

PPP Procedures

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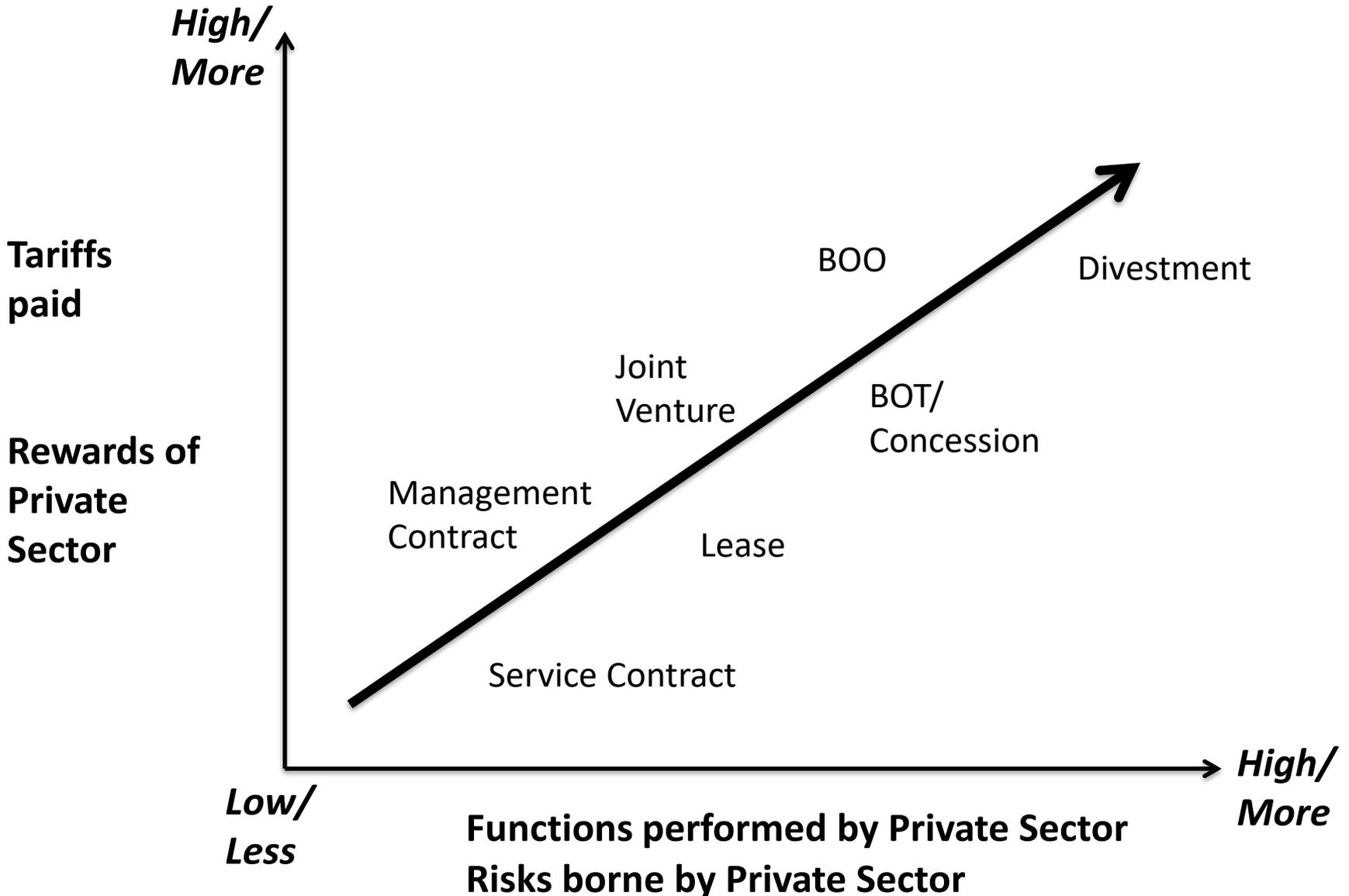
President, Forensic Solutions

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Former Acting Secretary of Justice, Acting Solicitor General
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Function-Risk-Costs-Tariff-Reward Relationship



Payment Mechanisms

User Chargers (end users)

Usage Payments (Government)

Availability Payments (Government)

Service Performance Payments

Purchase Price Payments

Tariff Schemes

Price Cap

Rate of
Return

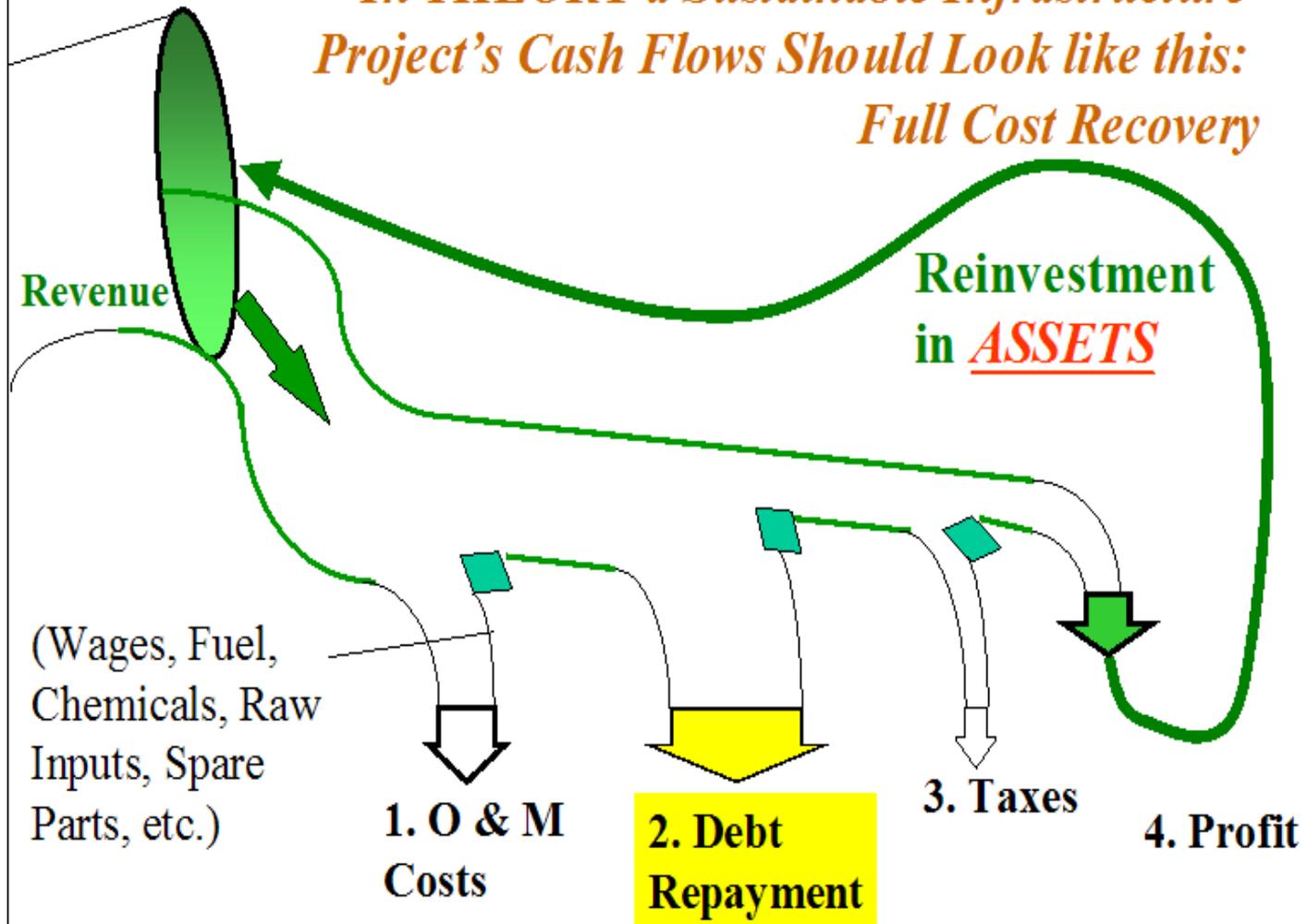
Revenue
Cap

Cash
Needs

The Waterfall of Cash Flows

In THEORY a Sustainable Infrastructure Project's Cash Flows Should Look like this:

Full Cost Recovery



Support and Contributions

Documentation

- Franchise
- Permits
- Clearances

Contributions

- General Funds
- Assets
- Capital
- Personnel
- Intellectual Property
- Land
- Anything of value

Participation

- Guarantee
- Subsidy
- Equity
- Viability Gap Funding
- Credit Enhancement

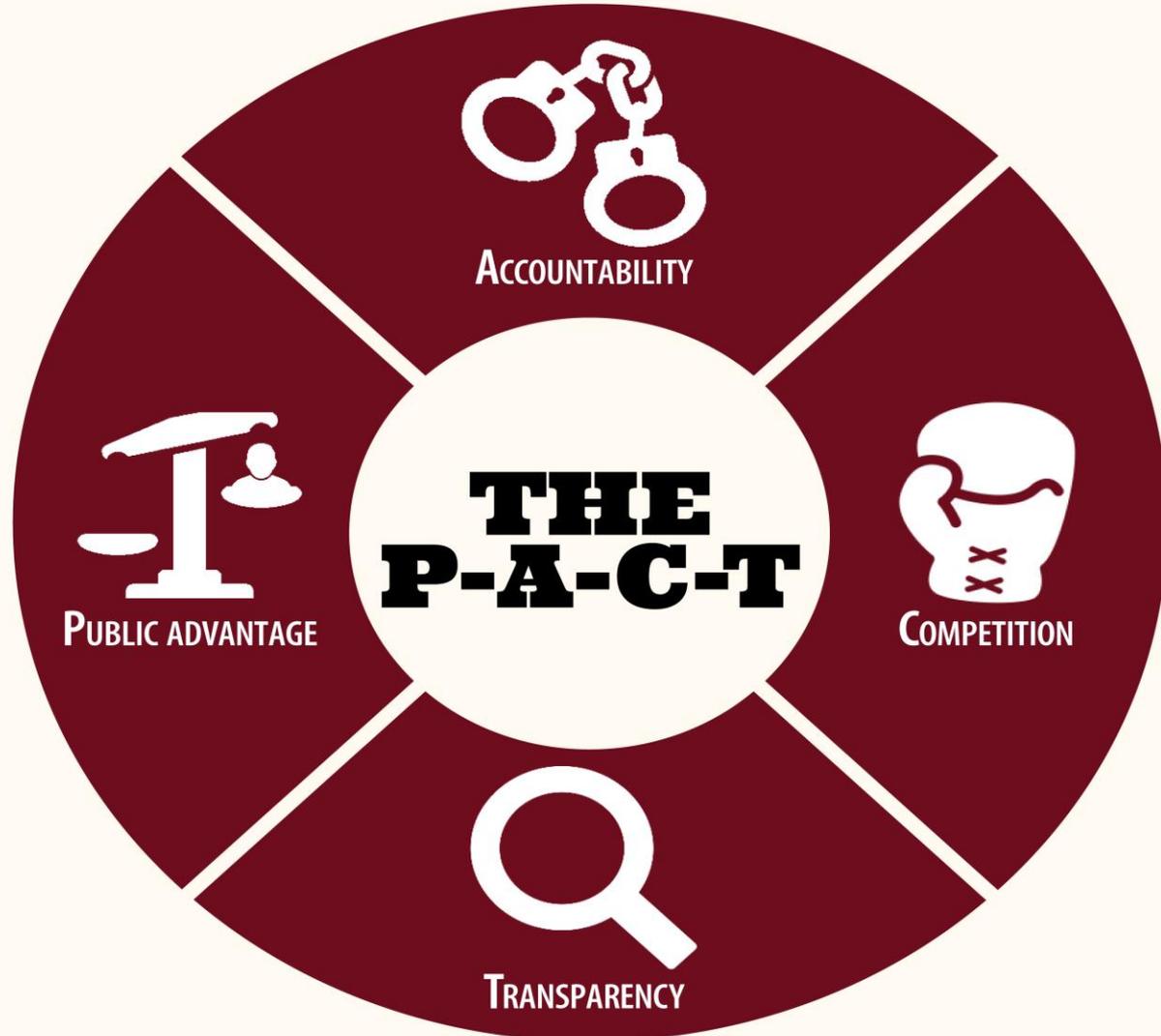
Powers

- Police Power
- Eminent Domain
- Reclassification
- Tax-exemption
- Tax holiday
- Right of Way

Selection of Private Sector Partner

PPP PROCESSES

PPP SELECTION REQUIREMENTS



Private Sector Selection

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graph LR; A[Private Sector Selection] --- B[Competitive Selection]; A --- C[Competitive Challenge]; A --- D[Limited Negotiations]; A --- E[Competitive Negotiations];
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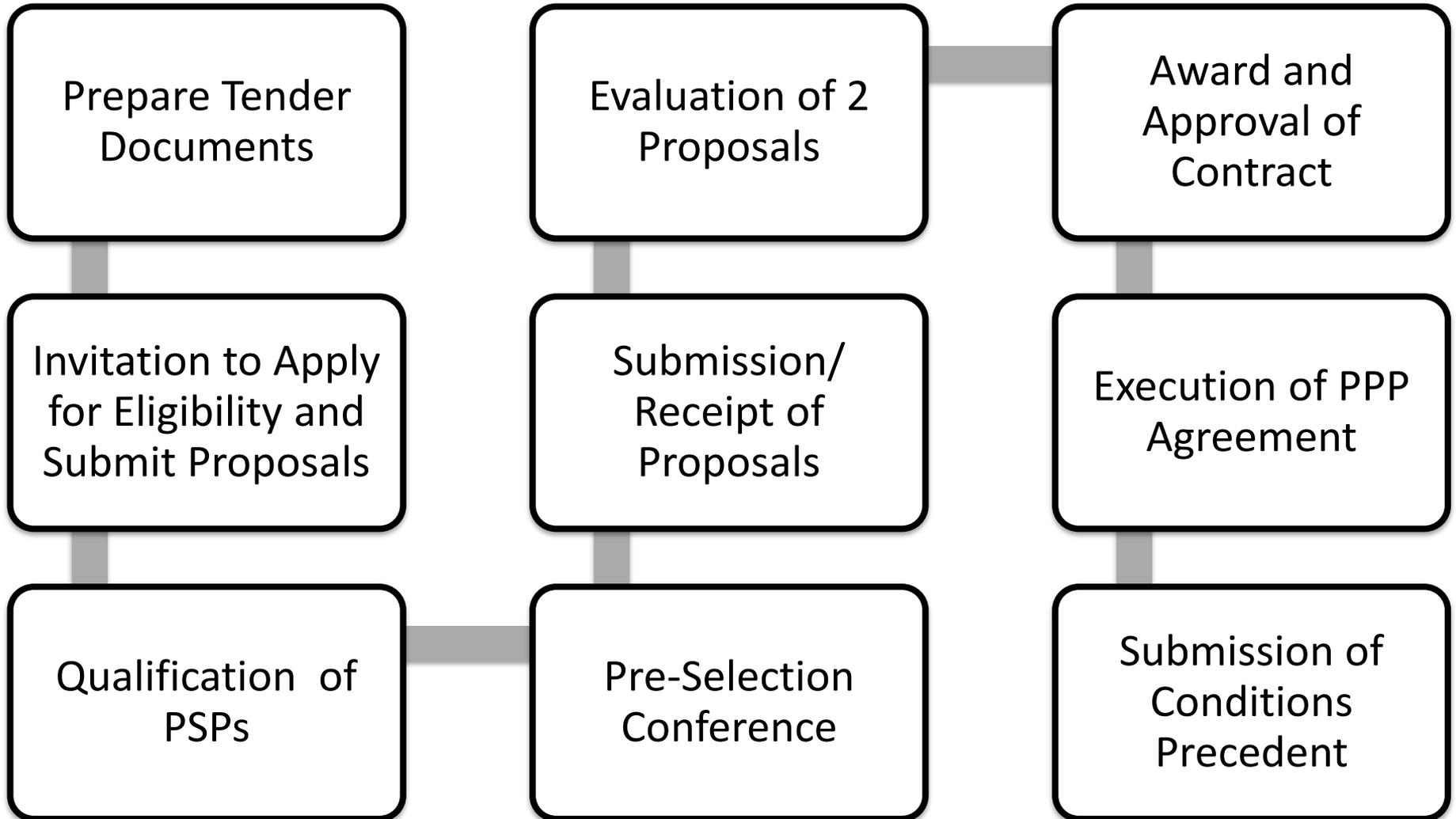
Competitive
Selection

Competitive
Challenge

Limited
Negotiations

Competitive
Negotiations

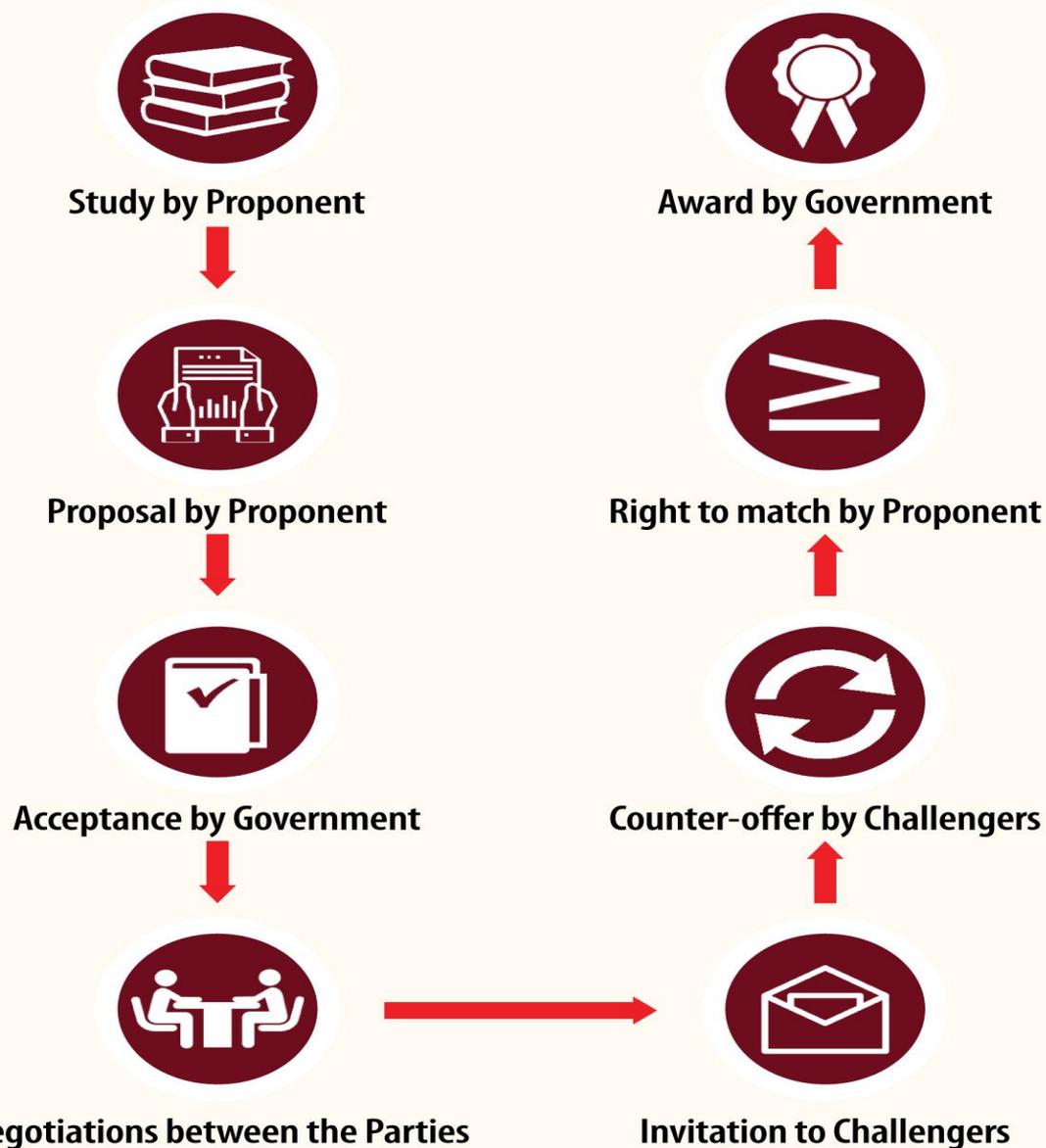
Competitive Selection



And the **winner** is ...

1. Highest Payment to Government: What is in it for government?
2. Lowest Government Subsidy: What is the cost to government?
3. Lowest Tariff by End-User: How much will the users pay?
4. Highest Share in Revenues: How much is government's share?
5. Highest Purchase Price: How much is the government willing to sell?
6. Highest Rated Bid: Who can provide the “best” service?
7. Lowest Calculated Bid/ Price: Who is the “cheapest?”

UNSOLICITED PROPOSALS



(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)
- [Public Consultations on Draft Contract]
- Certification of Successful Negotiations (or Failed Negotiations)
- [Conferment of Original Proponent (OP) Status]

Detailed Negotiations

- Tender Documents
- Invite Challengers
- Post Security
- Proposals Evaluated
- Right to Match
- Council Authorization
- Sign Contract
- [Reimbursement of Project Study Cost if OP not get Award]

Stage 3

Right to Match

Negotiations

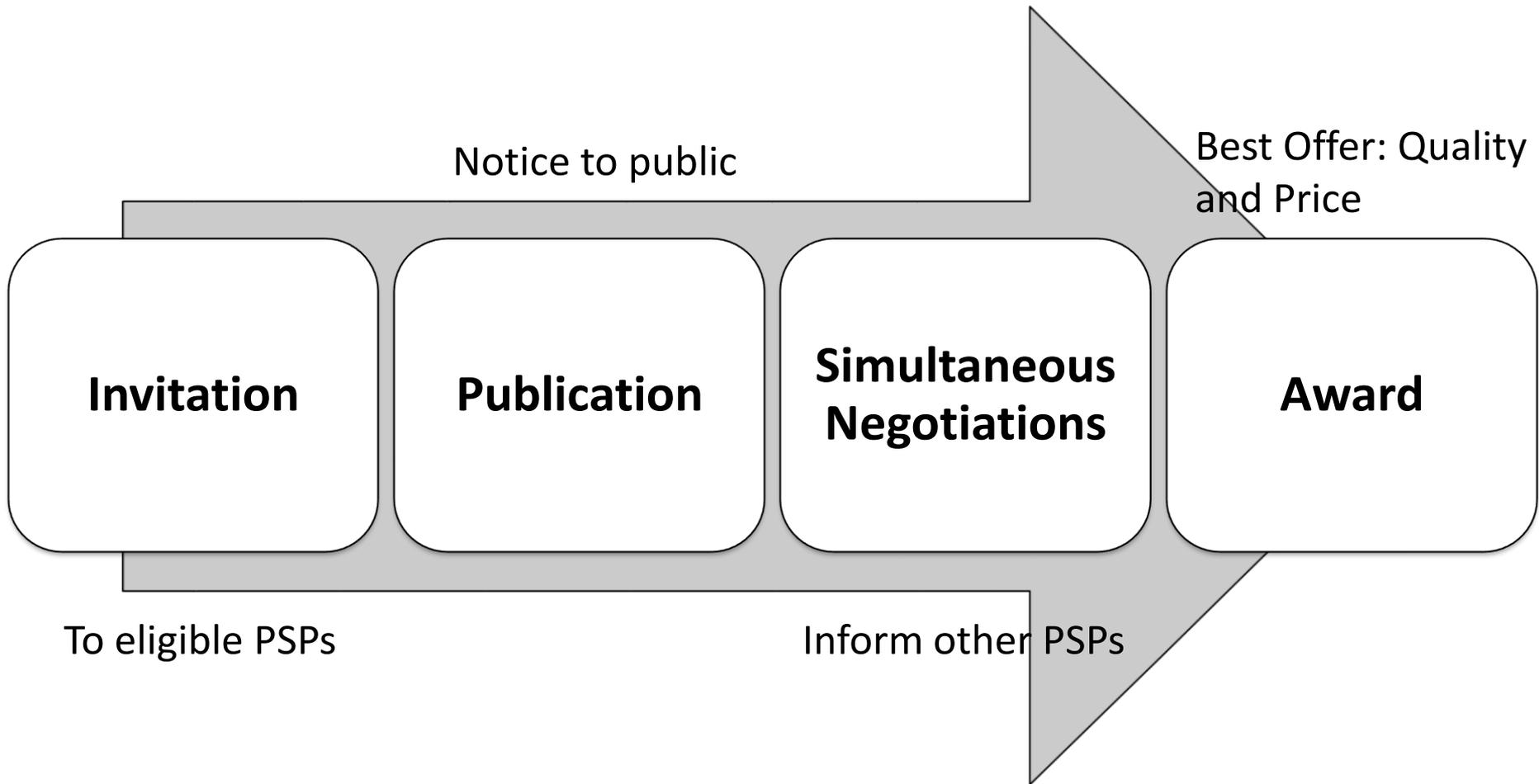
Limited Negotiations

1. Failed Bidding/
Competitive
Selection
2. Unsolicited Proposal/
Competitive
Challenge
3. Prior Completed
Competitive Process

Competitive Negotiations

1. Concessions
2. Leases/ Affermage
3. Management and
Service Contracts
(not public funds)

Competitive Negotiations



BOT Law Approving Bodies

- up to Php 20M: MDC
- above Php 20M up to Php 50M: PDC
- up to Php 50M: CDC
- above Php 50M up to Php 200M: RDC
- above Php 200M: NEDA-ICC

Expended by public and private sector (2012 IRR)

2 Options under BOT Law: Solicited and Unsolicited

Solicited

- ▶ Competitive/ open bidding
- ▶ must be included in the List of Priority Projects
- ▶ may have Direct Government Guarantees

Unsolicited

- ▶ Not in List of Priority Projects (unless Project involves a new concept or technology)
- ▶ No Direct Government Guarantee, subsidy or equity required
- ▶ Swiss challenge (right to match)

New Technology

1. A recognized process, design, methodology or engineering concept which has demonstrated its ability to significantly reduce implementation of Construction costs, accelerate project execution, improve safety, enhance project performance, extend economic life, reduce costs of facility maintenance and operations, or reduce negative environmental impact or social/economic disturbances or disruptions either during the project implementation/Construction phase or the operation phase;
2. A process for which the Project Proponent or any member of the proponent consortium possesses exclusive rights, either world-wide or regionally; or
3. A design, methodology or engineering concept for which the proponent or a member of the proponent consortium or association possesses intellectual property rights.

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



Regulatory Approvals

- **Province:** Review of Ordinance
- **DENR:** EIA/ ECC
- **PRA and NEDA:** Reclamation
- **ERC:** Power
- **NWRB:** Water Rights
- **COA:** Post-Audit
- **DOF:** National Sovereign Guarantee

PPP CONTRACT:

10 SECTIONS



PARTIES



PROJECT



MODALITY



TERM



CONTRIBUTIONS



RISKS



GOVERNANCE



APPROVALS



AMENDMENTS



ROLES

5 PPP AUDIT SCHEMES



**PUBLIC GOOD
AUDIT**



**REGULARITY
AUDIT**



**PERFORMANCE
AUDIT**



**FORENSIC
AUDIT**



**PARTICIPATORY
AUDIT**

THANK YOU