



Local Government Public-Private Partnerships

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Lecture Flow

Current Events

- Direction of Current Administration
- Awarded LGU PPP Projects

Local Government Law x PPPs

- 20 Policies
- Legislative Options
- Agra PPPP Template

Overview of PPPs

- Definition
- 26+ Modalities
- Requirements
- Procedures



Current Events



No. 7
07.26.22

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



No. 9
08.15.22

Awarded Local Government Public-Private Partnership Projects

- **Bridge** connecting Cebu City and Cordova Municipality (*Joint Venture*)
- **Subway** by Makati City (*Joint Venture*)
- **Ferry** by Bataan Province (*Joint Venture*)
- **Transport Terminal** by Batangas City (*Lease*)
- **Seaport** by Aklan Province (*Lease*)
- **Water Supply and Distribution** by Camarines Sur Province (*Joint Venture*)
- **Mini-Hydro** by San Luis Municipality (*Joint Venture*)
- **Public Market** Redevelopment by Iloilo City (*Lease*)
- **Public Market** Redevelopment by Tanuan City (*Build-Transfer-Operate*)
- **Public Market** by Mandaluyong City (*Build-Transfer and Build-Operate-Transfer*)
- **Town Center** by Valenzuela City (*Joint Venture*)
- **Slaughterhouse** by Tarlac City (*Rehabilitate-Operate-Transfer*)
- **Reclamation** by Pasay, Paranaque and Manila Cities (*Joint Venture*)
- **Property Ventures Development** by Cebu Province (*Corporatization*)



Local Government Law x PPPs



20 Relevant Local Government Policies

1. 5 LGU Levels/ Kinds
2. Intramural
3. Dual Capacity
4. Dual Agency
5. Diversity
6. Active
7. Local Autonomy
(Liberalist or Centralist)
8. Fiscal Autonomy
9. Corporate Succession
10. Non-Impairment of
Contracts
11. Separation of Powers
12. Executive Supervision
13. Legislative Control
14. Judicial Review
15. Private Sector
Participation
16. Inter-LGU Cooperation
17. Local Legislation
18. LGU Contracts
19. Subordinate Legislation
20. Accountability



PPP Frameworks: 4 Options

Own Ordinance

Agra Template Ordinance

DILG Template Ordinance

Adopt Supervising LGU Ordinance



117 LGUs with PPP Ordinance

(referred to Agra Template)

PPP Ordinance Template: 99 LGUs: **23** provinces – Cavite, Camarines Sur, Northern Samar, Nueva Ecija, Pangasinan, Bataan, Bohol, Agusan del Norte, Southern Leyte, Pampanga, Tarlac, Zambales, Davao del Norte, Quezon, Cebu, Aklan, La Union, Batangas, Negros Oriental, Oriental Mindoro, Lanao del Norte, Palawan and Capiz ; **49** cities – Quezon, Paranaque, Pasay, Makati, Pasig, Navotas, Malabon and San Juan, Metro-Manila, and Batangas, Olongapo, Butuan, Imus, Cauayan, General Santos, Passi, Catbalogan, Legazpi, Davao, Antipolo, Bayawan, Puerto Princesa, Baguio, San Fernando (La Union), San Jose Del Monte, Bacoor, Kabankalan, Naga (Cebu), Tabuk, Tayabas, Alaminos, Cabuyao, Santa Rosa, Panabo, Surigao, Zamboanga, Bais, Talisay and Cadiz (Negros Occidental), Talisay (Cebu), Calapan, San Carlos, Carcar, Munoz, Sorsogon, Danao, Binan, Tagaytay, Dumaguete and Bacolod; and **33** municipalities – General Tinio, Nueva Ecija; Cordova and Consolacion, Cebu; Tiwi, Albay; Cainta, Binangonan and Taytay, Rizal; Dinalupihan, Abucay and Samal, Bataan; La Trinidad, Benguet; Coron, Palawan; Kalibo, Aklan; Villasis and Bolinao, Pangasinan; Tayabas and Gumaca, Quezon; Lemery and Talisay, Batangas; Boac and Santa Cruz, Marinduque; Mabalacat and Magalang, Pampanga and Sogod, Southern Leyte; Rosario, Cavite; Piddig, Ilocos Norte; Tapaz, Capiz; Alangalang and Palompon, Leyte; Pateros, Metro-Manila; Masinloc, Zambales; Malalag, Davao del Sur; Maco, Compostela Valley;

Joint Venture Ordinance Template: 10 LGUs: **7** cities – Manila, Valenzuela and Caloocan, Metro-Manila, and Puerto Princesa, Palawan; San Fernando, La Union; and Naga and Danao, Cebu; and **5** municipalities – Opol, Misamis Oriental; Mendez, Cavite; Tuburan, Cebu; Bauan, Batangas; and San Luis, Aurora)



Outline of Proposed PPP/ JV Code

Principles and
Authorities

Value Drivers

Projects

Modalities

Selection
Procedures

Contract
Contents

Governing
Structures

Regulation
and Contract
Management

Accountability
Mechanisms



Overview of PPPPs

True or False



1. The Philippines has only **one PPP law**.
2. The **DILG** has no PPP policy.
3. LGUs cannot enact their own **PPP ordinances**.
4. There are only **9 PPP modalities** available for LGUs.
5. All LGU PPPs must be approved by **NEDA** prior to award.
6. All LGU PPP projects are **single-purpose**.
7. A **feasibility study based on primary data** is required in a PSP selection process.
8. An LGU must contribute **cash** in a PPP in order to have a share/ equity in a PPP project.
9. The winner, in any PPP selection process, is always the proponent with the **highest bid**.
10. LGU PPPs must always be subjected to **open bidding**.

All FALSE.

PUBLIC SECTOR PPP PROPONENTS

**NATIONAL
GOVERNMENT**

**GOVERNMENT
CORPORATIONS**

STATES 

**AUTONOMOUS
REGIONS**

PROVINCES

CITIES

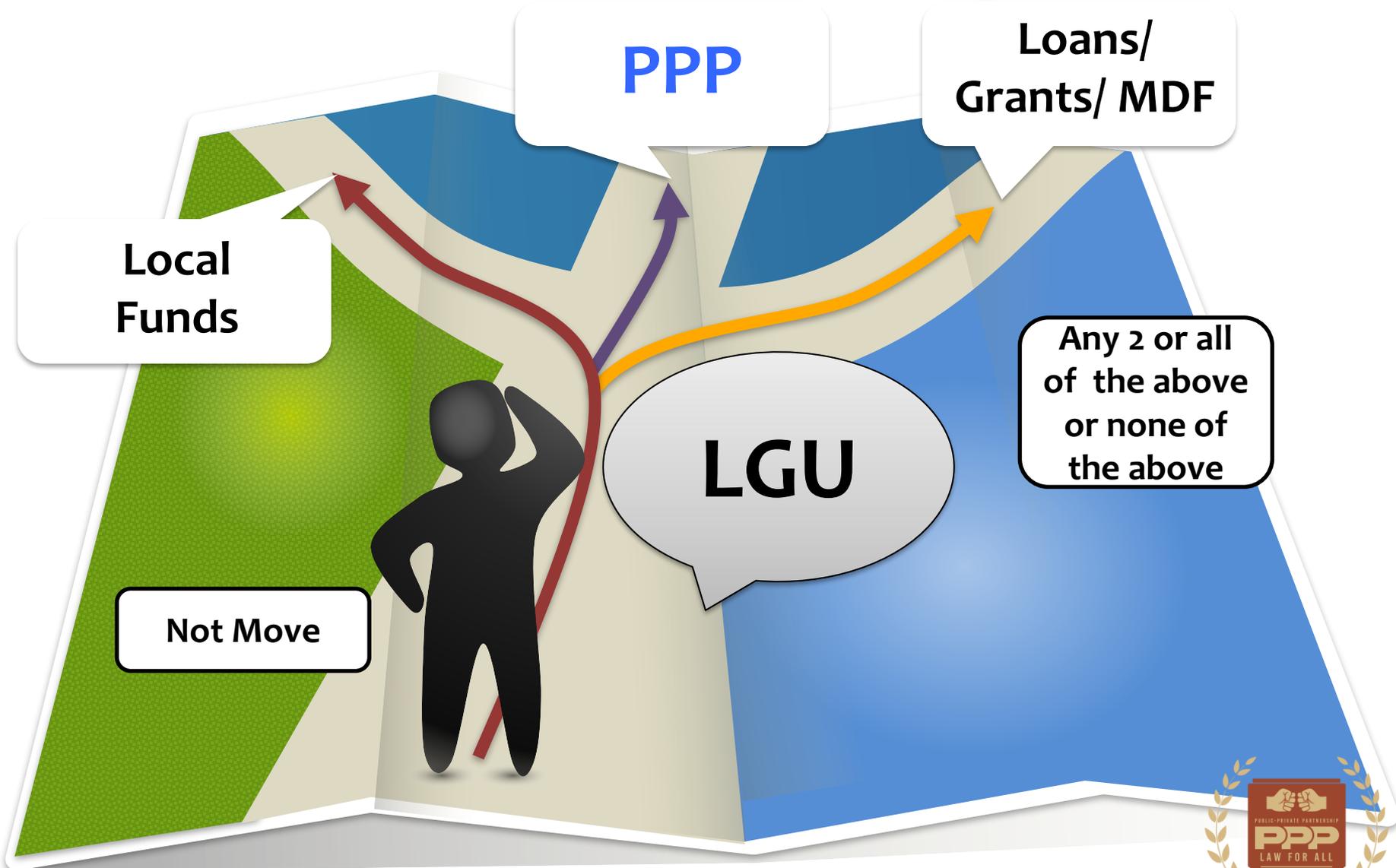
MUNICIPALITIES

BARANGAYS

PPP is
Decentralized
(Horizontally
and Vertically)

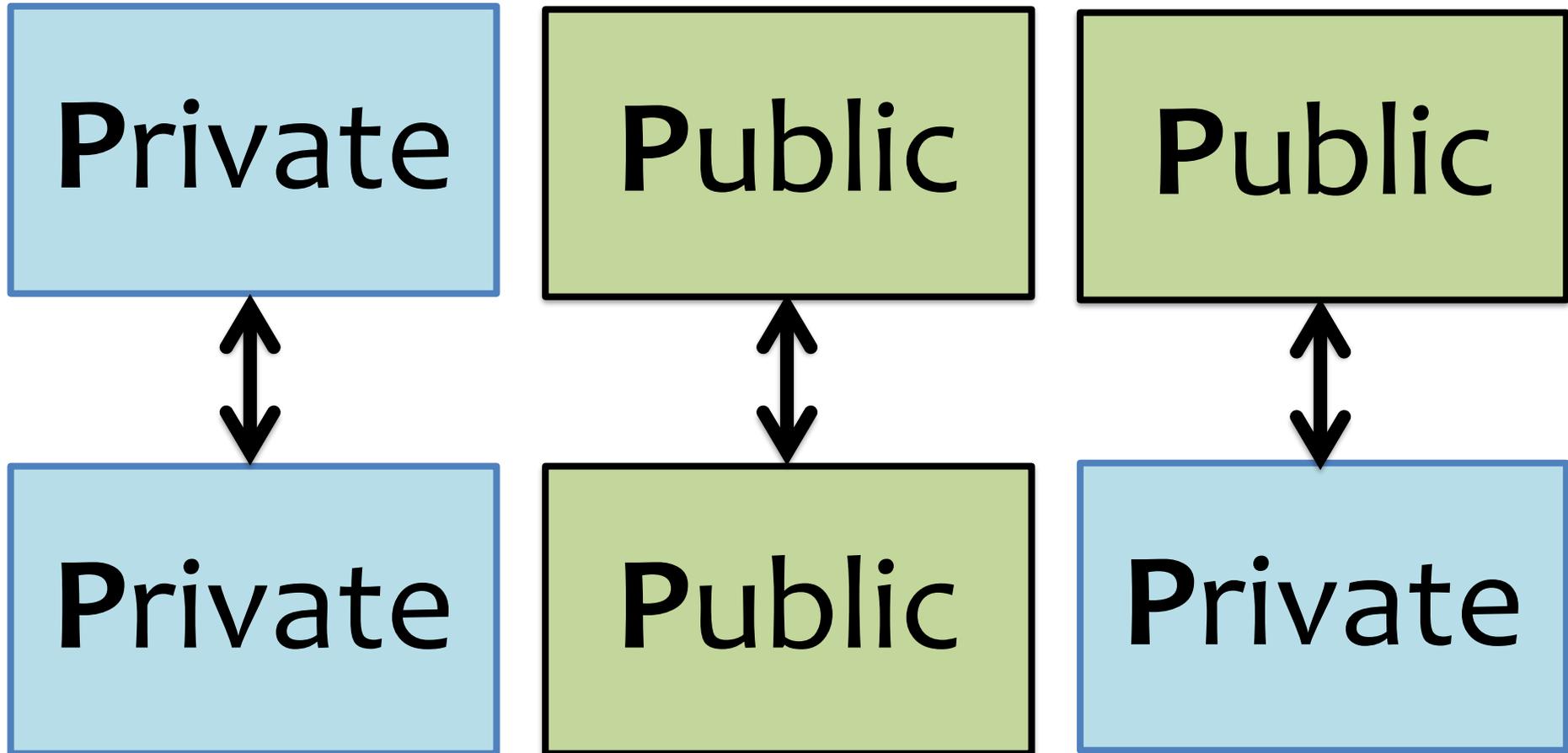


Implementation/ Funding Schemes



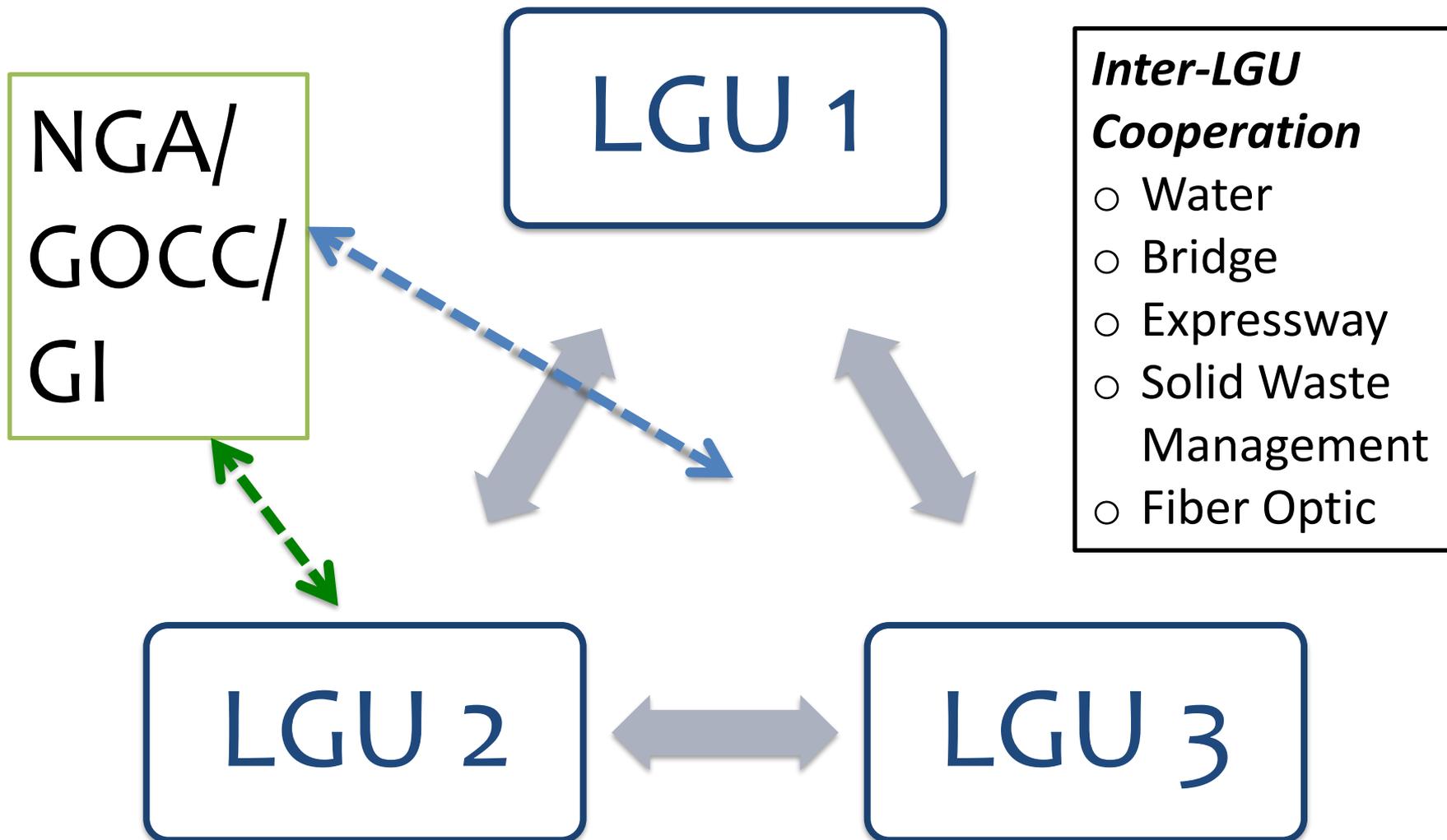


3 Levels of PPPs





Inter-Agency: Public-Public





Nature of PPPs



Components:

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



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**





PPP PROJECTS

HARD

INFRASTRUCTURE ASSETS

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

SOFT

SOCIAL ASSETS AND SERVICES

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

BUNDLED



Hard and Hard



Hard and Hard



Hard and Hard



Soft and Soft



Hard, Soft and Soft



Hard, Hard and Soft



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



How to Distinguish/ Choose from the 26+

Split of
Functions

Governing
Law

Approvals

Time



PPP RESOURCE EXCHANGE

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

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Active

Passive



LGU Contributions

Money and Capital

- Regular and Special Funds, NTA, RPT, SEF, Share in National Wealth, Calamity Fund, Development Fund, Loan Proceeds, Grants, Bonds, Securities, Subsidy, Equity, Cost-Sharing, Viability Gap Funding, Cost Avoidance or Savings (*actual/ current or future/ monetized*)

Non-Cash (Anything of Value)

- Services, Personnel, Intellectual Property, Usufruct, Land (own or expropriated), Minimum Revenue Guarantee, Right-of-Way, Goodwill, Franchise, Concession, Credit Enhancement, Tax Incentives/ Holidays, Police Power



Governing Laws/ Rules

PPP Modality	Governing Law
BOT Law Variants (9+)	BOT Law and September 2022 IRR
Concession	Special Laws/ Special Guidelines/ Local Ordinance
Joint Ventures	2023 NEDA JV Guidelines/ Special Guidelines/ Local Ordinance
Management and Service Contract*	GPRA/ Local Ordinance
RT, RLT and RTO	[BOT Law]/ Local Ordinance
Lease/ Affermage/ Lease-to-Own/ Realty Swap/ Donations	Civil Code/ Special Guidelines/ Local Ordinance
Divestment/ Disposition	Commission on Audit Circular No. 89-296 and 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 (6) concession (7) Divestment
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



LGU Structures

Local Chief
Executive

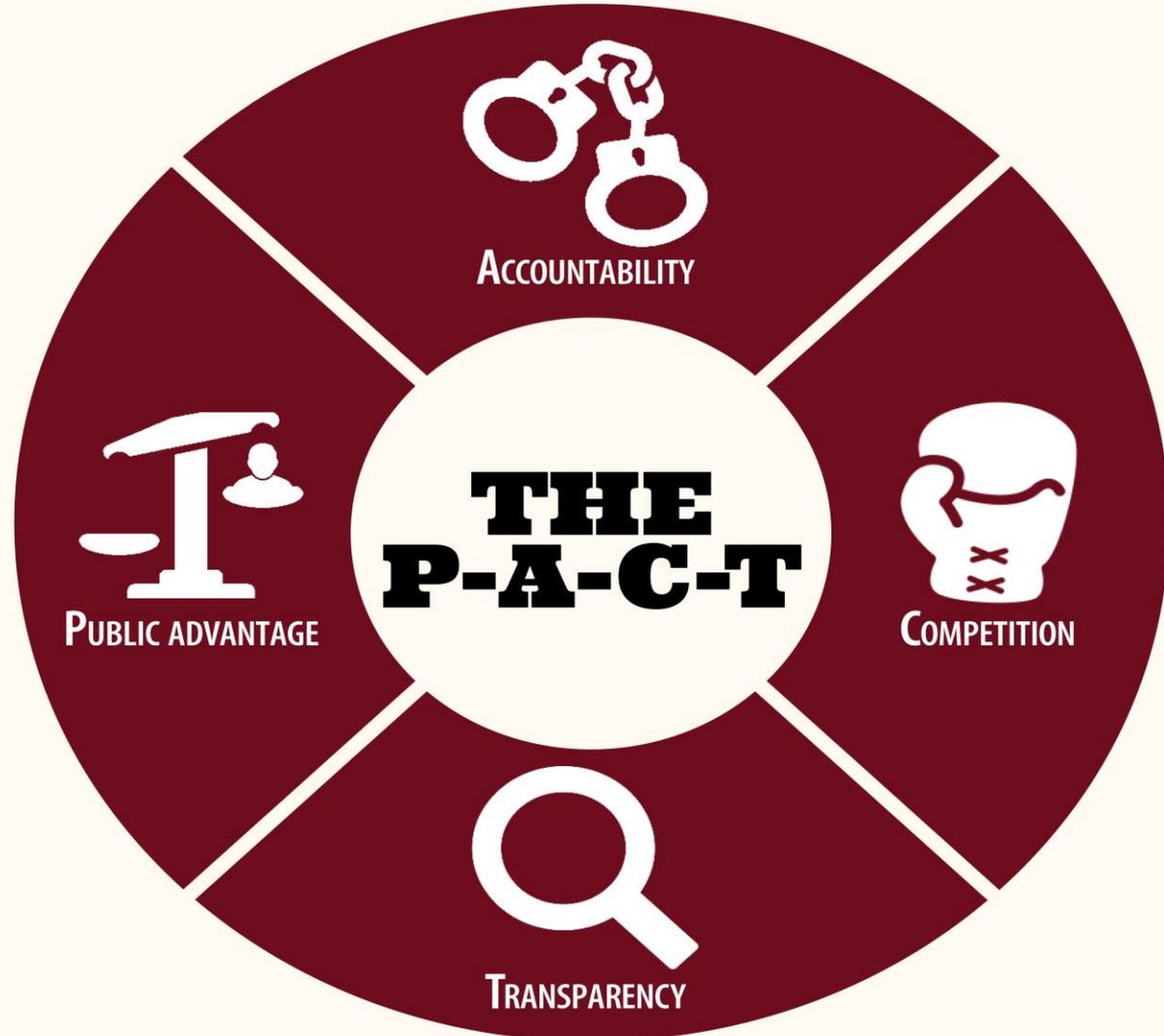
Vice-LCE/
Sanggunian

PPP-Selection
Committee
(7)

PPP-
Regulatory
Authority (9)



PPP SELECTION REQUIREMENTS



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PACT Procedures

Competitive Selection/ Open Bidding

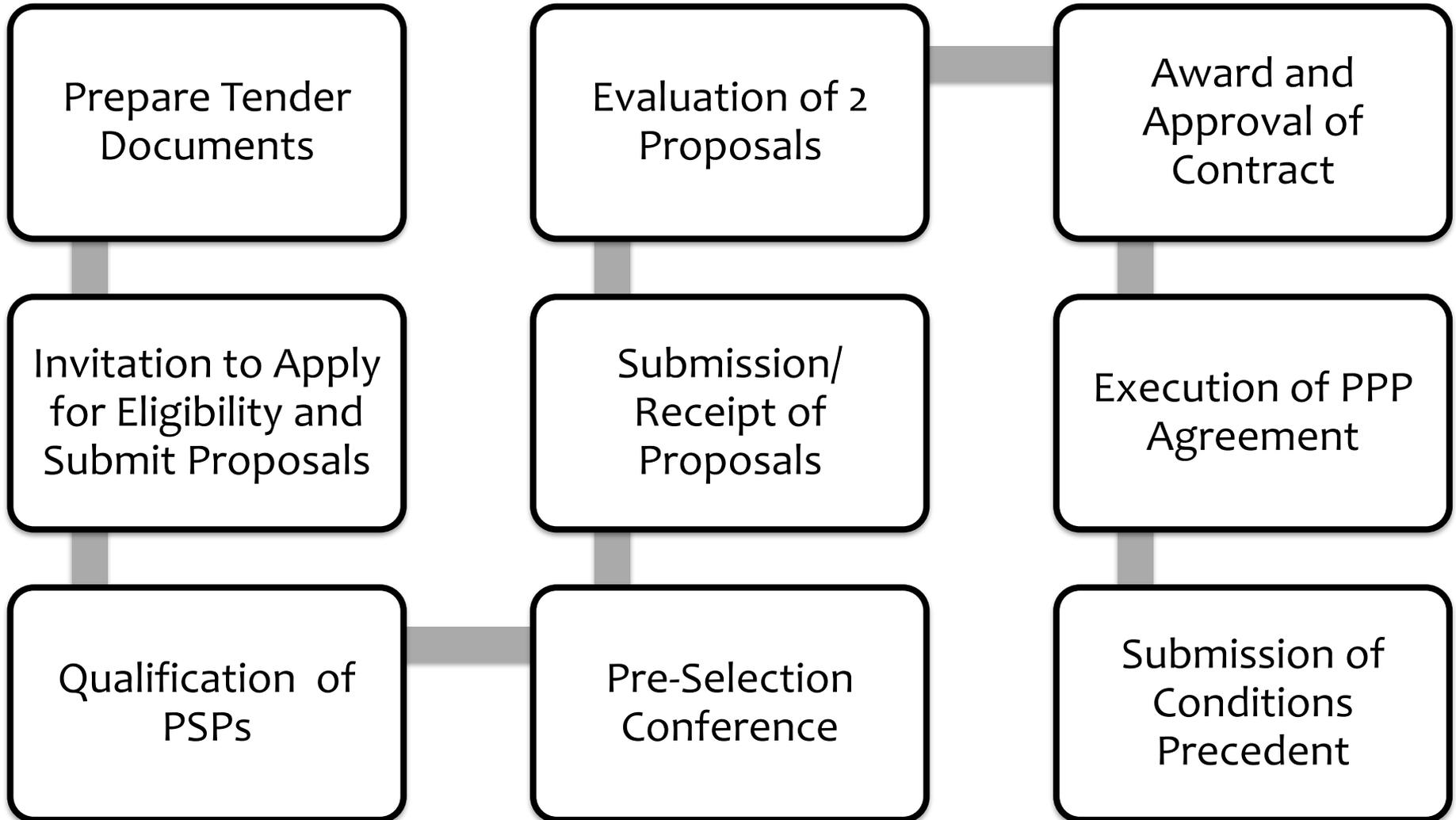
Competitive Challenge/ Unsolicited Proposal

Competitive Negotiations

“Alternative JV Process”



(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, Draft Contract and Eligibility Documents
- 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 Negotiations (or Failed Negotiations)
- Public Consultations on Project and Draft Contract

Detailed Negotiations

- Tender Documents
- Post Security
- Invite Challengers
- Proposals Evaluated
- Right to Match
- Council Authorization
- Sign Contract
- Notice of Award

Stage 3

Challenge/ Right to Match



PPP CONTRACT:

10 SECTIONS



PARTIES



PROJECT



MODALITY



TERM



CONTRIBUTIONS



RISKS



GOVERNANCE



APPROVALS



AMENDMENTS



ROLES



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





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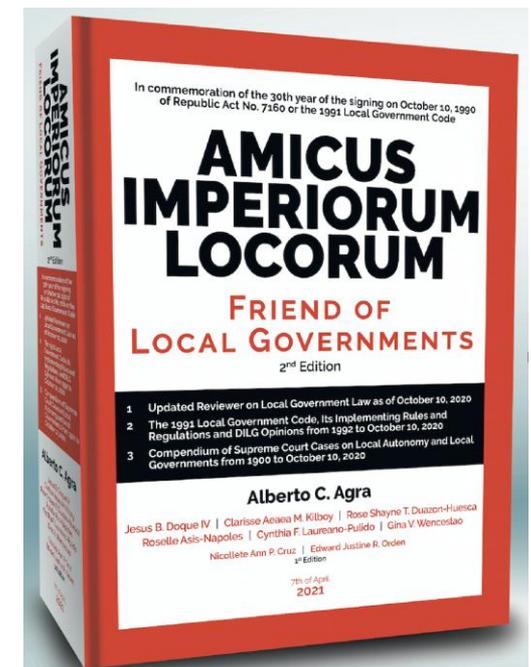


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Thank you.



In commemoration of the 30th year of the signing on October 10, 1990 of Republic Act No. 7160 or the 1991 Local Government Code

AMICUS IMPERIORUM LOCORUM

FRIEND OF LOCAL GOVERNMENTS

2nd Edition

- 1 Updated Reviewer on Local Government Law as of October 10, 2020
- 2 The 1991 Local Government Code, its Implementing Rules and Regulations and DILG Opinions from 1992 to October 10, 2020
- 3 Compendium of Supreme Court Cases on Local Autonomy and Local Governments from 1900 to October 10, 2020

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