

SWISS CHALLENGE GUIDE



Federal Government of Nigeria | Infrastructure Concession Regulatory Commission

A. INTRODUCTION

The Swiss Challenge procurement method shall be generally applied to Unsolicited PPP Proposals (USP) to ensure that the PPP procurement process remains transparent and competitive while preserving Value for Money (VfM). Under this process, the Privately Initiated Infrastructure Project (PIIP) proposal submitted by the Original Project Proponent (OPP) is published, and other potential proponents are invited to prequalify and submit counterproposals. Upon evaluation, if a competing proposal is adjudged most responsive and offers greater value, the OPP shall be granted the “Right of First Refusal”, to match the competing offer. Should the OPP fail or decline to match the competing proposal, the project shall be awarded to the most responsive bidder.

B. PROCESS AND STEPS

The Swiss Challenge method would generally follow the steps outlined below:

- i. **Submission of Unsolicited Proposal** – The OPP submits a PIIP proposal and detailed feasibility assessment to the relevant Ministry, Department or Agency (MDA), in accordance with the prescribed PPP Guidelines.
- ii. **Review of Proposal and Feasibility Assessment** – Upon preliminary review, the MDA transmits the USP and Outline Business Case (OBC) to the ICRC for compliance review.
- iii. **Publication and Pre-qualification** – Following ICRC certification, the approved PIIP concept is made public to pre-qualify other potential proponents. **The OPP is automatically pre-qualified.**
- iv. **Submission and Evaluation of Competing Proposals** – Prequalified proponents submit counterproposals, which are evaluated against the OPP's proposal in accordance with the evaluation criteria prescribed by the ICRC, and the most responsive bid is identified. The project is awarded to the OPP if its bid emerges as the most responsive.
- v. **Right of First Refusal** – Where the OPP's bid is not adjudged the most responsive, the OPP shall be granted the Right of First Refusal to match the terms and conditions of the most responsive competing proposal, within a stipulated timeframe.
- vi. **Award of Project following Right of First Refusal** – If the OPP matches the counteroffer, the project is awarded to it; otherwise, the project is awarded to the most responsive competing bidder.
- vii. The ICRC shall lead and coordinate a due diligence exercise on the preferred bidder to verify its technical and financial capacity as well as the operational readiness of the submitted bid.
- viii. Negotiation shall be undertaken to finalise project details and contractual terms. The ICRC will facilitate and coordinate the negotiations to ensure that the terms and conditions of the contract are fair to all parties, implementable, and support the timely delivery of the project.

- ix. The Preferred bidder incorporates a Special Purpose Vehicle (SPV) with the sole purpose of implementing the project.
- x. The Full Business Case (FBC) is developed and submitted along with the negotiated draft PPP Agreement and updated Financial Model to the ICRC for review.
- xi. The ICRC reviews the FBC and either issues a Certificate of Compliance or provides the MDA with further guidance.
- xii. The FBC Certificate of Compliance is sent to the MDA for necessary approval by the MDA's Project Approval Board (PAB) or Federal Executive Council (FEC), as applicable.
- xiii. The negotiated draft PPP Agreement is transmitted to the Federal Ministry of Justice for vetting within 30 days of receiving the FEC or PAB approval extract.
- xiv. The vetted PPP Agreement is signed between the MDA and the SPV.

