



An Overview of PPPs

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- ❑ Founder, 5 Throws-for-All Association



Quizzer

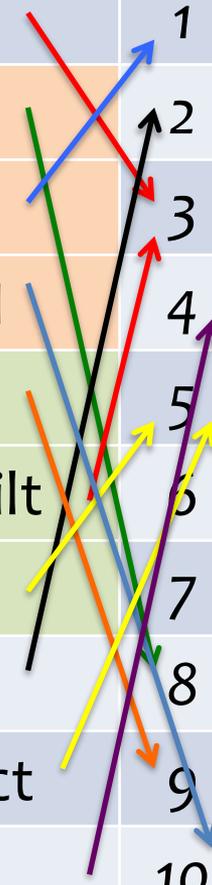


True or False

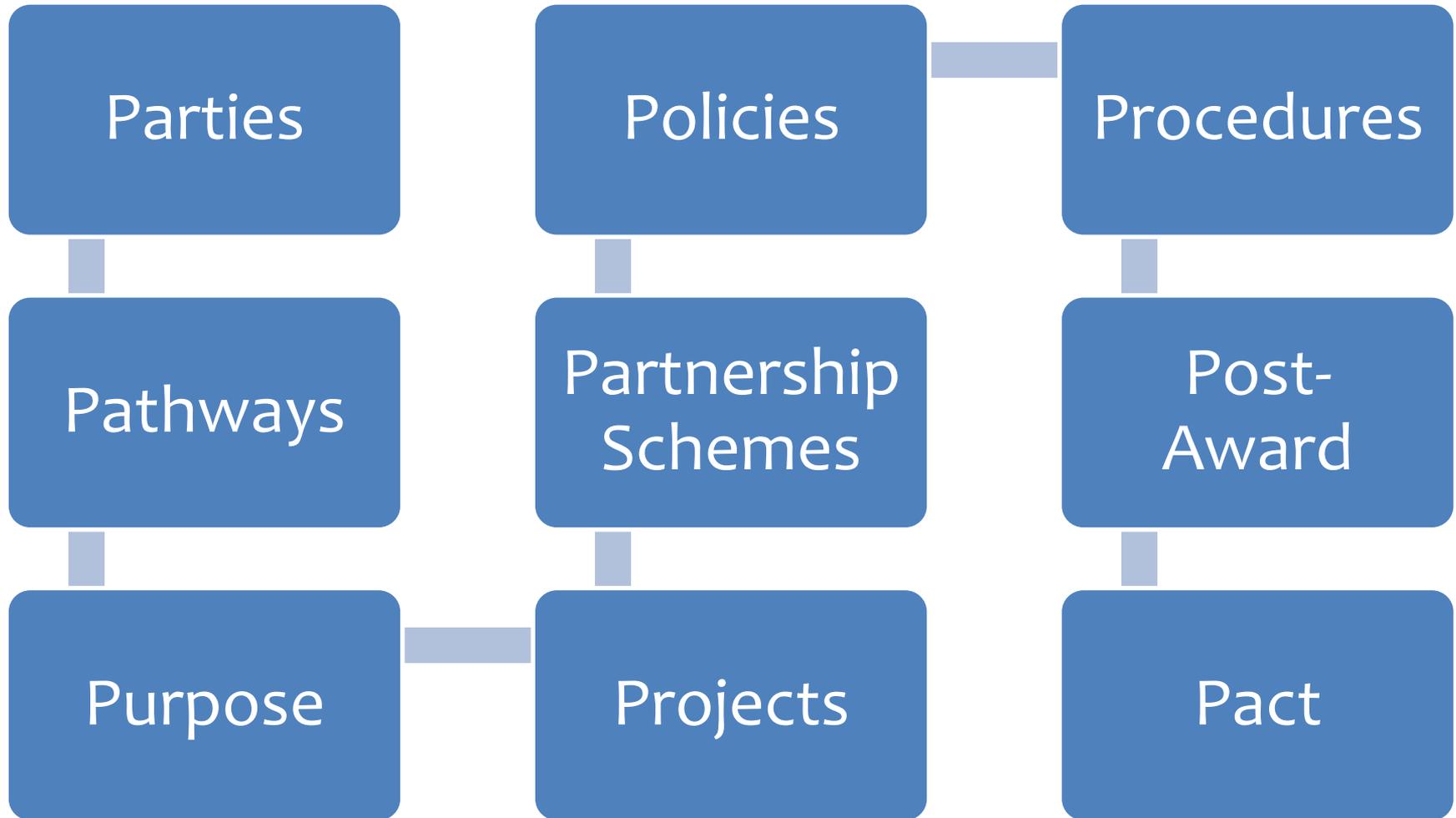
1. The Philippines has a **single PPP law**.
2. There are only **9 PPP modalities**.
3. All PPP contracts must be approved by **NEDA**.
4. All PPP projects are **single-purpose**.
5. A **feasibility study** is required in a PSP selection process.
6. Government must contribute **cash** in a PPP in order to have a share/ equity.
7. The **Charters of NGAs/ GFIs/ GOCCs/ GICPs/ LGUs** are not PPP laws.
8. The winner, in any PPP selection process, is always the proponent with the **highest bid**.
9. All GFIs/ GOCCs/ GICPs must follow the **2023 NEDA JV Guidelines**.
10. All Original Proponents in Unsolicited Proposals have the **right to match** a superior offer.

Matching Type

| | <i>PPP Arrangement x Public</i> | | <i>Law/ Rule</i> |
|---|---------------------------------|----|--------------------------|
| A | BOT by LGU | 1 | 2023 NEDA Guidelines |
| B | JV by LGU | 2 | COA Circular |
| C | JV by GOCC | 3 | BOT Law & Sept. 2022 IRR |
| D | JV by Asset-Disposing GI | 4 | Special Laws |
| E | GOCC Lessor | 5 | GPRA |
| F | GOCC Lessee – to be Built | 6 | Civil Code |
| G | GOCC Lessee – Existing | 7 | Corporation Code |
| H | GI Divestment | 8 | Local Ordinance |
| I | GI Management Contract | 9 | GOCC Guidelines |
| J | Concession | 10 | GI Guidelines |



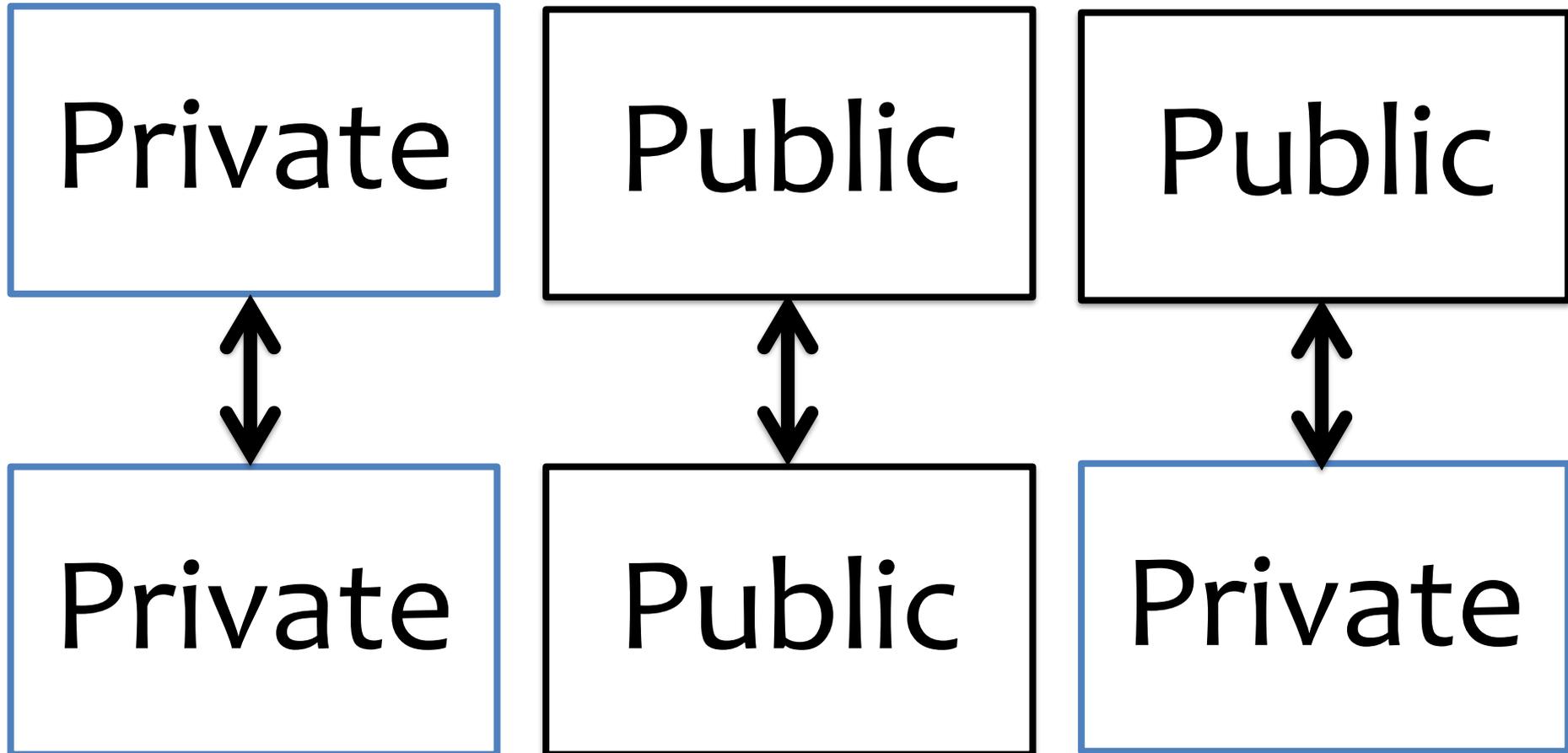
Flow: 9 Ps





The Parties

3 Levels of PPPs





PUBLIC SECTOR PPP PROPONENTS

**NATIONAL
GOVERNMENT**

**GOVERNMENT
CORPORATIONS**

STATES 

**AUTONOMOUS
REGIONS**

PROVINCES

CITIES

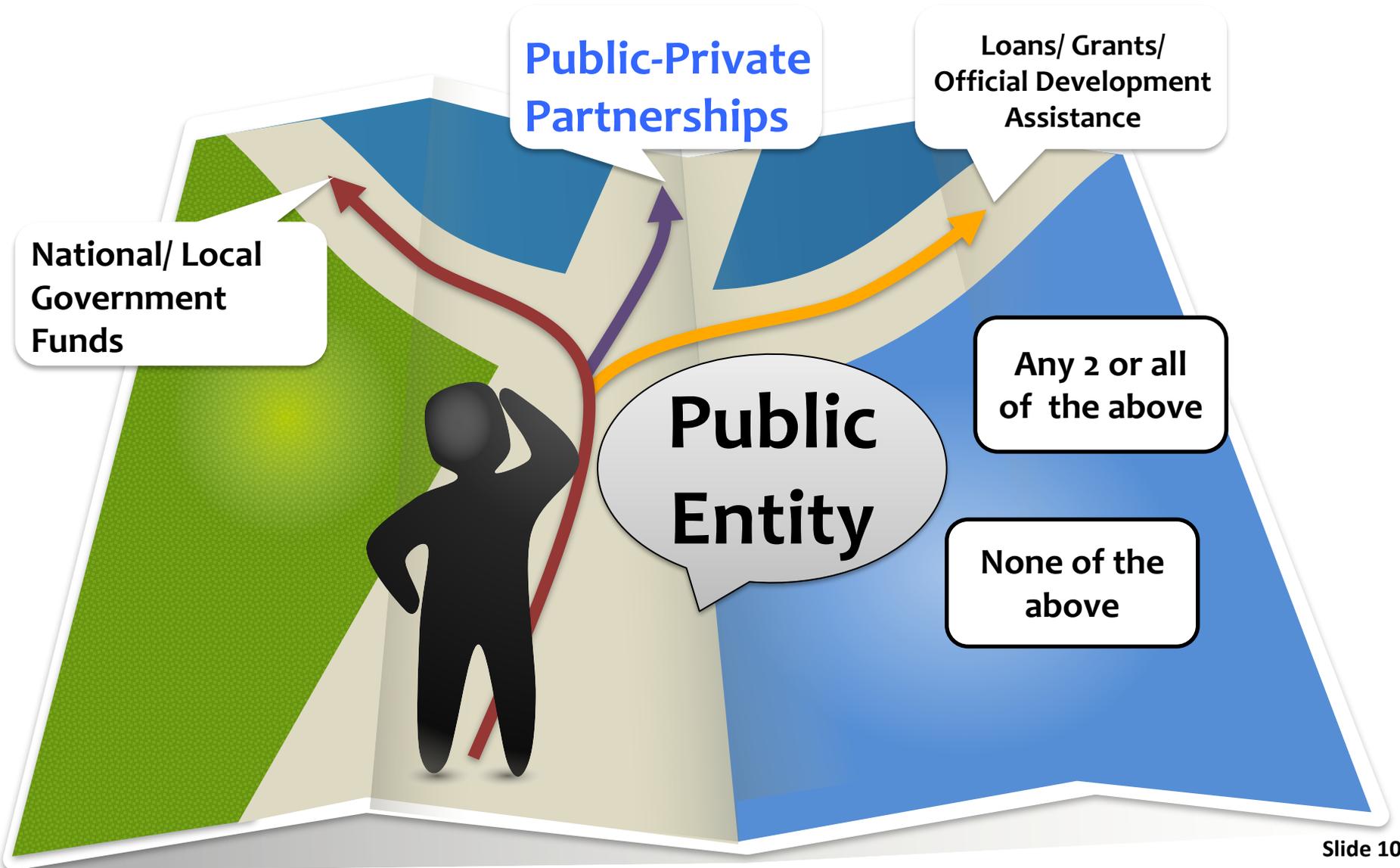
MUNICIPALITIES

BARANGAYS



The Pathways

Implementation/ Funding Schemes



Nature of PPPs

Aspects:

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

Public Sector

Private Sector





The Purpose

WHY PPP?

THE 7 MAIN VALUE DRIVERS



**IMPLEMENT
CHANGE
POLICY**



**ENCOURAGE
INNOVATION**



**SERVE THE
PEOPLE**



**PROVIDE
BETTER
VALUE-FOR-
MONEY**



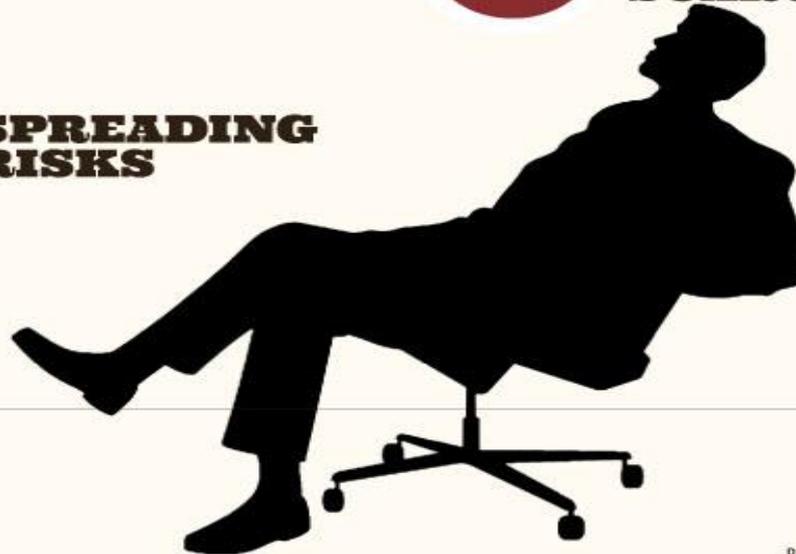
**ACCELERATE
DELIVERY OF
SERVICES**



**SOLVE
RESOURCE
SCARCITY**



**SPREADING
RISKS**





The Projects

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



Hard and Hard



Hard and Hard



Soft and Soft



Hard, Soft and Soft



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

| 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 and 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, 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, National ₱300M up | 1) BOT-Sol, National ₱300M 2) BOT-Local ₱200M up 3) JV-GOCC ₱150M and up; ₱2.5B cost up; Government > 50% | Any project Rejection | 1) BOT-Local ₱200M low 2) JV-local 3) JV-GOCC P150M low; <₱2.5B cost; Government <50% 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 |



Comparative Matrix



| Item | GPRA | BOT Law-Variants | Joint Ventures | Long-Term Lease |
|-------------------------|---|------------------------------------|--|--------------------------------------|
| Governing Law | RA 9184 | BOT Law and 2022 IRR | 2023 NEDA Guidelines/ Special Guidelines/ Local Ordinances | Special Guidelines/ Local Ordinances |
| Modalities | 1 | 9 ++ | 1 | 1 |
| Role of Government | Procuring Entity (PE); Buyer | Implementing Agency | Co-Venturer | Lessor |
| Functions of Government | PE/ Owner | Regulatory | Shared | Contract Management |
| Gain for Government | Goods/ Service/ Infrastructure (disburse funds) | Payment by way of fees | Revenue-Share | Receives Rent ++ |
| Role of PSP | Seller: Supplier, Provider or Contractor | Design, Finance, Build and Operate | Shared | Lessee |
| PSP Revenues | Payment from Government | Reasonable Rate of Return (or 12%) | Proportionate Sharing | Rentals |

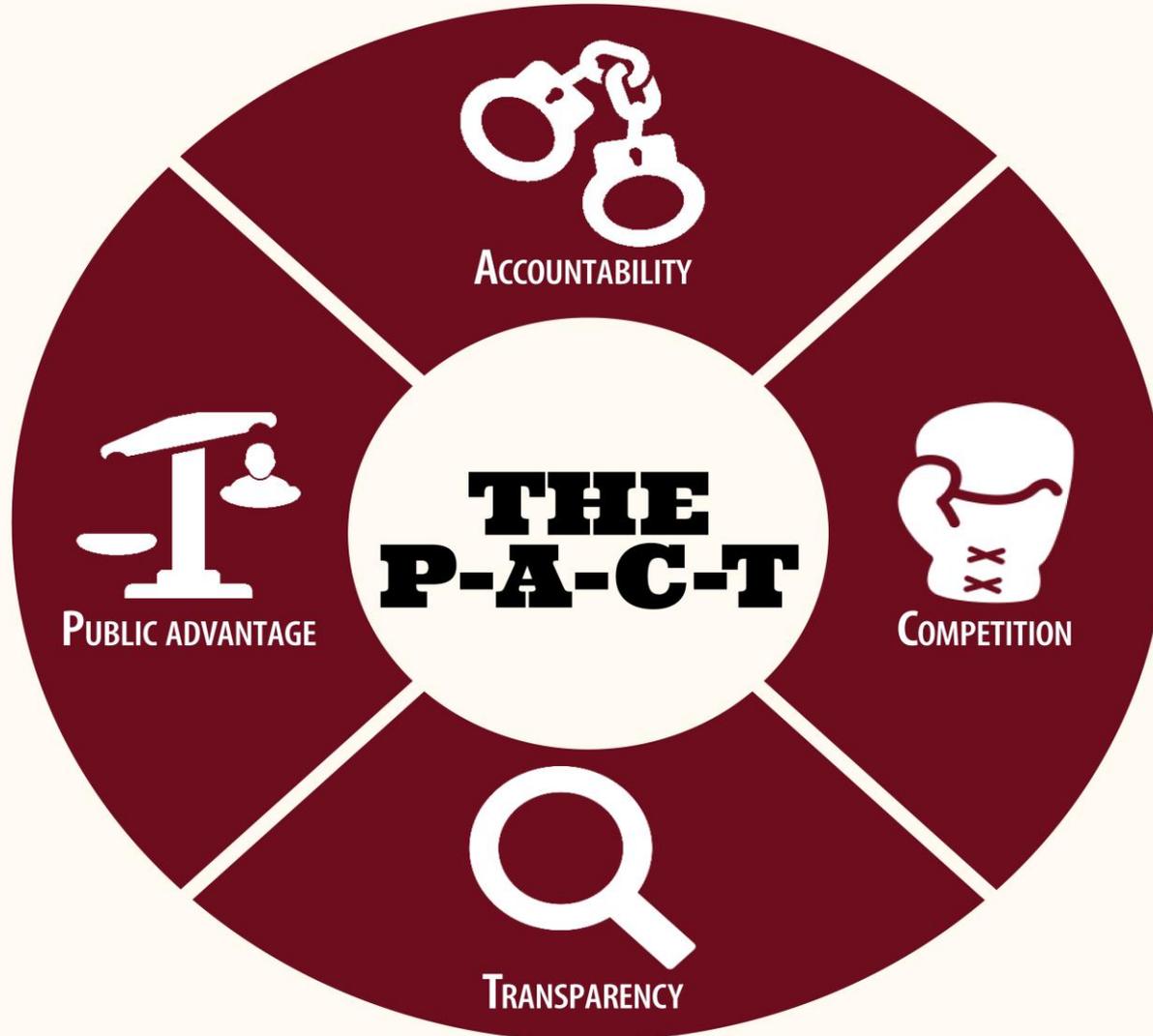
Comparative Matrix

| 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, 25+25 | Depends (50 also) |
| Financing | Public Funds/ ODA/ Loans | PSP (or government subsidy) | Joint (cash or non-cash) | Lessee |
| Government Support | GAA or ODA, loan | 8 forms | Sharing | Contractual |
| Divestment | N/A | BOO or ROO | Possible | Possible |
| Risk Allocation | Government/ Seller Warranty | Function-Risk | Sharing | Lessor-Lessee |

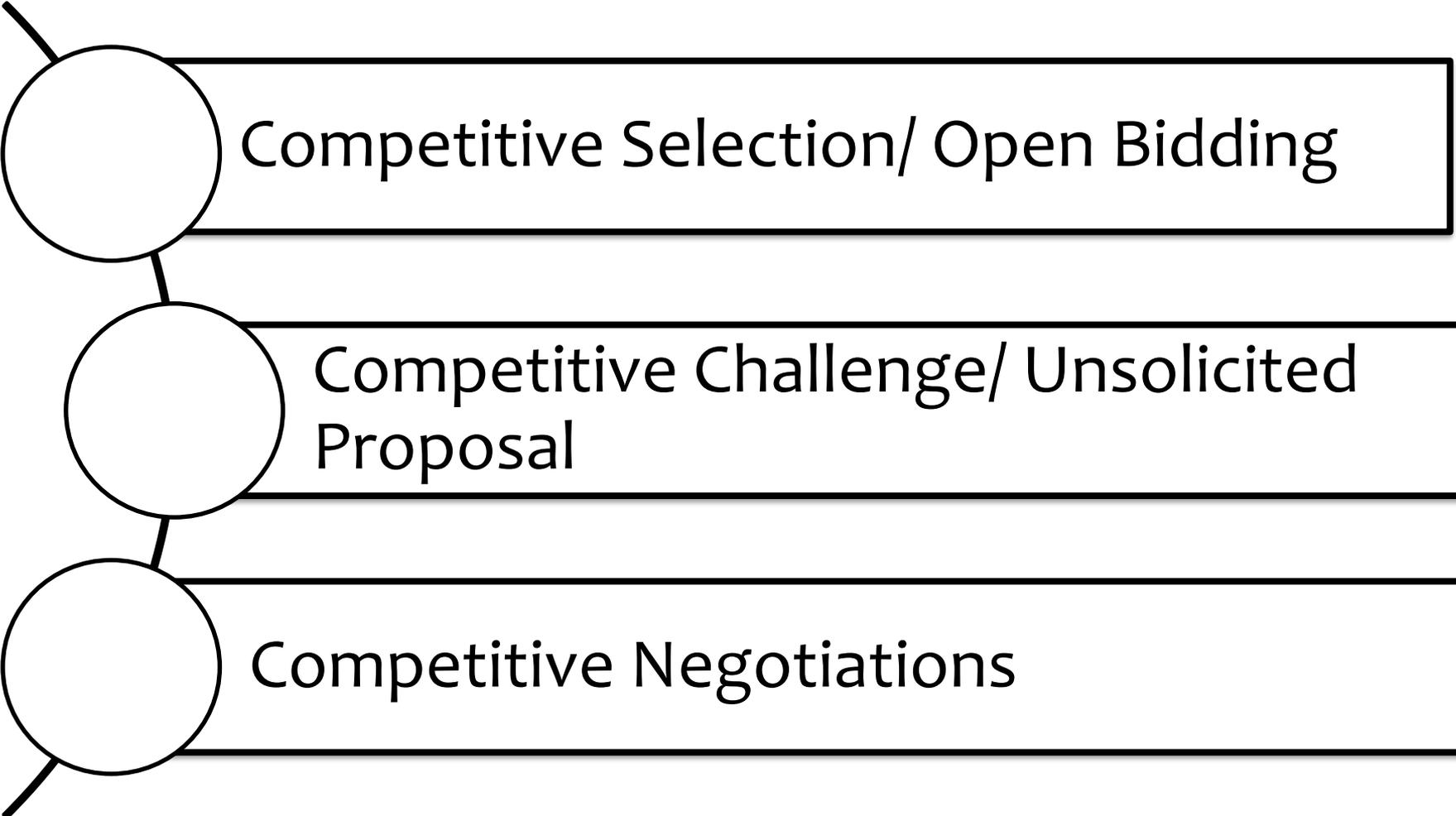


The Procedures

PPP SELECTION REQUIREMENTS



3 PACT Procedures

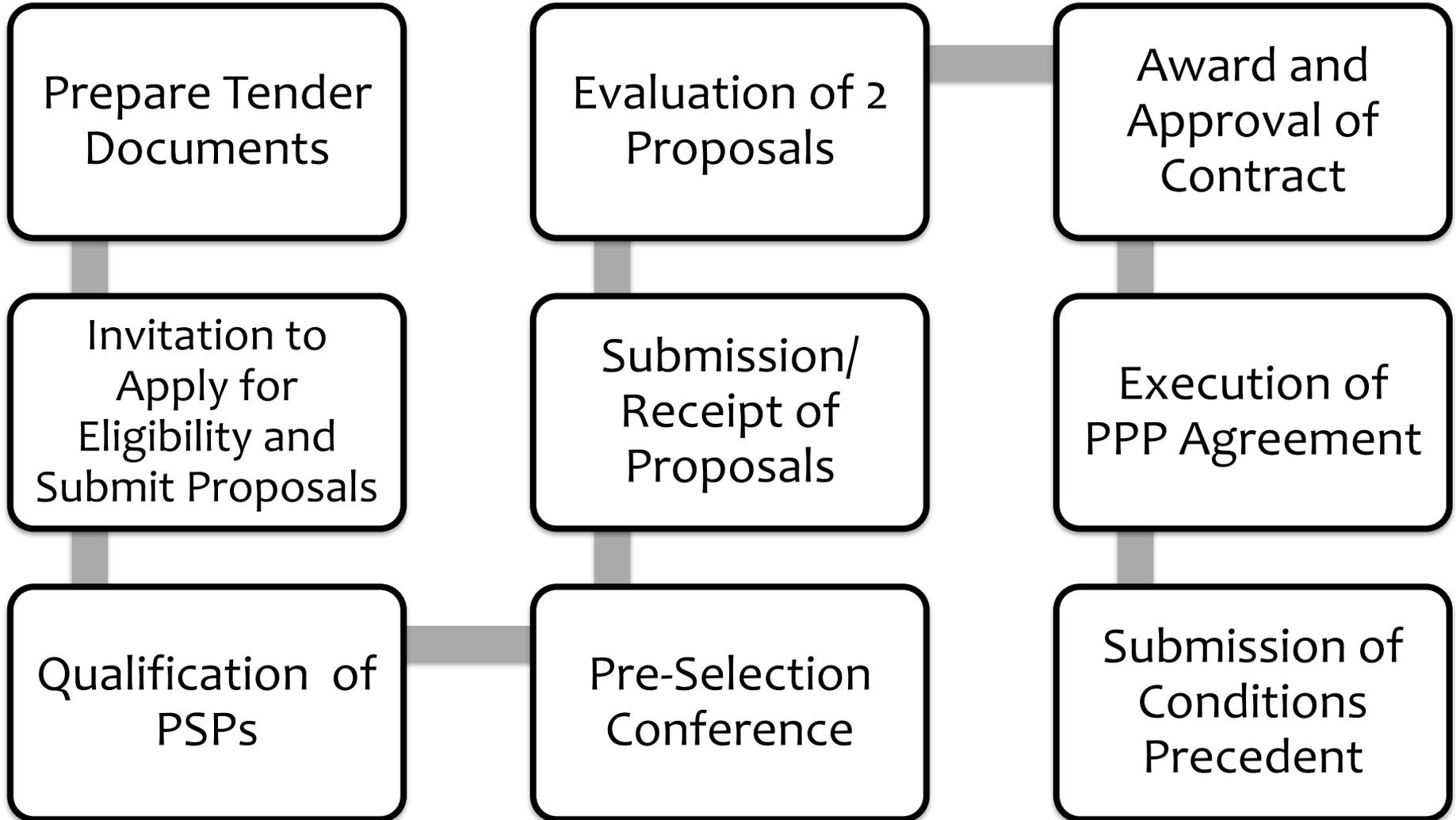


Competitive Selection/ Open Bidding

Competitive Challenge/ Unsolicited Proposal

Competitive Negotiations

(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 (FS), Draft Contract and PSP Valuation
- 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 Terms
- Gov't Valuation

Detailed Negotiations

- Tender Documents
- Invite Challengers
- Post Security
- Proposals Evaluated
- Right to: (1) Match; (2) Outbid; (3) Submit Better Financial Offer (4) Best and Final 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 |
|----------------------|--|--|---|---|
| Role of NEDA | Identification of priority projects | 4-, 3- or 2- pass | GOCCs/ GIs under NEDA Guidelines: P150m or more; ₱2.5B cost or more; Government >50% Others: None | None |
| Bidding Parameter | Lowest Calculated (good and infra) or Highest Rated (services) | Highest Revenue or Lowest Subsidy/ Tariff | Highest Percentage Share | Highest Lease Rental (Best use) |
| Incorporation | N/A | PSP SPV | Incorporated or Unincorporated | PSP SPV or PSP original |
| Selection Procedures | 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 |
|--------------------|------|---|---|--|
| Contents of UP | N/A | Cover Letter, FS, UP, Draft Contract, Eligibility Documents | Cover Letter, FS or Study, UP, Draft Contract, Eligibility Documents | Cover Letter, Study, UP, Draft Contract, Eligibility Documents |
| New Technology | N/A | Required if Priority Project | Not required | Not required |
| Multiple Proposals | N/A | 1 st in time approach | 1 st in time approach (or best) | 1 st in time approach (or best) |
| Rule on Exclusion | N/A | Upon acceptance, PSP becomes OP | Upon Successful Negotiations | Depends |
| Right of OP | N/A | Right to Match | Opportunity to submit better financial offer (or outbid, BAFO) | Depends |

Changes in 2022 September BOT IRR

Incorporating
Cost-Sharing in
Subsidy

Allowing
Revenue-Based
PPPs

Adding Projects

Clarifying MAGA

Defining COA
Reach

Listing PTCs

Imposing
Guidelines for
Project Approval

Defining Grant
of Usufruct

Expanding the
concept of New
Technology

Limiting
Contract
Variations

Prescribing Firm
and Contingent
Liabilities

Streamlining
Selection
Procedures

Changes in 2023 NEDA JV Guidelines

Excluding JVs for
Energy and Pure
O&M

Capping Term to
25 years + 25 years

Requiring 2
Valuation of
Contributions

Prescribing PrC
and GCG approval
for divestment

Changing to
Feasibility Study

Expanding Role of
NEDA-ICC

Mandating Public
Consultations

Limiting
Participation Fees

Stating PSP No
Pending case vs.
Government

Setting Public
Disclosure of
Proposal

After allowing
proposals,
choosing Best

Clarifying
Modified
Challenge and
BAFO



The 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.

End of Lecture Proper

Question & Answer SEGMENT



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