OPPPPORTUNITIES

3 Government Contracting Mechanisms

Procurement, Public-Private Partnerships and Privatization

Atty. Alberto C. Agra

Law Professor, PPP Law, Local Government Law & Administrative Law

Advocate and Author, PPP for and with the People (PPPP) & PPP Law-for-All

Certified Specialist, Certified PPP & Regulation Specialist™

Former Public Servant, Former Acting Secretary of Justice, Acting Solicitor General, Government Corporate Counsel, & Chairman of the Philippine Reclamation Authority

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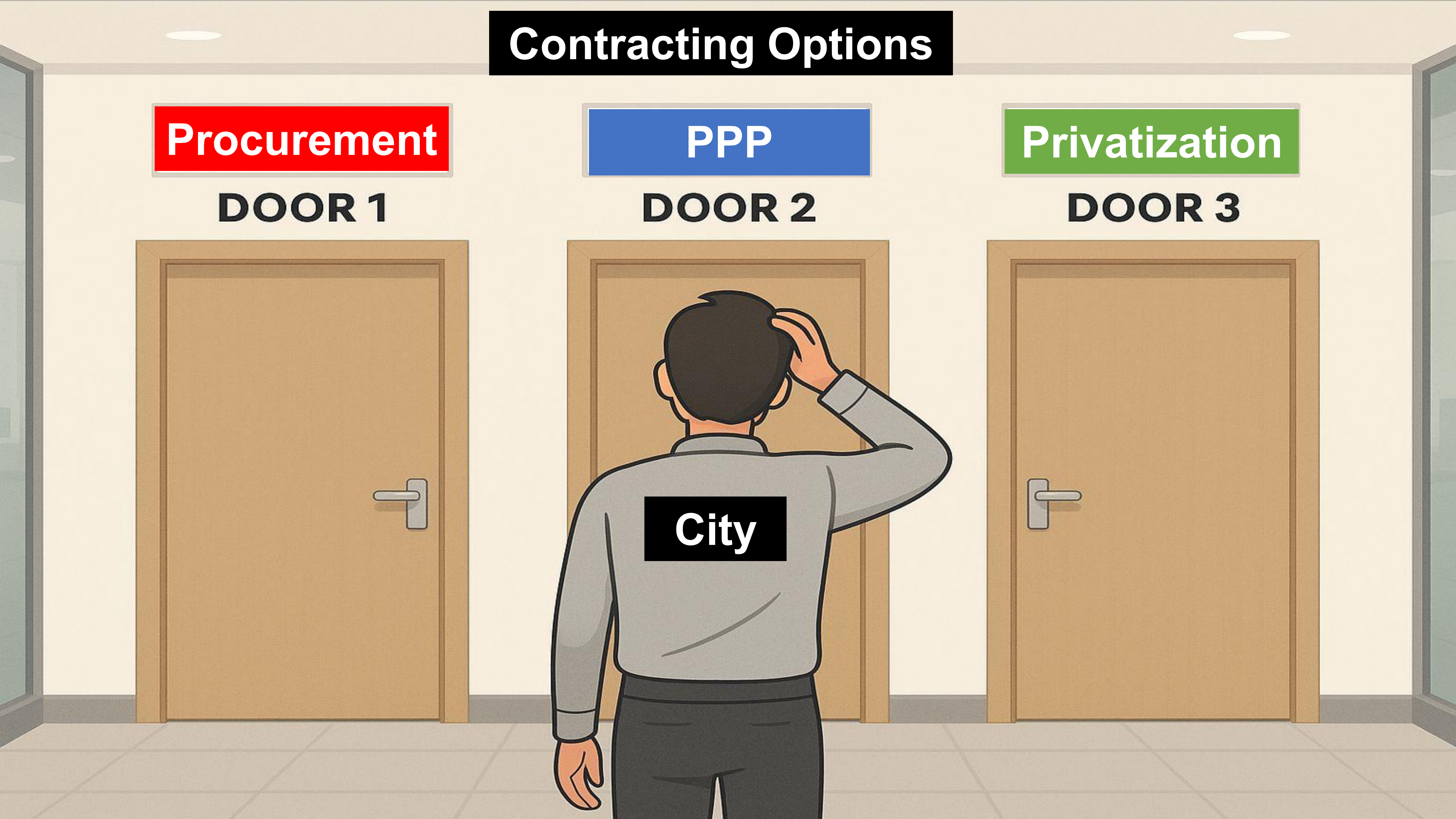
City Projects

Quizzer:
Mechanisms/ Options/ Governing Law

1. Your **City** wants to:
   a) Undertake a **transport terminal** project and it has **enough funds**?
   b) Construct a **road project** and it has **no funds** and it wants to earn **revenues**?
   c) Implement a **commercial mall** project and it has **no funds**?
   d) Sell its **public market and land** to a private company?
2. For the 4 options, who **approves** the project?
3. Can a City accept **unsolicited proposals** for the 4 projects?

Contracting Options



Procurement of Infrastructure Projects

New Government Procurement Act (R.A. No. 12009)
which took effect on August 13, 2024
and its IRR which took effect on February 25, 2025

3 Key Elements of Procurement

- Procuring Entities (Cities)
- Objects of Procurement
- Public Funds

Infrastructure Projects

Construction, improvement, rehabilitation, demolition, repair, restoration or maintenance of (with detailed engineering):

1. Road and bridges
2. Airports and seaports
3. Communication facilities
4. Civil works components of IT
5. Irrigation
6. Flood control and drainage
7. Water supply, sanitation and sewerage
8. Solid waste management
9. Shore protection
10. Energy/ power and electrification
11. National buildings
12. School buildings
13. Hospitals
14. Other related construction projects

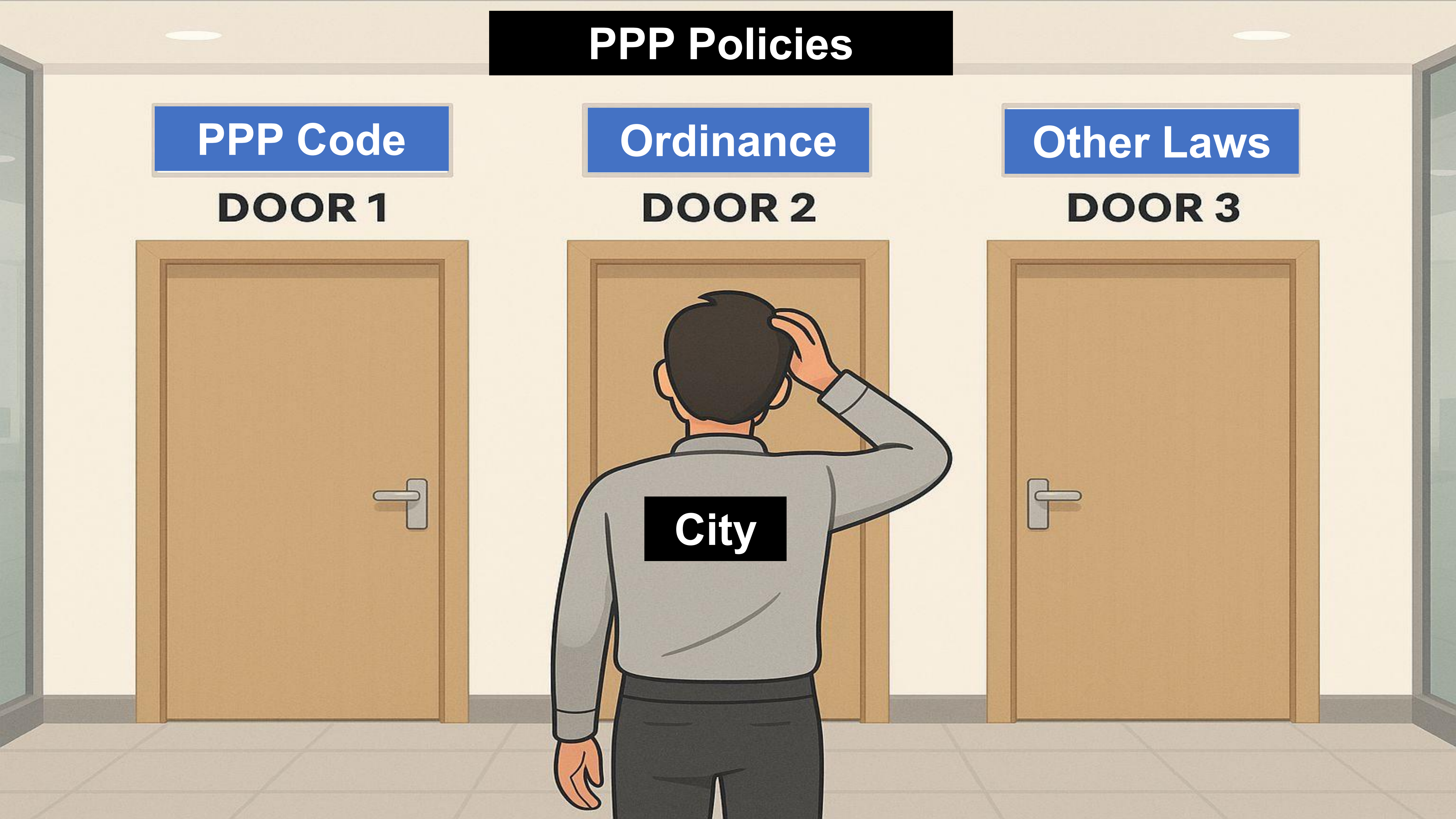
Modes of Procurement for Infrastructure

1. Competitive Bidding
2. Limited Source Bidding
3. Competitive Dialogue
4. Small Value Procurement
5. Negotiated Procurement
6. Design-Build
7. Agency-to-Agency

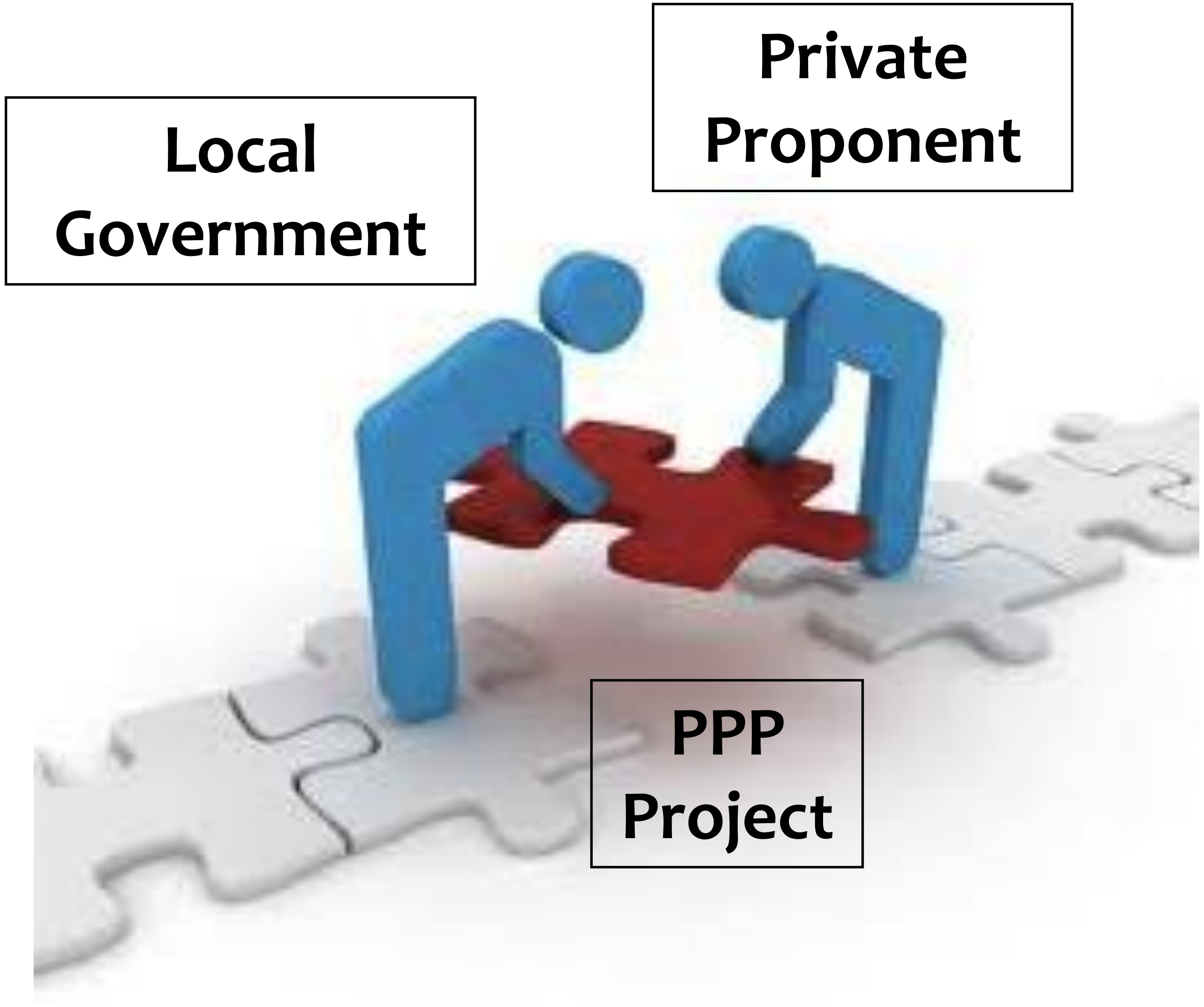
Public-Private Partnerships

PPP Code (R.A. No. 11966) which took effect on December 23, 2023 and its IRR which took effect on April 6, 2024

PPP Ordinance


PPP Policies
PPP Code
DOOR 1
Ordinance
DOOR 2
Other Laws
DOOR 3
City

Nature of PPPs



Aspects:

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

29+ Eligible Types of Projects

1. Highways
2. Land transportation systems
3. Transport projects
4. Port infrastructure
5. Maritime infrastructure
6. Airports
7. Power
8. Energy efficiency
9. Telecommunications
10. Information Technology
11. Irrigation
12. Water
13. Educational infrastructure
14. Health infrastructure
15. Multi-purpose water resources
16. Land reclamation
17. Industrial and tourism estates
18. Government buildings
19. Urban redevelopment
20. Heritage preservation
21. Markets
22. Warehouses
23. Public fish ports
24. Agri-fishery industrial hubs
25. Cold chain systems
26. Prisons and national defense or security-related facilities
27. Solid waste management
28. Climate change adaptation
29. Other Infrastructure or Development Projects

13 PPP Code-Covered Arrangements

1. Joint Ventures (public or public and commercial)
2. Toll operation agreements or supplemental toll operation agreements, or any contractual arrangements involving the Construction, O&M, or a combination or variation thereof, of toll facilities
3. Lease (public or public and commercial)
4. BOT, BT, BLT, BOO, BTO, CAO, DOT, ROT and ROO
5. Operate and Maintain

10 Exclusions

1. Procurement of Infrastructure Projects
2. Exclusively ODA-Funded Infrastructure Projects
3. Management Contracts
4. Service Contracts
5. Divestments or Dispositions
6. Corporatization
7. Incorporation of Subsidiaries with Private Sector Equity
8. Onerous Donations
9. Gratuitous Donations
10. JV Agreements and leases (purely commercial arrangements)

Approval of Local PPPs

Regardless of Project Cost

- Approved by **Sangguniang Panlungsod**
- Endorsement by **City Development Council**
- City **Legal Officer**
- **Investment Coordination Committee** if with Availability Payment from GAA
- Endorsement by **National Government** (through RDC) – City PPP Projects affecting national or sectoral development plans and national projects

Selection Procedures

Solicited/ Bidding

Unsolicited/ Challenge

PPP Code vs. PPP Ordinance

Aspects	PPP Code	PPP Ordinance
Application	All LGUs	Specific (adopting) City/ Sanggunian
Covered Arrangements	1. JVs for Public or Mix of Public and Commercial purposes 2. Leases for Public or Mix of Public and Commercial purposes 3. BOT, BT, BLT, BOO, BTO, CAO, DOT, ROT and ROO 4. Operate and Maintain	1. JVs for purely commercial purposes 2. Leases for purely commercial purposes 3. Donations (Onerous and Gratuitous) 4. Divestment (COA Circular) 5. Subsidiary (Corporation Code) 6. Corporatization (Corporation Code)
Study	Feasibility Study	Feasibility or Pre-Feasibility Study
Approving Body	Sanggunian	City: Mayor and Sanggunian
Unsolicited Prop.	Government Undertakings not allowed	N/A
Other Agencies	PPP Center (for completeness) and DEPDev-ICC (when GAA)	N/A

Proposed/ Template PPP Ordinance

Divestment and Disposal of Property

Commission on Audit Circular No. 89-296 January 27, 1989

Divestment/ Privatization

Definition	Taking away, depriving, withdrawing of an authority, power or title
Asset	Property and other assets (*not merchandise or inventory for sale, and foreclosed assets or collaterals acquired in regular course of business*)
Procedure	Public Auction (*not unsolicited proposal*)
Requirements	Valuation

Aspects	Procurement	PPP	Privatization
Governing Law	RA 12009 (2024)	RA 11966 (2023) or PPP Ordinance	COA Circular 89-296 (1989)
Role of Government	Procuring Entity (Buyer)	Implementing Agency (Partner/ Implementer)	"Divestor"
Role of Private Sector	Contractor/ Builder	Partner (Financier, Designer Builder, and Operator)	Buyer
Project	Infrastructure	Infrastructure or Development (typically provided by Government)	Property/ Government Assets (real/ personal property, stocks or receivables)
Ownership of Project	Government	Government (Transfer) or Private Sector (Divestment)	Private Sector
Funds Involved	Public Funds	Private Funds (Public Funds for Government Undertaking, Contribution or Availability Payment allowed)	Private Funds (or Public Funds if Government is Buyer)
Inputs	Specifications by Procuring Entity	Minimum Parameters, Terms and Conditions	(As Is Where Is)

Aspects	Procurement	PPP	Privatization
Modes/ Arrangements	1	13 (JV, Lease, Build-Operate-Transfer, etc.) (10 excluded)	1
Selection Procedures	7 (Bidding, Dialogue, Limited Source, Negotiated, Small Value and Design-Build, A-A)	2 (Solicited and Unsolicited)	1 (Public Auction)
Financial Parameter	Price, Quality, Most Advantageous	Most Responsive/ Advantageous (If financial, Highest or Lowest)	(Price)
Payment to Private	Contract Price	Investment Recovery Schemes/ Reasonable Rate of Return	N/A
Approving Bodies	Head of Procuring Entity (HoPE)	DEPDev Board/ ICC, Agency Head, Board or Sanggunian	LGU
Overall Policy-Making/ Secretariat	GPPB and TSO-DBM	PPP Governing Board and PPP Center	COA

www.albertocagra.com
09175353823
alberto agra
alberto.c.agra@gmail.com

Together, let us learn-unlearn-relearn.

Thank you.