PUBLIC
PRIVATE
PARTNERSHIPS
GUIDE

Public Private Partnerships
in Nigeria

Briefing Guide

Our Profile

Partnership to Engage, Reform and Learn (PERL)

The Partnership to Engage, Reform and Learn (PERL) is a five-year governance programme, funded by the UK's Department for International Development (DFID). The programme focuses support to governments, citizens, and evidence-based advocacy. PERL provides assistance to governments in the core areas of policy development and implementation. This is done by assisting them in tracking and accounting how these policies, plans and budgets are used in delivering public goods and services to promote growth and reduce poverty to the citizenry. The programme supports citizens to engage with these processes.

The PERL programme is being delivered through three 'pillars' which plan together to support sustainable service delivery reforms: Pillar 1. Accountable, Responsive & Capable Government (ARC); Pillar 2. Engaged Citizens (ECP); and Pillar 3. Learning, Evidencing and Advocacy Partnership (LEAP). The programme works at the federal level, in the partner states of Kano, Kaduna and Jigawa, and through regional learning and reform hubs in the South West, South East and North-East areas of Nigeria.

Disclaimer

The opinions expressed in this guide are those of the authors and do not necessarily represent the views of the Department for International Development.

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Figures and Tables

Acronyms and definitions

ALC	Aviation Leasing Company
BOT	Build Operate-Transfer
DBFO	Design, Build, Finance and Operate
DBFOT	Design-Build-Finance-Operate-Transfer
DFID	Department for International Development
DMO	Debt Management Office
DSA	Debt Sustainability Analysis
EU	European Union
FAAN	Federal Airports Authority of Nigeria
FCT	Federal Capital Territory, Abuja
FGN	Federal Government of Nigeria
FMF	The Federal Ministry of Finance
GFS	Government Finance Statistics
GPFR	General Purpose Financial Reports
ICD	Inland Container Depot
ICRC	Infrastructure Concession Regularity Commission
IMF	International Monetary Fund
IPSAS	International Public Sector Accounting Standards
MDAS	Ministries, Departments and Agencies
MMA2	Murtala Muhammed Airport
MRO	Maintenance, Repairs and Overhaul
MTEF	Medium-Term Expenditure Framework
MTSS	Medium Term Sector Strategy
N4P	The National Policy on Public Private Partnerships
NEMSA	Nigerian Electricity Management Services Agency
NPS	Nigerian Prisons Service (now Nigerian Correctional Service)
NSIA	Nigeria Sovereign Investment Authority
OPPP	Office of Public-Private Partnership
PERL	Partnership to Engage, Reform and Learn
P-FRAM	PPP Fiscal Risk Assessment Model
PPP	Public Private Partnership

1 Introduction

Nigeria has embarked on an extensive programme of infrastructure development using Public Private Partnerships (PPPs). There are some 69 PPP projects at various stages listed on the Federal Infrastructure Concession Regulatory Commission (ICRC, described below) website. There are further PPPs contracted at the State level not listed on the ICRC website. The ambitious target is for $100 billion of infrastructure investment over the period of 2017 - 23, of which 80% will be funded through PPPs[1].

This guide examines:

Note that a separate Technical Guide provides a case study to illustrate the financial reporting requirements, which are summarised in this paper.

[1] *Presentation by Engr. Chidi K. C. Izuwah, Snr, Acting Director General Infrastructure Concession Regulatory Commission October 2017*

2 Overview of PPPs in Nigeria

The Infrastructure Concession Regulatory Commission (ICRC, see below) defines PPPs as "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".

A less technical definition is provided by the UK Treasury (1998): "An arrangement between two or more entities that enables them to do public service work cooperatively towards shared or compatible objectives and in which there is some degree of shared authority and responsibility, joint investment of resources, shared risk taking and mutual benefit".

In Nigeria, PPPs have included projects combining all or just some of the elements of design, finance, build, operate, transfer. Institutional and contractual arrangements are as considered appropriate for each project and have led to a variety of formats. Nigerian law and regulations are not prescriptive as to the form of PPPs.

The PPP laws and institutional structure have been developed at a Federal level; there is no obligation for individual States to apply the same Federal laws or structure. PPPs are not one of the areas reserved for the Federal government, nor on the so-called "Concurrent List" of areas shared between Federal and State governments. A number of States, therefore, have enacted their own PPP laws and established their own PPP structure.

The reasons for using PPP as a vehicle for infrastructure projects, rather than the traditional approach of government borrowing and management, are summarised as follows:

1
Funding
making private sector finance available rather than incurring government borrowing, especially where government borrowing may be more expensive or simply unavailable.

2
Management
making private sector resources and management skills available.

3
Risk
a PPP involves some element of risk sharing between the public and private sectors.

The Nigeria ICRC states the specific reasons for PPP in Nigeria as:

- To attract **private expertise** and/or **capital investment** for infrastructure and service delivery improvements (often to either supplement scarce public resources or release them for other public needs).
- To increase **efficiency** and use available resources for infrastructure and service delivery more **effectively**.
- To **reform** sectors through a reallocation of roles, incentives and improve **accountability**.

Whilst the ICRC-stated reasons do not include risk sharing, this is included by ICRC as one of the key principles in the implementation of PPPs in Nigeria.

3 The present status of PPPs in Nigeria

This Section has been informed by the questionnaire sent to key institutions and selected states. The responses received are reproduced in Annex.

3.1 Federal level

Information on Federal level PPPs is available on the ICRC website[2]. This indicates 69 PPP projects at various stages of implementation and spread over five sectors as shown in Table 1.

Table 1: Federal level PPPs summary

Stage	Number of PPPs
Development	7
Implementation	48
Procurement	14
Grand Total	**69**

These PPPs have a total value of over $41 billion, distributed as in Table 2.

Table 2: Value of Federal level PPPs

Range	Total value US$ million	Number of PPPs	Percentage of total
Over US$1 billion	35,412.09	9	85.69%
Between US$ 100m and $1 billion	4,713.16	17	11.40%
Between US$ 10m and $100 million	1,134.75	24	2.75%
Below US$ 10 million	66.811	19	0.16%
Grand Total	**41,326.81**	**69**	**100.00%**

Thus, nine very large projects account for over 85% of total Federal PPP investments. These PPPs are detailed in Table 7 in the Annex.

All the ICRC-listed PPPs are sponsored by a Federal Ministry or agency, confirming that in practice the ICRC does not become involved in PPPs contracted at State Level. The identified States or groups of states involved in the ICRC list are indicated in Table 8 in the Annex.

3.2 State level

There is no consolidated information on PPPs at the State Level. It is known that a significant number of states have PPP projects, but individual states do not maintain a web portal with information such as those presented at the Federal level. Therefore, the number and value of State Level PPPs remains an unknown, with a consequent lack of information to assess state exposure to fiscal risks.

3.3 Conclusions on present status

From the above analysis it is **concluded:**

1. The ICRC web portal provides extensive information on PPPs and is a disclosure model many other countries could follow.

2. However, important information is not available, e.g.
   a) Financial statements of PPPs
   b) Monitoring reports
   c) Quantified and updated risk analysis

3. There is no national system for providing information on PPPs contracted by individual States within the Federation and these therefore represent a significant but indeterminant fiscal risk.

[2] *Projects as uploaded in Excel as of 28/09/2018 from the ICRC website (ppp.icrc.gov.ng)*

4 Legal and institutional framework of PPPs

4.1 Federal level

At the Federal level the legal framework is provided as indicated above by:

- The Infrastructure Concession Regulatory Commission Act 2005
- The National Policy on Public Private Partnerships (N4P) 2009

These two Acts have led to the establishment of the Infrastructure Concession Regulatory Commission (ICRC) as the focus of PPP management and disclosure. The ICRC is responsible for:

There are a number of other Acts relevant to PPPs:

- Public Procurement Act 2015 – deals with overall public sector procurement practices.
- Federal Roads Maintenance Agency Act 2004 and the Federal Highways Act, 2004 dealing with planning, construction, maintenance and supervision of the use of all road infrastructure built by the FGN.
- Fiscal Responsibility Act 2007 deals with prudent management of the Nation's resources. In this instance, government investment in infrastructure.
- Foreign Exchange (Monitoring and Miscellaneous Provisions) Act, 2004 – deals with exchange controls and repatriation of funds invested in Nigeria.
- National Inland Waterways Authority, 2004 deals with the development, improvement, regulation of the use of Nigeria's inland water ways.
- Nigerian Investment Promotion Commission Act, 2004 deals with the coordination of all foreign investments in Nigeria, including investments in infrastructure.
- National Office for Technology Acquisition and Promotion Act, 2004 deals with use of foreign technology, which is otherwise not available, in Nigeria.

As has been pointed out, the legal and institutional framework at the Federal level "comprises a confusing and conflicting web of regulations and policies."[3] The Federal Ministry of Finance (FMF), the Debt Management Office (DMO) and the Accountant General (AG) of the Federation have a role to play in managing PPP fiscal risks. The FMF is tasked with: evaluating and managing fiscal risks that may result from the terms of the PPP agreements; ensuring that forecast costs, including subsidies, are affordable over the life of the contract and within the Medium-Term Expenditure Framework (MTEF); and reviewing costs and contingent liabilities during the project preparation and procurement phase. The DMO is responsible for ensuring that any contingent liabilities are manageable within the Government's and fiscal forecasts and for providing guidance in cases where the involvement of multilateral agencies in providing guarantees or other financial instruments are considered. The Accountant General is responsible for putting in place measures such that funding for payment obligations incurred through a PPP contract is safeguarded to ensure prompt payment, and for setting up escrow accounts in case the financial standing of the government contracting party is unclear. The creation of a PPP Guarantee Fund was mentioned in the N4P to provide additional security to investors against both actual and contingent liabilities but has not as yet been established.

The ICRC has a website with extensive information and guidance, and summary information on individual PPPs. The website does not contain any monitoring reports or financial statements of individual PPPs, no updated aggregated risk register and no schedule of contingent liabilities resulting from PPP guarantees. The various other bodies involved in PPPs, as above, have not published any information, relying on ICRC to provide disclosure. The DMO publishes a report on the annual Debt Sustainability Analysis (DSA) that includes a table of contingent liabilities, but such table only includes guarantees that have already crystallised.

It is **concluded** that there is good, but not complete, disclosure of information at the Federal level. This disclosure is not sufficient to assess the fiscal risk associated with individual PPPs or the monitoring and risk management processes. Coordination and disclosure mechanisms are unclear in terms of monitoring, quantifying and managing fiscal risks arising out of PPPs.

[3] *George Nwangwu "Public Private Partnerships in Nigeria"Palgrave Macmillan, 2016*

4.2 State level

If the legal situation is complex at Federal level, it becomes even more so when the role of States is considered. There is no clear delineation of responsibility for PPPs between State and Federal levels, no standards for State PPP legislation or management and no central or state level website disclosing information on PPPs.

As indicated above, states have individual responsibility to develop laws and institutions for managing PPPs contracted by the state. A number of states have enacted PPP laws and established institutional frameworks. Two examples are included.

4.2.1 Lagos

Lagos has enacted a legal framework for PPPs:
- The Lagos State PPP Law 2011
- The Lagos State Public Procurement Act 2011; and
- Regulations issued by the State Executive Council (ExCo) governing the PPP process.

The Office of Public-Private Partnership (OPPP) was established under the Lagos State Public Private Law 2011. There is a PPP manual which sets out the institutional framework for PPPs. The OPPP has a website with very useful information, but no interactive database of PPP projects comparable to the ICRC disclosures.

4.2.2 Jigawa

Jigawa has a PPP Policy Framework. The Investment Promotion Agency Law No 12, 2016 created the Jigawa Investment Promotion Agency (InvestJigawa), as a Special Purpose Vehicle to advise and assist the Government on the implementation of all projects and programmes. The Jigawa Investment Promotion Agency is required by law to host the Public Private Partnership (PPP) unit. There is a relatively limited website with no list of PPP projects.

4.2.3 Other states

It is believed that Anambra and Niger have also passed PPP laws, but no detailed information is available on PPP legal and institutional frameworks in these and other states.

4.2.4 Identified issues by other studies

A study[4] has identified the following issues with the legal and institutional framework for PPPs. These issues are consistent with those identified above and include:

1. A lack of coordination between Ministries, Departments and Agencies (MDAs) in PPP transactions and the subsequent fiscal impact
2. Lack of clear definition of asset ownership and stream of income on the assets
3. Lack of provision for land acquisition for the proposed development
4. Ambiguity in the approval processes for PPP projects and granting of concessions
5. Minimal and restricted power of ICRC in PPP transactions
6. Lack of clear definition of relationship and coordination between ICRC and MDAs in PPP project monitoring
7. Absence of any limit on private sector participation and mechanisms for dealing with unsolicited proposals
8. Lack of adequate legal protection for the private investor in a PPP transaction
9. Lack of fairness in dispute resolution and efficient appeals
10. Lack of proper audit or review of development process and outcome of PPP projects
11. Absence of proper public financial management in PPP transactions
12. Lack of alternative dispute resolution mechanisms in PPP transactions
13. Lack of regulatory and enforcement provision in the legislation
14. Lack of appropriate legal and regulatory framework at the state level.

4.2.5 Conclusions on State legal and institutional framework

The above limited analysis indicates that PPP legislation, frameworks and disclosure at the State level is being initiated but is less developed than at the Federal level. Questionnaires have been sent to some states, but a detailed survey of all States would be required to form any definitive conclusions.

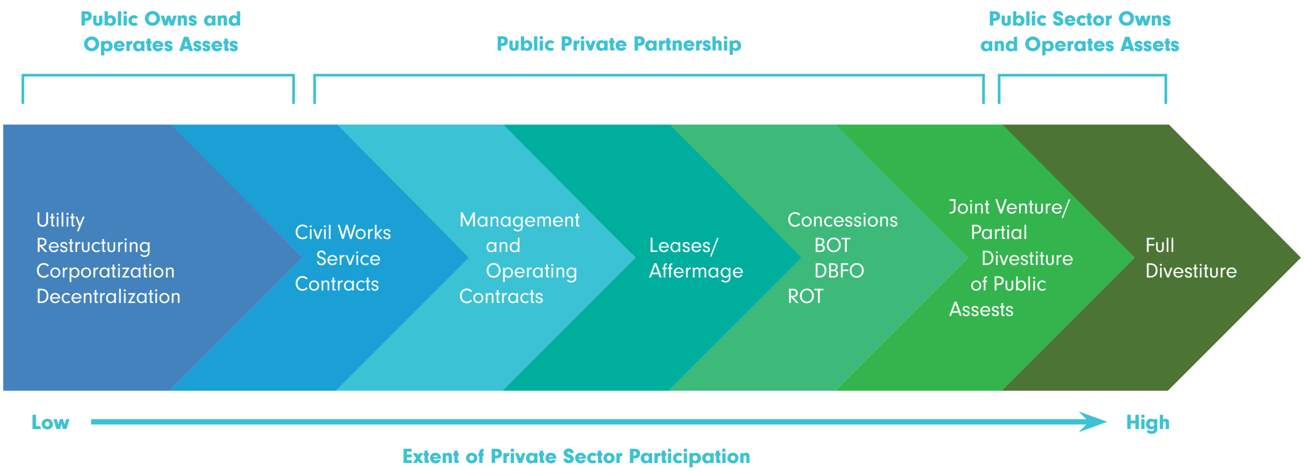
[4] *Adamu Mudi, "Effective Institutional and Legal Regulatory Framework: A Panacea to Efficient Road Infrastructure Development", (Journal of Harmonized Research in Engineering, 2016)*

5 Types of PPPs

5.1 PPP Variants

PPPs are structured in different forms or variants depending on the extent of involvement of, and risk taken by the private entity. The figure below depicts the spectrum of PPP agreements.

Figure 1: Spectrum of PPP Agreements



Source: Adopted from World Bank PPP Legal Resource Center

The table below describes some common PPP variants in Nigeria.

Table 3: PPP variants in Nigeria

Variant	Acronym	Description
Operations and Management Contracts	O&M	Public sector outsources the provision of services to a private party, usually for a short-term period (2 to 5 years). The public partner pays the private partner for services rendered.
Lease/Affermage		Private vendor pays rent or lease payments to operate a government-owned facility. Under a lease agreement, the private vendor usually retains revenue collected and makes lease or rent payments to the public sector while under an affermage, the private vendor and public sector share revenues from operations.
Concessions		Public sector grants the private sector (concessionaire) a right to deliver certain services for a fee paid by the concessionaire for those rights. Private sector is responsible for operation and maintenance, and at times rehabilitation (although the asset is still owned by government) during the concession period. Government acts as regulator and sets performance standards that should be met by the concessionaire.
Build-Operate-Transfer	BOT	Private investor constructs the infrastructure, operates the infrastructure for a number of years, and transfers the facility to the government at the end of the contract, e.g. greenfield projects.

Build-Own-Operate	BOO	Similar to BOT where private sector constructs the infrastructure and operates it but is allowed to own it in perpetuity. Government is involved in fixing the tariff and guaranteeing revenues, e.g. power generation sector.
Build-Transfer-Operate	BTO	Private investor builds the facility, transfers it to government and the government either operates it directly or contracts it out. The private investor either gets full payment at the end of the contract or shares in the earnings from operations thereafter.
Design-Build-Finance-Operate	DBFO	Public partner specifies the services it wants the private sector to deliver, private partner designs and builds the asset specifically for that purpose, finances its construction and subsequently operates the asset, e.g., Lekki Road Concession and MMA2 Airport terminal both in Lagos.
Rehabilitate-Operate-Transfer	ROT	Private investor rehabilitates facility, operates to the extent of full-cost recovery, and transfers back to government.
Rehabilitate-Lease-Transfer	RLT	Private investor rehabilitates facility, enters into lease agreement on facility, and transfers the facility back to government at the end of the contract.
Joint Venture	JV	A JV between the public and private sectors in PPP arise when: a contracting authority may require an equity stake ("shares") in the project company/operator; and an existing public utility sells a stake in the utility to a private company.

5.1.1 Solicited and unsolicited proposals

An unsolicited proposal, as described by the World Bank, is a proposal made by a private party to undertake a PPP, submitted at the initiative of the private firm, rather than in response to a request from government (as is the case for a Solicited Proposal). Unsolicited proposals do not originate as part of a government planning process and may divert government's attention from its planned approach to infrastructure development. Problems may arise if government chooses to negotiate with a project proponent based on an unsolicited proposal since there is an apparent absence of a transparent or competitive procurement process. Given the lack of competition, the project may result in poor value for money. The lack of transparency in the procurement process may undermine the legitimacy and support for the PPP program.

Some argue that unsolicited proposals provide a good source of innovative ideas for Government, hence countries developed mechanisms to deal with such proposals while still ensuring that these projects are still subject to competition and transparency.

The ICRC's *Guide for Implementing Unsolicited Proposals for PPPs for Nigeria* outlines the process for evaluating and responding to unsolicited proposals where the over-arching principle is that "*ALL unsolicited proposals are channelled into a transparent, competitive process where challengers have a fair chance of winning the tender*". It calls for the application of a "Swiss Challenge System" where the public authority allows the submission of competing bids via a transparent process. However, the original proponent is granted the right to counter-match the best offer and secure the contract.

5.1.2 PPPs at the Federal Level

More recent information on Federal PPPs is available from the ICRC web portal. This indicates a number of models, some of which do not easily fall within any of the above categories. The list in Table 4 groups the PPPs into major categories based on information published on the website.

Table 4: Federal PPP structure 2018

Type of PP	Number of PPPs	Total value US$ million	Percentage of value	Comment	Relevant IPSAS (see section 9)
Joint Venture	2	2,331.32	0.%	Both involve forming a company in which government has an equity share	IPSAS 36
Build own operate transfer	2	22,114.63	8.3%		IPSAS 32
Build operate transfer	1	273.00	0.1%		IPSAS 32
Build transfer	1	184,287.77	6.0%		No specific IPSAS
Operate manage	2	19,499.67	7.3%		No specific IPSAS
Lease upgrade operate transfer	10	21,294.64	8.0%	Most of the ports PPPs involve leasing port facilities for upgrading and operation for a period	IPSAS 32
Design finance build operate manage transfer	1	3,434.59	1.3%		IPSAS 32
Design rehabilitate operate transfer	2	2,475.87	0.9%		IPSAS 32
Operate upgrade transfer	2	11,324.52	4.2%		IPSAS 32
Supply operate transfer	1	206.80	0.1%		IPSAS 32
Total	**21**	**267,242.80**	**100.0%**		

Note: the relevant IPSAS is explained in Section 9.3 below. The IPSAS assigned in the above table are based on certain assumptions on the nature of the contractual relationships which would need to be confirmed by a detailed comparison of each contract with IPSAS definitions.

It is **concluded** that the balance of PPPs has moved from joint ventures to service concession arrangements as defined in IPSAS 32 (see Section 9 below).

https://ppp.icrc.gov.ng/project/52/badagry-deep-water-port

6 Benefits and risks in the context of Nigeria experience

The perceived benefits of PPPs in Nigeria are summarised as follows:

- Achieving the large infrastructure investment required by Nigeria
- Attracting private expertise and/or capital investment for infrastructure and service delivery improvements
- Increasing efficiency and effectiveness in use of resources
- Reforming sectors through a reallocation of roles, incentives and improve accountability
- Rigorous project preparation
- Delivery of a whole life solution
- Shift focus to service delivery
- Integrated approach to infrastructure development
- Better overall management of public services – transparency in selection and ongoing implementation

In practice, the main reasons for the adoption of the PPP model in Nigeria is (1) to make available private finance and (2) the provision of management expertise whilst (3) addressing problems of pervasive corruption and inefficiency in the public sector.

There have been significant PPP successes in Nigeria, for example the Nigerian ports have been transformed through new investment and management. In Lagos, the Bus Rapid Transit (BRT), the first of its kind in sub-Saharan Africa. The transport system which moves about 200,000 commuters daily has helped in reducing travel time by 30% and creating over 5,000 direct and indirect jobs.

However, the PPP programme has also had problems, for example:

- Katampe District engineering infrastructure project - abandoned incomplete
- Onitsha River Port and silo complexes - not completed by project closure
- From the ICRC website at September 27, 2018, of the PPP projects listed as under implementation (see Table 1), some 26 are to some extent being renegotiated, and a further 7 have actually been abandoned or terminated.

Some lessons learned from implementing PPP projects in Nigeria are presented in Box 1.

Box 1 - Lessons to be Learned from PPP Projects in Nigeria

Case Study 1: Domestic Terminal at Murtala Muhammed Airport, Lagos

A BOT contract was awarded in 2003 to Bi-Courtney Aviation Services to build a new domestic terminal and ancillary facilities at the Murtala Muhammed Airport (MMA2) in Lagos. The contracting entities were the Minister of Aviation and the Federal Airports Authority of Nigeria (FAAN). With an estimated project cost of US$200 million, the project was financed in part by a loan from a consortium of deposit banks. The difficulties encountered by the project included: challenges in securing the long-term financing agreement, and unwillingness of FAAN to support the project by enforcing use of MMA2 by airlines as required in the PPP agreement. Several claims of breaches in contractual rights were raised by both parties.

Several learning points were identified in a study by Essia, et al (2013):

1. Absence of a transparent and sustainable long-term financing model for PPPs was a major challenge;
2. Many of Bi-Courtney's shortcomings were predictable and avoidable with effective planning, and realistic setting of goals and timelines;
3. The framework for periodic monitoring and evaluation of PPP projects was weak;
4. There was little room for review of the project to accommodate unforeseen changes; and
5. Absence of dedicated dispute resolution mechanism for PPP projects allowed controversy to escalate.

Case Study 2: Lekki Toll Road Concession Project, Lagos

This Project involved the upgrading and maintenance of approximately 50 km. of the Lekki-Epe Expressway. With a 30-year concession period, the BOT Project was awarded to Lekki Concession Company Limited and a Special Purpose Vehicle (SPV) was formed for the project. Financing was through long-term debt and equity, including a mezzanine loan from the Lagos State Government and a sovereign guarantee provided by the Federal Government to ensure the bankability of the project. Project costs were also to be recovered through charging of user tolls. However, toll collection was suspended when residents in the Lekki area protested and refused to pay tolls. What followed was a series of legal disputes between the public and the Lagos State Government where the suitability of the project and the credibility of the PPP process was questioned.

Learning points, as identified in the study included:

1. Importance of stakeholder consultation;
2. A need for strong capacity for negotiating and managing PPPs by government operatives;
3. Need for agreed performance standards that are backed by an effective penalty regime.

Source: Some excerpts taken from study by Uwem Essia and Abubakar Yusuf, "Public-Private Partnership and Sustainable Development of Infrastructures in Nigeria", Advances in Management and Applied Economics Journal (2013)

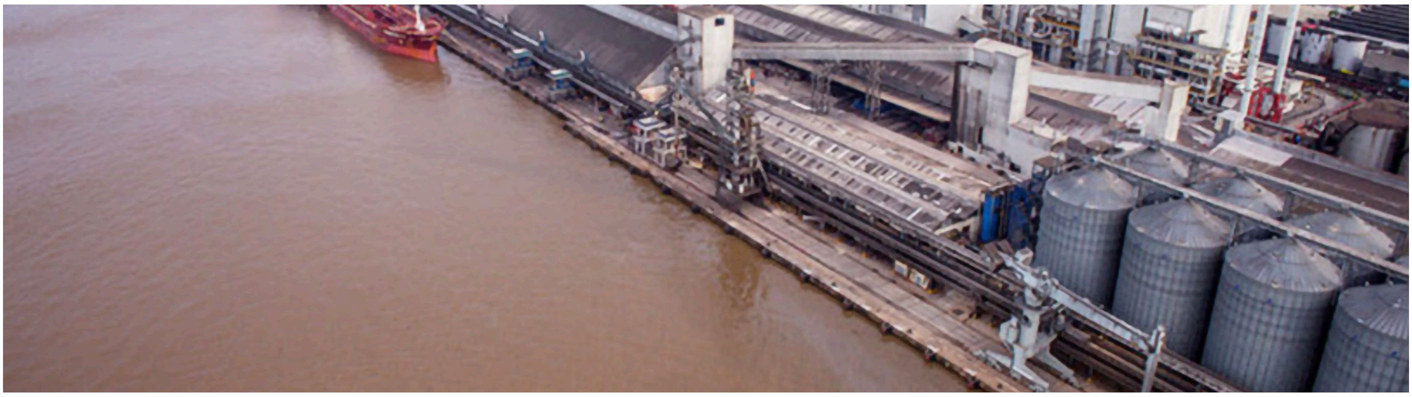
Internationally, there is mixed evidence on the benefit of PPPs. International donors, especially the World Bank, have supported PPPs for the reasons identified above. PPPs fit well with the concepts of New Public Management and there has been much academic support for the widespread adoption of PPPs[5].

However, more recent international experience and analysis has cast doubts on the PPP concept, e.g. they can impose significant costs and lack transparency[6]. The EU Court of Auditors studied PPPs across the EU and reached a number of critical conclusions, including that PPPs increased corruption, led to considerable implementation delays, and risks were inappropriately allocated between public and private participants. The study concluded that "Implementing successful PPP projects requires considerable administrative capability that can be ensured only through suitable institutional and legal frameworks and long-lasting experience in the implementation of PPP projects."[7]

All studies conclude that government experience and expertise in contracting PPPs is essential if the contract is to be an equitable balance of risk and return between the parties. This raises particular concern if all states in Nigeria are conducting their own PPP negotiation, in that the limited pool of expertise is diluted, and some states may lack the expertise to negotiate effectively.

One perceived benefit, the idea that PPPs involve investment without any fiscal impact or increase in government borrowing (off balance sheet) is further considered in Section 9 below.

It is concluded that whilst PPPs provide Nigeria with an opportunity to finance extensive and required infrastructure development, to bring private sector management expertise and to bypass a bureaucratic and often corrupt civil service, PPPs also bring their own problems and challenges. The implicit cost of finance for PPPs may be very large, they create their own bureaucracy and present new opportunities for corruption. The devolving of too much PPP procurement to states further dilutes the limited pool of expertise and experience in PPP procurement and management.



https://ppp.icrc.gov.ng/project/131/apapa-port-terminal-a

[5] See for example E. R. Lescombe "Public-Private Partnerships" Butterworth, 2007
[6] M Vervynckt and M José Romero :Public-Private Partnerships: defusing the ticking time bomb" Eurodad 2017
[7] EU Court of Auditors "Public Private Partnerships in the EU: Widespread shortcomings and limited benefits" EU, 2018

7 Fiscal costs and risks of PPPs

7.1 Costs and value for money

The fiscal costs and benefits of PPPs are represented by:

1. Flow of payments between the PPP contractor and government
2. Impact on tax and non-tax revenues - both revenues foregone, and additional revenues generated
3. Impact on government expenditures through expenditure, including those not involving money flows (e.g. depreciation) , impact on administrative costs, cost savings though government not having to operate the assets, e.g. wage costs of staff, etc.
4. Financial or non-financial assets and liabilities of government increased or decreased

Where the PPP involves significant capital investment there is an implicit cost of capital. This can be difficult to determine because costs will be wrapped in the envelope of all the above costs; furthermore, the value of assets acquired is unlikely to be specified in the PPP contract. In principle, the implicit cost of capital of a PPP is the discount rate, that when applied to the sum of the annual total of the above costs, 1 through 3 equates to the market value of the assets acquired. In practice, making the above estimates is extremely difficult and subject to considerable uncertainty. Nor do such estimates take account of any efficiency gains or losses resulting from the PPP.

It is a truism that a PPP should represent value for money; actually ascertaining whether a PPP represents value for money is much more difficult, as indicated above. A proper analysis would compare alternatives, e.g. different PPP formats, traditional procurement by the government or simply doing nothing.

7.2 PPP Risks

As in any other infrastructure projects, risks are inherent in all PPP projects. These arise because of the uncertainty of future outcomes and these may have a direct impact on the provision of services by the project, and/or its commercial viability.

One of the main attractions for entering a PPP is that it allows the transfer of many project risks to the private sector. Risk allocation between the public and the private sector is critical in any PPP contract design and both partners should clearly understand the various risks involved and agree to an allocation of risks between them.

A description of these risks is elaborated in the table below.

Table 5: PPP risks

Type of Risk	Description
Site risks	Associated with the availability and quality of the project site, e.g. right of way, costs and timing of acquiring site
Design, construction and commissioning risks	Delays in construction or cost over-runs
Sponsor risk	Ability of private sponsor(s) to deliver the project
Environmental risk	Environmental constraints in construction and operation
Commercial or demand risk	Lower demand and/or revenues collected are lower than projected
Operating risk	Risks to successful operations, including interruption in service, inefficiency in operation leading to higher operating costs
Financial risk	Change in interest and currency exchange rates, and tax laws
Legal and regulatory risk	Change in legal or regulatory regimes
Political risk	Change in government policy or action that affects the business case of the project
Public/ stakeholder opposition risk	Where PPP project draw considerable opposition from societal or citizen groups
Force majeure risk	Risks due to unpredictable natural and man-made events that are beyond the control of the parties to the contract such as uninsurable earthquake, flood, civil war, etc.

7.3 Fiscal risks arising from PPPs

Part of the objective of PPPs is to transfer risk from the public to the private sector. However, there are circumstances where governments need to incentivise the private sector to participate in PPP projects and accept the consequent risks[8]. The objective is to build up confidence in the PPP market (making PPP transactions bankable and attractive to financial investors) and to demonstrate government's commitment to such projects. Incentives typically take the form of guarantees that legally bind the public sector to take an obligation if a specified event occurs, e.g. debt default by the private sector entity. Such guarantees transfer risk back to the public sector.

Fiscal risks specifically relate to commitments the government enters into as part of the PPP contract. They may include:

- Revenue guarantees
- Debt guarantees
- Equity investment
- Currency guarantees
- Force majeure clauses
- Share of risk resulting from operational issues

All of these amount to a fiscal risk to the contracting government - Federal or State. Given the volume and scale of PPPs in total, they may amount to a substantial risk, but at present there is no central documentation of the fiscal risks at Federal or State level. The ICRC provides a risk matrix on individual projects, but it is unquantified and there is no evidence that this is translated into a central record of fiscal risks. Although the N4P stated that the government will consider setting up a Risk Management Unit within the Federal Ministry of Finance, this unit has not as yet been established. Nor is any information available on fiscal risk management in relation to PPPs at the state level.

Conclusion: whilst there is evidence of risk management of individual PPPs by the ICRC, there does not appear to be any national or state level aggregation of such fiscal risks associated with PPPs. The Debt Management Office discloses the potential fiscal commitments arising from PPPs (particularly contingent) on liability management in its Debt Sustainability Analysis (DSA); it is unclear whether there is active monitoring and quantifying all fiscal risks relative to PPPs. The N4P noted the "important role of the Federal Ministry of Finance (FMF) in the public financial management of PPP projects". However, it appears that the FMF's PPP Division is relatively new and does not possess adequate human and material resources to carry out its entire mandate. There is an urgent need to further resource and train the PPP Division within the FMF and build staff capacity in implementing the IMF's PPP Fiscal Risk Assessment Model (P-FRAM) tool to assess, report and monitor such risks. The P-FRAM is discussed in further detail in a separate Technical Paper, "PPP: Financial Reporting".

Photo: Lagos Metropolitan Area Transport Authority (LAMATA)

[8] *Adamu Mudi, "Effective Institutional and Legal Regulatory Framework: A Panacea to Efficient Road Infrastructure Development", (Journal of Harmonized Research in Engineering, 2016)*

8 Fiscal disclosure requirements relating to PPPs

A separate Technical Paper (as noted above) addresses the issue of fiscal disclosure in relation to PPPs. A summary is provided below.

The fiscal impact and potential risks arising from PPPs should be recognised during both the project design and implementation phase. Fiscal commitments that are expected to arise from the implementation of PPP projects should be identified and incorporated during the project approval process. Effective budgeting, monitoring and reporting of these fiscal commitments should be undertaken throughout the project implementation period to ensure the viability and sustainability of the PPP.

Budgeting for PPP liabilities involves making sure that government has sufficient funds available to pay for whatever cost the government has agreed to cover under the PPP contract. Having a clear mechanism for ensuring the timely payment of PPP commitments improves the credibility of the government's PPP programme.

https://ppp.icrc.gov.ng/project/47/bakalori-dam

9 Financial reporting disclosure requirements

Financial reporting requirements are addressed in a separate Technical Guide. A summary is provided below.

As noted, the objective of a PPP is to utilise private sector funding and expertise to transfer some of the risk to the private sector entity. But by its nature, a PPP involves some commitments and risk on the part of government. As far as feasible, this should be recognised in both ex ante (budget) and ex post (budget execution and financial statement) reporting.

There a number of international standards and requirements relating to fiscal reporting by government entities. International Public Sector Accounting Standards (IPSAS) are issued by the IPSAS Board of the International Federation of Accountants (IFAC). Nigeria has made a decision to implement the accrual International Public Sector Accounting Standards (IPSAS)[9] for financial reporting at State and Federal level.

However, at present much of the financial reporting by the States remains cash based, as are the Federal and State budgets. Therefore, reporting according to the Cash Basis IPSAS also needs to be considered. In addition to IPSAS, there are Recommended Practice Guidelines issued by the IPSAS Board.

In addition to annual financial reports by the Federal and State governments, Nigeria prepares national statistical reports, e.g. Government Finance Statistics (GFS) 2014 reports, in accordance with IMF requirements and macrolevel economic statistics based on the UN System of National Accounts 2008. A Debt Sustainability Analysis (DSA) is prepared at the Federal Level in accordance with the IMF DSA Framework.

There are various requirements for fiscal transparency, notably the IMF Code of Fiscal Transparency. Transparency also implies providing adequate opportunities for project stakeholders to be aware of what the PPP project is about, its costs and financial implications, tolls, user-charges, among others.

However, there are no international standards in relation to Medium Term Fiscal Frameworks (MTEF), annual budgets, future commitments, fiscal risk and budget execution reports. These issues also need to be addressed taking account of the above reporting standards and requirements of for fiscal transparency, plus the perceived needs of both citizens and government.

9.1 International Public Sector Accounting Standards (IPSAS)

IPSAS are financial reporting standards for not-for-profit entities that meet the following criteria:

- The entity raises resources from and/or uses resources to undertake activities for the benefit of recipients (citizens)
- There are service recipients or providers who depend on GPFRS for accountability or decision making purposes[10]

Financial reports (referred to as General Purpose Financial Reports, GPFR) compliant with IPSAS should be published for entities that meet the above criteria. As a general rule the above definition encompasses all entities that are within the boundary of the General Government Sector (GGS) as defined for macroeconomic statistics, e.g. the UN SNA 2008.

There are two IPSAS:

- **Accrual IPSAS** – a series of standards for entities reporting under the accrual basis of accounting.
- **Cash Basis IPSAS** – a single standard for entities reporting under the cash basis of accounting.

[9] *IPSAS are issued by the IPSAS Board of the International Federation of Accountants*
[10] *IPSAS Conceptual Framework Chapter 4 papa 4.3*

9.1.1 IPSAS and PPP model

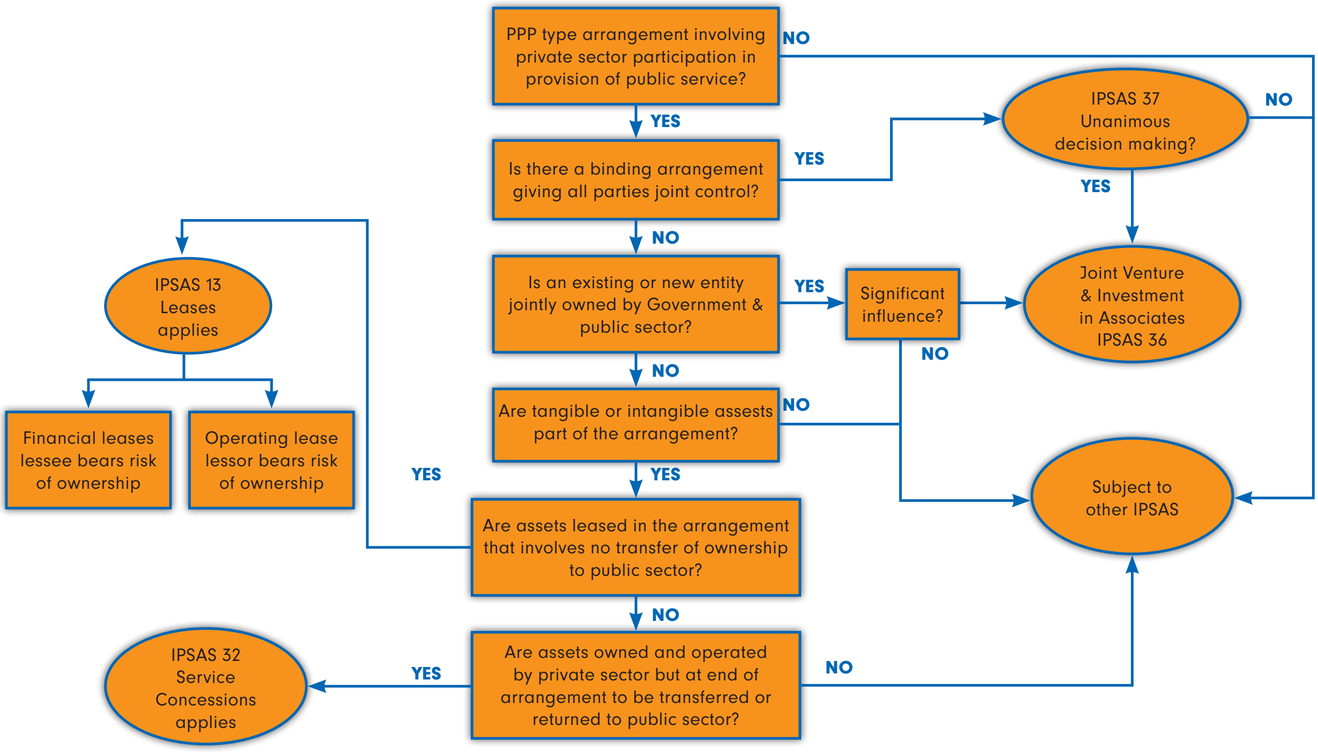
The funding model should be determined by the requirements of the Federal or State governments, not by financial reporting considerations. However, it is inevitable that how the information will be presented and disclosed will affect such decisions. In particular, "off balance sheet" funding can be attractive because it minimises disclosed borrowings.

This has also been an important driver in the development of financial reporting requirements. The objective has been to make financial reporting reflect the substance of transactions by including assets and related liabilities in the financial reports of part which has control and assumes the risks of operation.

It remains the case that quite small adjustments in the contractual arrangements can determine whether an item is "on" or "off" balance sheet. Internationally, major accounting firms are sometimes required to provide advice on the appropriate treatment of a particular PPP project because of the difficulty of deciding the appropriate IPSAS treatment in a particular set of circumstances.

The model in Figure 2 below summarises the main requirements. For clarity, a number of sub-options and special situations are omitted. However, this diagram alone should not be used to determine the appropriate accounting treatment. In every case a detailed study of the IPSAS wording and application guidance is essential to ensure the appropriate treatment and disclosure. Note also that the requirements in relation to the specific situations is further expanded for each of the options in the Case Study below.

Figure 2: Overview of IPSAS PPP requirements



9.2 Medium Term Expenditure Framework (MTEF), annual budgets and PPPs

There are no external standards governing the content and presentation of the MTEF and budget information. At state and Federal level, budgets are prepared on a cash basis. Also, there is a requirement to compare budget with ex post financial information on the same basis. It is therefore desirable that MTEF, budget and GPFR are all produced on a consistent basis.

It is critical during the PPP development and approval process that the affordability of the proposed PPP fiscal commitments are assessed in view of budget constraints and sector priorities as embodied in the Medium-Term Sector Strategy (MTSS). The MTSS sets out the projects and programmes that will be carried out in a sector over a three-year period and addresses the policy goals and outcomes defined in the State Development Plan, how much each programme and project will cost, where the money for them will come from and who will carry them out. The estimated annual and medium-term costs of the PPP fiscal commitments (whether direct or contingent) should thus be compared against and State's MTSS to ensure the PPP project's affordability and sustainability.

9.3 Budget execution reports

Budget execution reports should be published regularly by Federal and State governments. There are no rules prescribing the format of such reports. Usually, such reports are cash based to enable comparison with the cash-based budget. It is desirable that such reports should, as far as feasible, follow the format of the cash flows statement provided annually as part of the GPFR. It is also desirable that such budget execution reports include additional important information, e.g. on fiscal sustainability and fiscal risk.

9.4 IMF GFS Reports

As indicated above, the IMF GFS 2014 requires consolidated financial reports on the general government sector. There is no requirement for such reports to be audited or published, but they are included in summary in IMF Yearbook. GFS 2014 reports are also an input to national macroeconomic statistics, e.g. national income accounts.

GFS reporting embraces both entities within the General Government Sector and those within the Public Corporation sub-sector, but these are consolidated separately. Hence the distinction between entities within each sector is critical.

9.5 Stakeholder Engagement in PPPs

Relevant disclosure and public engagement are critical in obtaining public legitimacy of the PPP process. There should be fair opportunity for stakeholders, such as end-users, local communities and non-government organisations (NGOs), to provide meaningful inputs to ensure transparency and public participation in the PPP project. Stakeholder engagement at a relatively early stage of the project is recognised as a success factor for PPP implementation. Ideally, this should start during MTSS development where the government identifies its infrastructure programme. Such dialogue should involve a wide selection of 'stakeholders' including genuine 'grassroots' representation that includes both men and women, as well as representatives of the disadvantaged groups particularly affected by the sector's activities.[11] The engagement strategy should be able to demonstrate how the PPP project objectives are aligned with the overarching strategic priorities of government towards economic development and poverty reduction.

As evidenced in the case study presented earlier (see Box 1, Case 2), stakeholder consultation in an informed and transparent process is critical in enhancing the timeliness, efficiency and accountability of the project. Government can mitigate risk by disseminating project information and through effective stakeholder dialogue. Not only will such engagement improve the initial project concept, but it can also build trust and manage political interests and expectations, thereby avoiding or reducing public opposition to the project.

Box 2 – Stakeholder Engagement in PPP Projects with Direct User Charge

End-users and stakeholders, especially in projects with direct user charge such as transport and utility projects, should be involved during project planning and implementation. End-users are in a way part of the project financiers since they would be providing the main revenue stream of the PPP project. Their continued support to the project is imperative for it to be sustainable.

Mechanisms for stakeholder engagement in determining the affordability of the tariff structure and rate setting should be in place to ensure project viability and reduce risk of increased cost to government through its provision of guarantees.

Stakeholder engagement also requires proactive disclosure of the contract as well as periodic dissemination of information on project performance, and continuous collection of feedback from users through well-defined communication channels.

9.6 Other disclosure requirements

Over and above the regulatory requirements, there is a need to provide information on PPPs for the government managers and for transparency for the benefit of citizens. Issues to be addressed include:

- Identifying and managing fiscal risk arising from actual and contingent liabilities
- Disclosure of information about PP liabilities (actual and contingent) and other information about PPPs
- Compliance with IMF Code of Fiscal Transparency 2014
- Debt Sustainability Analysis (DSA) using the IMF DSA framework

[11] *SPARC Policy and Strategy How to Guide 3: Preparing a Medium-Term Sector Strategy (2015)*

10 Conclusions on PPP in Nigeria and recommendations for the future

Nigeria has embraced the PPP approach as the basis for funding and managing a large scale infrastructure investment at both Federal and State levels. The ICRC law and disclosure of information is a significant step to providing transparency on Federal level PPPs. The information is well structured and easily available using the web tools and can provide a model for other counties.

However, there are a number of important issues in relation to PPPs that need to be addressed as a matter of urgency. These and recommendations are summarised in Table 6 below.

Table 6: Summary of PPP issues and recommendations

PPP Issue	Recommendation
1. At Federal level there is a confusing web of laws and responsibilities for various aspects of PPP contracting, monitoring, fiscal risk management and disclosure	Simplify legal and institutional framework giving ICRC primary responsibility with FMF responsible for fiscal forecasting and risk management, and build capacity accordingly
2. At State level there is no consistent structure of laws and institutions for PPP contracting, monitoring, fiscal risk management and disclosure	Establish a model structure and laws on which States can base their own arrangements with the objective of consistent high quality and effective PPP arrangements across the whole of Nigeria
3. The dispersion of PPP contracting across States dilutes the pool of contracting experience and expertise and risks PPP contracts that are unfavourable to government	Without reducing state independence there should be improved coordination arrangements to take the opportunity to share PPP experience and expertise and to develop standardised models for contracting and disclosure. Federal Government's role as guarantor
4. Despite extensive disclosure at Federal level on ICRC website there remains a lack of published monitoring reports or updated and quantified risk assessments. At state level there is no equivalent of the ICRC and therefore no disclosure	All PPP projects should be subject to regular monitoring with published reports and updated quantified risk analysis through the project lifecycle (i.e. design, procurement, implementation, operation and closure/disposal)
5. There is an almost total lack of published information on PPPs at State level, and not consistent system for managing and monitoring State level fiscal risk, or aggregating information at a national level	The actions recommended above would enable improved PPP disclosure and enable national level aggregation and reporting
6. Resulting from the above there is no aggregated information at Federal or State level on PPP risks or fiscal revenues/costs	Implement P-FRAM model and establish aggregated forecasts at State and Federal level with clearly defined responsibilities
7. PPP approach is being adopted without adequate consideration of other options including government procurement or do nothing	Decision to adopt a PPP model should be tested against all feasible options for all major PPPs and the implicit cost of capital should always be calculated and disclosed
8. Adoption of IPSAS has significant implications for reporting PPP information in State and Federal General Purpose Financial Reports	Progressive implementation of accrual IPSAS requirements starting with additional disclosures in Cash Basis financial reports compliant with the Accrual Basis IPSAS in respect of PPPs, actual and contingent liabilities

https://ppp.icrc.gov.ng/project/53/gurara-hydro-powerproject-kaduna

Annex 1: Analysis of Federal level PPPs

Table 7: Large Federal level projects

Name	Sector	Stage	Sponsoring Agency	Total Value US$ Million
1. West African Container Terminal One	Transport	Implementation	Nigerian Ports Authority	5,579.22
2. Warehouse In A Box Project	Social & Health	Procurement	Federal Ministry of Health	5,190.00
3. Calabar Port Terminal A	Transport	Implementation	Nigerian Ports Authority	5,122.00
4. Ibom Deep Water Port	Transport	Procurement	Federal Ministry of Transport	4,200.00
5. Badagry Deep Water Port	Transport	Development	Nigerian Ports Authority	4,043.96
6. Apapa Container Terminal	Transport	Implementation	Nigerian Ports Authority	3,618.90
7. Lekki Deep Water Port	Transport	Implementation	Nigerian Ports Authority	2,857.46
8. Ajaokuta-Kaduna-Kano (Akk) Gas Pipeline	Energy	Development	Nigerian National Petroleum Corporation	2,800.00
9. Rehabilitation and Concession of The Western Eastern Rail Lines	Transport	Development	Nigerian Railway Corporation (NRC)	2,000.55
Grand total (as above)				**35,412.09**

Table 8: Sponsoring agencies and states

Sponsoring agency	Number of PPPs
Debt Management Office	1
Federal Airports Authority of Nigeria	3
Federal Capital Development Authority	1
Federal Housing Authority	1
Federal Ministry of Agriculture and Rural Development	2
Federal Ministry of Health	1
Federal Ministry of Information and Culture	1
Federal Ministry of Power, Works and Housing	8
Federal Ministry of Transportation	2
Federal Ministry of Transportation, Aviation	2
Federal Ministry of Water Resources	2

State(s)	Number of PPPs
Abia	1
Abia, Bauchi, Borno, Enugu, Gombe, Kaduna, Kano, Kwara, Lagos, Niger, Oyo, Plateau, Rivers, Yobe	1
Abia, Cross River, Delta, Ebonyi, Enugu, Imo	1
Akwa Ibom	1
Anambra	1
Borno	1
Cross River	3
Delta	5
Federal Capital Territory	3
Federal Capital Territory, Adamawa, Bauchi, Borno, Edo, Enugu, Kebbi, Kogi, Lagos, Niger, Rivers, Taraba, Yobe	1

Sponsoring agency	Number of PPPs
Ministry of Trade and Investment	2
Nigerian National Petroleum Corporation	1
Nigerian Ports Authority	29
Nigerian Railway Corporation (NRC)	1
Nigerian Shippers' Council	9
The Nigerian Maritime Administration and Safety Agency	1
Transmission Company of Nigeria	2
Grand Total	**69**

State(s)	Number of PPPs
Federal Capital Territory, Akwa Ibom, Anambra, Bauchi, Benue, Cross River, Ebonyi, Edo, Ekiti, Gombe, Imo, Jigawa, Kaduna, Kano, Kebbi, Kwara, Niger, Ogun, Ondo, Oyo, Plateau, Sokoto, Taraba, Zamfara	1
Federal Capital Territory, Anambra, Cross River, Enugu, Imo, Kaduna, Kano, Kogi, Niger	1
Federal Capital Territory, Lagos	2
Federal Capital Territory, Lagos, Rivers	1
Gombe	1
Kaduna	1
Kano	1
Katsina	3
Kebbi	1
Kogi	1
Lagos	23
Lagos, Rivers	1
Narasawa	2
Niger	1
Ogun	1
Osun	2
Oyo	1
Plateau	1
Rivers	6
Zamfara	1
Grand Total	**69**

Annex 2: ICRC regulated PPP projects in Nigeria

	Ministry	Project	PPP Model
1	Federal Ministry of Power, Works & Housing (Power)	Development of 9MW Oyan Dam, Ogun State (Unsolicited Bid Project) This involves the Operations and Maintenance of 9MW hydroelectric power.	Operate and Maintain (O&M)
2	Federal Ministry of Power, Works & Housing	Marina Quayside Strip Project, Lagos State The proposed project is a transformative urban/waterfront development Project intended to be a tourism centre that will provide Hotels, Condominiums, Commercial Complexes, Water Sports, Restaurants, Art Galleries, Cinemas, Shops, Car Parks, Bus Transport Terminals, Museums, Offices, Residential buildings, Rented Houses, Theme parks, Parks, Port Authorities, Cruise Ship Facilities, Jetties, Boardwalks, Marinas, Aquaria, Sports Complexes, Casinos, Medical Facilities and Marine Transport.	Design-Build-Finance-Operate-Transfer (DBFOT)
3	Federal Ministry of Water Resources	Development of 220MW River Mada Medium hydropower plant, Nasarawa State This involves the Operations and Maintenance of 420MW hydroelectric power.	Operate and Maintain (O&M)
4	Federal Ministry of Power, Works & Housing / Nigerian Electricity Management Services Agency (NEMSA)	Transformer Repair Services The project is an unsolicited proposal submitted by Kilowatt Electrics Limited (KWEL) to NEMSA proposing a joint venture partnership with NEMSA to operate the transformer repairs workshop in Ijora Lagos and construction of transformer repair workshops in Port Harcourt and Kaduna centres. The partnership will also include the role of electrical inspection, testing and certification of all electrical installation hitherto performed by NEMSA.	Operate and Maintain (O&M)
5	Federal Ministry of Power, Works & Housing (FMPW&H)	Lower Usuma Dam, FCT Concession of 1.2MW Grid Connected PV Solar Power Plant at Lower Usuma Dam, Abuja under the Japanese Grant-In-Aid to the FGN	Operate and Maintain (O&M)
6	Federal Ministry of Education	University of Benin 15MW Solar Project, Edo State The project is an unsolicited proposal for 15MW PV Solar power to be sited on a 30Hectare parcel of land at the University of Benin Ugbowo Campus.	Build-Operate-Transfer (BOT)
7	Federal Ministry of Information & Culture / National Commission for Museums & Monuments	Development of Recreational Park, Enugu, Enugu State An unsolicited proposal submitted to the National Commission for Museums & Monuments to develop recreational park in Enugu, within the Museum premises.	Build-Operate-Transfer (BOT)
8	Federal Ministry of Education/ National Open University of Nigeria, Abuja.	Development of NOUN Land into a Commercial Hub, Abuja, FCT An unsolicited proposal submitted for the development of a parcel of Land measuring 1000m2 within the Campus situated in Jabi, Abuja.	Build-Operate-Transfer (BOT)
9	Federal Ministry of Industry Trade and Investment / National Automotive Design Development Council (NADDC)	Development of a World Class Training Centre of Excellence, Abuja, FCT The project involves the construction of a nine (9) storey building on a 5,428 sqm site located at the Jahi District of the FCT, Abuja. The District is currently going through infrastructure development and urban renewal by the Federal Capital Development Authority.	Build- Operate-Transfer (BOT)

	Ministry	Project	PPP Model
10	Federal Ministry of Transport/ Nigerian Ports Authority	The Development of Deep Sea Port in Badagry, Lagos The Badagry Port project is a Greenfield development designed to cater for containers, dry bulk, liquids, Ro-Ro, oil & gas products, and also operate a free trade and local logistic zones.	Operate and Maintain (O&M)
11	Federal Ministry of Transport/ Nigerian Shippers Council	The Development of Inland Container Depot (ICD) in Dagbolu, Osun State The ICD when developed will provide storage and cargo handling facilities for export and import of containerized cargos to and from the hinterland of Nigeria especially around the Southwest states.	Operate and Maintain (O&M)
12	Federal Ministry of Transport/ Nigerian Shippers Council	The Development of Inland Container Depot (ICD) in Onitsha ICD, Anambra State The proposed ICD has a modular design that consists of an annual 5,000 TEUs capacity facility. The site measures approximately 100 hectares.	Operate and Maintain (O&M)
13	Federal Ministry of Interior	Contingent Owned Equipment (COE) Supply, Own and Operate (SOO) to Peace Keeping Missions in CAR, South Sudan, Somalia, Dafur and Liberia	Operate and Maintain (O&M)
14	Federal Ministry of Interior	ECOWAS Biometric Cards This project involves the adoption of smart card and biometric technology to secure the identification of persons as a prerequisite for managing migration and to enhance regional security, which is the outcome of the deliberation of ECOWAS Heads of Governments in order to meet the challenges posed by migration.	Design-Build-Finance-Operate-Transfer (DBFOT)
15	Nigerian Prisons Service (NPS)	Rehabilitation, Expansion and Operation of the Nigerian Prisons Service Shoe Factory, Aba, Abia State An unsolicited proposal for the Rehabilitation, Expansion and Operation of the Nigerian Prisons Service Shoe Factory (NPS SF) Aba, Abia State under Public Private Partnership between Erojim Investment limited (EIL) and the Nigeria prisons service.	Rehabilitate-Operate-Maintain (ROM)
16	Federal Ministry of Defence	The Naval Ship Dockyard, Lagos This involves optimizing the capacity and functioning of the Naval Dockyard to attend to the maintenance services of existing fleet and facilitate building of new naval and commercial vessels under a PPP arrangement.	Operate and Maintain (O&M)
17	Federal Ministry of Defence	Concession of Defence Jetty, Marina Lagos This project involves the rehabilitation and construction of the Ministry of Defence Jetty at Marina, Lagos under Build-Operate and Transfer (BOT) PPP model Once complete, the following services will be available: Ferry Service Parking, Helicopter Parking, Car Parking, Office Letting, Berthing Services, Afloat Repair Services, Warehousing Services, Restaurants & Café, Professional Training Services.	Rehabilitate-Operate-Maintain (ROM)
18	Federal Ministry of Interior	Immigration and Border Line Management The Ministry seeks to use PPP procurement to design and develop an Intelligent Border Management System to reinforce the Federal Government's capability to enhance border management processes, by comprehensively overhauling the surveillance and monitoring of passengers arriving or departing through the country's major entry points.	Design-Build-Finance-Operate-Transfer (DBFOT)
19	Concession of 4 International Airports Federal Ministry of Transportation (Aviation)	The FGN proposed to concession the Abuja, Lagos, Kano and Port Harcourt International airports as part of aviation sector reform programme Phase: Development phase	Rehabilitate-Operate-Maintain (ROM)

	Ministry	Project	PPP Model
20	**Development of a Maintenance, Repairs and Overhaul (MRO) Facility Federal Ministry of Transportation/ Aviation**	The FGN intends to establish an MRO facility for aircraft maintenance, inspections and supply of parts to the aviation sector. Phase: Development phase	Operate and Maintain (O&M)
21	**Establishment of an Aviation Leasing Company (ALC) Federal Ministry of Transportation/ Aviation**	The FGN intends to establish an ALC for the leasing of aircrafts to operators in the country and the continent as none exist in Africa at the moment. Phase: Development phase	Operate and Maintain (O&M)
22	**Development of an Aerotropolis (Airport City) Federal Ministry of Transportation/ Aviation**	The FGN intends to develop an Aerotropolis in a suitable location to be determined by the Transaction Adviser. This entails the setting up and development of structures that will support the activities around the airport and aviation in general. Phase: Development phase	Design-Build-Operate-Transfer (DBOT)
23	**Development of a 6 Cargo/ Agro Airports in the Geo-Political zones. Federal Ministry of Transportation/ Aviation**	The FGN intends to develop 6 Cargo/Agro airports in each of the geo-political zones to provide cargo handling and specialized logistics for agro products. Phase: Development phase	Build-Operate and Transfer (BOT)

https://ppp.icrc.gov.ng/project/172/lagos-international-trade-fair-complex-litfc

Annex 3: Responses to questionnaire

Questions	ICRC	Lagos	Jigawa	FMF	OAGF
1. Policy Document	N4P			N4P	IPSAS
2. Common type of PPP contracts	Please go to the ICRC contracts disclosure portal at www.ppp.icrc.gov.ng or www.icrc.gov.ng, to navigate through the site	Concessions; Build, Operate and Transfer (BOT); Service; Management	NA (Considering DBFO for an Industrial Park though)	The FMF is represented on the Board of ICRC, hence all relevant information on types of PPP contract are available on ICRC website	N/A
3. Form of government guarantees	Any form of guarantee will be guided by the Federal Ministry of Finance, with the approval of the Federal Executive Council	Letter of Indemnity and Undertaking	NA	i) Sovereign Guarantees ii) Comfort Letters to Lenders	
4. Role of MoF (Federal or State Level)	The Federal Ministry of Finance plays a very strong role in PPP contracting, especially to provide guidance with respect to issues of Viability Gap Funding and Contingent Liabilities. The ICRC PPP process guideline, issued by ICRC (available on ICRC website) requests all MDAs to notify the Federal Ministry of Finance prior to commencement of PPP projects, in view of the points above. This is also in obedience to a Federal Government Circular (available on ICRC website) directing all MDAs to notify the Ministry prior to commencement of PPPs There is a Unit in the Ministry of Finance responsible for determining viability gap funding and any contingent liabilities in PPPs. ICRC has also made inputs to the development of Viability Gap Funding and Contingent Liabilities procedure, being produced by the Ministry.	No OPPP has a fully functionally Finance & Accounting Department that oversees Project Financing	NA: When framework becomes operational, issues such as funding will be provided by the finance ministry Definitely: They will play a crucial role in earmarking funds for project concept-ualization, marketing and consultancy, This will be proposed by the PPP unit of InvestJigawa. Also, each project would have a project team comprised of by relevant MDAs to discuss its viability	FMF plays a critical role in PPP contracting vide the SGF's circular Ref. No SGF/OP/1/S3/X/610 dated 10th September, 2013 which mandates MDAs to involve and engage with the FMF and ICRC prior to commencing PPP projects in order to minimize the risk and contingent liabilities that may arise from PPP and to ensure the viability of projects proposed for PPPs.	
5. Is MoF (Federal or State Level) adequately resourced?	The Ministry is capable of meeting with their resource requirements	Yes	Yes: They are properly staffed for MTEF and MTSS, they may have to adjust their competencies to match the need for PPP	At the moment, the PPP Division is carrying out such mandate even though it is constrained by capacity and inadequate resources to fully carry out its mandate.	
6. Role of State House Assembly		They ratify PPP Contracts	Nil	N/A	N/A

Questions	ICRC	Lagos	Jigawa	FMF	OAGF
7. Identification and quantification of risk	These are done during the review of the Outline and Full Business Cases; as well during as negotiations of the contract, and prior to the signing of the PPP agreement	The Office has a team that appraises the viability and dynamics of the Project	NA (A fully setup unit within the agency would be equipped to do that)	The Ministry, through the PPP Division, provides support for Ministries, Departments and Agencies (MDAs) who are responsible for identifying and developing potential PPP projects under their purview. In line with NP4, MDAs submit a Project Business Case for each PPP project under consideration, to both the ICRC and FMF for review. The Ministry gives its concurrence or otherwise, while highlighting major risk elements and suggesting mitigating measures to manage such exposure.	
8. Is process specified in policy document on identification and quantification of risk adhered to?	Yes, the process is adhered to	Exists in the Policy Document	YES (Not as detailed as below but some elements of risk mitigation)	The risk identification, assessment and allocation process are complied with as provided for in the NP4. Normally, a Technical Advisory Team (Transaction Adviser) is engaged to midwife the process of appraising and structuring PPP tenders and contracts.	
9. Disclosure of potential budget costs during contract negotiations	Yes, they are disclosed	Yes	NA	The Budgeting costs are usually captured in the investment proposal i.e. Outline Business Case and are usually transmitted into contractual terms which are all negotiated at the procurement phase of the project.	
10. Disclosure of future costs in MTEF and DSA	Yes	Yes	NA (getting it featured in the 2019 Budget)	Yes, but this is done by the procuring MDAs in collaboration with Ministry of Budget and National Planning. It is expected that in due course, the PPP Division in FMF would be involved in this process.	
11. Is Debt Management Office (DMO) adequately staffed?	The DMO is capable of meeting with their resource requirements	Yes	Yes, A Debt Management Department exists under the State Ministry of Finance	DMO is in a better position to answer this.	
12. Monitoring/ quantification of risk by Contract Compliance Centre (CCC)	Yes	Yes, PPP/PMO	NIL	FMF ought to carry out this mandate in collaboration with ICRC but it is constrained at the moment due to lack of logistics.	

Questions	ICRC	Lagos	Jigawa	FMF	OAGF
13. Is CCC adequately staffed?	Yes	No		No. The PPP Division, being relatively new is not adequately resourced to carry out its entire mandate. The Division is only involved in project development and procurement to commercial close at the moment.	
14. Recording of revenues and costs in goverment accounts	ICRC is in the process of issuing several PPP guidance documents in the form of regulation, guidelines, etc.	Ministry of Finance to advice.	NA (Revenue will be paid to the State Consolidated revenue account)	The Office of the Accountant-General of the Federation would be in a better position to answer this. However, it is expected that some form of training would be given to PPP staff to be able to appreciate this in a concession agreement.	Depending on the agreement and the compen-sation methods adopted, the net inflows shall be used to reduce the PPP liability. This treatment is detailed in pages 207 -204 of the IPSAS Accounting Manual
15. Examples of FS reflecting such treatment		Ministry of Finance	NA	Same as Above	a) No MDA has so far submitted audited FS that contain PPP, as majority are yet to recognise their legacy assets b) Guide-lines for the recognition of legacy assets will soon be issues c)However all MDAs are to prepare their respective FS in line with IPSAS and the sample issued by FAAC sub Committee on Imple-mentation of IPSAS in Nigeria d) All revenue, expend-itures, assets and liabilities arising from the PPP contract

Questions	ICRC	Lagos	Jigawa	FMF	OAGF
					are to be classified in line with the NCOA e) The OAGF shall from time to time issue such other further guidelines on any accounting treatment where the need arises
16. Recording of future costs in government accounts		Through the implementing MDA	NA	Same as Above	
17. Copy of "guidance on the budgeting and accounting treatment of PPPs"		Ministry of Finance	NA	ICRC and DMO are in a better position to answer this.	
18. Is the PPP Guarantee Fund put in place?	A PPP Guarantee PPP Fund is not yet in place	No plans to	NIL: To be recommended by the PPP Unit	There are measures put in place towards setting up a PPP Guarantee Fund. Such measures include the Presidential Infrastructure Development Fund in the sum of $650million recently released to the Nigeria Sovereign Investment Authority (NSIA) to help improve the viability and manage risks associated with the delivery of 5PPP projects across the country. These projects are: 1. 2nd Niger bridge 2. Lagos – Ibadan Expressway 3. The East – West Road 4. Abuja-Kaduna-Zaria-Kano Road Mambilla Hydro-electric power plant. In addition, the Ministry of Finance is in the process of institutionalizing a framework for providing Viability Gap Funding and Guarantees.	None that we are aware of, however ICRC may be contacted for more information
19. If not, what measures are put in place to ensure funding such obligations	ICRC is collaborating with the Ministry of Budget and National Planning to establish a Project Development Fund			The above sum of $650 Million recently released to NSIA can be viewed as an Infrastructure Fund. However, there is need for a deliberate Government Policy to set aside funds in its yearly appropriation to bridge the infrastructure gap.	As above Certainly not in the list of Public Funds we presently have in the OAGF

Questions	ICRC	Lagos	Jigawa	FMF	OAGF
20. Does ICRC share their PPP expertise to state governments?	Yes	No	NILL	Don't Know	Don't Know
21. What kind of support is provided?	Depending on the request and need, ICRC has developed a template PPP Act and Policy to be given to states that request for such. ICRC also engages at Capacity Building for PPP representatives of the states. There is also a network of PPP with the States, which was established by ICRC and the Nigeria Governors' Forum.			Don't Know	
22. If no support provided, what kind of support can they provide?		Custom Duties; Permits; Waivers; Expat quotes; Duties	Advisory and Negotiations		

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