor Premium Outlet
- Tadima Business Park

Source: Plus Malaysia Berhad, Nov. 2015
Public Partner – Government of Bihar
Private Partner – Spake Systems (14 MMUs), Jaagran Solutions (12 MMUs), Jain Studio (12 MMUs)

Objective: To provide primary health facilities to people living in the remote areas of the State. Since there is acute shortage of manpower in government hospitals, the state decided to procure MMU through a PPP. A fixed budget is allocated to be paid to each MMU operator by the State. The MMUs provide the same facilities as a basic hospital. PPP Partners were selected by competitive bidding
PPP Opportunities in Nigeria
Flagship PPP Project - National Theatre - Lagos


Re-development of National Arts Theatre, Lagos
Nigeria Entertainment City - Lagos

Re-development of National Arts Theatre, Lagos
1. 2nd Niger Bridge
2. Lagos Ibadan Expressway
3. Rehabilitation and upgrade of 368 Km Shagamu-Benin-Asaba Expressway
4. Reconstruction and Upgrade of Abuja – Kaduna – Kano Dual Carriage Road
5. Reconstruction and Full Dualization of Ibadan – Ilorin - Tegina - Kaduna Highway
6. Reconstruction and Upgrade of Enugu to Port Harcourt Expressway
7. Reconstruction and Upgrade of East West Road
8. Reconstruction and Upgrade of Aba-Ikot Ekpene - Calabar
The 2nd Niger Bridge – Artist Impression
Ports and ICD Opportunities

- Kirikiri Port Lighter Terminal I & II, Lagos.
- Lekki Deep Water Port
- Ibom and Bakassi Deepwater Ports
- Badagry Deep Sea Port
- Ontisha Inland Container Depot (ICD), Anambra State
- Asaba Container Freight Station (CFS), Delta State
- Nnewi Inland Container Depot, Anambra State
- Gombe CFS, Gombe State
- Dagbolu Inland Container Depot, Osun State
- Lolo Inland Container Depot, Kebbi State
Rail, Aviation and FCT Opportunities

- NRC Narrow Gauge
- New Standard Gauge Lines
- Abuja Light Rail Lots 1A and 3
- Bus Rapid Transit for Cities
- Lagos, Abuja, Kano and Port Harcourt Airports
- Aircraft MRO Facility
- NNPC Pipeline and Depot System
• Nigeria Integrated Infrastructure Masterplan
• Nigeria Infrastructure Development Fund
• Annuity PPPs
• Nigerian Sovereign Investment Authority (NSIA) and Infra Credit Guarantee Fund
• PPP Units in MDAs
• Federal Roads and Bridges Tolling Policy
• Standardization Efforts (Business Case, Contracts etc)
What’s The Road Block to Good PPPs

Awareness & Education, Political Will, Execution Discipline and Due Process
Key Actions

- Transperency - PPP Web Portal and Removal of Fees
- Panel of Advisers and Agreed Pipeline of PPP Projects; Accelerated PPP Process
- PPP Regulations, PPP Manual and Toolkits
- PPP Infrastructure Project Development Fund and PPP Budget Item
- We have a national infrastructure emergency and should declare one immediately
- No. 1 Agenda Item at MDA and FEC meetings etc
- Infrastructure Scorecard for each MDA
- Pull the right resources to address.....war against bad infrastructure (WABI)
- An Executive Legislative Infrastructure Advisory Council (ELIAC) needed
- Presidential Council or National Council on Accelerated Infrastructure Delivery and PPPs – National Consensus, Political Direction...Match words with action
ICRC is working across ministries under the Leadership of HE President Buhari to provide the stable world class regulatory framework that will drive and accomplish our major Infrastructure Delivery Objectives.

DO NOT ASK WHAT NIGERIA’S INFRASTRUCTURE CAN DO FOR YOU…BUT ASK HOW WE CAN PARTNER AND UPSCALE NIGERIA’S INFRASTRUCTURE STOCK.

Remember that 1% increase in a nation’s infrastructure increases GDP by 1%.

The fastest way to accelerate economic growth in Nigeria is by developing infrastructure.
Roads Focus
Ilorin Kaduna Expressway !!!
Enugu Onitsha Expressway !!!
Enugu Onitsha Expressway !!!
Enugu Onitsha Expressway !!!
Enugu PHC Expressway !!!
Aba Ikot E Odukpani Road !!!
TURNING AN OLD MERCEDES INTO NEW ONES – OUR APPROACH TO ROAD REPAIRS
To Sustain Current Economic growth and meet 20 20:20 projection

− Total road network of 193,000 km needs to increase to CIRC. 300,000 km by 2020
− The paved road network needs to increase from current 60,000 km to 200,000 km by 2020.

− This requires:
  • New construction or paving of over 14,000 km roads every year costing an estimated 630 bn Naira per annum
  • In addition to funding required to meet maintenance and rehabilitation of existing paved network estimated at 252 bn Naira per annum
Historical funding profile

Funding Profile for Federal Highways (1990-2012)

- Amount Requested
- Amount Allocated

Year:
- 1990
- 1991
- 1992
- 1993
- 1994
- 1995
- 1996
- 1997
- 1998
- 1999
- 2000
- 2001
- 2002
- 2003
- 2004
- 2005
- 2006
- 2012

Amount:
- 0
- 25,000,000,000
- 50,000,000,000
- 75,000,000,000
- 100,000,000,000
- 125,000,000,000
- 150,000,000,000
- 175,000,000,000
- 200,000,000,000
- 225,000,000,000
- 250,000,000,000
Integrity: Leadership, Technology & Collaboration

Peter M. Sullivan
Head of Public Sector Africa

Cape Town, South Africa // November 2-3, 2017
Road Infrastructure - Expansion & Maintenance

Background

• As part of a National Development Plan, Govt has embarked on a Roads network expansion and rehabilitation program that will require the deployment and management of multiple Contractors, both international and domestic.

• The Govt program will be administered by its Annuity Roads Fund (ARF)

Objectives

• Ensure quality roads by pushing performance and design risk to the contractors.

• Raise enough funds to ensure construction does not stop due to lack of funding.

• Avoid / defer a material increase in the sovereign’s external debt level.

• Develop the most efficient, transparent and cost-effective structure to monitor and manage the documents, invoices, payments and performance of multiple contractors.

• Establish the optimal mix of international and domestic contractors that can execute the program on-budget and on-time, bring cost-effective funding, create domestic jobs, offer value for money and be accountable for their quality of work.
Proposed Structure

Establish an automated and flexible payment platform that delivers robust levels of transparency, control and verification for progress and performance against commercial contracts and allows for timely and authenticated cash disbursements from multiple sources of funding.

Leveraging CitiDirect Platform and its agency and funding capabilities, Citi will link the Govt with the approved contractors to facilitate document flow and authentication on the front end while establishing and managing escrow accounts for earmarked, contract-specific third party funding, and structuring and arranging appropriate external funding facilities.
Proposed Structure

Front-End:

Once Contractors complete a defined section of roadwork and are eligible for progression payments pursuant to the respective commercial contract, they will electronically submit invoices and supporting document, subject to the prescribed criteria, to the Govt’s Authorizing Parties.

The Authorizing Parties will review, verify and authenticate the work completed and the associated invoices. A dual or multi control can be implemented for the authentication of the invoices, e.g., approval subject to review and acceptance by ARF’s Independent Engineer and the Contracting Authority.

Once the invoices have been properly authenticated, the Authorizing Parties can electronically issue a payment order with the attached accepted invoice to Citi to effect payment.

Payments will then be initiated to the respective contractors for all approved invoices via its CitiDirect Platform.

Back-End:

Payments to Contractors can be funded through multiple sources. The Govt envisions the following main sources of funding for the Annuity Roads Fund (ARF):

- Budgetary Allocation
- Tax & Levy Receipts
- Income from Investments of Balances
- Grants & Donations
- External Funding
Road Infrastructure - Expansion & Maintenance

Benefits of the Structure

- Enhances control, transparency and accountability of the document and cash flows between the Govt and Contractors
- Providers for efficient dual control of the verification and authentication of documents and invoices
- Creates and maintains a robust, automated and auditable database for the administration of the program
- Accommodates multiple sources of funding on one platform that promotes standardization and efficiency
- Leverages the credit of the Govt to secure the cheapest domestic funding rates
- Allows the domestic contractors to source cost-effective funding on behalf of the government and to compete with international contractors.
- Does not crowd out the local bank risk capacity for domestic contractors
- Does not materially increase the levels of external foreign currency debt during the implementation of the program and retains a degree of flexibility in undertaking the appropriate strategy for medium-term refinancing.
- Allows the Govt to implement the program quickly through trade payables
- Provides the potential to link and manage the performance guarantees to the respective commercial contracts and contractors
Proposed PPP Scheme

3.1 Structure in accordance with International Practices

KeNHA intends to procure the works and services through a 30-year Design Build Finance Operate Maintain Transfer PPP scheme which will involve the Successful Bidder establishing a dedicated Special Purpose Vehicle which will enter into a Project Agreement with KeNHA all under the provisions of Kenya’s PPP Act, 2013.

Payments to the Project Company will be in the form of performance-related Service Payments largely linked to Project Road availability.

In order to fund the Project Road, tolling will be introduced. A third party private toll operator will be contracted for the purpose of establishing the tolling systems and subsequently collecting the tolls. The tolling revenues will be used to fund the Service Payments. Preliminary assessments indicate that the proceeds from tolling over the life of the project should be sufficient to cover the Service Payment obligations but in the event of a shortfall, Government will make good any deficit.

It is anticipated that the project’s construction costs will be financed by the Project Company through a mix of shareholder equity contributions and long term bank/financial institution debt. The Government has already engaged with development and commercial banks to gauge interest and facilitate financing support.
Background/Introduction:

- The Office of Head of Civil Service of the Federation (OHCSF) established the Public Private Partnership (PPP) Units in selected MDAs following the Circular approved by Mr. President on the 29th November 2012. In 2014, the Infrastructure Concession Regulatory Commission (ICRC), in collaboration with OHCSF established the PPP Unit Consultative Forum (3PUCF) to provide a platform for knowledge and experience sharing among Heads of PPP Units in MDAs.

- At the 2016 1st Quarter meeting of the 3PUCF hosted by the OHCSF on 3rd March 2016, members agreed that a Monitoring and Evaluation (M&E) Committee comprising of the OHCSF, ICRC, Federal Ministry of Finance (FMoF) and Ministry of Budget & National Planning (MNBP) should be constituted to engage PPP Units and assess their mandates and performance in order to identify possible opportunities for improvement.
The M&E team was inaugurated on Thursday 30th June, 2016 to do the following:

1. Assess the level of compliance of MDAs with the OHCSF Circular on the establishment of PPP Units
2. Assess the PPP Unit Structure and competencies of the staff
3. Undertake needs assessment to generate potential PPP project pipeline
4. Undertake any other issue(s) related to PPP as may arise
The Monitoring and Evaluation Team visited the PPP Units of MDAs in Lagos from 16\textsuperscript{th} – 19\textsuperscript{th} May 2017. The following MDAs were visited: Nigerian Airspace Management Agency (NAMA), Nigerian Railway Corporation (NRC), Nigerian Ports Authority (NPA), Nigerian Maritime Administration and Safety Agency (NIMASA), Nigerian Shippers’ Council (NSC), National Arts Theatre and Centre for Management Development (CMD).

The Visit to Abuja PPP Units commenced on 18th of October 2017 with Federal Ministry of Education.

The schedule for visits to other MDAs in Abuja is shown below; however, the dates will be adjusted where necessary and prior notification will be given before the visit. The list may not be exhaustive, but are for those that attend the 3PUCF:
## Proposed Schedule of Monitoring & Evaluation Visit to PPP Units in Abuja

<table>
<thead>
<tr>
<th></th>
<th>Government Agency</th>
<th>Location</th>
<th>Team</th>
<th>Visit Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Nigeria Prison Service</td>
<td>Abuja</td>
<td>Team A</td>
<td>7&lt;sup&gt;th&lt;/sup&gt; November 2017</td>
</tr>
<tr>
<td>2</td>
<td>University of Abuja</td>
<td>Abuja</td>
<td>Team B</td>
<td>9&lt;sup&gt;th&lt;/sup&gt; November 2017</td>
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<tr>
<td>3</td>
<td>Federal Ministry Of Power, Works &amp; Housing</td>
<td>Abuja</td>
<td>Team A</td>
<td>14&lt;sup&gt;th&lt;/sup&gt; November 2017</td>
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<td>4</td>
<td>Federal Ministry Of Environment</td>
<td>Abuja</td>
<td>Team B</td>
<td>16&lt;sup&gt;th&lt;/sup&gt; November 2017</td>
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<td>5</td>
<td>Federal Ministry Of Industry, Trade &amp; Investment</td>
<td>Abuja</td>
<td>Team A</td>
<td>21&lt;sup&gt;st&lt;/sup&gt; November 2017</td>
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<td>6</td>
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<td>Team B</td>
<td>23&lt;sup&gt;rd&lt;/sup&gt; November 2017</td>
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<td>7</td>
<td>Federal Ministry of Water Resources</td>
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<td>Team A</td>
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<tr>
<td>8</td>
<td>Federal Ministry Of Information, Culture &amp; Tourism</td>
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<td>Team A</td>
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<tr>
<td>9</td>
<td>Federal Ministry Of Communication Technology</td>
<td>Abuja</td>
<td>Team A</td>
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<td>10</td>
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<td>Team A</td>
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<td>11</td>
<td>National Automotive Council</td>
<td>Abuja</td>
<td>Team B</td>
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<tr>
<td>12</td>
<td>Small &amp; Medium Enterprises Development Agency</td>
<td>Abuja</td>
<td>Team A</td>
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<tr>
<td>13</td>
<td>Federal Ministry Of Agriculture &amp; Rural Development</td>
<td>Abuja</td>
<td>Team A</td>
<td></td>
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<tr>
<td>14</td>
<td>Federal Ministry of Science and Technology</td>
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<td>23</td>
<td>Federal Ministry of Sports &amp; Youth Development</td>
<td>Abuja</td>
<td>Team B</td>
<td>30&lt;sup&gt;th&lt;/sup&gt; November 2017</td>
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<td>24</td>
<td>Federal Capital Territory</td>
<td>Abuja</td>
<td>Team A</td>
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<td>25</td>
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<td>Abuja</td>
<td>Team A</td>
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<td>26</td>
<td>Federal Ministry of Defence</td>
<td>Abuja</td>
<td>Team B</td>
<td>5&lt;sup&gt;th&lt;/sup&gt; December 2017</td>
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<td>27</td>
<td>Federal Ministry Of Petroleum Resources</td>
<td>Abuja</td>
<td>Team B</td>
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<td>28</td>
<td>Abuja Infrastructure Investment Company</td>
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<td>Team A</td>
<td>5&lt;sup&gt;th&lt;/sup&gt; December 2017</td>
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<td>29</td>
<td>Border Communities Development Agency</td>
<td>Abuja</td>
<td>Team A</td>
<td>12&lt;sup&gt;th&lt;/sup&gt; December 2017</td>
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<td>30</td>
<td>National Open University of Nigeria</td>
<td>Abuja</td>
<td>Team B</td>
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<td>31</td>
<td>Federal Ministry Of Health</td>
<td>Abuja</td>
<td>Team B</td>
<td>14&lt;sup&gt;th&lt;/sup&gt; December 2017</td>
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<td>32</td>
<td>National Mathematical Centre</td>
<td>Abuja</td>
<td>Team B</td>
<td>14&lt;sup&gt;th&lt;/sup&gt; December 2017</td>
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</tbody>
</table>
### OUTLINE BUSINESS CASES (OBCs)

<table>
<thead>
<tr>
<th>S/N</th>
<th>Project Name</th>
<th>Ministry, Department, Agency</th>
<th>Date Issued</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>Concession of the irrigation components of the Gurara 1 dam</td>
<td>Federal Ministry of Water Resources</td>
<td>24&lt;sup&gt;th&lt;/sup&gt; Oct 2014</td>
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<tr>
<td>2</td>
<td>Setting up an electronic based national crime and criminal tracking system for the Nigeria Police through PPP</td>
<td>Federal Ministry of Interior / Nigerian Police Affairs</td>
<td>22&lt;sup&gt;nd&lt;/sup&gt; May 2015</td>
</tr>
<tr>
<td>3</td>
<td>UN Contingent-Owned-Equipment (COE) for Peace Support Operations for Nigerian Army</td>
<td>Federal Ministry of Defence</td>
<td>7&lt;sup&gt;th&lt;/sup&gt; July 2015</td>
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<tr>
<td>5</td>
<td>Construction of COREN head office complex, Abuja</td>
<td>Council for the Regulation of Engineering in Nigeria (COREN)</td>
<td>8&lt;sup&gt;th&lt;/sup&gt; Nov 2016</td>
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<tr>
<td>6</td>
<td>Expansion &amp; operation of Nigerian Prison Service Shoe factory in Aba</td>
<td>Federal Ministry of Interior / Nigerian Prison Service</td>
<td>30&lt;sup&gt;th&lt;/sup&gt; Dec 2016</td>
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### OUTLINE BUSINESS CASES (OBCs) - Continued

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<tr>
<th></th>
<th>Transformer Repair Services</th>
<th>Federal Ministry of Power, Works &amp; Housing (Power)</th>
<th>21st Aug 2017</th>
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<tbody>
<tr>
<td>14</td>
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<td>15</td>
<td>Owena Small Hydro Power Dam</td>
<td>Federal Ministry of Water Resources</td>
<td>10th Mar 2017</td>
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<tr>
<td>S/N</td>
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<td>Ministry</td>
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<td>1</td>
<td>Onne Port IPP 144MW, Rivers State</td>
<td>Federal Ministry of Transportation</td>
<td>26th Sept 2012</td>
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<tr>
<td>2</td>
<td>Lagos Port Complex IPP 36MW, Lagos State</td>
<td>Federal Ministry of Transportation</td>
<td>24th April 2013</td>
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<td>4</td>
<td>Concession/ development of the Fallow Land in the National Theatre</td>
<td>Federal Ministry of Information and Culture</td>
<td>5&lt;sup&gt;th&lt;/sup&gt; Sep 2017 (2&lt;sup&gt;nd&lt;/sup&gt; Certificate Revalidation)</td>
</tr>
</tbody>
</table>
... in Conclusion

- PPPs offer Nigeria a dependable and sustainable funding option, increased accountability, accelerated infrastructure provision and faster implementation of projects.

- Nigeria’s huge infrastructure deficit is an opportunity to partner on a win-win basis with the private sector in virtually all economic and social infrastructure spaces.

- Project preparation and development is key
Wise Words

“If you think you are too small to make a difference, try sleeping with a mosquito.”

-His Holiness the 14th Dalai Lama

Poverty is not an accident. Like slavery and apartheid, it is man-made and can be removed by the actions of human beings.

- Nelson Mandela
WELCOME TO NIGERIA….TRANSFORMED BY PPPs –
This is the year .....2020.....!!!!

923,764,000 Square Metres of Opportunities
INFRASTRUCUTRE CONCESSION REGULATORY COMMISSION
Plot 1270 Ayangba Street, Near FCDA Headquarters,
Area 11, Garki, Abuja – Federal Capital City.
Phone: +234 9-4604900, E-mail: info@icrc.gov.ng
Website: www.icrc.gov.ng