



# IMPROVING TRANSPARENCY AND ACCOUNTABILITY IN PUBLIC PRIVATE PARTNERSHIPS CONTRACTS

## *COUNTRY DIAGNOSTIC REPORT, DISCLOSURE FRAMEWORK AND DISCLOSURE WEB PORTAL*



By  
Infrastructure Concession Regulatory Commission

# Thank You for the Present – Recognizing the Past



# Outline



- ❑ Nigeria – Infrastructure Challenge and the Future
- ❑ Introducing the ICRC
- ❑ WB Diagnostic Report
- ❑ Disclosure Framework
- ❑ Disclosure Web Portal
- ❑ PPPs in Nigeria
- ❑ Way Forward and Flagship Projects

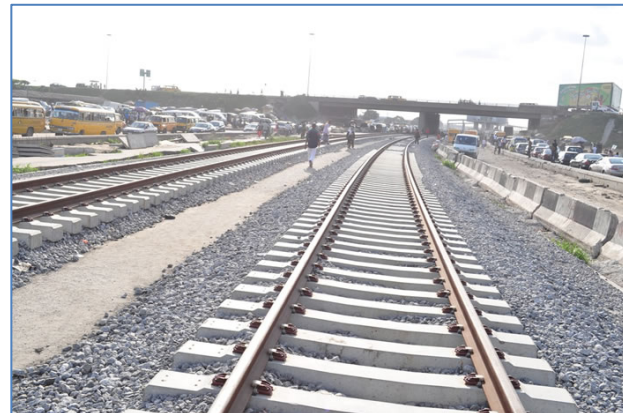
ICRC



# Nigeria's Challenging Infrastructure Landscape



Source: Google Images



# Political Commitment



EXCERPTS OF SPEECH OF PRESIDENT  
MUHAMMADU BUHARI  
AT  
THE 55TH GENERAL CONFERENCE OF THE  
NIGERIAN BAR ASSOCIATION

AUGUST 23, 2015

“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.”

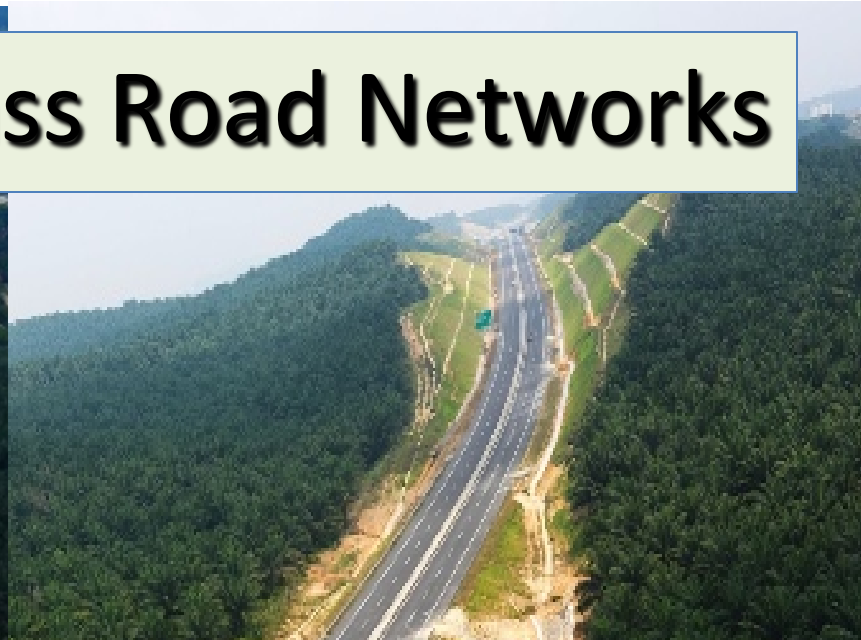


# Nigeria of Our Dreams



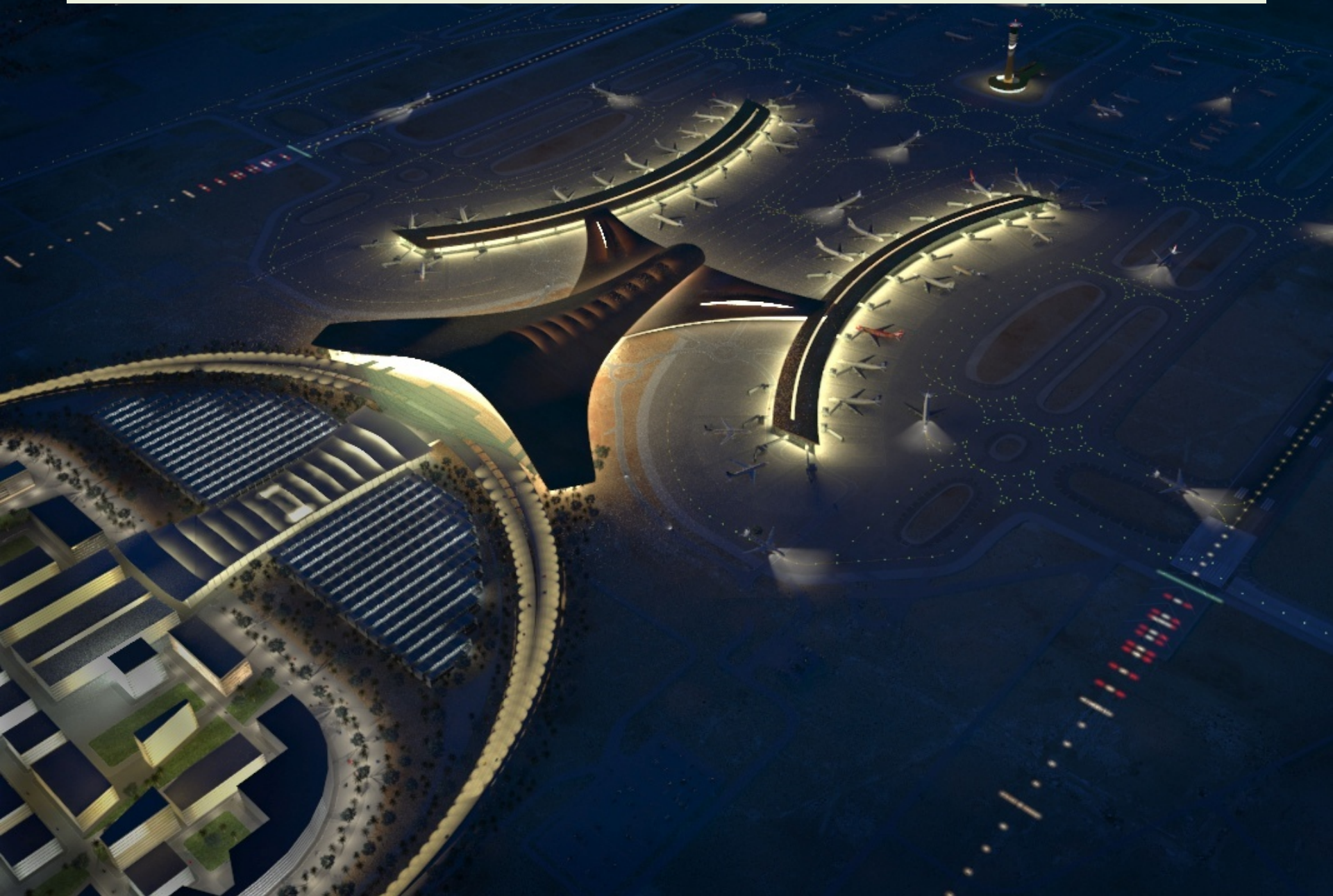


# World Class Road Networks





# WORLD CLASS AIRPORT HUB



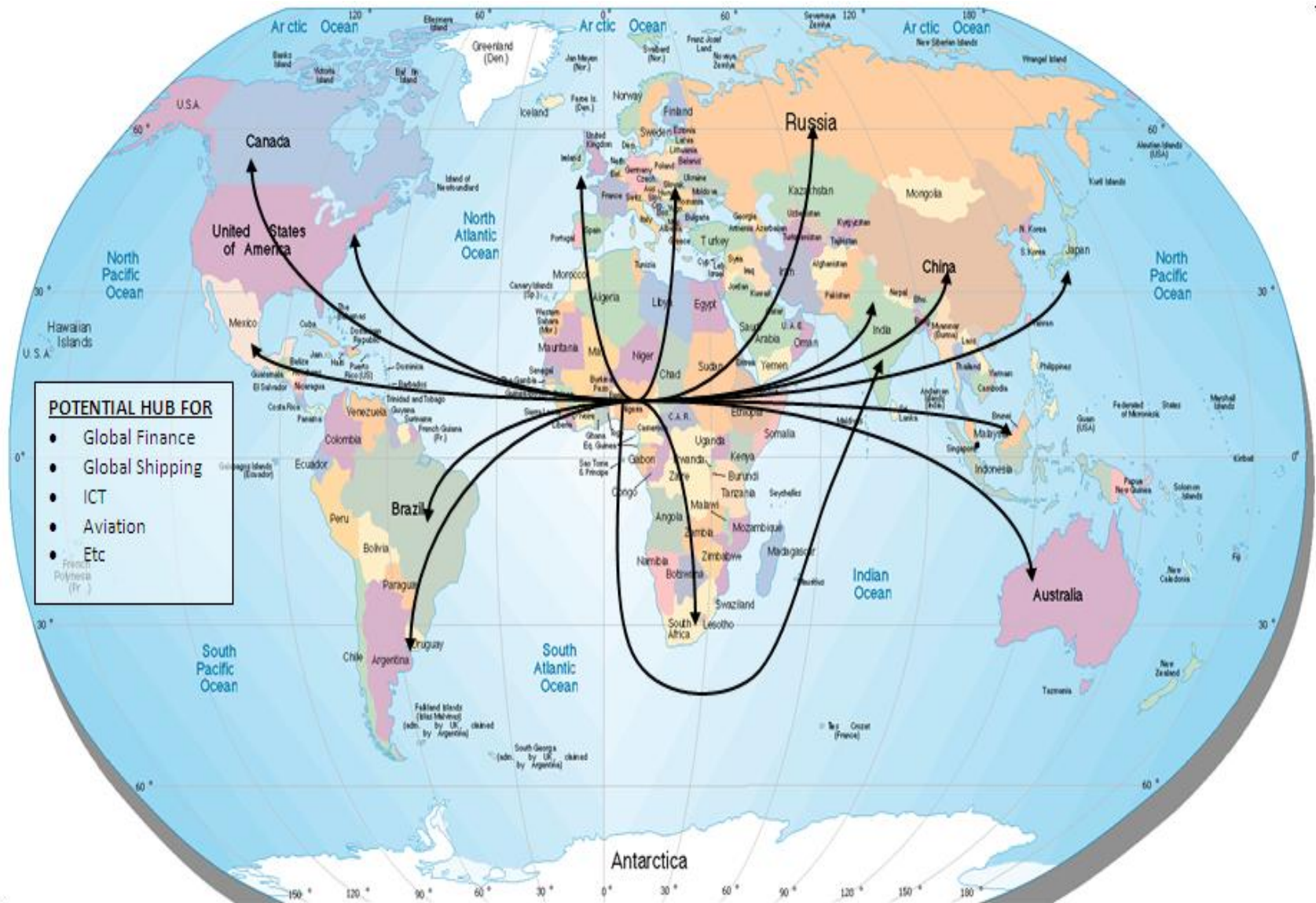


Nigeria

ICRC



# Introducing...Nigeria centre of the world





# Africa's Most Formidable CV – Past and Present



- Largest Economy in Africa and First TV Broadcast in Africa
- Previous longest Bridge in Africa (11.8 Kms) – Egypt now
- Largest Black Country in the World – 170 Million (1/5<sup>th</sup> of Africa's Population)
- Largest Entrepreneurial Population in Africa, Large Mobile Phone User Base
- Third Largest Movie Industry in the World – Now 2nd
- Diversifying Economy With Growing Non Oil Sector – 54% Services, Agric 23%, Industry 23%
- Richest Man in Africa – Aliko Dangote
- Leading Destination for Investment in Africa – UNCTAD
- IF YOU ARE NOT IN NIGERIA, YOU ARE NOT IN AFRICA



# Introducing the ICRC

ICRC

# The ICRC

## Overview & Mandate



- **Establishment:** ICRC was established under section 14 of the Infrastructure Concession Regulatory Commission (Establishment) ~ The Act.



- **Purpose:** The Act provides for the participation of private sector in Federal Govt. infrastructure development (financing, construction, development, operation and/or maintenance) through concession or contractual arrangements.



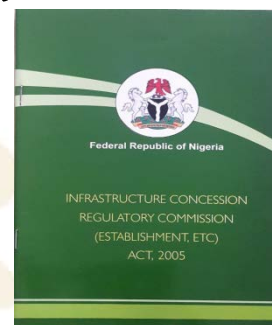
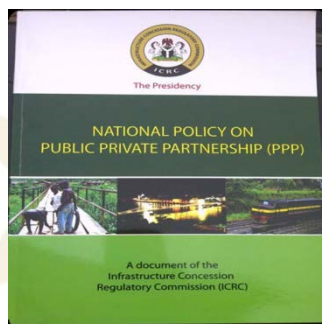
- **Mandate:** To provide an effective regulatory and institutional framework with which agencies of the Federal government can enter into partnership with the private sector for the provision of public services to ensure sustainable socio-economic development.



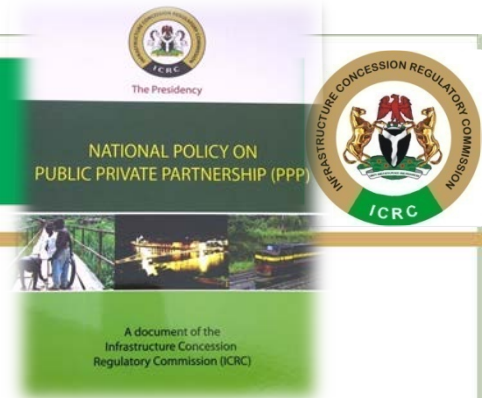
# Functions of the Commission



- ❑ To Regulate infrastructure delivery partnerships as contemplated under section 1 of the Act.
- ❑ To take custody of all Concessions entered into by MDAs and monitor compliance with terms and Condition of the Contract Agreement, Section 20(a).
- ❑ Ensure efficient execution of any concession agreement or contract entered into by the Government, Section 20(b).
- ❑ Make regulations that are necessary or expedient for giving full effect to the provisions of the Act, Section 34.
- ❑ Ensure the application of the **National Policy on PPP (N4P)** which propagates:



# PPP LIFECYCLE in line with National Policy



**Preliminaries**

- *Project Identification*
- *Project Prioritization*
- *Project Selection*

**Development Phase**

**Procurement Phase**

**Implementation Phase**

**TRANSACTION ADVISER  
NEEDS ANALYSIS  
PPP OPTIONS APPRAISAL  
VALUE FOR MONEY  
AFFORDABILITY  
SUSTAINABILITY  
PRELIM RISK MATRIX  
VIABILITY/BANKABILITY  
VGF  
OBC  
OBC APPROVAL BY FEC**

**TRANSACTION ADVISER  
EoI/RFQ Phase AND RFP  
BIDDING  
BIDDERS CONFERENCE  
BID EVALUATION  
VALUE FOR MONEY TEST  
PREFERRED BIDDER  
FULL BUSINESS CASE  
BY FEC**

**INDEPENDENT ENGINEER  
MONITOR DESIGN AND  
CONSTRUCTION  
COMMISSIONING TEST  
VERIFY OUTPUT  
REQUIREMENTS  
CONTRACT MANAGEMENT**

**PREPARING AND IMPLEMENTING EFFICIENT  
AND EFFECTIVE PPP TRANSACTIONS**



# THE KEY PPP PRINCIPLES BEING DRIVEN BY ICRC

- **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 end-users and other stakeholders of an infrastructure project as standard.

- **Output requirements**

Concept of “verifiable service standards” to be used as basis for output or performance based specifications.

- **Transparency**

Very high world class standards of public and corporate governance to enhance credibility and transparency.

- **Risk allocation**

Risks allocated to the party best able to manage them.

- **Competition**

Ensure business activities are subject to competition and appropriate commercial pressures, dismantling unnecessary barriers to entry, and implementing and enforcing adequate competition.

- **Capacity to deliver**

Ensure authorities responsible for privately operated infrastructure have the capacity to manage the commercial processes involved and to partner on equal basis with their private sector counterparts.

# WB Disclosure Diagnostic Report

ICRC



# Diagnostic Report



- ❑ Based on the World Bank Public-Private Partnerships (PPP) study in Nigeria between September 2016 and April 2017
- ❑ Diagnostic Report examined the political, legal, and institutional environment for disclosure in PPPs.

## *Findings:*

➡ Based on a gap assessment exercise benchmarked against the World Bank Framework, the report makes specific recommendations to improve contract disclosure in Nigeria.

➡ Report suggested enhanced framework for disclosure of PPPs applicable to all federal government projects in Nigeria

➡ Suggested the need to move towards greater transparency and openness to facilitate investor confidence – *Current Government is doing*

# Disclosure Framework

ICRC



# The Disclosure Framework



- The ICRC in collaboration with the **World Bank Institute** (WBI) seeks to ensure transparency in PPP contract implementation in Nigeria in line with global best practices.
- The Disclosure Framework document was designed to ensure all **non-confidential** information relating to PPP contracts are made available and **easily accessible** to members of the public.
- WBI assisted the Commission to design and implement clear and concise guidance for **systematic disclosure** of PPP project and contract information on a web portal hosted by the ICRC website.

# Leadership Commitment to Transparency



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.

# Goals, Objectives and Expected Outcome



To further open up governance and entrench accountability and transparency in PPP transactions in the country.

## Goals

- Design and implement clear and concise guidance for systematic disclosure of PPP projects and contract information

## Objectives

Education of all Stakeholders on important features of Contract Agreements (such as contracting parties, services expected to be provided and the time frame)

Effectively use the public to monitor the developments and the implementation of project by engendering public awareness and support to act as another form of checks and balances in the system

## Expected Outcome

Attain wider acceptance of PPPs by public and private sector stakeholders through increased public awareness of the benefits of PPP for public infrastructure delivery

Strengthen private sector confidence in PPPs by institutionalising a process that will project the Commission's core values of transparency, accountability and fairness in PPP procurement process



# Application and Method of Disclosure



- These Guidelines apply to all PPP Infrastructure procurement contracts procured by MDAs pursuant to Section 1 of ICRC Act.
- **Method of Disclosure:**
  - i. [www:icrc.gov.ng](http://www.icrc.gov.ng) ~ The Commission's website
  - ii. [www:](http://www:) Public entity's website for disclosure of performance
  - iii. **Hard copy:** made available on request at the Commission's office
  - iv. [www.ppp.icrc.gov.ng](http://www.ppp.icrc.gov.ng) ~ The PPP Disclosure Web Portal
  - v. **Limitations:** The Commission and MDAs are to ensure confidential information are redacted.

# Current Disclosure Practice in Nigeria



## CURRENT PPP DISCLOSURE PRACTICES

DOCUMENT/INFORMATION	PUBLISHED ON ICRC WEBSITE	PUBLISHED ON RELEVANT MDA WEBSITE
Basic project information	Yes	In some cases
Project appraisal report	No	No
Outline Business Case	No	No
ICRC/FEC reports at Outline Business Case stage	No	No
Full business case	No	No
ICRC/FEC reports at Full Business Case stage	No	No
Name of successful bidder	Yes	In some cases
Contract documents	No	No
Performance reports	No	No

Source: The Country's Diagnostic Report

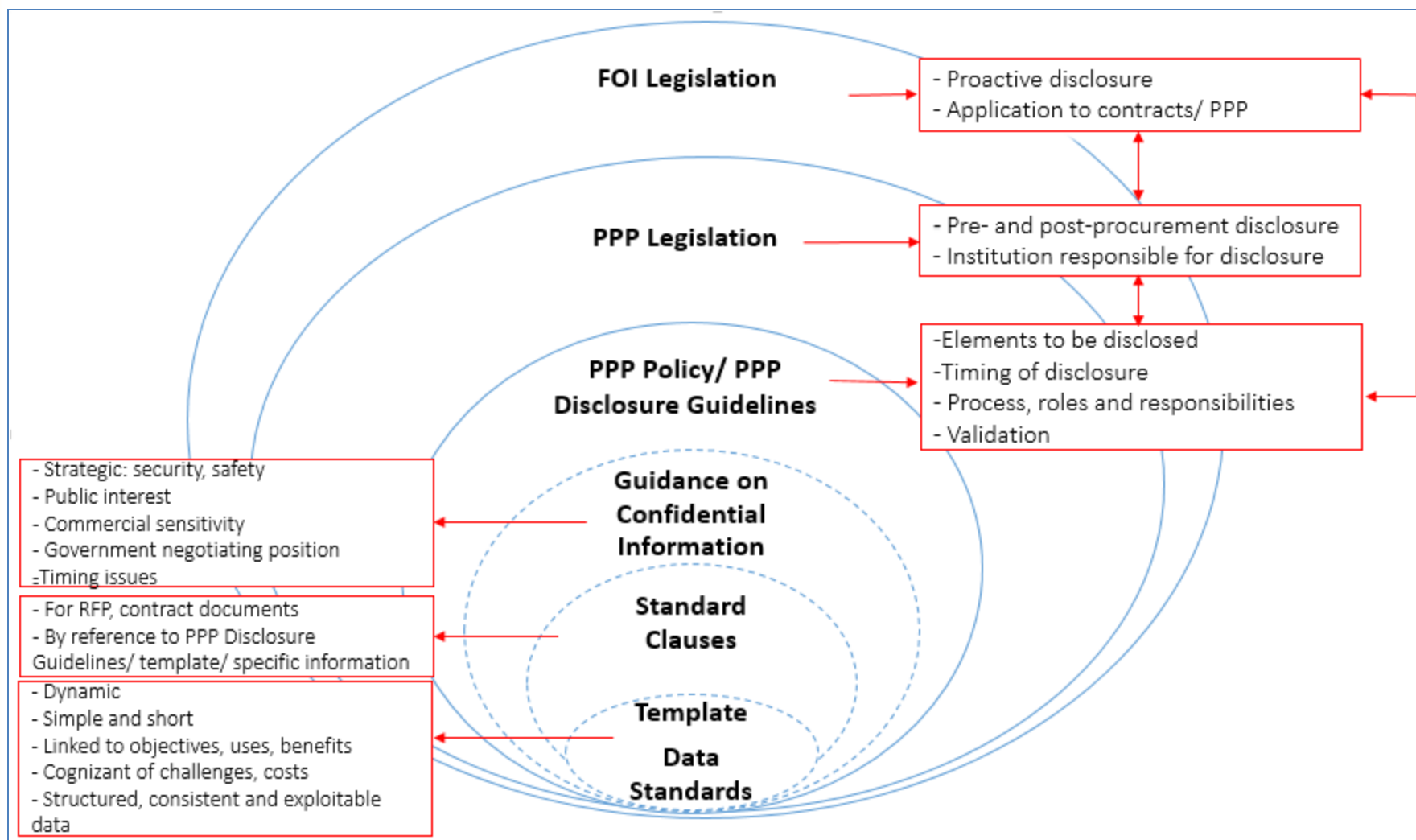
# The Need for Objective Disclosure



- ❑ ICRC is the main repository of information of Federal PPP projects in the country.
- ❑ ICRC regularly publishes news and general information on its website, on PPP activities, workshops, events, and basic information on legacy, ongoing, and under-consideration PPPs.
- ❑ However, the information provided is limited to the project title and type, government agency responsible, name of the private concessionaire (where selected), and duration of the concession for the projects.
- ❑ In recognition of this limitation the Commission Partnered with the World Bank to ensure adequate disclosure of PPP contract Information.
- ❑ The Commission in collaboration with the World Bank consulted with MDAs, Concessionaires, Financiers, Civil Society Organisations and relevant stakeholders towards the actualisation of this exercise.



# ELEMENTS OF THE WORLD BANK RECOMMENDED DISCLOSURE FRAMEWORK FOR PPPs



# Timeline for Specific PPP Contract Disclosure



<b>PPP project pipeline:</b>  <i>Approved project will be included in the published PPP project pipeline within 15 days from ICRC approval</i>	<b>Basic project Information:</b>  <i>To be provided within 15 days after issuance of the Certificate of Compliance for the Outline Business Case (OBC) by ICRC .</i>	<b>Project Milestone tracking:</b>  <i>Dates of achievement of key milestones will be provided as the project progresses in the form of a project milestones tracker.</i>	<b>Procurement information:</b>  <i>Summary procurement information and key documents will be provided during the procurement process will be published within 15 days after approval</i>	<b>Contract documents :ICRC</b>  <i>will place the signed PPP contract in the public domain within 30 days of signing of contract, after the redaction of confidential information</i>
<b>15 days</b>	<b>15 days</b>	<b>15 days</b>	<b>15 days</b>	<b>30 days</b>

# What to Disclose



## Part 1: Basic Project Information

**Basic project information expected to be disclosed, includes:**

- Project name
- Location
- Sector
- Sponsoring agency
- Estimated project value
- Project need
- Description of asset and services to be provided
- Rationale for selecting the PPP mode
- Estimated dates of key milestones
- Estimated demand to be served annually
- Project additionality

## Part 2: Project Milestone Tracking

**Project Milestone tracking will include:**

- Date of inclusion in the published projects pipeline
- Date of appointment of transaction advisors
- Date of issuance of OBC compliance certificate
- Date of OBC FEC approval
- Date of procurement milestones, such as EOI, prequalification of bidders, RFP,
- Date of contract signing
- Date of financial close
- Beginning of construction
- End of construction



# What to Disclose



## Part 3: Procurement information

- List of short-listed bidders
- EOI and RFP
- Disclosure of the preferred bidder and the reserved bidder
- Disclosure of FEC approval of the preferred bidder
- Value-for-money analysis report (extracted from FBC)

## Part 4: Contract Information

- Financial structure of SPV
- Redacted PPP Contract
- Renegotiations and renegotiated contracts
- Performance information

# Confidential Information



Section 15 of the FOI Act 2011 provides for exemption of confidential information from public disclosure. The following elements are considered as confidential. These elements will be reviewed every 2~3 years for any modifications:

- ☐ Proposals or bids submitted by bidders
- ☐ Intellectual property
- ☐ The base case financial model by bidders
- ☐ Bid evaluation
- ☐ Trade secrets

# Exempt Information



## ■ Privity of Contracts

*“Each party agrees to hold in confidence for a period of five (5) years following the termination of the lease, any information supplied”*

## ■ Exceptions

- The provision of this clause shall not apply to:
  - Information already in public domain
  - Information lawfully in a party’s possession prior to receipt from disclosing party
  - Information received from a party having no obligation of confidentiality
  - Information, the revelation of which is required by **Applicable Law**



# Disclosure Web Portal

ICRC

# The PPP Contract Disclosure Web Portal



- The **World Bank** and **the ICRC** developed a dedicated web portal for the disclosure of all the PPP contracts information.
- The portal will ensure timely disclosure of contract information from project initiation through to the implementation and hand-back phase of PPP projects to the Government.
- The Disclosure exercise supports Mr. President's, effort of institutionalizing transparency and accountability in the procurement of PPP projects in Nigeria.

# The PPP Contract Disclosure Web Portal



- The onus for information generation and uploading on the web-based platform will be shared by ICRC, the contracting authority, and the private party to the contract.
- Information will be uploaded by the contracting authority and ICRC after redacting confidential information.
- The contracting authority will upload all information and documents in the web-based platform, so as to leave *at least 7 days within the given timelines for ICRC to validate and approve the information for public disclosure.*
- *The PPP Contract Disclosure is hosted at [www.ppp.icrc.gov.ng](http://www.ppp.icrc.gov.ng)*

# Web Portal is Dynamic



- The web portal will be dynamic in nature
- More information is made available as the various projects progress
- Will be a repository of information of current happenings and events regarding PPPs in Nigeria.

ICRC



# Disclosure By Stage



- The portal can disclose projects by stage in the project lifecycle, Sector, and State (location of Project)
- The three project stages are:
  - Development stage
  - Procurement Stage
  - Implementation stage

ICRC

# Elements for Disclosure



- The portal based on the framework clearly shows the various elements for disclosure depending on the stage the project is in .These elements are ;
- **BASIC PROJECT INFORMATION**
- **PROJECT MILESTONES**
- **PROCUREMENT DOCUMENTS**
- **PARTIES**
- **CONTRACT INFORMATION**
- **PERFORMANCE INFORMATION**
- **GALLERY**

# Projects by Stage, Sector and State



Browser tabs: GMT Presentation, Nigeria ICRC PPP, Nigeria ICRC PPP, Nigeria ICRC PPP, Nigeria ICRC PPP, how to do print s, How to "Print Scr

Address bar: ppp.icrc.gov.ng

Navigation: HOME PROJECTS ANNOUNCEMENTS CONTACT

Search: Search...

STAGE	SECTOR	STATE
Development	Energy	Federal Capital
Procurement	Industrial	Territory
Implementation	Social & Health	Abia
	Telecom	Adamawa
	Transport	Akwa Ibom
	Water & Waste	Anambra
		Bauchi
		Bayelsa
		Benue
		Borno

Background image: A hospital room with a patient bed and medical equipment.

Text overlay: The general health of the only... problems plaguing our design medical trips remain

Footer: ppp.icrc.gov.ng/# PROJECTS

Taskbar: Windows, Search, File Explorer, Edge, Chrome, Word, PowerPoint, 8:11 AM 9/21/2017

# Web Portal Sample



Browser tabs: Inbox - pol x Nigeria ICR x Nigeria ICR x Nigeria ICR x Nigeria ICR x how to do x How to "Pi x 9 mobile c x 9Mobile C x @luwapsuni x

Address bar: ppp.icrc.gov.ng

Navigation links: HOME PROJECTS ANNOUNCEMENTS CONTACT

Search bar: Search...

## CONCESSION OF GRAIN STORAGE FACILITIES (SILOS)

Nigeria is the largest market in sub-Saharan Africa both in terms of economic output and demand. However, historic strong and consistent GDP growth is now under pressure from external and internal prevailing market forces. The supply of grain in Nigeria is far in excess of 25m MT demand per annum. The silos complexes will be better utilized for efficient grain reserve...

[Read more](#)

## PROJECTS

Windows taskbar: 8:45 AM 9/21/2017



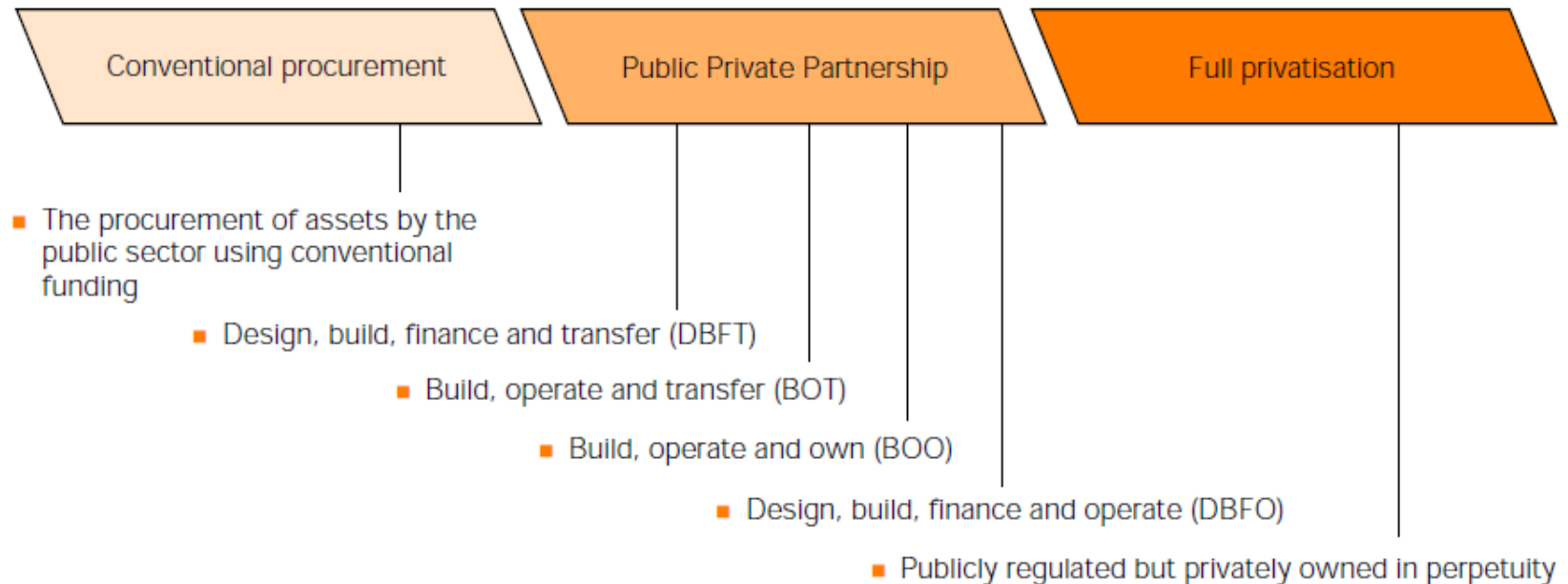
# PPP Intro & Success in Nigeria

ICRC

# PPP and the Procurement Spectrum



PPP represents a balance between state ownership and privatisation as indicated below:



Source: KPMG, KLegal

**Public  
Sector**



**Risk Spectrum**

**Private  
Sector**

# PPP Definition



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)

Wide  
Infrastructure  
Gap

Growing  
demand for  
private sector  
participation in  
infrastructure

Small and  
depleting  
Government  
resources

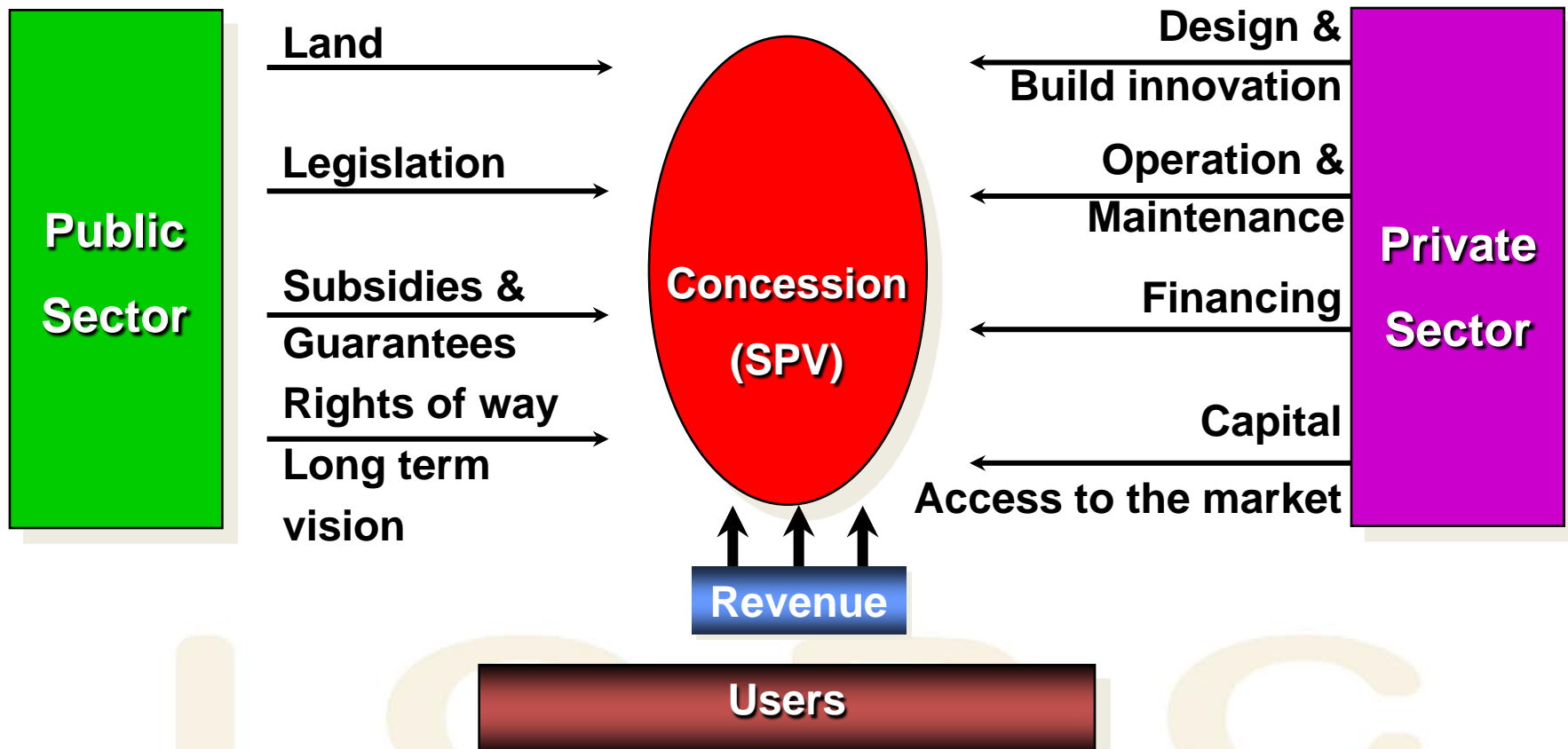
Urgent need for  
alternative funding of  
Infrastructure

The goal is to combine the best capabilities of the public and private sectors  
for mutual benefit

# PPP Advantages (1)



- What each party brings to a PPP

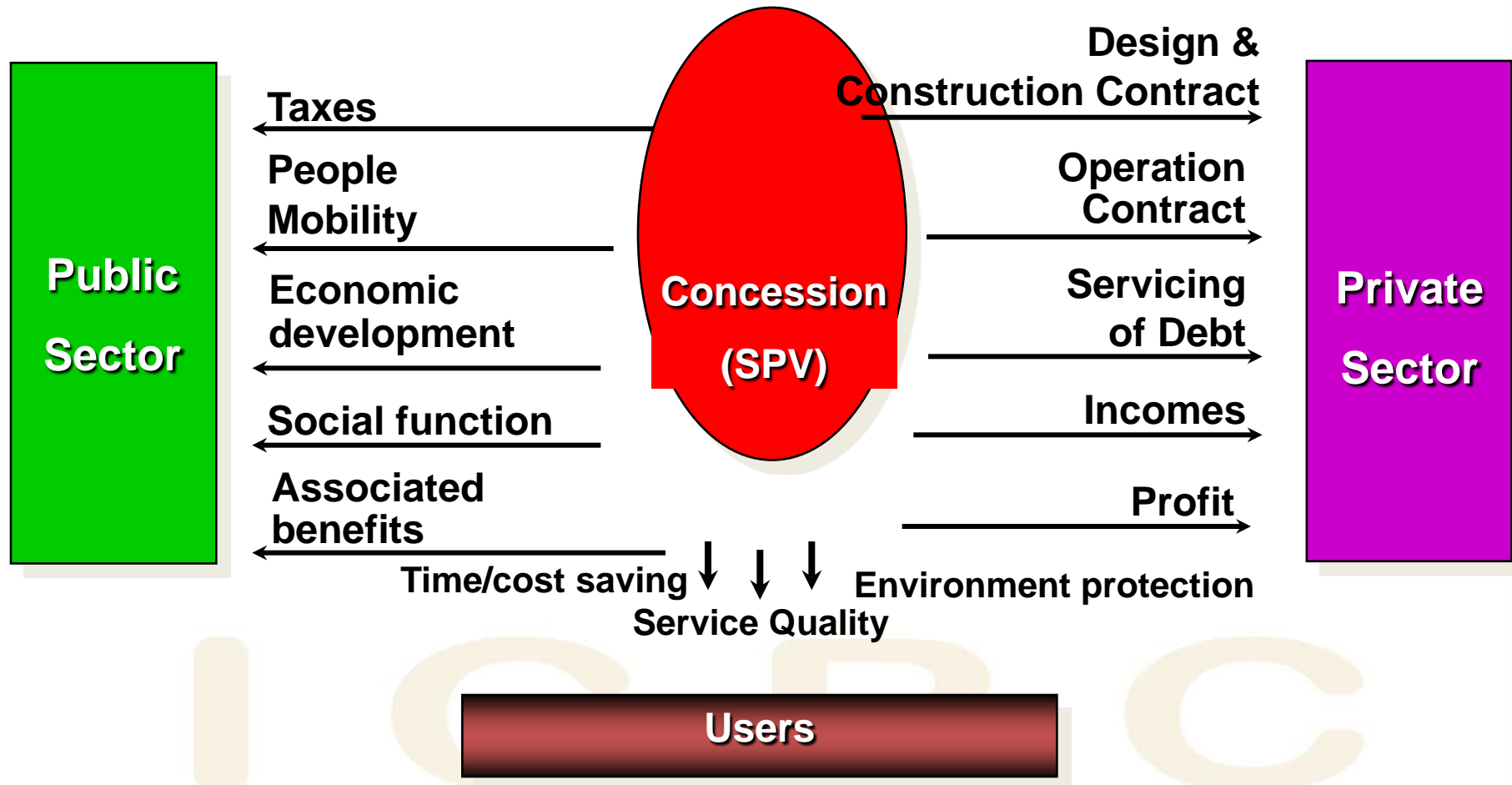




# PPP Advantages (2)



- What each party gets from a PPP



# PPP Experience in Nigeria



- ★ Nigeria has quite significant experience in PPPs. The Commission has since its inauguration in November, 2008 taken custody of 51 PPP contracts.
- ★ These projects are valued at over N3.2 trillion, representing private capital investment stake in the provision of public infrastructure – *a far cry from what is needed to bridge the infrastructure gap in the country.*
- ★ There are also about 77 PPP projects in the Commission's pipeline at various stages of development.
- ★ We have strong believe that with adequate support from the Government these projects will come on stream within the next few years.

# Garki Hospital Abuja

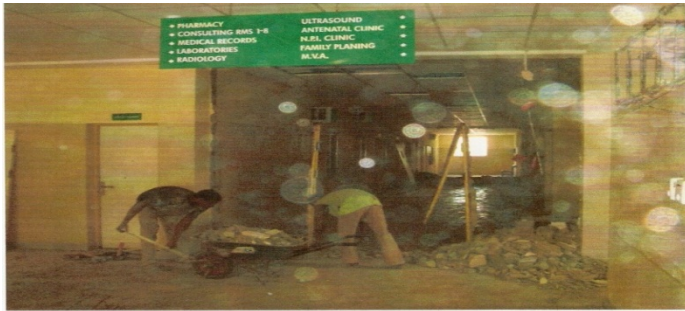


- **Client:** FCT Health and Human Services
- **Sector:** Social Infrastructure~ Health Sector
- **Year the project was signed:** 2007
- This was concession to NISA Premier Hospital Ltd in 2007 for a period of fifteen years (15yrs).
- The introduction of a public private partnership (PPP) arrangement 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.



ICRC

# GARKI HOSPITAL, ABUJA ~ PPP



**AFTER**



**BEFORE**





# Port Terminals



- Major Ports reform in 2004, to improve clogged, inefficient, and very expensive ports.
- Experienced private operators engaged through Concessions to rehabilitate and manage 24 port terminals
- 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 significant sums
- Goal of concession yet to be fully achieved due to external factors and actors

## Lessons

- Risk allocation should consider Government Capacity to deliver (channel depth, wrecks )
- The transaction lead agency should be the grantor who remains accountable for services
- Success requires an integrated approach (Roads, Customs, Rail, Security, State Government)



ICRC

# Tin~Can Island Container Terminal (TICT)



**Before 2006**



**After 2006**





# Tin-Can Island Container Terminal (TICT)



**Before 2006**



**After 2006**



# PPP Experience in Nigeria



## Sectoral Presentation of Projects

S/No	Sectors/Projects	Number of Projects	% Composition of PPPs by Sector
1	Sea Ports and Marine Services	26	50.98%
2	Power Sector Projects	3	5.88%
3	Aviation Concessions	3	5.88%
4	Urban and District Engineering Infrastructure	2	3.92%
5	Social Infrastructure (Complexes)	3	5.88%
7	Telecommunication Infrastructure	2	3.92%
8	Inland Container Depot (ICDs)	6	11.76%
9	Health Care Delivery Service	1	1.96%
10	Marine Security concession project	1	1.96%
11	Housing Development Project	1	1.96%
12	National Iron Ore Mining	1	1.96%
13	Information Technology (National ID Card)	2	3.92%
	<b>TOTAL</b>	<b>51</b>	<b>100</b>

# Building an Energized and Agile PPP Ecosystem

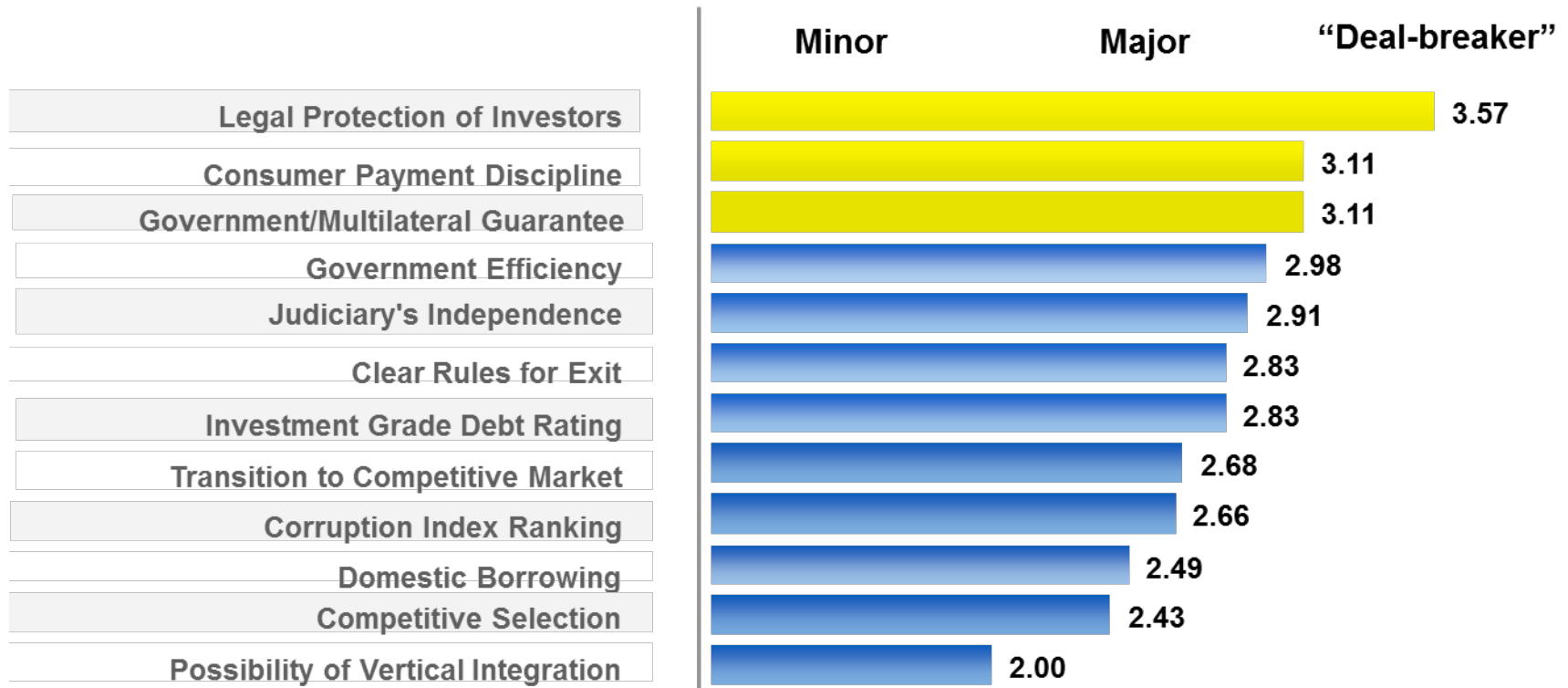
ICRC



# Legal Framework key

## General Principles – Focus on Addressing Killer Risks

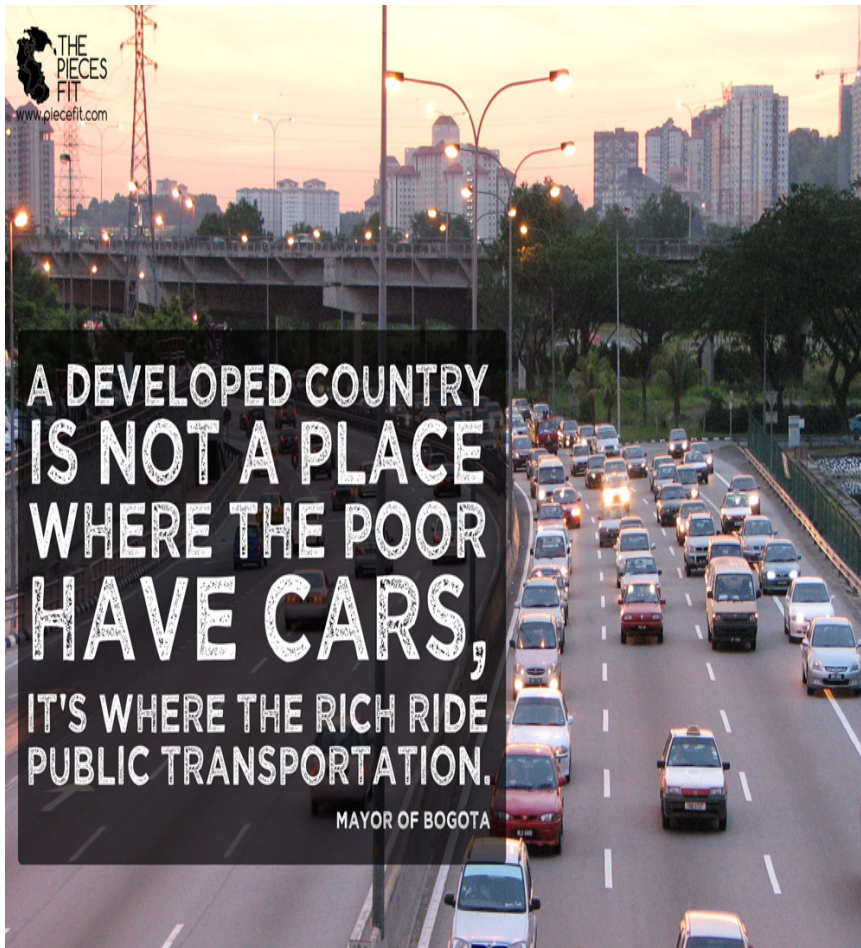
- World Bank surveys of investors have repeatedly shown that the issue of 'protection of legal rights' is the primary concern in making decisions as to where to undertake major infrastructure projects



# Money is not the problem?



# Mayor of Bogota





# Flagship Projects

ICRC

# Ongoing Projects



- **Project Description:** Develop 65 hectares of the 134 hectares fallow land around the theatre.





# Ongoing Projects



Re-development of National Arts Theatre, Lagos

# Ports and ICDs



- Kirikiri Port Lighter Terminal I & II, Lagos.
- Lekki Deep Water Port
- Ibom and Bakassi Deepwater Ports
- Badagry Deep Water 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



- NRC Narrow Gauge
- Abuja Light Rail Lots 1A and 3
- Bus Rapid Transit for Cities
- Lagos, Abuja, Kano and Port Harcourt Airports
- Aircraft MRO Facility
- HCSF Staff Bus Concession – Very Early Concept Stage

ICRC

# PPP Support Initiatives



- Nigeria Integrated Infrastructure Masterplan
- Nigeria Infrastructure Development Fund
- 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)
- Disclosure

ICRC



# Conclusion



- ❑ The disclosure framework has been subjected to extensive stakeholders consultation with massive support for the proposal.
- ❑ The Framework is in line with global best practice, and in conformity with the FoI Act, 2011.
- ❑ Contract disclosure clauses have been inserted into the proposed ICRC Draft Bill and draft Regulations.
- ❑ The Diagnostic Report and the Disclosure Framework will be placed on the Commission's website for easy access to the public.



# Prayers



- ☐ Improved funding for the ICRC
- ☐ Fast Track PPP process
- ☐ Annuity and Availability PPPs for Social Infrastructure & High Economic Rate of Return Projects
- ☐ New PPP Law

ICRC

# Next Steps



Official Launch of the His Excellency, the Vice President of the Federal Republic of Nigeria, **HE Prof. Yemi Osinbajo, SAN, GCON**

Continuous update of the PPP Disclosure Web Portal with project information and progress recorded.

ICRC

# Firm Support for the ICRC



# From the ICRC...We have a dream

- Like Martin Luther King Jnr
- We have a dream that very soon every valley of infrastructural challenge in Nigeria shall be overcome and every hill and mountain of infrastructure problem made low, the rough places made plain and crooked winding and pot marked roads made good and straight so that Nigerians can travel from Abeokuta to Ogoja then onto Enugu and Katsina Ala to visit friends in a few hours; We have a dream that very soon Nigerians will take high speed trains from Sokoto to go to Bar Beach, Lagos, Tinapa, Calabar and holiday over weekends; We also have a dream that the North-East region of Nigeria, a region sweltering today from the heat of terror, will one day, be transformed into an oasis of freedom, with constant electricity...I have a dream that then the real glory and possibilities of Nigerian will be revealed for all to see.
- It took America 45 years to put a black man in the white house; We hope we have the Nigeria of our dream in 45 months (**Thanks ML/BB**)





**Infrastructure Concession Regulatory Authority**  
Plot 1270 Ayangba Street, Close to FCDA Headquarters,  
Area 11, Garki, Abuja – Federal Capital Territory.

Phone: +234 94604900

E-mail: [info@icrc.gov.ng](mailto:info@icrc.gov.ng)

Website: [www.icrc.gov.ng](http://www.icrc.gov.ng)

ICRC