

An Overview of PPPs

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Public-Private Partnership is a Priority

My Takeaways from PBBM's 1st SONA

1. Continue and expand the **Infrastructure Development (Build Build Build) Program** of President Duterte
2. Pursue **amendments to the Build-Operate-Transfer Law** to remove ambiguities and bottlenecks, and provide a more competitive and enabling environment
3. Explore **100% foreign ownership of public services** under amended Public Service Act
4. Not suspend **ongoing projects** of the previous Administration
5. Undertake **hard and soft projects** through PPPs:
 - Roads
 - Rails
 - Bridges
 - Airports
 - Seaports
 - Water Supply
 - Nuclear Energy
 - Renewable Energy
 - Economic Zones
 - Agriculture Development
 - Health Centers
 - Specialty Hospitals outside NCR
 - Fiber Optic
 - Information Technology



REPUBLIC OF THE PHILIPPINES

DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS

RIGHT PROJECT, RIGHT COST, RIGHT QUALITY, RIGHT ON TIME, RIGHT PEOPLE

List of Priority Projects Proposed for Implementation under the Implementing Rules and Regulations of Build-Operate-Transfer law

1. Central Luzon Link Expressway (CLLEX)
2. Metro Cebu Expressway
3. Rehabilitation/Reconstruction/Improvement, Operation and Maintenance of Kennon Road
4. North Luzon Expressway East, Phase II
5. Mindoro-Batangas Super Bridge ("Floating Bridge")
6. Pacific Eastern Seaboard Expressway ("Luzon Eastern Seaboard"), Infanta - Atimonan Segment
7. Naawan-Opol-Cagayan de Oro City - Villanueva Expressway
8. Pangasinan-Nueva Ecija Expressway
9. Iloilo-Capiz-Aklan Expressway
10. Dingalan-Capas-Botolan Expressway



- North-South Commuter Railway System
- Metro Manila Subway Project
- North-South Commuter Railway System
- LRT-1 Cavite Extension
- MRT-7
- Common Station LRT-1-MRT-3-MRT-7
- Mindanao Railway Project
- Panay Railway Project
- Cebu Railway System
- Cebu Bus Rapid Transit
- Davao High Priority Bus System
- Ilocos Norte Transportation Hub
- El Nido Transport Terminal



PPPs by LGUs

PBBM at LCP Meeting

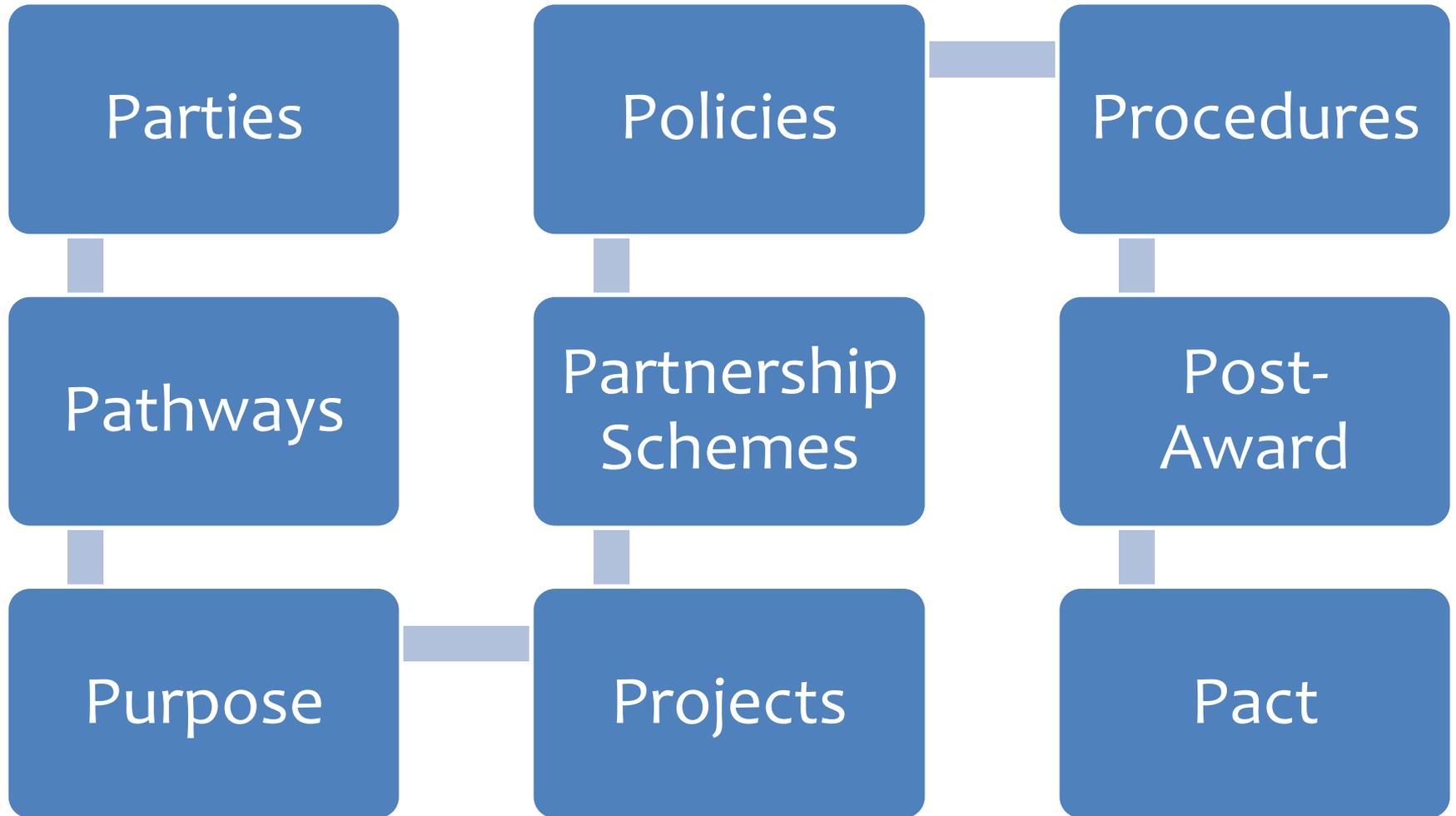
- Mode of financing projects
- Digitalization needed for economic recovery and digital transformation
- Increased focus on infrastructure
- LGU, generally, cannot do it by itself

Speaker Romualdez/Iloilo Projects

- Market redevelopment through lease
- Toll roads
- Hospitals
- Irrigation
- Housing
- Diversion Roads



Flow: 9 Ps



True or False



1. The Philippines has a **single PPP law**.
2. There are only **9 possible PPP modalities**.
3. All PPPs must be approved by **NEDA**.
4. All PPP projects are **single-purpose**.
5. A **feasibility study** is required.
6. Government must contribute **cash** in a PPP in order to have a share/ equity in the project.
7. The winner, in a PPP selection process, is always the private proponent with the **highest bid**.
8. Original Proponents in all Competitive Challenges have the **right to match** a superior offer.

Under the 2022 BOT IRR:

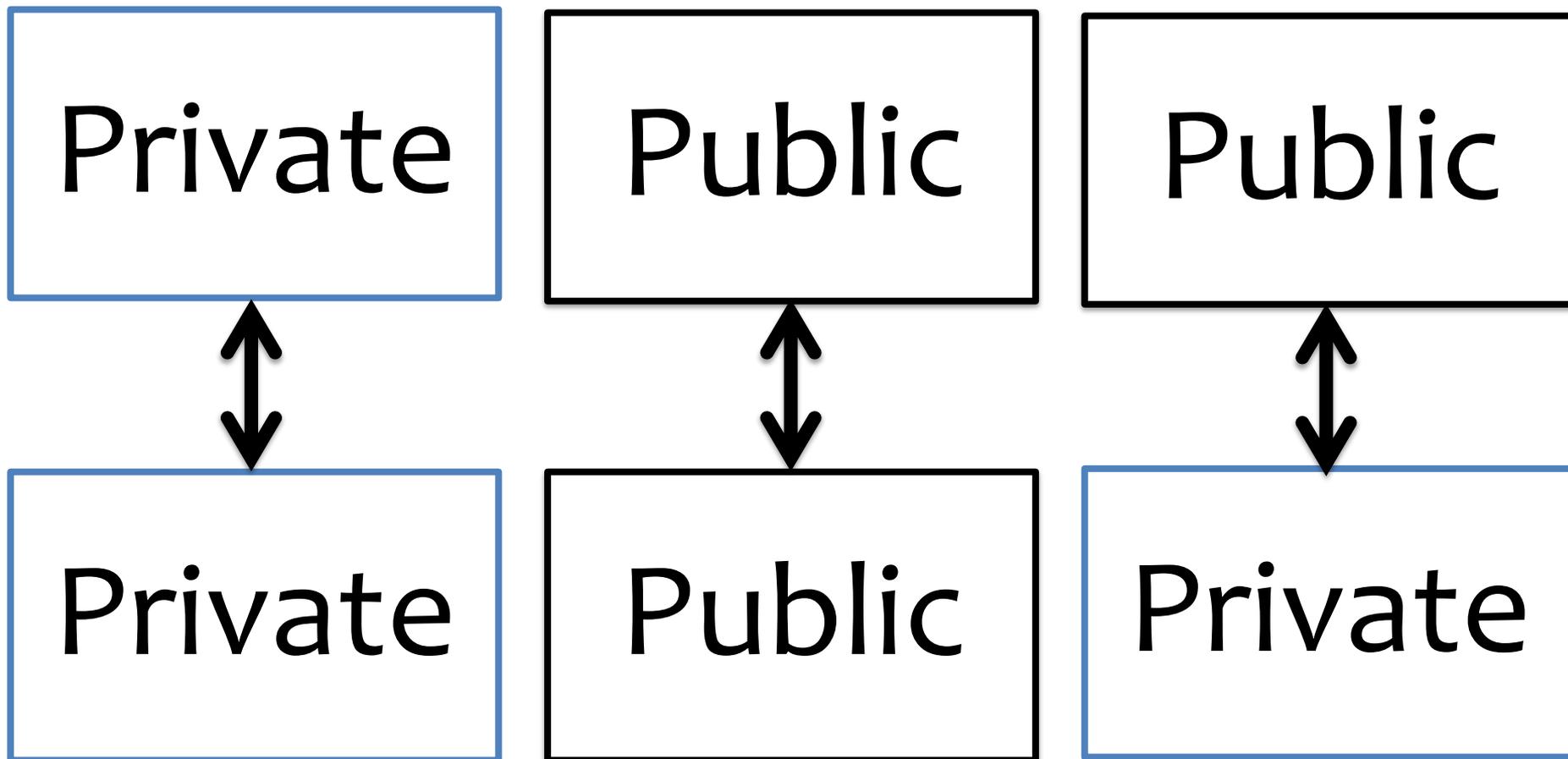
9. The **MAGA clause** includes acts of the Partner Agency.
10. Private Proponent records cannot be audited by **COA**.



The Parties



3 Levels of PPPs





PUBLIC SECTOR PPP PROPONENTS

**NATIONAL
GOVERNMENT**

**GOVERNMENT
CORPORATIONS**

STATES 

**AUTONOMOUS
REGIONS**

PROVINCES

CITIES

MUNICIPALITIES

BARANGAYS

Decentralization

- Vertical
- Horizontal



The Pathways

Implementation/ Funding Schemes

Public-Private Partnerships

Loans/ Grants/
Official Dev't
Assistance

National/ Local
Government
Funds

Public
Entity

Any 2 or all
of the above

None of the
above





Nature of PPPs

Public Sector

Private Sector



Project

Aspects:

- Project
- Design
- Finance
- Construction
- Operations
- Governance
- Risk-Allocation
- Period
- Performance
- Payments
- Liabilities
- Procedures



The Purpose



WHY PPP?

THE 7 MAIN VALUE DRIVERS



**IMPLEMENT
CHANGE
POLICY**



**ENCOURAGE
INNOVATION**



**SERVE THE
PEOPLE**



**PROVIDE
BETTER
VALUE-FOR-
MONEY**



**ACCELERATE
DELIVERY OF
SERVICES**



**SOLVE
RESOURCE
SCARCITY**



**SPREADING
RISKS**





The Projects



PPP PROJECTS

HARD

INFRASTRUCTURE ASSETS

- | | |
|---|--|
|  Road |  Terminal |
|  Water |  Government Buildings |
|  Power |  Parks |
|  Ports |  Information Technology |
|  Reclamation |  Cemetery |
|  Sports Complex |  Solid Waste Management |
|  Markets |  Bridges |
|  Transport Systems |  Malls |

SOFT

SOCIAL ASSETS AND SERVICES

- | | |
|---|---|
|  Classroom |  Housing |
|  Hospital |  Evacuation Center |
|  Agriculture |  Prisons |

BUNDLED

- | | |
|---|---|
|  + |  + |
| Hard and Hard | Soft and Soft |
|  + |  + |
| Hard and Hard | Hard, Soft and Soft |
|  + |  + |
| Hard and Hard | Hard, Hard and Soft |



The Partnership Arrangements



26+ PPP Modalities

1. Build-Transfer
2. Build-Lease-Transfer
3. Build-Operate-Transfer
4. Build-Own-Operate
5. Build-Transfer-Operate
6. Contract-Add-Operate
7. Develop-Operate-Transfer
8. Rehabilitate-Operate-Transfer
9. Rehabilitate-Own-Operate
10. Rehabilitate-Lease-Transfer
11. Rehabilitate-Transfer
12. Rehabilitate-Transfer-Operate
13. Concession Arrangement
14. Joint Venture
15. Lease or Affermage
16. Lease-to-Own
17. Real Property Swap
18. Management Contract
19. Management Contract (No Public Funds)
20. Service Contract
21. Service Contract (No Public Funds)
22. Divestment or Disposition
23. Corporatization
24. Subsidiary with Private Equity
25. Onerous Donation
26. Gratuitous Donation
27. Others



PPP RESOURCE EXCHANGE

Modality	Government		Private Sector	
Build-Operate-Transfer				
Joint Venture				
Concession				
Management Contract				
Public Land Lease				
Policy-setting		Building		
Financing		Operating		



The Policies



Governing Laws/ Rules

PPP Modality	Governing Law
BOT Law Variants (9+)	BOT Law
Concession	Special Laws/ Special Guidelines / Local Ordinance
Joint Ventures	2013 NEDA JV Guidelines/ Special Guidelines / Local Ordinance
Management and Service Contract*	GPRA/ Local Ordinance
RT, RLT, RTO	[BOT Law]/ Local Ordinance
Lease/ Lease-to-Own/ Realty Swap/ Affermage/ Donations	Civil Code/ Special Guidelines / Local Ordinance
Divestment/ Disposition	COA Circular No. 89-296/ COA Decision 2009-064
Corporatization	Corporation Code



NEDA Checkpoints

4-pass	3-pass	2-pass	1-pass	0-pass
(1) BOT-UP	(1) BOT-Sol, Nat'l P300m up	(1) BOT-Sol, Nat'l P300m (2) BOT-Local P200m up (3) JV-GOCC P150m and up	Any project Rejection	(1) BOT-Local P200m low (2) JV-local (3) JV-GOCC P150m low (4) JV-other GOCCs (5) lease, concession
NEDA-ICC-TB NEDA-ICC (IRR) NEDA-ICC (Nego) NEDA-Board	NEDA-ICC-TB NEDA-ICC NEDA-Board	NEDA-ICC-TB NEDA-ICC	NEDA-ICC-TB	NA



Changes in BOT IRR

Incorporating
Cost-Sharing in
Subsidy

Restricting
MAGA

Expanding COA
Reach

Listing PTCs

Imposing
Guidelines for
Project Approval

Changing basis
of RRoR

Defining Grant
of Usufruct

Expanding the
concept of New
Technology

Limiting
Contract
Variations

Excluding acts
of Regulators
from Arbitration

Prescribing Firm
and Contingent
Liabilities

Streamlining
Selection
Procedures



Comparative Matrix

Item	GPRA	BOT Law-Variants	Joint Ventures	Long-Term Lease
<i>Governing Law</i>	RA 9184	BOT Law	NEDA Guidelines/ Special Guidelines/ Local Ordinances	Special Guidelines/ Local Ordinances
<i>Modalities</i>	1	9 ++	1	1
<i>Role of Gov't</i>	Procuring Entity (PE); Buyer	Implementing Agency	Co-Venturer	Lessor
<i>Functions of Gov't</i>	PE/ Owner	Regulatory	Shared	Contract Mgt.
<i>Gain for Gov't</i>	Goods/ Service/ Infrastructure (disburse funds)	Payment by way of fees	Revenue-Share	Receives Rent ++
<i>Role of PSP</i>	Seller: Supplier, Provider or Contractor	Design, Finance, Build and Operate	Shared	Lessee
<i>PSP Revenues</i>	Payment from Government	Reasonable Rate of Return (or 12%)	Proportionate Sharing	Rentals



Comparative Matrix

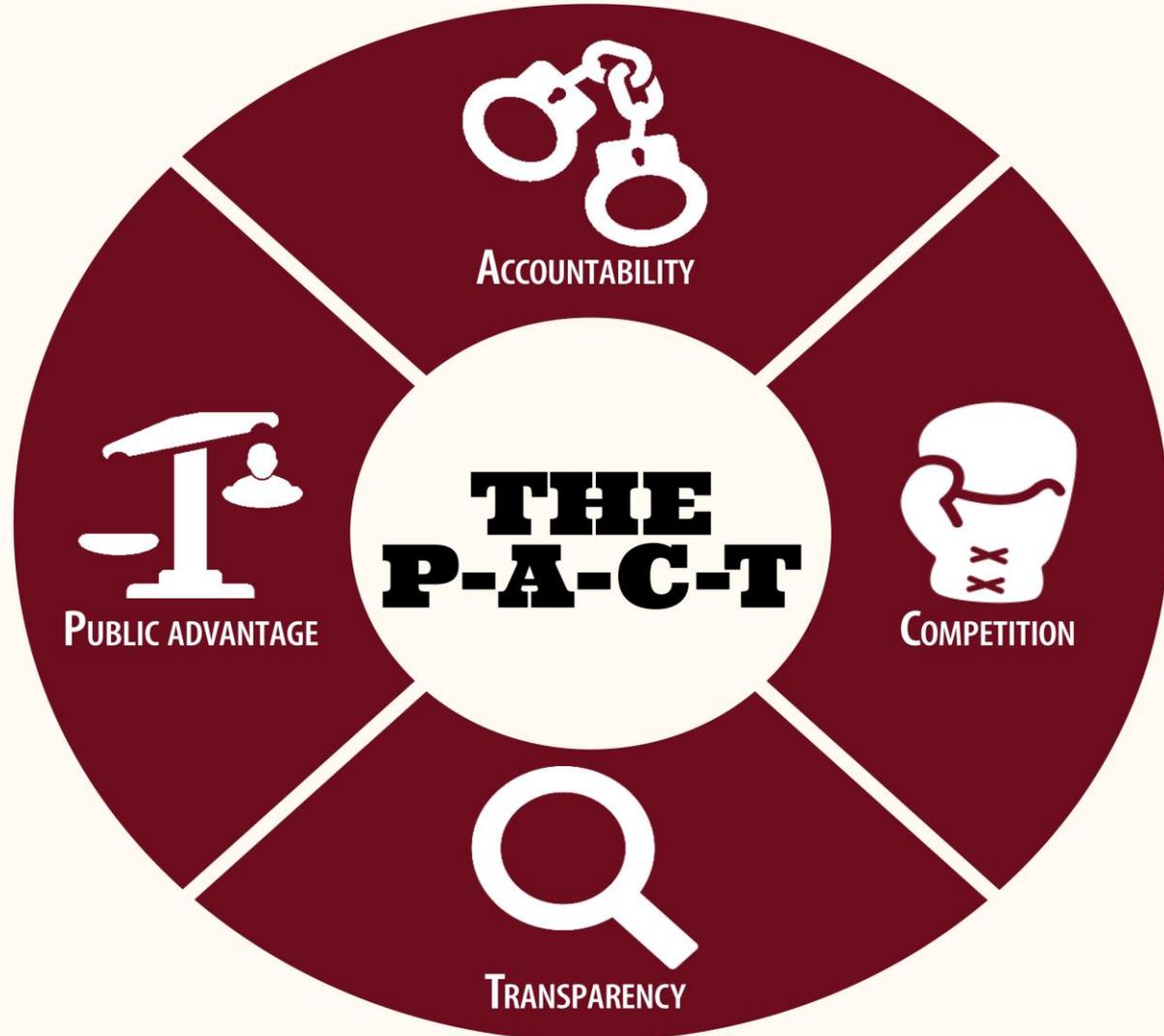
Item	GPRA	BOT Law-Variants	Joint Ventures	Long-Term Lease
Projects	Goods, Services or Infrastructure	Infrastructure/ Development	Mandate/ Investment	Real Estate
Priority Projects	As identified by NEDA, PE annual procurement plan	Only solicited (unless new tech)	Priority or not	Priority or not
Period	N/A	50 years maximum	Under NEDA Guidelines, 50 years maximum	Depends (50 also)
Financing	Public Funds/ODA/ Loans	PSP (or gov't subsidy)	Joint (cash or non-cash)	Lessee
Government Support	GAA or ODA, loan	7 (from 8) forms	Sharing	Contractual
Divestment	N/A	BOO or ROO	Possible	Possible
Risk Allocation	Government/ Seller Warranty	Function-Risk	Sharing	Lessor-Lessee



The Procedures



PPP SELECTION REQUIREMENTS



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BM GRAPHICS: JOB RUZGAL



3 PACT-Compliant Procedures

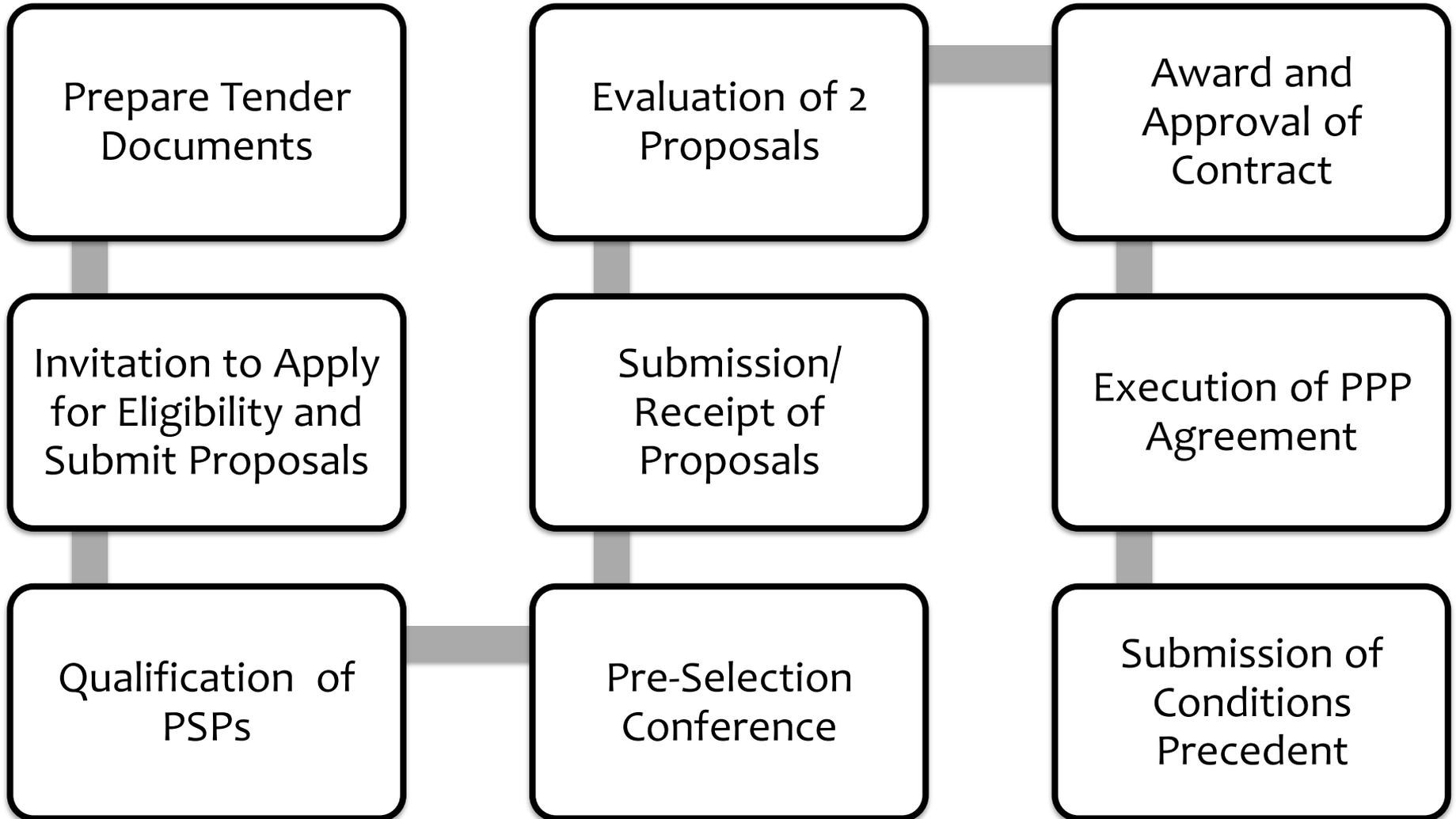
Competitive Selection/ Open Bidding
Solicited Proposal

Competitive Negotiations
1 qualified-compliant bidder

Competitive Challenge/
Unsolicited Proposal



(1) Competitive Selection





And the **winner** is ...

Highest

- Payment to Government (BOT Law)
- Share in Revenues (JV)
- Purchase Price (Divestment)
- Rated Bid (Service/ Management Contract)
- Rental Payment to Government (Government as Lessor)

Lowest

- Government Subsidy (BOT Law)
- Tariff by End-User (BOT Law)
- Calculated Bid/ Price (Procurement of Goods and Infrastructure)
- Rental Payment by Government (Government as Lessee)



(2) Competitive Challenge

- Submission of UP with Project Study and Draft Contract
- Initial Evaluation (Eligibility, Project Acceptability and Completeness)
- Letter of Acceptance (or Rejection)
- Conferment of Original Proponent (OP) Status*

Stage 1

Unsolicited Proposal

Stage 2

- Negotiations (Technical and Financial Terms)
- Certification of Successful (or Failed) Negotiations*
- [NEDA Approval]
- [Public Consultations on Draft Contract]

Detailed Negotiations

- Tender Documents
- Publication
- Post Security
- Proposals Evaluated
- Financial Challenge - Right to: (1) Match; (2) Outbid; or (3) Submit Better Financial Offer
- Board/ Council Authorization
- Sign Contract
- [Reimbursement of Project Study Cost if OP not get Award]

Stage 3

Challenge Proper



Comparative Matrix

Item	GPRA	BOT Law-Variants	Joint Ventures	Long-Term Lease
<i>Role of NEDA</i>	Identification of priority projects	4-, 3- or 2- pass	GOCCs/ GIs under NEDA Guidelines: P150m or more Others: None	None
<i>Bidding Parameter</i>	Lowest Calculated (good and infra) or Highest Rated (services)	Highest Revenue or Lowest Subsidy/ Tariff	Highest Percentage Share	Highest Lease Rental (Best use)
<i>Incorporation</i>	N/A	PSP SPV	Incorporated or Unincorporated	PSP SPV or PSP original
<i>Selection Procedures</i>	Solicited/ Canvass (no unsolicited)	Solicited, Unsolicited or Limited Negotiations	Solicited, Unsolicited or Limited Negotiations	Solicited, Unsolicited or Limited or Competitive Nego



Comparative Matrix

Item	GPRA	BOT Law-Variants	Joint Ventures	Long-Term Lease
<i>Contents of UP</i>	N/A	Cover Letter, FS, UP, Draft Contract, Eligibility Documents	Cover Letter, Study, UP, Draft Contract, Eligibility Documents	Cover Letter, Study, UP, Draft Contract, Eligibility Documents
<i>New Technology</i>	N/A	Required if Priority Project	Not required	Not required
<i>Multiple Proposals</i>	N/A	1 st in time approach	1 st in time approach (or best)	1 st in time approach (or best)
<i>Rule on Exclusion</i>	N/A	Upon acceptance, PSP becomes OP	Upon Successful Negotiations	Depends
<i>Right of OP</i>	N/A	Right to Match	Opportunity to submit better financial offer (or outbid)	Depends



The Post-Award Requirements

10 PPP POST-AWARD REQUIREMENTS



1. INCORPORATION



2. FINANCIAL CLOSURE



3. LGU PERMIT



4. ENVIRONMENTAL CLEARANCE



5. FRANCHISE



6. REGULATORY APPROVALS



7. RIGHT-OF-WAY



8. SUPPLY CONTRACT



9. INSURANCE



10. PEOPLE'S SUPPORT





The Pact



PPP CONTRACT:

10 SECTIONS



PARTIES



PROJECT



MODALITY



TERM



CONTRIBUTIONS



RISKS



GOVERNANCE



APPROVALS



AMENDMENTS



ROLES



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Thank you.

