

Regulatory Update:

**THE 2025 PPP
GUIDELINES**

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Introduction



Infrastructure has been described as the bedrock upon which economies thrive. Nigeria's infrastructure deficit has thus been a major obstacle to realising its full economic potential. Nigeria's infrastructure deficit is manifested in the deteriorating state of road networks, the unreliable and frequently interrupted electricity supply, the poor condition of educational and healthcare facilities, and the substandard state of certain airports, among other critical inadequacies.¹ Inevitably, this affects the productivity of various establishments (private and public) as it involves the basic systems and services a society needs to work effectively.² This also has a negative impact on the country's suitability as a destination for FDI. In this regard, it is projected that Nigeria would require an estimated \$100 to \$150 billion annually to address the deficit over the next decade.³

In response to the above infrastructure deficit, the federal government has made concerted efforts at redressing same. Perhaps the chief remedy employed thus far is the utilisation of Public-Private Partnerships (PPPs). Essentially, these refer to collaborative agreements between the government and private concessionaires to finance, build and operate infrastructure projects to meet societal needs as well as generate profit for the parties to the agreement.⁴ Pursuant to its commitment to consolidate the extant framework on the subject as well as address any loopholes in same, the Nigerian government, on August 17, 2025, released new Guidelines to regulate the approval and performance of PPPs.

This article examines the new Guidelines and their implications for implementing Public-Private Partnership (PPP) agreements in Nigeria. It begins with an analysis of the role of PPPs in redressing infrastructure deficit, then proceeds to examine the existing legal framework governing PPPs, followed by a review of the key provisions introduced by the Guidelines. The discussion further addresses the oversight role of the Infrastructure Concession Regulatory Commission (ICRC), the standardisation of PPP project structuring, the practical implications for stakeholders, and the attendant challenges arising from the Guidelines.

1 Michael Ango, 'Bridging Nigeria's Infrastructure Deficit Through InfraCorp: Prospects, Challenges and Future Outlook,' (2022) Andersen Digest <https://drive.google.com/file/d/17IVeYfebTAUMDk2NKPKY_uXGGodJUHnQW/view> Accessed August 23, 2025

2 Financing Africa's Infrastructure Through PPP, <https://theafricancatalyst.com/financing-africas-infrastructure-through-ppp/>> Accessed August 23, 2025

3 Ibid

4 "Public-private partnerships," Digital Transformation Collaborative Finance Toolkit – Factsheets, 222nd session of the Executive Board, 1-16 October 2025, UNESCO <<https://www.unesco.org/en/dtc-finance-toolkit-factsheets/public-private-partnerships>> Accessed October 13, 2025.



The Role of Public-Private Partnerships (PPPs) in Redressing the Infrastructure Deficit



The infrastructure deficit, however, is both a gap and an opportunity. As evidenced in other jurisdictions, private sector participation is a veritable means of addressing the pitfalls in infrastructure. For instance, India's highway sector received \$20 billion in private investment between 2018 and 2023. This resulted in 53,000 kilometres of new roads in the Country.⁵

Also, in an Urbanisation workshop held in Beijing as far back as 2013, PPPs were recognised as a viable tool for a performance-based management framework to improve the quality of public services and minimise costs accordingly.⁶ Notably, the workshop was organised by the Chinese Ministry of Finance, the National Development and Reform Commission, the Asian Development Bank (ADB), the Research Committee hosted by the Institute of Fiscal Sciences, and the Regional Knowledge Sharing Initiative hosted by the ADB. The workshop gleaned from the large-scale use of PPPs in the People's Republic of China since the early 1990s, wherein over one thousand (1,000) PPP projects with a combined value exceeding \$100 billion were utilised in the delivery of essential services across transportation and communication, water supply, energy, wastewater management, among others.⁷

The African Development Bank has also lent its voice in this regard, stating that fostering partnerships between the private sector, infrastructure agencies, and regional economic communities is essential to addressing Africa's infrastructure challenges.⁸

5 Teslim Ololade Abass, 'Nigeria's Infrastructure Deficit: A Call for Capital Mobilisation' (June 23, 2025) Business Day <https://businessday.ng/opinion/article/nigerias-infrastructure-deficit-a-call-for-capital-mobilisation/> Accessed August 23, 2025

6 Asian Development Bank, 'Public-Private Partnerships in Urbanisation in the People's Republic of China' <https://www.adb.org/sites/default/files/publication/42860/public-private-partnerships-urbanization-prc.pdf#:~:text=It%20was%20accepted%20that%20PPPs%20can%20do,of%20public%20services%20and%20reduce%20their%20cost.> Accessed October 13, 2025

7 Ibid

8 Bank Group (ADBG) <https://www.afdb.org/fr/news-and-events/ppp-critical-to-bridging-africas-infrastructure-gap-say-experts-8113> Accessed August 23, 2025

The 2025 PPP Guidelines (The Guidelines)

Nigeria's Infrastructure Concession Regulatory Commission (ICRC or Commission) on August 17, 2025, unveiled new Guidelines for the development and execution of Public-Private Partnerships (PPPs) nationwide.⁹ Acting under its mandate in the ICRC Act, 2005 and on the strength of a recent presidential directive, the Commission introduced the framework at a stakeholder forum that brought together senior officials from federal MDAs directly involved in PPP delivery.

Notably, while unveiling the project, the Director-General Dr Jobson Ewalefoh, explained that the Guidelines reflect President Tinubu's broader reform agenda to expand private sector participation in the economy and mobilise non-public funds for infrastructure. He noted that the framework transfers certain approval powers to MDAs to expedite project preparation and execution. However, while MDAs assume greater responsibility, the ICRC will remain the central regulator, ensuring that transactions meet required standards. Dr. Ewalefoh added that the new dispensation comes with firmer accountability measures, warning that non-compliance will not be tolerated.¹⁰

9 Decentralisation of PPP Approvals will Catalyse Development, (2August 22, 2025) <https://thenationonlineng.net/decentralisation-of-ppp-approvals-will-catalyse-development/> Accessed September 1, 2025

10 ICRC issues new PPP Guidelines for MDAs, August 18, 2025 <https://punchng.com/icrc-issues-new-ppp-guidelines-for-mdas/> Accessed August 20, 2025



Legal and Policy Framework Governing PPPs in Nigeria



COMPLIANCE

The legal framework for regulating PPP projects in Nigeria comprises various legislations, some of which may overlap in their application to these projects. These laws are outlined below.

a. ***The Infrastructure Concession Regulatory Concession Act (ICRCA) (2005)***

The ICRCA is the foundation for the regulation of PPP projects in Nigeria. It provides the necessary legal framework for the Nigerian government to enter into constructive partnerships with private concessionaires for the initiation and completion of infrastructure projects relevant to the societal needs of the State. Specifically, the ICRCA Act provides that the Federal Government as well as its Ministries, Departments, Agencies and other relevant bodies may contract with any duly qualified private proponent for the financing, construction, operation or maintenance of any infrastructure that satisfies the financial requirements of the FBC.¹¹

b. ***The National Policy on Public-Private Partnership (2009)***

Under its inherent to regulate the operation of PPP projects in Nigeria, the ICRCA established the National Policy on Public-Private Partnerships to cover grey areas in the performance of PPP projects not covered by the parent Act. Amongst other initiatives, the policy outlines a step-by-step process for the initiation and execution of PPP projects to dispel all ambiguities arising from same. Notably, the policy regulates both new infrastructure and existing ones. This means it is applicable to both Brownfield and Greenfield concession projects.¹²

It is worthy of note that, aside from the above, there exist other laws regulating PPP-related projects in Nigeria under various contexts. These include: the Public Enterprises (Privatisation and Commercialisation) Act (1998), the Public Procurement Act (2007), the Fiscal Responsibility Act (2007), the Debt Management Office Act (2003), and the various state laws on Public-Private Partnerships. Notably, there are also sector-specific legislations, such as the Electric Power Sector Reforms Act, the Federal Highways Act, etc.

¹¹ Infrastructure Concession Regulatory Commission, s.1(1)

¹² Brownfield concessions involve the takeover and development of existing assets while greenfield concessions involve the development of assets from the infancy

Legal Status of The Guidelines

The Guidelines are issued pursuant to section 19 of the ICRCa. The section provides for the Commission's powers to establish general policy guidelines related to its functions. The Guidelines are thus an extension of the ICRCa and, accordingly, must be complied with by the relevant public and private stakeholders.

Moreover, Section 34(2) of the ICRCa also provides for the power of the Governing Board of the Commission to issue Guidelines to give full effect to the provisions of the Act. These twin provisions vest the Guidelines with the necessary legal backing to enforce compliance with the government and private sector proponents.

Key Reforms Introduced by The Guidelines

i. *Delegation of Approval Powers to MDAs*

The Guidelines specify relevant monetary thresholds for delegating applicable projects to the FEC, MDAs, and parastatals/agencies for approval. The aim here is to decentralise the approval structure to eliminate administrative bottlenecks that so easily characterise the PPP process, thereby facilitating the quicker execution of PPP projects.

S/N	MDA	Project Cost	Approving Authority
1	Ministries, Departments and Agencies (MDAs)	Above ₦20,000,000,000.00	The Federal Executive Council (FEC)
2	Ministries	₦20,000,000,000.00 and below	The Project Approval Board (PAB) of the Ministry
3	Parastatals/Agencies	Above ₦10,000,000,000.00 but below ₦20,000,000,000.00	The Project Approval Board (PAB) of the Supervisory Ministry
4	Parastatals/Agencies	₦10,000,000,000.00 and below	The Project Approval Board (PAB) of the Parastatal/Agency
5	MDAs	Any project that requires more than one agency to implement	The Federal Executive Council (FEC)

Table 1: Approval Thresholds for PPP Projects.
Source: PPP Regulatory Notice for MDAs¹³

Notably, the Guidelines apply to all PPP projects supervised by any Federal MDA involved in the financing, construction, operation, or maintenance of infrastructure. Therefore, regardless of the sector of the proposed concessionaire or the ministry or parastatal involved, all parties are mandated to comply with the provisions of the Guidelines. This creates a level playing ground for all the parties involved.

Additionally, all PPP projects to be implemented under the current regime shall be executed with the understanding that the private proponent will

13 PPP Regulatory Notice – August 2024, <https://www.icrc.gov.ng/wp-content/uploads/2025/08/PPP-REGULATORY-NOTICE-%E2%80%93-AUGUST-2025.pdf> Accessed August 26, 2025

finance the entire project and have no recourse to any form of guarantee or comfort letter from the government.¹⁴

ii. ***Oversight Role of the ICRC***

The implication of the above table is that the project approval process is now decentralised. Where, hitherto, PPP projects were stalled for inordinate periods due to bureaucracy, there now exists a streamlined procedure for approval with the government, many not reaching financial close. These new Guidelines offer a plausible remedy to the above. Other features of the new regime include:

- a. To maintain the ICRC's role as the chief regulator of PPPs, the Guidelines stipulate that, notwithstanding the new thresholds, the validity of every proposed PPP project is subject to the ICRC Certificate of Compliance. This means every MDA is required to obtain the Certificate of Compliance from the ICRC as a precondition for approval by either the Federal Executive Council (FEC) or the relevant Project Approval Boards of the respective MDAs. Approval granted without the certificate of compliance is deemed a nullity.¹⁵
- b. Pursuant to Section 20 of the ICRC Act, which mandates the ICRC to take custody of every concession agreement made under the Act and monitor compliance with the terms and conditions of such agreement, all MDAs are required to submit an original copy of any approved PPP agreement to the ICRC. This enables the ICRC to effectively monitor all PPP agreements submitted to it, verifying their terms and conditions. This also underscores the supervisory role of the ICRC, despite the new powers of MDAs, and further confirms the limits to such powers.
- c. The Guidelines also provide that the developed financial model to be used for the project will be reviewed by the ICRC to ascertain the project's financial viability and bankability.¹⁶
- d. The Guidelines further provide that the terms and conditions of any PPP project certified by the ICRC are sacrosanct and thus cannot be altered by the relevant MDA without the prior written approval of the Commission.

¹⁴ Ibid

¹⁵ Ibid

¹⁶ Public-Private Partnership (PPP) Project Financial Model Guide, <https://www.icrc.gov.ng/wp-content/uploads/2025/08/PUBLIC-PRIVATE-PARTNERSHIP-PPP-PROJECT-FINANCIAL-MODEL-GUIDE.pdf> Accessed September 1, 2025

iii. ***Mandatory Financial Model for PPPs***

The Guidelines are designed to ensure that PPP projects are only approved if there is enough financial guarantee for their success. This guarantee speaks not merely to the credit-worthiness of the project, but to other relevant considerations such as risk capital, viability gap funding, existing capital project merit and so forth. Pursuant to the above, the Guidelines defines certain metrics used to assess the bankability of a project. These include the Net Present Value, Internal Rate of Return, and the Profitability Index, among others.¹⁷

iv. ***Standardisation of PPP Project Structuring***

The new Guidelines provide practical steps for preparing the Outline Business Case (OBC) and Full Business Case (FBC), as well as guidance on procurement routes and PPP agreements.¹⁸ The Guidelines thus mandate the preparation of an OBC and FBC, along with the attendant financial model and risk assessment, for the validation of a PPP project.

The value of this innovation lies in its contrast to the ICRC Act (2005), which did not provide for the standardisation of PPP projects in the sense of providing guidance notes on developing an OBC and FBC for the quality control of the projects to be embarked upon.¹⁹ To remedy this loophole, the ICRC, exercising its inherent powers to enact new laws, had earlier enacted the ICRC Public Private Partnership Regulations (2014).

Notably, Regulation 11 mandates that a Public Infrastructure Entity (PIE) prepare an Outline Business Case (OBC) assess key metrics as the project's risk, value for money as well as suitability for Viability Gap Funding.²⁰ Upon approval, Regulation 19 mandates that a Full Business Case (FBC) assessment be conducted. This will include a detailed analysis evidencing financing, compliance checks, as well as an implementation plan. The consolidations of these regulations with the practical steps of the Guidelines thus make for a robust legal framework on the standardisation of PP project structuring.

¹⁷ Ibid

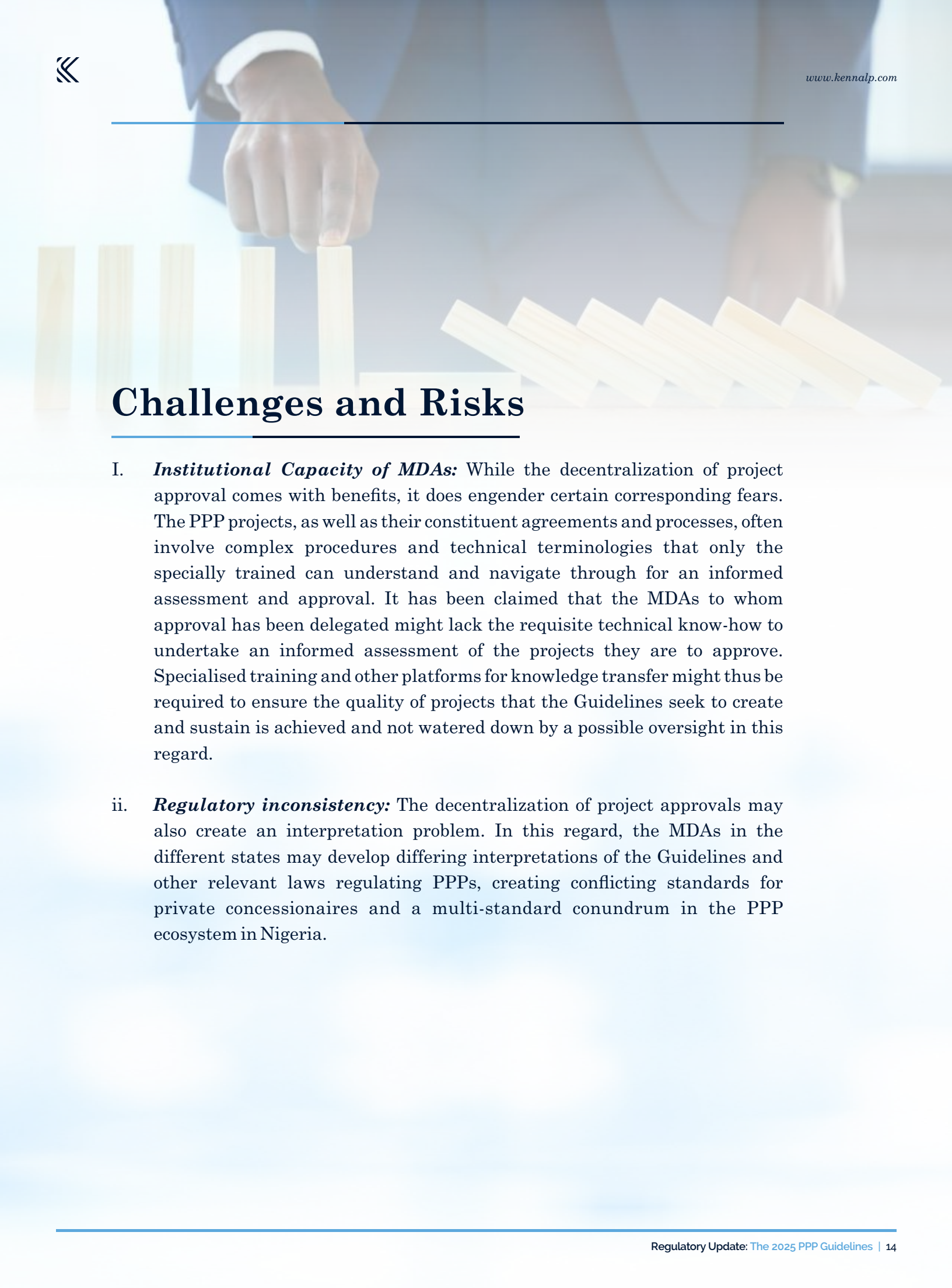
¹⁸ Ewache Ajefu 'Presidential Directive: ICRC Issues Guidelines to Fast-Track PPPs' Business Africa Digest, August 17, 2025, <https://businessafricadigest.com/presidential-directive-icrc-issues-guidelines-to-fast-track-ppps/> Accessed August 26, 2025

¹⁹ An Outline Business Case (OBC) sets out the initial justification and viability of a proposed project, while a Full Business Case (FBC) provides the final, detailed justification confirming its affordability, value for money, and readiness for implementation.

²⁰ ICRC Public Private Partnership Regulations (2014), Reg. 11(2)

Practical Implications for Public Infrastructure Entities and Concessionaires

- i. ***Enhanced certainty and transparency:*** The guidelines usher in a new era of procedural and financial certainty. They spell out in detail the requirements for a viable concession project, emphasizing strict compliance with the specified financial metrics earlier highlighted for a sound assessment of prospective projects. The Guidelines also provide a detailed outline guide to the PPP process. Perhaps the greatest initiative under this heading is the decentralization of the approval process which ultimately makes for improves transparency in the PPP system.
- ii. ***Faster turnaround time:*** Inevitably, with the decentralization in the approval process come faster initiation of project performance and, potentially, faster execution of the said project. This means private concessionaires can accelerate their financial close obligations under the relevant concession agreement and commence with the project implementation accordingly. This also saves valuable time that might have resulted in financial losses (for instance, currency depreciation), and other liabilities for either or both of the PIE and private concessionaire.
- iii. ***Better risk sharing:*** the Guidelines ensure that certain structures are well placed to identify project risks early enough in the initial viability assessments (for instance, the OBC). This ensures that early enough in the approval phase, parties to the agreement can agree on a suitable risk sharing arrangement to avoid pitfalls later on in the project implementation phase.



Challenges and Risks

- I. ***Institutional Capacity of MDAs:*** While the decentralization of project approval comes with benefits, it does engender certain corresponding fears. The PPP projects, as well as their constituent agreements and processes, often involve complex procedures and technical terminologies that only the specially trained can understand and navigate through for an informed assessment and approval. It has been claimed that the MDAs to whom approval has been delegated might lack the requisite technical know-how to undertake an informed assessment of the projects they are to approve. Specialised training and other platforms for knowledge transfer might thus be required to ensure the quality of projects that the Guidelines seek to create and sustain is achieved and not watered down by a possible oversight in this regard.
- ii. ***Regulatory inconsistency:*** The decentralization of project approvals may also create an interpretation problem. In this regard, the MDAs in the different states may develop differing interpretations of the Guidelines and other relevant laws regulating PPPs, creating conflicting standards for private concessionaires and a multi-standard conundrum in the PPP ecosystem in Nigeria.



Conclusion

The 2025 Guidelines represent the commitment of the Nigerian government to infrastructure development. This is so as they aimed at addressing the weaknesses in the erstwhile regime, notorious for clogging the effective implementation of sound PPP projects through various loopholes, such as bureaucratic delays, insufficient quality control, among others. The success of the Guidelines will, however, depend on various factors, including the institutionalised training of MDAs for efficient quality control. The success of the new regime will also depend on the strength of the implementation of the extant laws as well as the homogeneity of their application across the different states. If these and other relevant considerations are taken into account, then Nigeria's improved investor relationship as far as PPP projects are concerned is not merely in sight; rather, it has begun.



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