

# **MAKING PPP A REALITY SOONER**

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**BEING A PAPER PRESENTED AT THE  
WORKSHOP ON THE RIVERS STATE PPP POLICY FRAMEWORK &  
PROPOSED RIVERS STATE PUBLIC-PRIVATE INFRASTRUCTURE  
DEVELOPMENT BILL**

**PORT HARCOURT - RIVERS STATE**

**MARCH 03, 2009**

# OUTLINE

- INTRODUCTION
- WHAT IS PPP?
- GENERAL ISSUES NEEDED TO MAKE AN IDEAL PPP
- FOCUS ON THREE ISSUES:
  - IDENTIFICATION OF PROJECTS
  - LEGAL FRAMEWORK
  - ENABLING ENVIRONMENT
- CONCLUSION

# INTRODUCTION

- No. of ailing projects and needed projects are too numerous;
- Government revenue is limited;
- Government has many competing interests (e.g. education, road, health care, security, power, roads etc);
- All projects are at different stages (i.e. some just need to be rehabilitated, others need to be upgraded while some have to be built from scratch);
- Regardless of the stage, not all would qualify as PPP projects
- To qualify, a project must be considered viable!

## WHAT IS PPP?

- Any medium-to-long term relationship between the public and private sectors, involving the sharing of risks and rewards of multi-sector skills, expertise and finance to deliver desired policy outcomes.
  - ❖ No two PPP projects are the same!

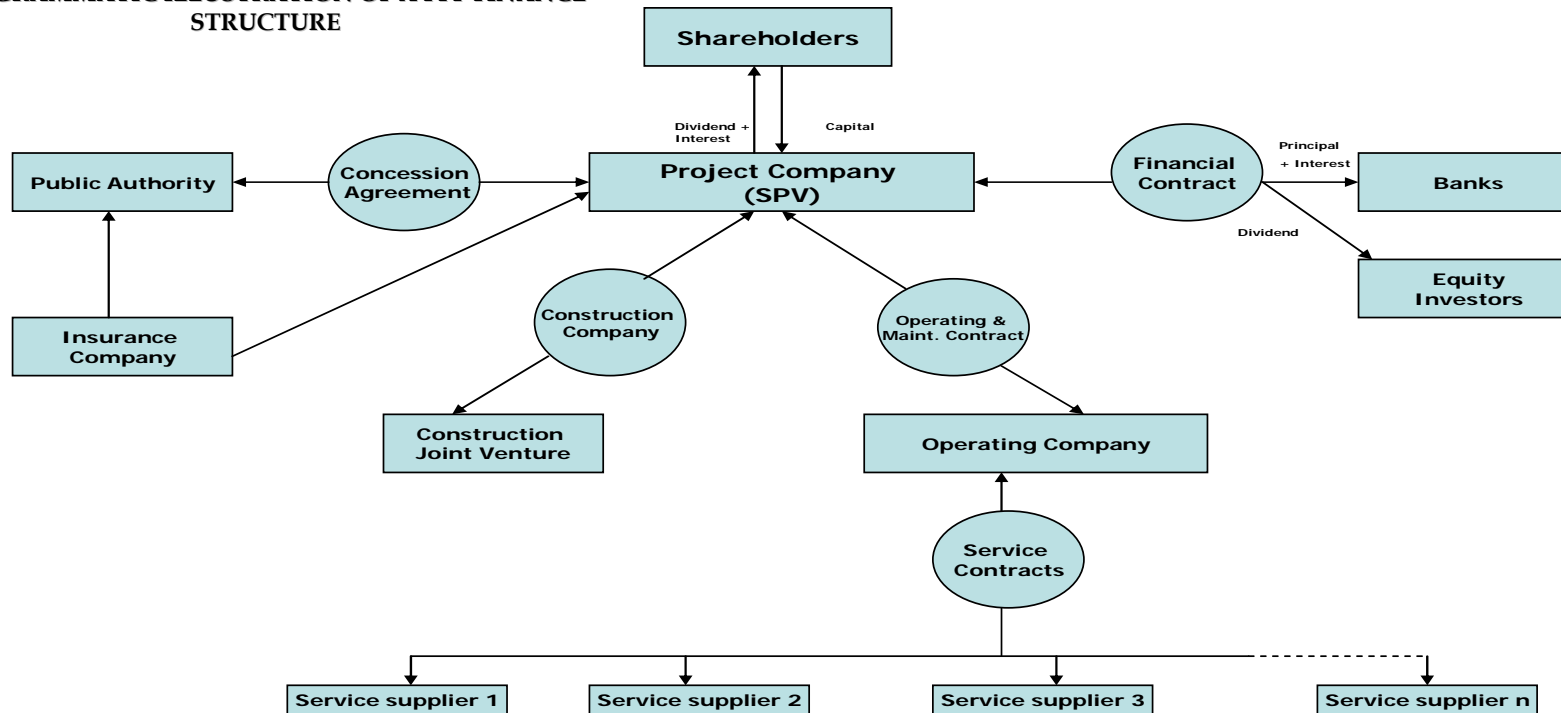
### KEY FEATURES OF PPP

- ✓ A specially formed team of private sector firms usually contracts with public sector body or government to finance, design, construct (or refurbish) an asset services under a long term concession contract
- ✓ The asset reverts to Government at the end of the concession agreement terms
- ✓ A Special Purpose Vehicle (SPV) is usually established as a single purpose entity to hold the long term concession agreement awarded by the government.
- ✓ The SPV issues the debt to finance the construction of the project and subcontracts most of its construction and operating obligations to 3rd parties better able to handle those risks.

# WHAT IS PPP? (CONT'D)

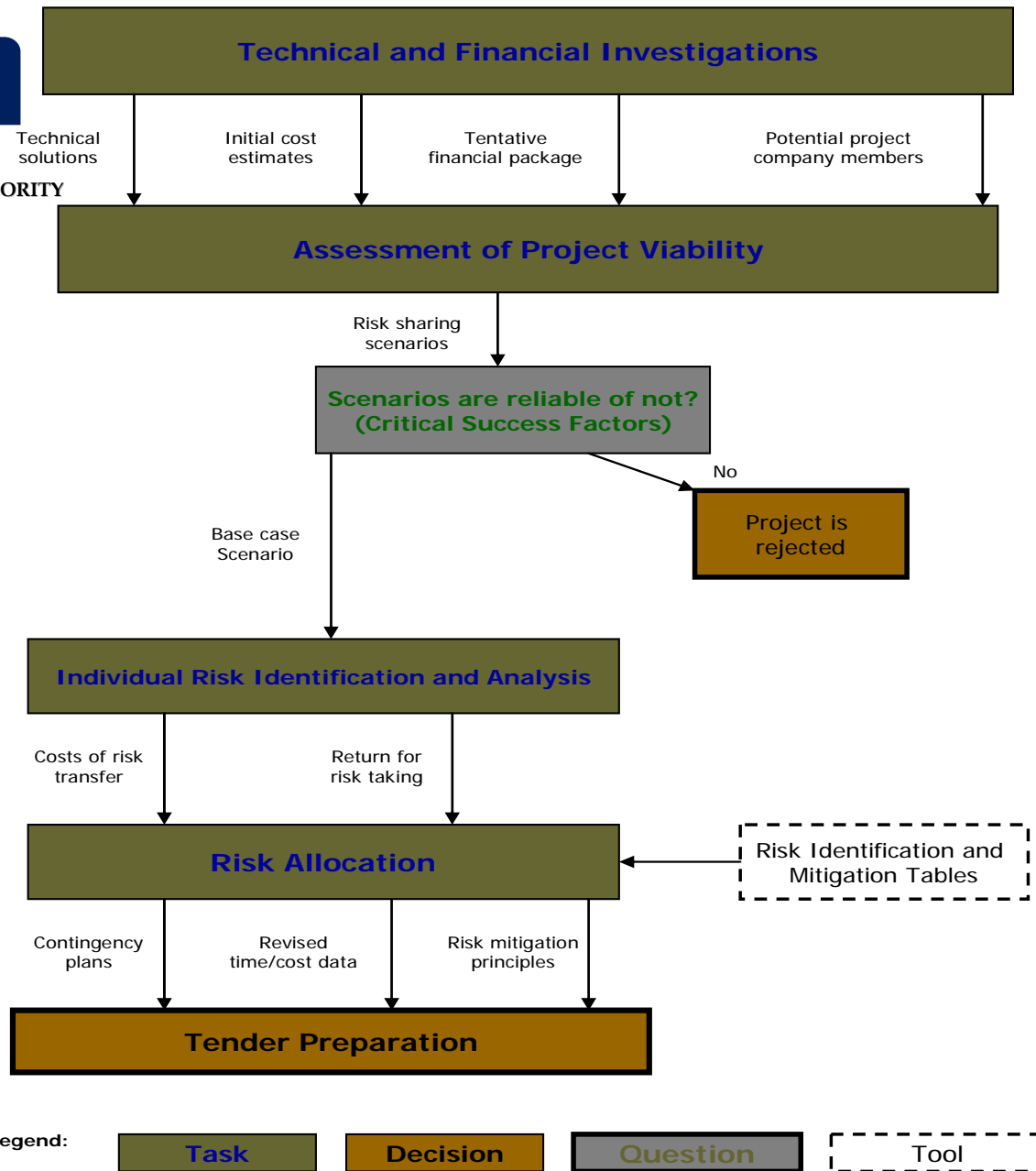
- ✓ Payment by government to fund debts usually begins after completion of construction, this transferring construction and interim financing risks to the project company.
- ✓ Payment is usually performance based and relates to the availability of building and quality of services.

DIAGRAMMATIC ILLUSTRATION OF A PPP FINANCE STRUCTURE



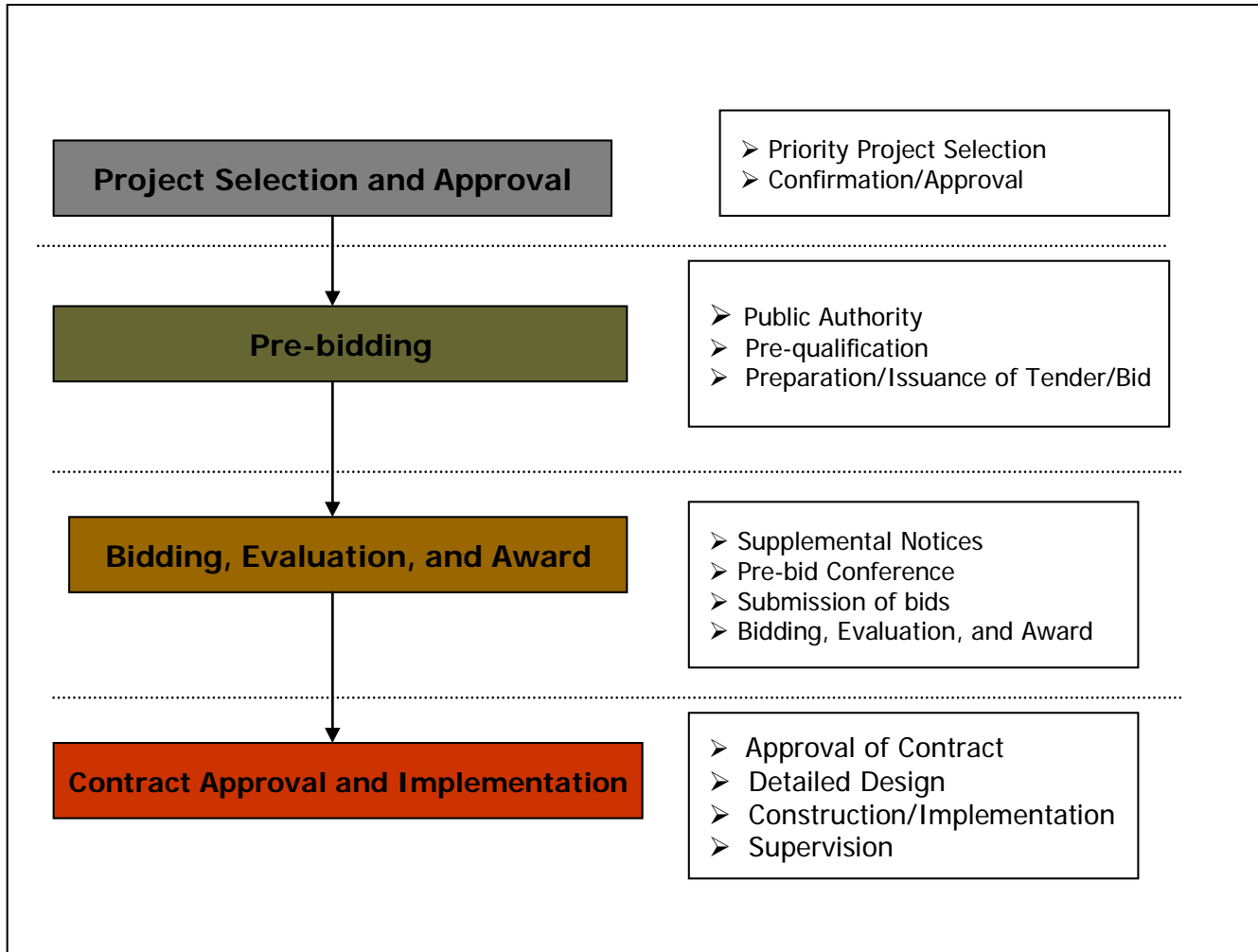
# WHAT IS PPP? (CONT'D)

## STAGES OF PROJECT AWARD PROCESS BY PUBLIC AUTHORITY



# WHAT IS PPP? (CONT'D)

## PHASES IN PPP CONTRACTING



## GENERAL ISSUES NEEDED TO MAKE AN IDEAL PPP

- ❖ Identification of proposed projects
- ❖ Adequate legislation
- ❖ Enabling environment
- ❖ One stop concession center to circumvent bureaucracy
- ❖ Adequate law enforcement
- ❖ Effective tendering and award mechanisms

Among the things needed to wrap up the next PPP deal, I have chosen to talk on three main issues, namely:

- ✓ IDENTIFICATION OF PROJECTS;
- ✓ ADEQUATE LEGAL FRAMEWORK; &
- ✓ ENABLING ENVIRONMENT TARGETED AT THE FINANCE SECTOR TO BOOST INVESTOR CONFIDENCE

# A. IDENTIFICATION OF THE PROJECT

## RATIONALE:

To determine viability of proposed PPP project

## STEPS:

1. IDENTIFY AND LIST AILING PROJECTS:
  - ✓ Government Parastatals have to identify projects to be embarked upon for rehabilitation, UPGRADE OR TO BE NEWLY BUILT.
2. PRIORITIZATION OF CONCESSION PROJECTS:
  - ✓ Government needs to prioritize proposed projects in accordance with this administration's policy.
3. DETERMINE VIABILITY OF PROJECTS:
  - ✓ A project only qualifies for PPP if it is viable;
  - ✓ A viable project is defined as one capable of working successfully!
  - ✓ How to determine viability: Non financial factors + financial factors = viability
  - ✓ To determine non financial factors, we need to conduct pre-feasibility and feasibility studies.
    - ❖ Technical; Environmental; Financial; Social & Institutional

## *Suggested Prioritization Mechanism*

- a. The prioritization of projects should conform to the State's socioeconomic development agenda;
- b. Ministries should submit a list of proposed capital projects it intends to embark upon for the year;
- c. Tally of the ranking ordering will assist in focusing and the ministries towards achieving government developmental goals. Ranking could be in order of Group A, B, C etc or Tract One, Two, three etc., to depict the order of importance.
- d. Projects that directly impinge on the attainment of the State government's economic development agenda should be in Tract 1, top in hierarchy.
- e. Projects requiring current or future government appropriations to cover direct or indirect government guarantees could feature in Tract2;
- f. Projects requiring minimal government support could be Tract 3;
- g. It should be the responsibility of the ministries to vigorously present to preferences on projects that they feel should be highly ranked.

To facilitate a meaningful prioritization process, each proposed project will include in the fiscal note from the ministry, an estimation of the anticipated costs and length of gestation period.

### **Summary:**

- ✓ Identification of a need is not sufficient, social environment etc need to be looked into and dealt with;
- ✓ To assist in focusing the Ministry towards achieving developmental goals and sector reforms of the State government, the government's developmental goals, economic viability of the project, financial indicators, potential environment costs, social preparedness and justification in the choice of concession contractual arrangements, must be factored.

## B. LEGAL FRAMEWORK

- ❖ Previously: No Laws regulating PPP.
- ❖ Essentially traditional procurement process still applicable.

### ADVANTAGES:

- ✓ We have a chance to draft an adequate law and policy
  - ✓ PPP laws cannot be juxtaposed one on the other jurisdiction due to peculiar needs of each environment
  - ✓ We have the opportunity to learn from the experience of others
- ❖ Presently – working on draft policy
  - ❖ Best practice:
    - ✓ Take one step back
    - ✓ Create a PPP Task Force as an interim measure
    - ✓ Harmonize workings of MDAs
    - ✓ Foster inter and intra-regional collaboration
    - ✓ Draft law to engrain workings of PPP by MDAs

## C. ENABLING ENVIRONMENT

- ❖ Presently low confidence due to social security situation
  - ❖ Increased risk to project development
  - ❖ Resulting higher cost of money and decreased viability of project.
- There is therefore the need to improve the enabling environment.
- ❖ Improved Law enforcement – investor of time and money by private sector, such an investment must be protected
  - ❖ Improved investment climate
    - ✓ Political continuity
    - ✓ Economic continuity
  - ❖ Determine appropriate incentives to encourage investors
    - ✓ Fiscal – tax exemptions/reliefs
    - ✓ Direct/In-direct Government support or contribution (i.e. cost sharing/credit enhancement (tax credit to encourage job creation and retention))

## SUMMARY: RECAP OF MAIN ISSUES

❖ As earlier stated main issues include identification of projects, constitute a Task Force to fine tune draft policy and create an enabling environment by making the laws enforceable.

## WAY FORWARD

- ❖ PPP Task Force composed of :
  - ✓ About 6 professionals with Legal, Financial and Technical expertise from both private and public sector;
  - ✓ Organize Task Force in 3 departments: technical, financial and legal headed by a coordinator (possibly Special Adviser to Governor on PPP)
    - Tasks
      - Promote project financing within the public administration
      - Assist public entities, MDAs in structuring the terms of their concessions so that they can support private financing; and,
      - Provide advice in the evaluation and selection of the MDAs proposals.

## Primary objective of Task Force:

- ✓ To assist Government in identifying, structuring, tendering and financing projects that are likely to attract private capital;
- ✓ Propose legal framework aimed at fostering the use of project financing techniques according to best practices.
- ✓ Identify key factors having a negative impact on the full development of PPP in Rivers State, with the objective of indicating workable solutions to the market.
- ✓ Recommend legislative reform aimed at promoting participation of the private sector in investment in public infrastructure.
- ✓ Quarterly submit a report on their activities and achievements.

# THANK YOU

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