



1ST ISTANBUL PPP SUMMIT, 2015

“OVERVIEW OF THE PPP FRAMEWORK IN KENYA”

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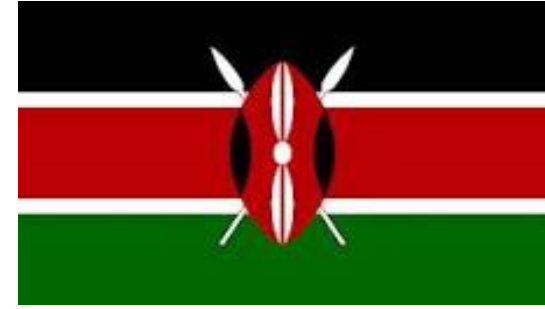
BOĞAZIÇI UNIVERSITY CAMPUS, ISTANBUL - TURKEY



OUTLINE OF DISCUSSIONS:

1. Investment Needs & Opportunities
 - Kenya's Infrastructure Potential
2. Overview of Kenya's PPP Institutional & Legal Framework
3. Kenya's PPP Experience:
 - Completed PPP Projects
 - Current/Ongoing PPP Projects
 - Future Infrastructure Projects
4. Enhancement of Kenya's PPP Enabling Environment

KENYA



- **Area:** 583,000 sq. km
- **GDP:** \$69.977 Billion (2015)
- **Population:** 45.9 Million (2015)
- **GDP Per Capita:** \$1,587 (2015)
- **GDP % Growth:** 5.3% (2015) – economy is projected to expand by 6.5 to 7.0% in 2015 and to maintain the same pace over the medium term
- **Inflation:** 5.97% (Sept, 2015)
- **Debt/GDP:** 48% (2015)
 - The Standard and Poor's rating for Kenya is B+ stable
- **Gateway to:**
 - East Africa Community (Kenya, Tanzania, Uganda, Rwanda, Burundi):
 - ✓ 150 million people, among the fastest growing regions in the world (5.3% growth GDP compared to 3.8% world growth) – 150 million addition (DRC, Ethiopia, Southern Sudan, Somalia)

The discovery of Oil, Rare Earth, others: A game changer

Common Challenges Kenya Faces in Public Infrastructure Delivery

Infrastructure: Basic for economic growth and improvement of quality of life

but often affected by



completion delays

cost overruns

poor design

corruption concerns

poor maintenance

poor project selection

Infrastructure Funding Gap of USD 2 - 3 Billion per Year



Thus....Rationale for PPPs in Kenya

Vision 2030 aims to transform Kenya into a middle income country by 2030. Heavy infrastructure investment is thus paramount

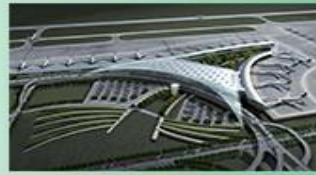
Additional funding from private sector, hence reduction of funding gap

Reduce Government sovereign borrowings

Govt. strategy - reduce debt to GDP (ratio) to below 45% in the medium term

Utilize private sector efficiency, effectiveness, transfer of significant risk to the private sector & innovation to deliver public services

Increase business opportunities for the domestic market



Overview of Kenya's PPP Legal & Institutional Framework



- The march towards adopting a **structured** policy and regulatory framework for PPPs in Kenya:



- ❖ Since 1996, and as a result of **progressive liberalization** of the economy, Kenya has attracted private investments into the country's economic infrastructure sectors including energy, transport, water and sewerage. These investments **demonstrated the interest** in these sectors by private investors, lenders and operators.
- ❖ However, the PPP transactions that occurred during that era were undertaken **without** a governing PPP policy or legal framework.

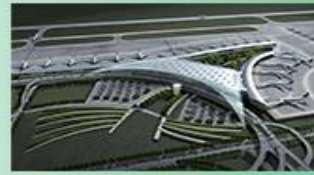


- Regulation of PPPs at the time was by **contract**, (such as the Adopt-A-Light, the Rift Valley Railways concession etc.) and it is this that partly explains why:
 - ❖ Some of the early PPP transactions took **longer** to be prepared, approved and experienced protracted negotiations;
 - ❖ **Key analyses** regarding affordability and the value for money were not adequately conducted;
 - ❖ There was **uncertainty** about the legal process by which contracts should be tendered, procured and awarded; and
 - ❖ Once contracts were executed, significant cases of **renegotiations, litigation and arbitrations** were witnessed.





- With increased momentum for delivery of Vision 2030 flagship projects, Kenya undertook to establishing a **national PPP Policy** and legal framework that would introduce many efficiencies **hitherto lacking** to make PPPs both viable and attractive to the private sector in Kenya.
- In March 2009, the Government of Kenya (GOK), under the Public Procurement and Disposal (**Public Private Partnership**) **Regulations 2009**, established an **institutional** framework for the recruitment of private interests to participate in the provision of public services (i.e. a **PPP Secretariat** at the National Treasury).

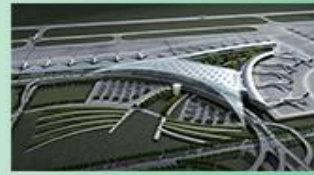


- In 2011, GOK adopted a **PPP Policy** that:
 - ❖ Articulated and underscored the **Government's commitment** to PPPs and laid the foundation for an enabling environment for attracting private sector partners in financing and managing infrastructure services.
 - ❖ The development and implementation of this policy is seen as the **first step** by Government in addressing constraints and challenges in mobilizing the necessary capital to increase the **quantity and quality** of key public services and to **accelerate** the socio-economic development of Kenya.





- ❖ Several other accomplishments in **strengthening** the PPP framework for private sector participation are notable:
 - Enactment of the **PPP Act** on 8th Feb 2013;
 - Gazettement of the **National PPP Regulations** on 19th Dec 2014;
 - Development of draft **PPP Regulations for the County Governments**; and
 - Development of a **PPP Manual** – currently ongoing



PPP Projects can be initiated in two ways:



Procurement of PPP Projects

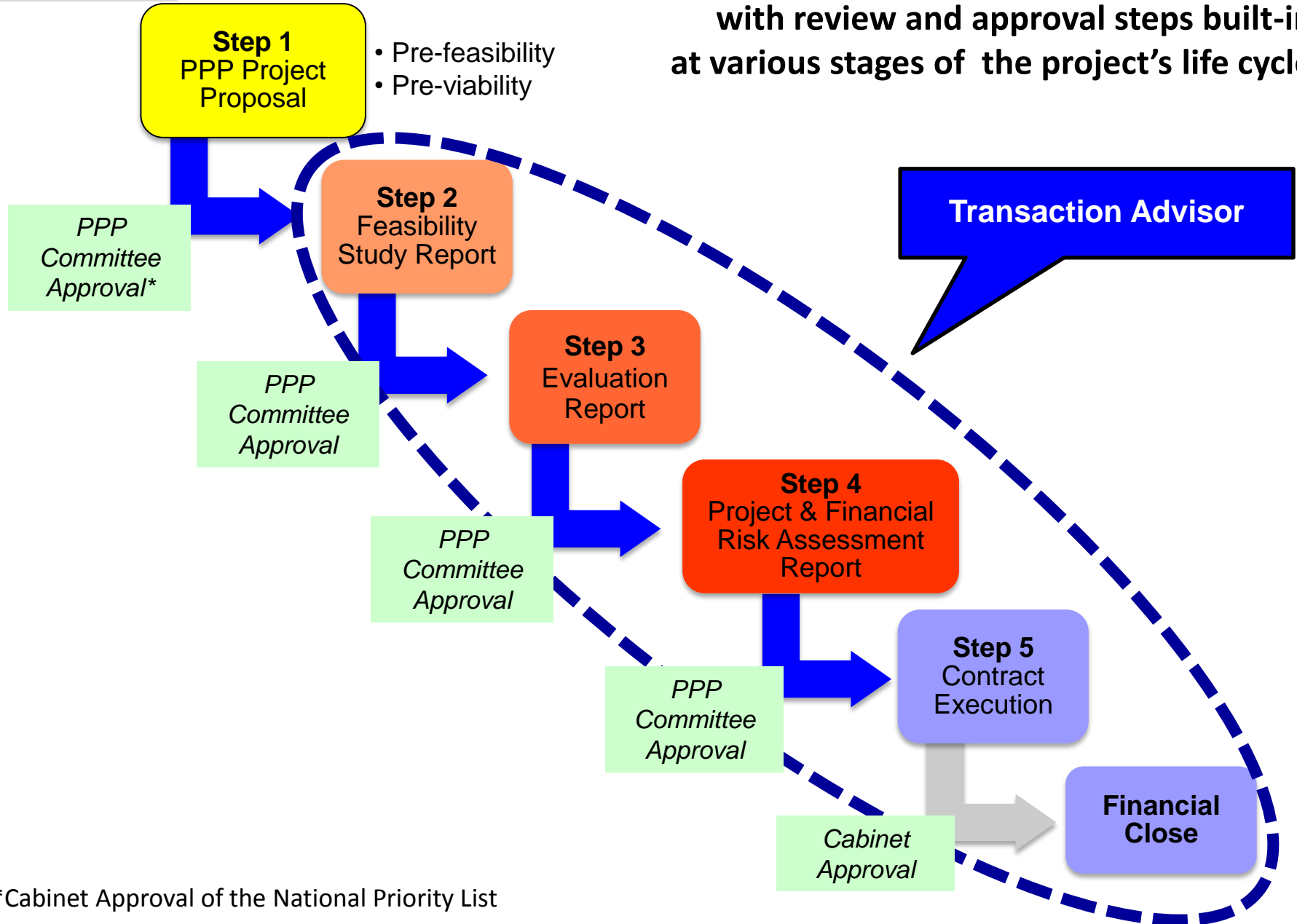
**Solicited Bids
(Open &
Competitive)**

**PIIPs
(Unsolicited
Proposals)**

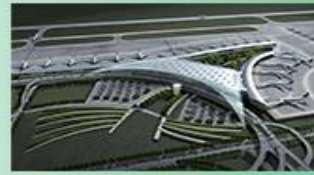
The PPP Act, 2013

- 3 **Core tests/principles** in PPP Procurement:
 - ❖ Value for Money;
 - ❖ Affordability; and
 - ❖ Risk Transfer (optimal allocation).

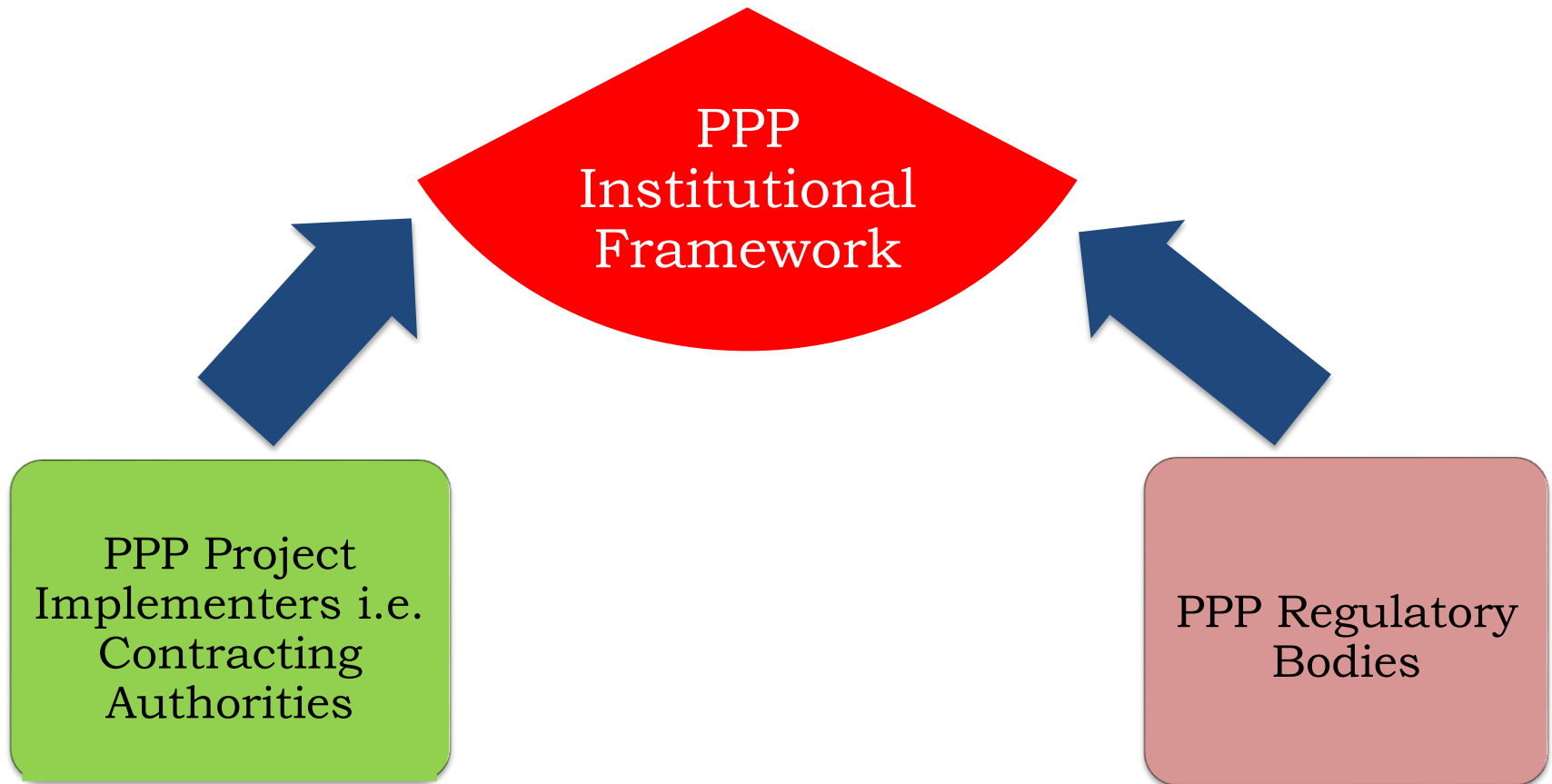
The PPP process is structured and sequential with review and approval steps built-in at various stages of the project's life cycle

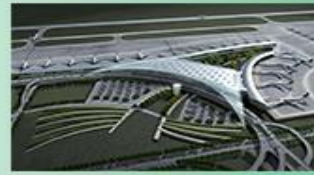


*Cabinet Approval of the National Priority List



- For the successful delivery of PPPs in Kenya, the PPP Act, 2013 prescribes for the adoption of a **2-tiered institutional framework** i.e.:





Contracting Authority Institutional Framework

PPP Node
(the only
permanent
feature)

- Project Appraisal Team (PAT)
- Prequalification Committee (PC)
- Project Evaluation Team (PET)
- Negotiation Committee (NC)

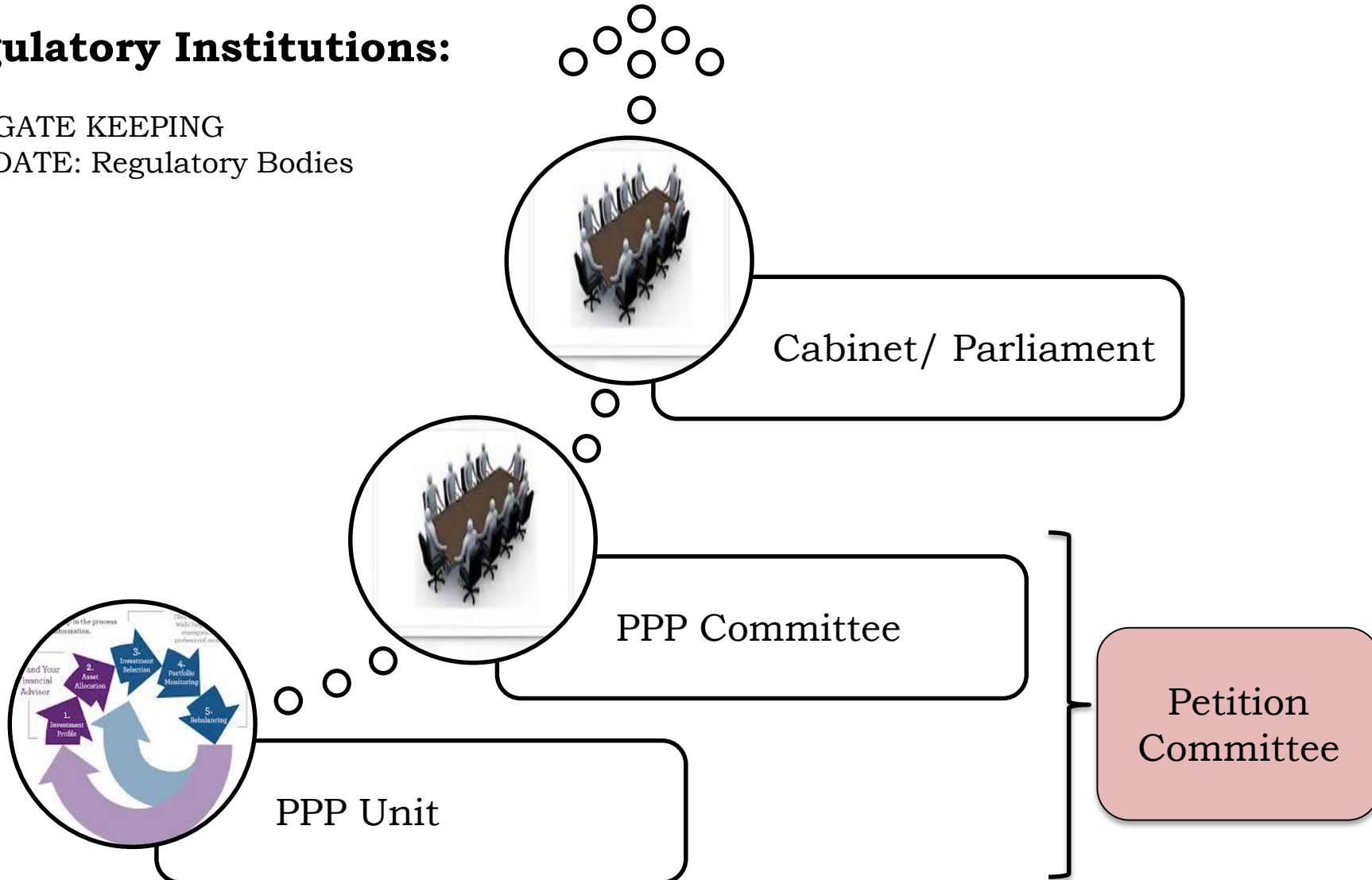
PROJECT LEVEL –
aligned with PPP Project
Life Cycle



Regulatory Institutions:

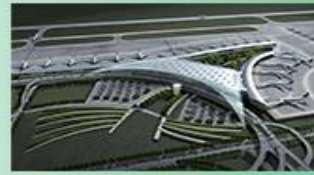
THE GATE KEEPING

MANDATE: Regulatory Bodies





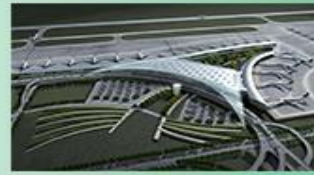
Kenya's PPP Experience



Kenya's Past PPP Experience:

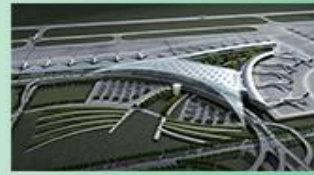
- Old Nyali Bridge: Operational from 1931 to 1980, the Nyali Bridge concession, was a floating pontoon bridge linking the Mzizima District of Mombasa to Nyali.
- Rift Valley Railway (RVR)
- IPPs: Westmount 46 MW (not active), Iberafrica 1997 (56MW and 53 thermal power plant), the 74 MW Tsavo/Kipevu IPP, 2000, Orpower -Olkaria III 2000/2008 (48MW Geothermal Plant), Mumias (34MW power plant); 90 MW Rabai IPP in 2009, Mumias 26MW cogeneration.
- KPLC, 2005: 2yr management contract;
- Mombasa Grain Terminal – BOO, 1998;
- JKIA – Cargo Terminal, 1998;
- Malindi water utility, 1999: 5yr mgt. contract





- Due to the lack of an enabling legal & regulatory PPP framework, these past projects ran into numerous challenges i.e. transactions **took longer** to be prepared, approved, experienced **protracted negotiations**, witnessed **litigation and arbitrations** etc.
- However, with **an improved enabling environment**, we have begun to witness an **increase in private sector interest and investment** in the Kenya infrastructure market across sectors
- This we see as a direct cause of present efforts to generate a pipeline of **bankable PPP projects**





Current PPP Projects in Kenya:

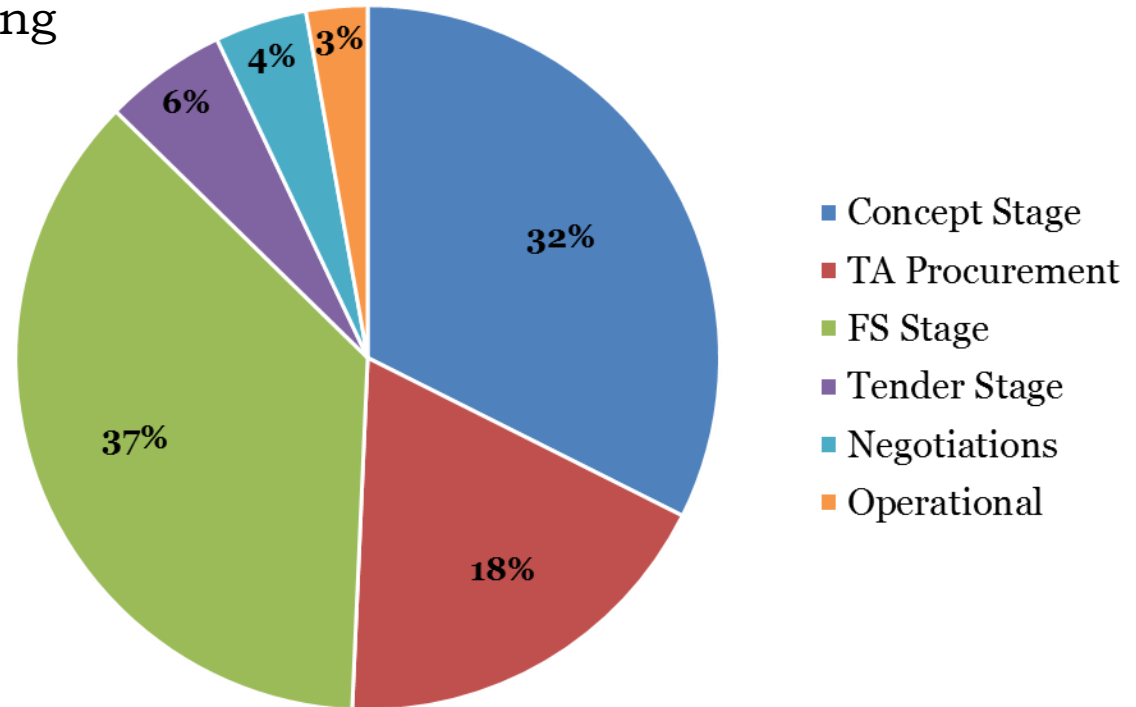
- There are currently **71No. PPP projects** in the pipeline worth **approx. USD 22Bn**

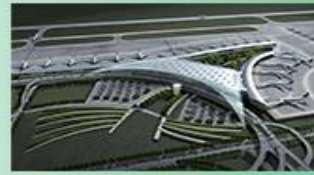




Current Status (as at Oct, 2015):

- ❖ 23No. - Concept stage
- ❖ 13No. - TA Procurement
- ❖ 26No. - Feasibility Study stage
- ❖ 4No. - Tender stage
- ❖ 3No. - Negotiations ongoing
- ❖ 2No. - Operational





TRANSPORT & INFRASTRUCTURE

ENERGY SECTOR

1.	2 nd Nyali Bridge – TA	21.	400MW Menengai - 60MW RFQ
2.	Nairobi Southern Bypass – TA	22.	800MW Menengai Ph 2 - CONCEPT
3.	Nairobi - Thika Road - TA	23.	800MW Bogoria-Silali Phase 1 - CONCEPT
4.	Nairobi - Nakuru Road - TA	24.	800MW LNG, Dongo Kundu – CANCELLED
5.	Mombasa - Nairobi Highway - TA	25.	560MW Geothermal Project at Olkaria - TA
6.	Phase 1 - Road Annuity Program - TA	26.	980MW Coal Plant in Lamu - AWARDED
7.	JKIA Terminal 2 (Greenfield Terminal) - CONCEPT	27.	300MW Geothermal Suswa - CONCEPT
8.	Inflight Catering Kitchen , JKIA - AWARDED	28.	40MW Solar at Muhoroni - CONCEPT
9.	Food Courts at JKIA - AWARDED	29.	960MW Kitui Coal – FEASIBILITY STUDY
10.	Government Flying School - TOR	30.	400MW Wind Plant at Meru - CONCEPT
11.	Kisumu Sea Port - TA	31.	Off Shore Jetty - TA
12.	Mombasa 2 nd Container Terminal Phase 1 - TA	EAST AFRICAN AFFAIRS, COMMERCE & TOURISM	
13.	Development of Shimoni Port - CONCEPT		
14.	Conversion of berth 11 - 14 into container terminals		
15.	Lamu Port Development project - CONCEPT	32.	Hotel at Bomas of Kenya - CONCEPT
16.	Multi Storey Terminal at Likoni - TA	33.	Mombasa Convention Centre - TA
17.	Nairobi Commuter Rail Services - TA	34.	Development of Marina in Shimoni - CONCEPT
18.	Nairobi multi-storey car parking & commercial facility	ICT	
19.	Mombasa Multi-level car park facility - TOR	35.	National Data Centre - RESTRUCTURED
20.	Integrated Marine Transport System - TA	36.	National Land Information Management & National Spatial Data Base - CONCEPT



ENVIRONMENT, WATER & NATURAL RESOURCES		EDUCATION SECTOR	
37.	Nairobi Solid Waste Management - TOR	55.	KU Hostels - NEGOTIATIONS
38.	Mombasa Solid Waste Management - TOR	56.	Moi University Students Hostels - TA
39.	Nakuru Solid Waste Management - TOR	57.	Embu University Students Hostels - TA
40.	Murang'a Water Supply Project - CONCEPT	58.	Egerton University Students Hostels - TA
41.	Nairobi Bulk Water Supply - CONCEPT	59.	SEKU University Students Hostels - TA
42.	Mwache Multipurpose Dam - FEASIBILITY	60.	Maseno University Students Hostels - TA
43.	Turkwel Downstream Irrigation - FEASIBILITY	61.	JKUAT University Projects (6No.) - TA
44.	Arror Multipurpose Dam - FEASIBILITY	62.	Kenya School of Government , Embu - TA
45.	Munyu Multipurpose and Greater Kibwezi irrigation	63.	University of Nairobi Student Hostels - CONCEPT
46.	Tana Delta Irrigation - FEASIBILITY	64.	Machakos Uni. College Projects (5No.) - CONCEPT
47.	Tana Delta Irrigation Sugar project - FEASIBILITY	65.	Pwani University projects - CONCEPT
48.	Nandi Forest Multipurpose Dam - TA	66.	Kenya Technical Teachers College - CONCEPT
49.	Magwagwa Multipurpose Dam - TA	INTERIOR & COORDINATION OF NATIONAL GOVT	
HEALTH SECTOR		67.	National Police Housing - TA
50.	ICT Services at Kenyatta National Hospital - TA	68.	Prison Housing - TA
51.	300 Bed Hospital at KNH - TA	INDUSTRIALIZATION AND ENTERPRISE DEVP	
52.	Oxygen Plant – RESTRUCUTURED	69.	Special Economic Zone (SEZ) - FEASIBILITY
53.	Kenya Medical Training College (KMTC) projects	LAND, HOUSING & URBAN DEVP.	
54.	Medical Equipment Lease - TA	70.	Civil Servants Housing Project - TA
		71.	Export Quarantine Station & Livestock Export Zone - TA



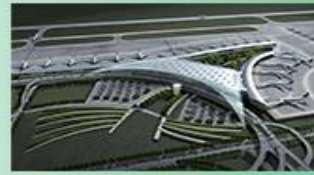
Enhancement of Kenya's PPP Enabling Environment



Overall Objective:

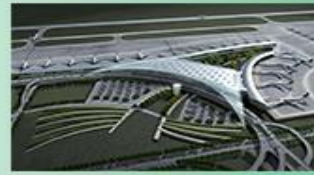
To improve the enabling environment so as to generate a pipeline of bankable PPP projects





1. Operationalisation of the PPP Project Facilitation Fund

- The PPP Project Facilitation Fund (PFF) is established under section 68 of the PPP Act, 2013 as a **multi-purpose revolving fund** to:
 - a) Support **contracting authorities** in the preparation, appraisal and tendering phase of their PPP projects;
 - b) Extend **viability gap finance** to PPP projects; and
 - c) Provide a **source of liquidity to meet any contingent liabilities** arising from a PPP project;
 - d) Support the **activities of the PPP Unit** in its delivery of its mandate;
- It is established to receive moneys from sources including: grants and donations; such levies or tariffs as may be imposed on a project; **success fees paid by a project company to the PPP unit**; appropriations-in-aid; and moneys from a source approved by the National Treasury



2. Deepening of the Domestic Capital Markets

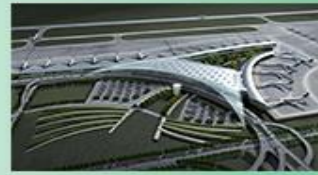
- Kenya has by far the largest capital markets in East Africa and also Eastern Africa.
 - ❑ Highly developed government bond market (2014: \$10.5bn)
 - ❑ Rapidly growing pension funds and insurance companies
 - ❑ Dominant market in the region (>70% of all Gov. bonds outstanding and approx. 90% of all corporate bonds)

However:

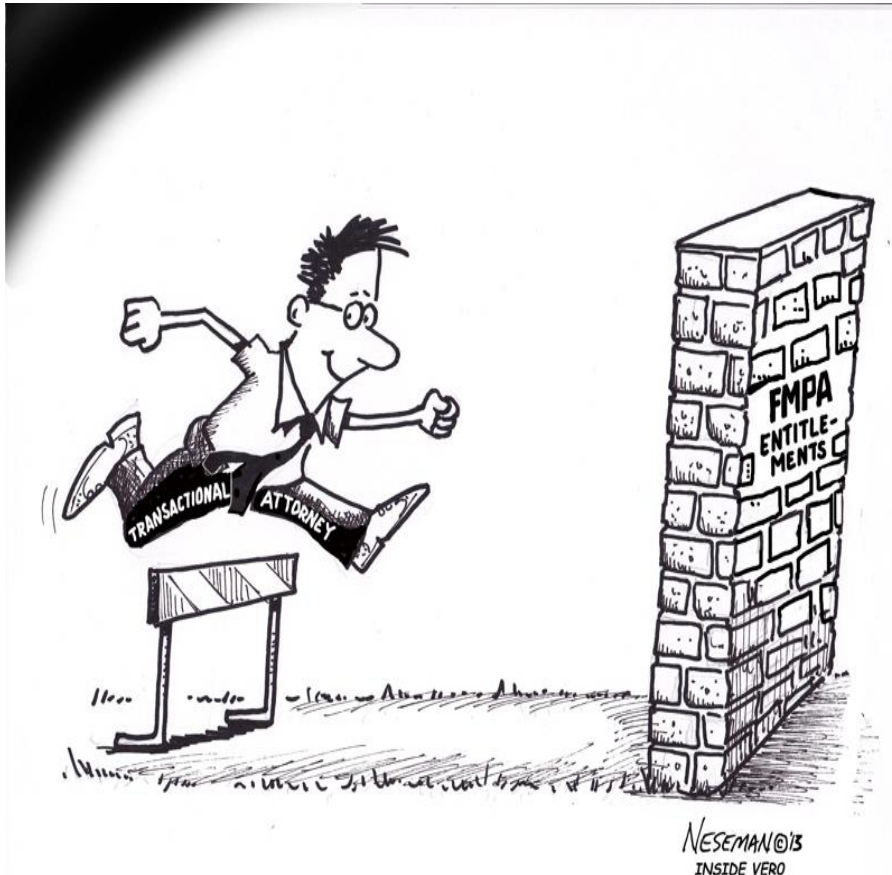
- ❑ Market infrastructure is outdated
- ❑ Corporate bond markets a nascent
- ❑ Regional integration waiting for Kenyan market re-organization



 Capital Markets are not playing significant role yet in Kenya's infrastructure development and PPP program



3. Development of PPP FCCL Management Framework



- The PPP Act, 2013 aspires to a **fiscally responsible** implementation of the PPP program and in doing so, NT has:
 - ❖ Developed a draft a sound **Fiscal Commitment and Contingent Liability (FCCL) Management Framework**;
 - ❖ Established an **FCCL Unit** within PDMO, to oversee the **implementation** and **institutionalization** of the FCCL Management Framework.



**THANK
YOU!**



QUESTIONS?