



## EDO STATE

# A LAW TO PROVIDE FOR THE EDO STATE PUBLIC-PRIVATE PARTNERSHIPS, ESTABLISH THE EDO STATE PUBLIC-PRIVATE PARTNERSHIP AGENCY, ENHANCE INFRASTRUCTURE AND SERVICE DEVELOPMENT IN EDO STATE AND FOR CONNECTED PURPOSES.

### Enactment

1. Be it enacted by the Edo State House of Assembly and by the authority of same as follows-

### Citation

2. This Law may be cited as the Edo State Public-Private Partnership Law, 2025.

### Commencement

3. This Law shall come into force on the \_\_\_\_\_ day of \_\_\_\_\_ 2025

### PART I

#### PRELIMINARY PROVISIONS

### Application

4. (1) This Law shall apply to the State or Local Government and their Ministries, Departments, Agencies or State-owned Enterprises for the construction, rehabilitation, maintenance, operation or management of a public infrastructure, facility, or asset, or the provision of a public service undertaken as a Public-Private Partnership arrangement.  
(2) Notwithstanding any provision of this Law, the following shall be excluded from its application:
  - (a) Projects or contracts with a total capital cost below the threshold value to be specified by regulation or determined by the Agency from time to time, in consultation with the Ministry of Finance and approved by the Governor;
  - (b) Contracts for the routine supply of goods or services which do not involve the transfer of significant project risk or the long-term use of public assets by a private entity;
  - (c) Internally funded projects undertaken entirely by Government Ministries, Departments, or Agencies without private sector financing, operation, or maintenance.

- (d) Defense or security-related infrastructure, where national or state security interests require exclusion from open procurement or PPP frameworks, as determined by the Governor on the advice of the relevant authorities;
- (e) Any other class of projects, sectors, or transactions expressly exempted by regulation made under this Law.

**Objectives of the Law**

5. The purpose of this Law is to:
  - (a) Create a comprehensive legal framework that facilitates and governs Public-Private Partnerships (PPP) in Edo State, ensuring effective collaboration between the public and private sectors.
  - (b) Establish the Edo State Public-Private Partnership Agency, which will serve as the central coordinating body for Public-Private Partnership initiatives, providing oversight, support, and guidance for all Public-Private Partnership projects within the State.
  - (c) Enhance the development and improvement of infrastructure and public services in Edo State through strategic partnerships with private sector entities, leveraging their expertise, efficiency, and investment capabilities.
  - (d) Promote sustainable and inclusive economic growth in Edo State by ensuring that Public-Private Partnership projects align with the State's development goals, benefit local communities, and adhere to principles of transparency, accountability, and environmental and social governance.
6. There is established by this Law a body corporate known as the Edo State Public-Private Partnership Agency (in this Law referred to "the Agency").
  - (1) The Agency shall be the primary agency responsible for the development, implementation, and monitoring of Public-Private Partnership projects in the State, and be the advisory body to the Governor on Public-Private Partnerships.
  - (2) The Agency:
    - a. shall be a body corporate with perpetual succession and a common seal;
    - b. may sue and be sued in its corporate name; and
    - c. be entitled to hold, purchase, take possession of, lease, sell or otherwise dispose of any property, movable or

immovable, for the performance of its functions under this Law.

- (3) The Agency shall be independent in the discharge of its functions.
- (4) The headquarters of the Agency shall be situated in Benin City, Edo State.
- (5) The application of this law shall extend to:
  - a. the development, procurement, execution and management of all new Public-Private Partnership projects across all sectors initiated after the commencement of this Law in Edo State; and
  - b. existing Public-Private Partnership projects initiated prior to the commencement of this Law (in this law referred to as "legacy projects").

**Establishment and Composition of Public-Private Partnership Board.**

7 (1) There is established a Board for the Agency to be known as the Public-Private Partnership Board (in this Law referred to as "the Board") which shall be charged with the general control and superintendence of policies, finances and property of the Agency.

(2) The Board shall be comprised of the following:

- a. An Executive Chairman who shall have proven qualifications and possess at least 10 years relevant experience in investment promotion, economic planning, finance or cognate business experience at a senior management level;
- b. An Executive Chairman shall be appointed by the Governor subject to ratification of the Edo State House of Assembly;
- c. a representative from the Ministry responsible for Works not below the rank of an Assistant Director;
- d. the Secretary of the Board who shall be a legal practitioner or Chartered Accountant or a member of the Institute of Chartered Secretaries and Administrators of Nigeria and with at least 7 years post qualification experience to be appointed by the Governor

- e. a representative not below the rank of an Assistant Director from:
  - i. Edo State Public Procurement Agency;
  - ii. Edo State Ministry of Physical Planning, Urban & Regional Development;
  - iii. Ministry of Environment and Sustainability;
  - iv. Edo State Ministry of Finance;
  - v. Edo State Ministry of Justice.
- f. Three Executive Directors representing the (3) three Senatorial Districts of the State.
  - (i) The Executive Director, Project Planning and Monitoring who shall possess a minimum of 10 years post qualification professional experience in Public Infrastructure Development, Project Monitoring and Evaluation or any other related field.
  - (ii) The Executive Director, Project Development and Structuring who shall possess a minimum of 10 years post qualification professional experience in Infrastructure Project Development, Public-Private Partnership Project Finance or any other related field.
  - (iii) The Executive Director, Legal and Advisory Services who shall possess a minimum of 10 years post-call professional qualifications experience in commercial, corporate or regulatory legal service.

(3) In making appointments to the Board, the Governor is required to consider and promote gender equality and disability inclusion.

**Functions of the Board**

- 8. The Board shall be responsible for the overall policy and strategic direction of the Agency and, without prejudice to the generality of the foregoing, shall:
  - (1) Approve the internal rules, regulations, and operational guidelines of the Agency, subject to the provisions of this Law;
  - (2) Monitor and evaluate the implementation of policies, strategies, plans, and regulations of the Agency;
  - (3) Ensure the appointment and deployment of qualified

**Appointment of the Executive Chairman and Members of the Board**

**Conflicting Interest**

personnel in accordance with the approved organogram of the Agency;

(4) Ensure the regular training and capacity development of staff of the Agency;

(5) Prepare and submit to the Governor an annual report on the operations and performance of the Agency;

(6) Submit to the Governor the audited annual financial statements and accounts of the Agency;

(7) Approve the schedule of duties and responsibilities of staff of the Agency, upon recommendation by the Director-General;

(8) Consider and approve all programs, plans, and Public-Private Partnership initiatives proposed by the Agency;

(9) Consider and approve the annual budget of the Agency prior to its submission to the appropriate authorities for appropriation;

(10) Issue to the Agency such policy directives, whether of a general or specific nature, as may be necessary for the effective discharge of its functions under this Law;

(11) Formulate corporate objectives and performance targets for the Agency, and ensure strict compliance with same;

(12) Perform such other functions as may be necessary or incidental to the attainment of the objectives of this Law.

9. (1) The Executive Chairman and members of the Board, shall be appointed by the Governor subject to the ratification by the House of Assembly upon such other terms and conditions as the Governor may deem fit.

(2) The Executive Chairman and members of the Board shall be persons of proven and high integrity.

10. Before appointing a person as a member of the Board, the Governor shall satisfy himself that such person sought to be appointed has no competing professional obligations or personal, private or financial interests which can influence their behavior and decision-making in a way that is counter to the best interest of the Agency.

**Term of Members of the Board**

11. Every member of the Board shall hold office for a term of four (4) years and shall on the expiration of such term be eligible for reappointment for one further term of four (4) years and no more.

**Cessation of Office**

12. (1) The Executive Chairman or a member of the Board shall cease to hold office:

- (a) upon the expiration of a term of four (4) years;
- (b) if he resigns by notice in writing to the Governor;
- (c) if he is adjudged of declared unable or of unsound mind under any law in force in any part of Nigeria;
- (d) if he is unable to perform the functions of his office by reason of infirmity of the body or mind;
- (e) if he is convicted of a felony or any offence involving dishonesty or fraud;
- (f) if he is found to be bankrupt and has been so adjudged by a court of competent jurisdiction.

(2) Notwithstanding the provisions of subsection (1), the Governor may remove a member of the Board upon being satisfied that it is in the public interest to do so.

(3) Where a vacancy occurs in the Board before the expiration of the term for which a member was appointed, another person representing the same interest as that member shall be appointed to the Board, by the Governor for the unexpired term.

**Conduct of Board Members**

13. (1) A member of the Board who is directly or indirectly interested in any issue under consideration or to be considered by the Agency:

- (a) shall disclose the nature of his interest at a meeting of the Board as soon as they are informed of the agenda, to immediately inform the Board of the basis of their interests; and
- (b) shall not take part in any deliberation or decision of the Board with respect to that issue.

(2) A disclosure of interest made under this Section shall be recorded in the minutes of the meeting at which it is made.

**Remuneration**

14. The Executive Chairman and members of the Board shall be paid

such emoluments, allowances and benefits as the Governor may approve.

**Seal**

15. The seal of the Agency shall be such as may be determined by the Agency and the affixing of the Seal shall be authenticated by the signatures of the Executive Chairman (or other member authorized by the Agency to act on that behalf) and the Secretary of the Board.

**Power to Co-opt**

16. Where the Agency desires to obtain the advice of any person upon any matter, the Board may co-opt such member to be a member of such meeting as may be required, and any person so co-opted shall have at such meetings all the rights and privileges of a member of the Board, save that he shall not be entitled to vote on any question or be counted to form a quorum of the Board.

**Meetings of the Board**

17. (1) The Board shall meet to hold its ordinary meeting once every quarter at such a place and time as the Executive Chairman may determine to decide on matters pertaining to the affairs of the Agency.  
(2) Where at least two (2) members, by notice in writing signed by them, request the Executive Chairman to convene an extraordinary meeting of the Board for the purposes specified in such notice, the Executive Chairman shall, upon the receipt of such notice, convene an extraordinary meeting for those purposes at the earliest convenient date.  
(3) The quorum at any meeting of the Board shall be five (5) members including the Executive Chairman.  
(4) The meeting of the Board may be held, in-person, virtually or through a hybrid model  
(5) The Executive Chairman shall preside at all meetings of the Board at which he/she is present, and in his/her absence, any other member of the Board may be appointed by the members present to preside at the meeting.  
(6) The validity of any act or proceeding of the Board shall not be affected by any vacancy in the membership thereof, or by any defect in the appointment of a member thereof, or by reason that some person who was not entitled to do so took part therein.

**Functions and Powers of the Agency**

- (7) Every question shall be decided by a majority of votes of the members present at the meeting. In the case of an equality of votes on any question, the person presiding at the meeting shall have a second or casting vote.
- (8) The Board shall have power to make standing orders, not inconsistent with the provisions of this Law with respect to the holding of meetings of the Board, the notice to be given of such meetings, the proceedings thereat, the keeping of minutes of such proceedings and the custody and production for inspection of such minutes.
- (9) The Board may, subject to the provisions of its standing orders, determine its procedure.
- (10) The Board may appoint one or more committees to carry out such of its functions as it may delegate, subject to such conditions as it may specify.
- (11) A committee appointed under this section:
  - (a) may comprise persons who are not members of the Board;
  - (b) shall perform its functions in accordance with the terms of reference and duration set by the Board;
  - (c) and any decision or recommendation made by a committee shall have no effect until it is confirmed by the Board.

18. (1) The functions of the Agency are to:

- (a) Initiate, promote, and coordinate Public-Private Partnership projects across all stages of the project lifecycle, including identification, screening, preparation, procurement, implementation, contract management, and evaluation, in collaboration with Contracting Authorities and other relevant Ministries, Departments, and Agencies (MDAs)
- (b) act on behalf of the Government in Public-Private Partnerships and develop optimal financing strategies for public investment projects.

- (c) develop an open, transparent, efficient, and equitable process for managing the identification, screening, prioritization, development, procurement of projects, which may include comprehensive project proposals, feasibility studies, risk allocation frameworks, and financial models;
- (d) assist contracting authorities, where the Agency considers it necessary to design, identify, select, prioritize, appraise, evaluate, and negotiate projects
- (e) oversee contract management frameworks for Public-Private Partnership projects in the State; and
- (f) Facilitate the resolution of such disputes as may arise from time to time in the course of executing a Public-Private Partnership Agreement
- (g) determine the framework for engaging consultants, specialists, and advisers for Public-Private Partnerships;
- (h) Establish standards, procedures, practice guidelines and regulations for the execution of Public-Private Partnerships
- (i) conduct detailed needs assessments to identify and define priority public sector needs that can be addressed through Public-Private Partnerships;
- (j) establish measures to eliminate the constraints that limit the realization of benefits expected from a Private-Public Partnership
- (k) provide capacity building to, and advise contracting authorities or other parties involved in the planning, coordinating, undertaking or monitoring of Public-Private Partnership projects within the budget framework
- (l) verify and monitor performance of concession agreements and summon parties where necessary
- (m) support the development and maintenance of a

comprehensive and reliable database on investment opportunities for effective planning especially in areas where the State has demonstrable comparative and competitive advantages

- (n) collate, analyze and disseminate information including data on the fiscal commitment and contingent liabilities of the Government in relation to a project
- (o) maintain a record of all project documentation and projects
- (p) ensure that the procurement process relating to a project conforms to procurement best practices
- (q) monitor contingent liabilities, accounting and budgeting issues related to Public-Private partnerships.
- (r) perform such other functions as may be conferred by the Governor or as are incidental to the effective performance of its mandate under this Law.

(2) The Agency has power to:

- (a) publish a list of approved Projects to be carried out in the State
- (b) liaise and co-ordinate all State agencies and parastatals with respect
- (c) to participation in the provision and development of public infrastructure Projects within the State
- (d) concedes public infrastructure or assets to private investors for design, construction, operation, management, control, maintenance, rehabilitation, and financing subject to the approval of the Executive Governor
- (e) assess mandated documentation and issue certificates to evidence compliance to this Law;
- (f) negotiate with prospective private partners;
- (g) obtain relevant information from government agencies or private entities by way of summon or

invitation;

- (h) hold equity or other interest on behalf of the State in a concessionaire or other entity involved in the Public-Private Partnership arrangement with the State for such consideration and on such terms and conditions as it may agree with such persons. Provided that in exercising this power, the Agency shall aim to ensure that such interest is:
  - (i) minimal and non-controlling, except where the Agency is acting as a promoter of a project and is temporarily holding a controlling interest while seeking suitable private partners
  - (ii) in compliance with applicable laws, and that all rights attaching to such interest are exercised in accordance with appropriate corporate governance standards and best practices, including entry into shareholders' or other agreements setting out the rights and liabilities of the parties;
  - (iii) independent and devoid of political interference; and
  - (iv) exercised solely to advance the objectives of the Public-Private Partnership arrangement and to uphold the integrity of the relevant contractual framework.
- (i) award Concessions to persons interested in Public-Private Partnerships for the design, construction, operation, management, control, maintenance, rehabilitation and financing of public infrastructure Projects within the State
- (j) appoint professional advisers or consultants and delegate any of its powers under this Law to such advisers or consultants
- (k) inspect and monitor concessionaires and parties to a Public-Private Partnership agreement for compliance with this Law and mutual agreements

- (l) designate public infrastructure or assets as service charge, user fee, or toll-paying;
- (m) liaise and cooperate with government agencies and parastatals for private investors' participation;
- (n) approve amounts charged by private or public operators as toll or user fees;
- (o) establish and operate an information and management system for public infrastructure, assets, and projects;
- (p) engage consultants, advisers, and other services necessary for its functions;
- (q) organize mandatory public consultations on PPP related matters before the issuing new regulations; and
- (r) perform other related functions as may be assigned by the Governor.

(3) The Agency may, with the approval of the Governor make general regulations for the proper implementation and enforcement of the provisions of this Law, and without prejudice to the generality of the foregoing, make regulations with respect to all or any of the following matters:

- (a) the alignment, review, and management of inherited legacy PPP projects;
- (b) criteria and procedures for the qualification and approval of private sector entities eligible to participate in projects under this Law;
- (c) guidelines for the preparation, submission, and evaluation of Outline Business Cases and Full Business Cases;
- (d) procedures for effective stakeholder engagement;
- (e) requirements for the collection, analysis, and reporting of data related to PPP projects;
- (f) guidelines on system of fees and charges associated with projects under this Law;
- (g) guidelines for collaboration with relevant government

**Management and Staff  
of the Agency**

ministries, departments, and agencies;

(h) organize mandatory public consultations on PPP related matters before issuing new regulations; and

(i) any other matters necessary for the proper implementation and enforcement of the provisions of this Law.

19. (1) The PPP Agency may employ such other staff for the proper and efficient performance of its functions, and on such terms and conditions as it may determine.

(2) The Executive Chairman shall be assisted in the performance of his duties by the executive Directors in charge of;

(a) Project Research, Planning and Monitoring;

(b) Project development and structuring;

(c) Legal and Advisory services; and

(d) Such other departments as the Agency may deem necessary to create.

(3) The PPP Agency shall, subject to the approval of the Governor, fix the appropriate conditions of service, remuneration, allowances, fringe benefits, pension and gratuity scheme, and other benefits for the executive officers and staff of the Agency, which conditions of service shall be competitive in relation to the PPP sector and would enable it to attract and retain high quality personnel.

(4) Employees of the PPP Agency shall be entitled to pensions and other retirement benefits in accordance with the applicable pension laws in the State, and a gratuity or severance payment scheme constituted under a trust deed and any other relevant Law.

(5) Without Prejudice to subsection (4), nothing in this Law shall prevent the appointment of any person to any office on terms which preclude the grant of Pension, gratuity or other retirement benefits with respect to that office.

(6) The Agency shall develop and implement, by regulation, a framework for the internal governance of its human

resources, which shall include provisions for:

- (a) regular staff performance appraisals based on objective benchmarks and key performance indicators;
- (b) disciplinary procedures to address breaches of duty or misconduct, in accordance with principles of fairness and due process; and
- (c) periodic human resource audits to ensure institutional efficiency, transparency, and compliance with applicable employment standards.

**Tenure of Office**

20. The Executive Chairman and Executive Directors of the Agency shall hold office for four (4) years in the first instance and shall be eligible for re-appointment by the Governor for subsequent term of four (4) years and no more.

**Disqualification from the Agency**

21. (1) The Executive Chairman or an Executive Director shall cease to hold office if;

- (a) they resign their appointment as a member of the Agency;
- (b) they become bankrupt or make a compromise with their creditors;
- (c) they are convicted of a felony or of any offence involving dishonesty or corruption or any other criminal offence by a competent court or Tribunal
- (d) they become incapable of carrying out the functions of their office either arising from an infirmity of the mind or body.
- (e) they are guilty of allegations of gross misconduct in the discharge of their duties

(2) The Executive Chairman and Executive Director shall be paid such remuneration and allowances as are applicable to similar Agencies of the Edo State Government.

**Management of the Agency**

22. (1) The affairs of the Agency shall be governed by the management team of the Agency led by the Executive Chairman.

(2) The Agency shall;

- (a) take decisions on all issues pertaining to Public-

**Executive Chairman  
of the Agency**

Private Partnership in the State and recommend same to the Executive Governor;

- (b) advise on all issues pertaining to policy formulation, evaluation of operational guidelines and other required statutory provisions of the Agency;
- (c) determine the framework of engagement of consultants, specialists and/or advisers for the Public-Private Partnership projects;
- (d) plan and recommend budgets for the Agency; and
- (e) create departments for the Agency as it deems necessary.

23. (1) The Governor shall appoint for the Agency an Executive Chairman who shall be of unquestionable integrity and character with a minimum of ten (10) years cognate experience in relevant field of specialization and registered with appropriate professional bod(ies)

(2) The Executive Chairman shall:

- (a) be the Chief Executive Officer of the Agency;
- (b) be responsible for policy direction and the day to day operations of the Agency;
- (c) hold office upon such terms and conditions as may be contained in the letter of appointment; and
- (d) hold office for a period of four years in the first instance, and may be reappointed for another term of four years only.

(3) The Executive Chairman may resign his appointment by notice in writing to the Governor at least one month prior to their desired last day of work.

(4) The resignation notice in subsection (2) shall state the effective date of resignation and may include a brief explanation for the resignation.

(5) Upon receipt of the Executive Chairman's resignation notice, the Governor;

- a. shall acknowledge receipt in writing within 14

business days.

- b. may request the Executive Chairman to remain in office for such length of time as may be necessary for a smooth handover; and
- c. shall initiate the process for selecting a new Executive Chairman subject to the powers in subsection (1) of this section.

**Other Staff of the Agency**

24. (1) The Agency shall appoint staff necessary for the Agency to perform its functions

(2) Staff of the Agency shall receive remuneration and benefits, including salary, allowances, and pensions, following the State Civil Service salary structure.

(3) Notwithstanding the provisions of subsection (2) of this section, the Governor may, upon the recommendation of the Agency, approve such allowances and benefits for the Executive Chairman or any other Staff of the Agency.

**Pension**

25. Service in the Agency shall be pensionable for the purposes of any applicable public service pension scheme in the State.

### **PART III** **ESTABLISHMENT OF THE EDO STATE PPP PROJECT DEVELOPMENT FUND**

**Establishment of the Edo State PPP Project Development Fund (PPDF)**

26. (1) There is established for the Agency a fund known as the Edo State Public-Private Partnership Project Development Fund (the "Fund").

(2) The Fund shall be a separate account maintained by the Agency in collaboration with the Ministry of Finance for the purpose of receiving, managing, and disbursing resources for Public-Private Partnership projects in the State.

(3) The following sources shall contribute to the Edo State Public-Private Partnership Fund:

- (a) Allocations from the State budget
- (b) Grants, loans, or other forms of financial assistance from the Federal Government, international organizations, or private entities specifically designated for Public-Private Partnership projects.

- (c) User fees or tolls collected from Public-Private Partnership projects, where such fees or tolls are authorized by law and a user agreement between the State and the private partner.
- (d) Proceeds from the commercialization of assets related to Public-Private Partnership projects, following a waterfall approach or other revenue sharing agreement established in the project agreement; and
- (e) Any other lawful source of income approved by the Edo State House of Assembly.

(4) Subject to the approval of the Governor, the Fund may be used for such purposes as may include;

- (a) providing financial support for the development, preparation, and implementation of Public-Private Partnership projects;
- (b) contributing to the equity or debt financing of Public-Private Partnership projects;
- (c) covering transaction costs associated with Public-Private Partnership projects;
- (d) providing financial guarantees or security for Public-Private Partnership projects, subject to approval of the Governor;
- (e) covering allowances, salaries and other emoluments of members and staff of the Agency, subject to the Governor's approval; and
- (f) covering the administration cost of the Agency.

(5) Administration Fund

*Agency Account*

27. The Agency shall:

- (a) operate an account with a bank or banks in the State and the signatories to the account shall be the Executive Chairman and the head of the accounts department, or in their absence their designated representative as the case may be.
- (b) keep proper books of account and maintain accurate

**Environmental and Social Impact Assessment**

records of its income and expenditure for each financial year;

(c) appoint reputable external auditors from a list approved by the Auditor-General of the State, who shall audit the accounts of the Agency at the end of each financial year;

(d) forward the report of the external audit to the Office of the Auditor-General of the State no later than two (2) weeks after submission of the report by the external auditor;

(e) within three (3) months after the end of each financial year, submit through the Governor to the State Executive Council, an annual report on the activities and performance of the Agency, including the audited accounts and the auditor's comments thereon;

(f) cause the report in paragraph (f) to be published in the State Government Official Gazette and its website.

28. (1) All Public-Private Partnership projects proposed in the State by a contracting authority or qualified private entity, shall, prior to the approval and implementation, be subject to an Environmental, Climate and Social Impact Assessment.

(2) The Environmental, Climate and Social Impact Assessment in subsection (1) shall be conducted by a contracting authority or qualified private entity to be named by the Agency.

(3) The objectives of the Environmental, Climate and Social Impact Assessment shall be to:

(a) identify and evaluate the potential environmental, climate and social impacts of the proposed Public-Private Partnership project, both positive and negative, direct and indirect, and cumulative;

(b) propose measures to mitigate adverse environmental, climate and social impacts, and enhance positive impacts;

(c) develop an Environmental, climate and Social Management Plan to implement the proposed mitigation measures and monitoring activities;

(d) ensure that the views and concerns of stakeholders,

including affected communities and civil society organizations, are incorporated into the project design and implementation; and

(e) promote sustainable development and environmental protection in the implementation of Public-Private Partnership projects in the State.

(4) The Environmental, Climate and Social Impact Assessment process shall be conducted in strict accordance with the guidelines and procedures prescribed by the relevant environmental authorities in the State with guidance from equivalent federal laws.

(5) The Environmental, Climate and Social Impact Assessment process shall include:

- (a) screening and scoping;
- (b) baseline studies;
- (c) impact assessment;
- (d) mitigation measures;
- (e) Environmental, Climate Change and Social Management Plan;
- (f) reporting and review; and
- (g) monitoring and evaluation.
- (h) stakeholder consultation and public disclosure;

(6) The Environmental, Climate and Social Impact Assessment process shall involve meaningful consultation with stakeholders, including affected communities, civil society organizations, relevant government agencies, and other interested parties.

(7) The draft Environmental, Climate and Social Impact Assessment report shall be made available to the public for review and comment before finalization.

(8) The final Environmental, Climate and Social Impact Assessment report shall be submitted to the Agency for approval.

**PART IV**  
**LEGAL AND REGULATORY FRAMEWORK**

29. (1) Public-Private Partnerships undertaken in Edo State shall adhere to the core principles of transparency, accountability and value for money.

(2) To promote transparency, the Agency shall:

- (a) provide clear and accessible information to all stakeholders throughout the project lifecycle, from selection criteria to contracting terms, performance data, and ongoing monitoring;
- (b) Without prejudice to Section 30 of this Law, ensure that the selection process for private partners include public advertisements, competitive bidding, and clear evaluation criteria;
- (c) maintain a PPP dedicated user-friendly website containing comprehensive information on ongoing and planned Public-Private Partnership projects, including tender documents, awarded contracts, and project progress reports, subject to confidentiality and security considerations; and
- (d) Publish annual reports detailing its activities, project pipeline, and financial performance, which shall be readily available on the website.

(3) To ensure accountability, the Agency shall

- (a) Ensure that only business entities registered under the Companies and Allied Matters Act be eligible to enter into Public-Private Partnership agreements with relevant public sector entities in the State to allow for public verification of legal status and corporate governance standing;
- (b) Establish a clear and efficient complaints mechanism for reporting suspected corruption or irregularities in the Public-Private Partnership process, with a dedicated channel for easy reporting;

**Project Identification and Selection Process**

(c) Conduct regular audits and evaluations of its activities and projects, to be carried out by independent bodies to assess adherence to best practices and value for money;

(d) Strengthen performance monitoring through the establishment of a framework that tracks projects against pre-defined benchmarks and key performance indicators;

(e) Publish regular reports on project progress, challenges encountered, and achieved outcomes, which shall be submitted to the Agency of the Governor through the Agency for review and made accessible to the public.

30. (1) The Agency shall by regulation establish a transparent and accountable process for the identification, selection, and implementation of Public-Private Partnership projects in the State.

(2) A project may originate from a public sector entity or a qualified private sector entity.

(3) A project shall not be identified as a potential Public-Private Partnership project unless:

- (a) the objective of the project is for the development of public infrastructure or provision of public services within an eligible sector;
- (b) a thorough needs assessment that clearly define the public need or problem that the Public-Private Partnership project aims to address is conducted;
- (c) the project is capable of risk allocation between the State and Private Partner to ensure benefits based on the principle of value for money;
- (d) the project has an operational period of at least five years and is capable of providing stable and

sustainable services to users, for the entirety of its lifespan under the framework of the Public Private Partnership Contract;

(e) where the Agency is investing funds in the project, it must have identified the applicable budgetary allocation demonstrated, how it intends to raise the necessary funds and the sources of such funding;

(f) the project is viable and sustainable from project cash flows, grants, subsidies or other ancillary sources of income;

(g) the risks of the project are identifiable and shall be allocated in such a manner that the Agency shall derive quantifiable benefits from passing on certain risks to the Private Partner;

(h) any assets of the State that are to be contributed as part of the Public-Private Partnership project are available or can be made available before the commencement of the Public-Private Partnership agreement or can reasonably be acquired for the purposes of the Public Private Partnership agreement; and

(i) such other criteria that the Agency may by regulation determine from time to time.

**Issuance of Compliance  
Certificate of Outline  
Business Case**

31. (1) Where a project meets the criteria specified in Section 30 of this Law, the contracting authority or a qualified private sector entity shall prepare an outline business case and submit it to the Agency for review.

(2) The outline business case may be prepared in accordance with the provisions of this Law, and shall indicate whether the contracting authority considers that there is likely to be a viability gap in the project and whether it will be seeking viable gap funding for the project.

(3) The project's feasibility shall be assessed based on the outline

business case and all other relevant information available to the Agency.

(4) Within 60 days of the submission of the outline business case to the Agency, the Agency may, after consultation with relevant authorities, issue to the contracting authority or qualified private entity:

(a) a No Objection confirming that the Project meets the criteria set out in Section 29(4) of this Law, in which case an Outline Business Case Compliance Certificate will be issued;

(b) a letter reverting the Outline Business Case to the contracting authority or qualified private entity and directing the contracting authority or qualified private entity to make any suggested adjustments or modifications to the Outline Business Case or provide more information or clarification on the matters identified by the Agency; or

(c) a letter of non-qualification stating that the Project does not meet the applicable criteria with stated reasons.

(5) In the case of paragraph (b) of Subsection (4) the contracting authority or a qualified private sector entity shall respond within 30 days and the Agency shall give its final decision within 30 days of their receipt of the response.

(6) Upon issuance of an Outline Business Case Compliance Certificate, the contracting authority shall proceed with the procurement of private parties in accordance with this Section.

(7) A qualified private sector entity or a contracting authority having successfully completed the procurement process, shall submit a Full Business Case to the Agency for review.

(8) The Agency shall, not later than six months following the enactment of this Law, issue and make available to the public a comprehensive guidance notice on the acceptable content and format of a Full Business Case.

(9) Until the guidance notice in Subsection (8) is issued, the following shall be deemed sufficient in a full business case:

- (a) an in-depth analysis of the project covering technical feasibility, economic viability, risk assessment, and financial structure;
- (b) evidence of stakeholders' consultation and support for the project; and
- (c) a clear and detailed plan for the project's implementation, including timelines, milestones, and governance structures

(10) Where the Agency:

- (a) determines that a full business case is in compliance with this Law, it shall issue a Compliance Certificate of Full Business Case;
- (b) determines that a full business case is not in compliance with this Law, it must issue a request for further information, to which:
  - (i) the contracting authority or qualified private entity shall respond to within 30 days; and
  - (ii) the Agency may issue a certificate of compliance for the full business case where the response to the request is satisfactory; provided that the Agency shall take steps to direct a contracting authority or a qualified private sector towards a compliant full business case.

(11) The Governor may, on the recommendation of the Agency and subject to budgetary appropriations, provide Viability Gap Funding in the form of grants, capital subsidies, or other financial support to enhance the commercial viability of Public- Private Partnership projects that are economically or socially beneficial but not financially self-sustaining.

- (a) Viability Gap Funding may be applied where:
  - (i) the project has been demonstrated, through the

outline business case or an independent credible feasibility study, to offer substantial economic or social value to the State;

- (ii) the anticipated project revenues are insufficient to fully recover investment and operating costs within a reasonable timeframe;
- (iii) risks are appropriately allocated between the public and private parties in accordance with standard PPP principles; and
- (iv) such funding is necessary to attract private sector participation through a transparent and competitive procurement process.

(b) The amount and structure of any Viability Gap Funding shall be determined by the Agency in collaboration with the Ministry of Finance and approved by the Governor, and may be disbursed:

- (i) as an upfront capital grant;
- (ii) as a deferred subsidy or availability payment over the project term; or
- (iii) through any other financing mechanism that enhances the bankability of the project without distorting market competition.

(c) Projects receiving Viability Gap Funding shall be subject to enhanced monitoring, audit, and performance evaluation, and the Agency shall publish periodic reports on such projects as part of its public accountability obligations.

**Requirement for Reporting**

32. (1) A holder of a Full Business Case Certificate shall be required to submit to the Agency regular reports on project progress, financial performance, and any agreed deviations from the initial plan.

(2) The reports in subsection (1) shall be reviewed by the Agency and made accessible to the public, subject to any confidentiality restrictions outlined in the Public Private

**Transparency and Accountability Measures**

Partnership agreement or any freedom of information requirement.

33. The Agency may apply the following transparency and accountability measures:

- (a) implement robust anti-corruption measures throughout the Public-Private Partnership lifecycle, and such measures may include:
  - (i) Clear guidelines on conflict of interest for all parties involved in the Public-Private Partnership process, as outlined by the Edo State Public Procurement Agency Law; and
  - (ii) Adherence to ethical conduct standards for government officials, private sector partners, and other stakeholders
- (b) publication of a PPP Disclosure Framework Manual and establish mechanisms such as a dedicated PPP Portal for knowledge sharing and feedback from stakeholders, including the public; provided that this information shall be used to inform the development and implementation of future Public-Private Partnership projects;
- (c) leverage open data platforms, e-procurement systems, and e-tendering platforms to ensure project data is readily accessible to stakeholders for the purpose of enhancing transparency, facilitating public scrutiny, and promoting accountability.

34. (1) Subject to the provisions of the Edo State Public Procurement Law 2012, the following bidding processes are permissible under this Law for the procurement of private parties in Public-Private Partnership projects:

- (a) Competitive Open Bidding
- (b) Restrictive Bidding
- (c) Direct Procurement; and
- (d) Unsolicited Proposals

(2) The contracting authority shall conduct all bidding processes with transparency and fairness.

**Competitive Open Bidding**

35. (1) Competitive Open Bidding shall be the preferred method and shall include:

- (a) An invitation to tender or a call for expressions of interest;
- (b) Advertisements in at least two widely circulated national and state newspapers; and
- (c) Publication on an official website.

(2) During the open bidding process, the contracting authority may establish reasonable qualification criteria to ensure that bidders possess the requisite experience, technical expertise, and financial capacity to successfully execute the Public-Private Partnership project; and these criteria shall be clearly defined and communicated in the bidding documents.

(3) The contracting authority shall prepare comprehensive bidding documents outlining project details, evaluation criteria, and the bidding process itself and shall make them readily available to all interested bidders.

(4) All interested bidders who meet the qualification criteria shall submit their bids within the designated time frame; and the contracting authority may evaluate the submitted bids based on the pre-defined evaluation criteria outlined in the bidding documents.

**Restrictive Bidding**

36. (1) Restrictive Bidding shall be by obtaining bids by direct invitation without open advertisements and must be clearly justified and documented by the contracting authority.

(2) The following may amongst other reasons serve as justification referred to in subsection (1):

- (a) Limited pool of qualified bidders;
- (b) Time constraints; or
- (c) Protection of intellectual property

(3) The contracting authority shall establish clear and objective pre-qualification criteria based on the specific needs of the Public-Private Partnership project including: track record, financial capacity or technical expertise of the interested bidders.

**Direct Procurement**

37. Notwithstanding the provision of Section 30(1) of this Law, direct procurement shall only be utilized in the following circumstances:

- (a) in the event of a declared state of emergency or a catastrophic failure of critical infrastructure, where immediate action is necessary to protect public health, safety, or welfare; or
- (b) if the project requires highly specialized technology or expertise possessed by a single provider, and a competitive open bidding process demonstrably failed to identify a qualified alternative; or
- (d) the Agency, upon a compelling representation made by the contracting authority, reaches a resolution by a two-thirds majority vote of the Board that there is an exceptional circumstance warranting direct procurement; provided that the Agency's resolution must clearly document the specific circumstances justifying the exceptional circumstance.

**Unsolicited Proposal**

38. (1) A contracting authority may accept an unsolicited proposal.

(2) An unsolicited proposal shall include the following details:

- (a) The objective and significance of the proposed project, and how it may benefit the contracting authority.
- (b) A comprehensive description of the proposed project.
- (c) A cost-benefit analysis of the proposed project, and
- (d) A justification for why the proposal merits special consideration outside the competitive bidding process.

(3) Where a contracting authority accepts an unsolicited proposal, it shall subject the proposal to the competitive bidding procedure, thereby opening it to participation by all interested bidders.

**39.** (1) The following Public-Private Partnership models shall be recognized and may be adopted for the implementation of Public-Private Partnership projects in the State:

- (a) Build-Operate-Transfer (BOT);
- (b) Build-Own-Operate-Transfer (BOOT);
- (c) Build-Transfer-Operate (BTO);
- (d) Design-Build-Finance-Operate-Maintain (DBFOM);
- (e) Rehabilitate-Operate-Transfer (ROT);
- (f) Management Contract (MC);
- (g) Service Contract (SC);
- (h) Lease Contract (LC);
- (i) Concession Contract (CC);
- (j) Joint Venture (JV);
- (k) Operation and Maintenance (O&M);
- (l) Rehabilitate-Own-and-Operate (ROO);
- (m) Build and Transfer (BT).

(2) The selection of the appropriate Public-Private Partnership model for a particular project shall be subject to Section 39(1) and may be based on factors such as the nature and complexity of the project, the risk allocation between the public and private partners, the financing requirements, and the desired level of private sector involvement.

**40.** (1) There shall be established for the Agency a Contract Management Team which shall be composed of experienced personnel with required technical skills as considered necessary for the performance of its function.

(2) The Agency shall establish clear guidelines and procedures for contract management, fostering proactive communication and collaboration between all parties involved in the Public-Private Partnership project.

**41.** (1) The Contract Management Team, in collaboration with the relevant stakeholders, shall implement a robust system for continuously monitoring Public-Private Partnership contracts, and this system shall ensure:

- (a) Regular verification that the private sector partner is fulfilling its contractual obligations.
- (b) Consistent delivery of services as per agreed-upon standards and performance benchmarks.

**Management of Contract Variations, Renegotiation, and Dispute Resolution in Public-Private Partnerships**

(c) Identification and timely mitigation of potential risks that could impact project success,

(2) Based on the monitoring process, the Agency may take necessary corrective actions to address any identified issues of non-compliance with contractual terms,

**42.** (1) All Public-Private Partnership agreements shall be lodged with the Agency and shall include clear procedures for handling contract variations, adjustments, and potential disputes, and these procedures shall be based on the principles of fairness, transparency, and timeliness,

(2) The Agency, in collaboration with the parties involved, shall facilitate the renegotiation of contract terms if necessary, adhering to the established procedures outlined in the Public-Private Partnership agreement,

(3) The Public-Private Partnership agreements shall specify effective dispute resolution mechanisms, such as negotiation, mediation, or arbitration,

**43.** (1) The Agency, in collaboration with the contracting authority and the private sector partner, shall initiate transition planning well in advance of contract expiry to ensure a smooth handover of assets back to the government upon contract termination, as may be stipulated in the contract,

(2) The transition plan shall address all aspects of asset handover, including:

- (a) Inventory and valuation of assets;
- (b) Training of government personnel on asset operation and maintenance; and
- (c) Transfer of liabilities, if any.

(3) The Agency shall ensure compliance with all handover provisions outlined in the Public-Private Partnership agreement to facilitate a successful transfer of ownership and operational responsibilities at the end of the contract term.

**Public-Private  
Partnership Contracting  
Authority and Financing  
Agreements**

44. Without prejudice to the powers of the Governor under any other enactment, the Governor either himself or in conjunction with any other person (including another State) may:

- (a) enter into an agreement with a person (referred to in this Law as a "Partner") for the performance of functions of the State specified in the agreement in relation to:
  - (i) the design and construction of an asset together with operation of services relating to it and the provision of finance, if required for such design, construction and operation;
  - (ii) the construction of an asset, together with the operation of services relating to it and the provision of finance, if required for such construction and operation; and
  - (iii) the design and construction of an asset, together with the provision of finance for such design and construction.
- (b) enter, where appropriate into direct agreement with persons who have arranged or provided funding for the partner for carrying out the Public-Private Partnership.

**Fiscal Framework for  
Public-Private  
Partnerships**

45. (1) The Governor may, subject to budgetary appropriations and legislative approval, provide various forms of financial support for Public-Private Partnership projects in the State.

(2) The financial support as contained in subsection (1) may include:

- (a) Equity participation;
- (b) Subsidies;
- (c) Viability Gap Funding; and
- (d) Guarantees

**Adherence to Fiscal  
Commitment and  
Contingent Liability  
Management Framework**

46. The Agency shall implement and adhere to the "Comprehensive State Fiscal Commitment and Contingent Liability Management (FCCL) Framework for Public-Private Partnerships (PPPs) in Edo State" guidelines, developed in accordance with the provisions of this Law, ensuring all Public-Private Partnership projects are subjected to rigorous risk assessment, quantification, monitoring,

and reporting of fiscal commitments and contingent liabilities, thereby promoting fiscal sustainability and transparency in the management of public resources within the State.

47.
  - (1) The Agency shall ensure transparency and accountability in all Public-Private Partnership (PPP) projects operate in accordance with the "Disclosure Framework Manual for Public-Private Partnerships in Edo State, made pursuant to this Law.
  - (2) The manual shall outline the mandatory disclosure requirements for all stages of PPP projects, encompassing project initiation, procurement, implementation, and completion
48.
  - (1) Notwithstanding the provisions of any law, the Agency may designate any public infrastructure or public asset, any road, bridge or highway within the State as public infrastructure or public assets with respect to which user fee or toll shall be payable for the purpose of this Law subject to the approval of the Executive Governor.
  - (2) The Agency may, in the relevant Concession Agreement, authorize the private partner to levy, collect, and retain user fees or tolls for the use of the public infrastructure or public assets subject to the approval of the Executive Governor.
49. Where a Public-Private Partnership project involves the development or operation of infrastructure or services that may generate user fees or tolls, the Agency shall:
  - (a) conduct studies to determine the appropriate level of user fees or tolls necessary for project viability and sustainability;
  - (b) develop a framework for the collection and distribution of user fees or tolls, ensuring transparency and accountability;
  - (c) obtain any necessary approvals from the Executive Governor for the imposition of user fees or tolls, and
  - (d) conduct research and analysis on emerging trends and best practices in Public-Private Partnership development and implementation.

50. (1) The Agency may establish regulations specifying;

- (a) the service charges, user fees, or tolls payable for designated public infrastructure or public assets;
- (b) the conditions under which the public can access these facilities;

(2) Concession agreements shall propose user fees or tolls for approval by the Agency, considering factors specified in the regulations;

(3) The regulations may establish a timeframe for charging user fees or tolls, potentially ending upon achieving specific financial objectives;

(4) User fees or tolls shall only be valid if charged by the private partner in accordance with this Law and the relevant concession agreement;

(5) Failure or refusal to pay user fees or tolls in accordance with the Law, regulations, or Concession Agreement may result in penalties, including fines and potential denial of access to the infrastructure or service;

(6) Concession Agreements may authorize the private partner or law enforcement to detain vehicles or prevent access for non-payment until the outstanding amount is settled;

(7) Where a Concession Agreement has been executed in accordance with this Law, the terms regarding user fees or tolls within that agreement shall be considered valid service charge, user fee, or toll regulations.

51. (1) Each MDA shall designate a Public-Private Partnership Focal Person, who shall be responsible for coordinating Public-Private Partnership-related activities within the MDA;

(2) The MDAs shall have the following roles and responsibilities in relation to Public Private Partnership projects:

- (a) Identify potential Public-Private Partnership projects within their respective sectors;
- (b) Conduct preliminary feasibility studies and prepare project concepts for potential Public-Private Partnership projects;
- (c) Collaborate with the Agency in the preparation and

implementation of Public-Private Partnership projects;

- (d) Provide technical expertise and support during the project development and implementation stages;
- (e) Monitor and evaluate the performance of Public-Private Partnership projects within their respective sectors; and
- (f) Any other roles and responsibilities necessary for the effective implementation of Public-Private Partnership projects within their respective sectors.

(3) The Agency, in collaboration with relevant MDAs, shall ensure effective stakeholder engagement and public consultation throughout the Public-Private Partnership project cycle.

(4) Stakeholders, including affected communities, civil society organizations, and the private sector, shall be consulted during the project identification, preparation, and implementation stages.

(5) The Agency shall develop and implement a stakeholder engagement and public consultation plan for each Public-Private Partnership project.

(6) The outcomes of stakeholder engagement and public consultation shall be duly considered in the project design and implementation.

52. (1) The Agency shall establish and maintain robust grievance redress and dispute resolution mechanisms to address complaints and disputes at all stages of the Public-Private Partnership lifecycle, including procurement, contract execution and implementation, using administrative review, mediation, arbitration or any other lawful method that ensures fair and timely resolution.

(2) Parties shall, as a first step, endeavor to resolve disputes or grievances amicably through:

- (a) Open dialogue between the concerned parties;
- (b) Clarification meetings; and
- (c) Written correspondence.

(3) The Agency shall appoint a Grievance Officer responsible for:

- (a) Receiving and logging all complaints;
- (b) Maintaining records of all grievance proceedings.

(4) The Grievance Officer shall:

- (a) Acknowledge receipt of a complaint within three (3) working days; and
- (b) Provide a substantive response within ten (10) working days of receipt.

(5) Where informal resolution fails during the procurement phase, the complainant may submit a written complaint to the Independent Procurement Review Panel (IPRP) within ten (10) working days of the event giving rise to the grievance. The IPRP shall comprise:

- (a) One (1) representative from the MDA the Project is originated from or related to;
- (b) One (1) independent legal expert in (Alternate Dispute Resolution) appointed by the Agency;
- (c) One (1) representative from the Agency;
- (d) One (1) non-voting observing from the Agency.

(6) The IPRP shall:

- (a) Conduct a hearing within fifteen (15) working days of receiving the complaint;
- (b) Issue a written decision within five (5) working days after the hearing;
- (c) Prescribe remedies, including but not limited to:
  - (i) Re-evaluation of bids;
  - (ii) Cancellation of the procurement process, where justified.

(7) Any party aggrieved by a decision of the Independent Procurement Review Panel (IPRP) may file an appeal under this Section

(8) Appeals shall be permitted only on the following grounds:

- (a) Procedural irregularity affecting the fairness of the IPRP's decision;
- (b) Error of law or manifest misapplication of procurement regulations;
- (c) New evidence that could not reasonably have been submitted earlier and which materially impacts the outcome.

(9) An appellant may elect one of the following avenues:

- (a) The appellant must submit a written request for mediation to the other party(ies) and the Edo State Multi-Door Court house within fifteen (15) working days of the IPRP decision.

(10) Mediation shall be conducted in accordance with the Edo State Multi-Door Court Law 2017 and the Edo State Multi-Door Court House (Practice Direction for ADR Process) 2018 pursuant thereto.

(11) The mediator shall be appointed by mutual agreement within seven (7) days of the request. If no agreement is reached, the appointing authority under the chosen rules shall select the mediator.

(12) A settlement agreement signed by the parties shall be binding and enforceable as a contract.

(13) where the mediation fails, the appellant may proceed to arbitration under subsection (14);

(14) The appellant must serve a Notice of Arbitration on the respondent(s) and the Agency within twenty (20) working days of the IPRP decision (or upon failure of mediation);

(15) Arbitration shall be conducted under the Edo State Multi-Door Court Law 2017 and the Edo State Multi-Door Court House (Practice Direction for ADR Process) 2018 pursuant thereto;

(16) The tribunal shall consist of a sole arbitrator jointly appointed by the parties. If no agreement is reached, the arbitrator shall be appointed by the Chief Justice of Edo State;

(17) The Arbitration shall be held in Benin City, Edo State, Nigeria. The English Language shall be the Language of Arbitration;

(18) The arbitral award shall be final and binding, enforceable in any court of competent jurisdiction;

(19) Post-Procurement Dispute Resolution:

- (a) The Parties shall, in the first instance, attempt in good faith to resolve any dispute through mutual consultation and negotiation;
- (b) A Party may initiate negotiations by delivering to the other Party a written notice describing the nature of the dispute and proposing a resolution;
- (c) The Parties shall meet within ten (10) business days of receipt of such notice and endeavor in good faith to resolve the dispute within fifteen (15) business days thereafter;
- (d) If the dispute is not resolved through negotiation, the Parties shall attempt to resolve the dispute by mediation;
- (e) The mediation shall be conducted in accordance with the Mediation Rules of the Edo State Multi-Door

Courthouse (ESMDC), or any other mutually agreed mediation institution.

- (f) Unless otherwise agreed, the mediator shall be jointly appointed by the Parties within seven (7) days of the failure of negotiations. If the Parties cannot agree, the mediator shall be appointed by the appointing authority under the chosen institutional rules.
- (g) The costs of mediation shall be shared equally between the Parties.
- (h) The mediator's decision, where adopted by the parties as their mutual Agreement shall become binding.
- (i) Where the dispute is not resolved through mediation within thirty (30) days (or such longer period as agreed in writing), either Party may refer the dispute to arbitration.
- (j) Arbitration shall be conducted in accordance with Edo State Multi-Door Court Law 2017 and the Edo State Multi-Door Court House (Practice Direction for ADR Process) 2018 pursuant thereto,
- (k) The seat of arbitration shall be Benin City, Edo State, Nigeria, and the language of the proceedings shall be English.
- (l) The arbitral tribunal shall consist of one (1) arbitrator jointly agreed by the Parties
- (m) The arbitral award shall be final and binding on the Parties and may be enforced in any court of competent jurisdiction.

(20) Nothing in this section shall prevent either Party from seeking interim or conservatory measures, including injunctive relief, from a court of competent jurisdiction at any time.

(21) Notwithstanding any provision in the PPP or Concession Agreement, no Party shall activate any formal dispute resolution mechanisms, whether arbitration or litigation, without first serving the Agency and all other Parties to the agreement with at least thirty (30) days' written

notice of its intention to declare a dispute.

- (22) Where a Public-Private Partnership Agreement or Concession Agreement expressly provides for a dispute resolution mechanism, any dispute between the Contracting Authority and the Private Partner shall be resolved in accordance with the terms of that agreement.
- (23) Notwithstanding the provisions of subsection (19), in cases where a Public-Private Partnership Agreement or Concession Agreement does not prescribe a dispute resolution mechanism, the parties shall refer the dispute to the Agency for mediation in the first instance.
- (24) Where the Agency serves as mediator in accordance with subsection (23), the following shall apply:
  - (a) Each party reserves the right to accept or reject the Agency's proposed resolution.
  - (b) Where all parties accept and sign the terms of settlement, such terms shall be incorporated into the existing agreement and shall become binding and enforceable on all parties.
  - (c) If any party rejects the Agency's proposed resolution, such party may escalate the matter in accordance with the provisions of this law and any other applicable Law,
- (25) Notwithstanding the provisions of any PPP Agreement or Concession Agreement, no party shall commence arbitration or litigation proceedings in respect of any dispute arising from a PPP arrangement without first:
  - (a) Serving a written notice of dispute on the Agency and all relevant parties; and
  - (b) Allowing a minimum period of thirty (30) days from the date of such notice for possible administrative or mediated resolution.

capacity building

53. (1) The Agency shall take a leadership role in promoting and facilitating capacity-building initiatives for Public-Private Partnerships in the State to enhance the capabilities of both public and private sector participants.

(2) The Agency shall:

- (a) develop and implement training programs and workshops for public sector officials on various aspects of Public-Private Partnerships, including:
  - (i) The Public-Private Partnership legal and regulatory framework in the State;
  - (ii) Project identification, preparation, and appraisal for Public-Private Partnerships;
  - (iii) Procurement and contract management for Public-Private Partnerships;
  - (iv) Financial modeling and risk assessment for Public-Private Partnerships, and
  - (v) Monitoring and evaluation of Public-Private Partnership projects.
- (b) facilitate knowledge exchange between public sector officials in the State and other jurisdictions with successful Public-Private Partnership experience and encourage collaboration among different public sector agencies involved in Public Private Partnership development and implementation; and
- (c) Collaborate with industry associations and educational institutions to offer training programs for private sector entities interested in participating in Public-Private Partnership projects.

Offences and Penalties

54. (1) It shall be an offence for any person to fail or refuse to pay service charge, user fee or toll in accordance with this Law, any regulations made under this Law or within the terms of Concession Agreement, and the offender shall be liable on conviction to a fine of One Hundred Thousand Naira (N100, 000.00) or any non-custodial sentence provided by the Criminal Code Law of the State.

(2) If it appears to a person employed to collect service charge, user fee or toll that a person has refused or failed to pay, the person so employed may:

(a) refuse to permit the defaulter to use, or prevent him from using the public infrastructure or public asset with respect to which service charge, user fee or toll are payable; and

(b) require him to vacate the public infrastructure or public asset, or call, where necessary, the assistance of law enforcement agents.

(3) any person who refuses to pay a service charge, user fee or toll with respect to the use of any public infrastructure or public asset, may be arrested by the relevant Law Enforcement Agencies. Where the infrastructure is a road or bridge, the vehicle driven by the person shall be impounded by an authorized person and moved to a vehicle park provided for that purpose, and such vehicle shall remain so impounded until the payment to the concessionaire of the unpaid toll, of the fine prescribed by subsection (1) of this section and the demurrage to the appropriate authority designated by the Agency or shall remain so impounded pending the trial of the offence committed under the said subsection.

55. (1) The following acts in relation to projects developed under this Law shall constitute an offence:

(a) Willfully or recklessly destroying, damaging, or rendering inoperable any infrastructure, asset, or equipment associated with a project;

(b) interfering with, altering, or manipulating any infrastructure, asset, or equipment associated with a project without lawful authorization;

(c) and deliberately hindering or obstructing the operation, maintenance, or delivery of services under a project.

(2) A person who commits any of the offences listed in subsection (1) of this section is liable on conviction to:

(a) if an individual, a fine of N5,000,000 (Five Million Naira) or imprisonment for a term not exceeding three (3) years, or both; and

(b) if a corporation, a fine of N20,000,000 (Twenty Million Naira)

## Legal Proceedings

(3) Without prejudice to the penalties outlined in subsection (2), the court may order the convicted person to make restitution for any damage caused to the project or compensate the private sector partner for any losses incurred due to the offence.

## PART V MISCELLANEOUS PROVISIONS

56. (1) Subject to the provisions of this Law, no suit shall be commenced against the Agency, before the expiration of 30 days after written notice of an intention to commence the suit shall have been served upon the Agency, by the intending claimant or his agent; and the notice shall clearly and explicitly state:

- (a) the cause of action;
- (b) the particulars of the claim;
- (c) the name and address of legal practitioner of the intending claimant; and
- (d) The relief being sought

(2) The Executive Chairman of the Agency, their officers, employees or agents shall not personally be subject to any action, claim or demand by, or be liable to any person in respect of anything done or omitted to be done in exercise of any functions or power conferred by this Law upon the Agency, Executive Chairman, officers, employees or agents.

(3) The Executive Chairman of the Agency, their officers, employees or agents shall not personally be subject to any action, claim or demand by, or be liable to any person in respect of anything done or omitted to be done in exercise of any functions or power conferred by this Law upon the Agency, Executive Chairman, officers, employees or agents.

(4) An officer or employee of the Agency shall be indemnified from the assets of the Agency against any liability incurred by him in defending any civil proceeding, if the proceeding is brought against him in his capacity as an officer or employee of the Commission and in respect of any act or acts carried out in his official capacity.

(5) A notice, summons or other documents required or authorized to be served upon the Agency under the provisions of this law or enactment may be served by delivering it to the Executive Chairman or by sending it by registered post and addressed to the Executive Chairman at the principal office of the Agency.

57. (1) The provisions of this Law shall apply to legacy projects entered into before the commencement of this Law and shall preserve and protect all rights, properties, interests and obligations existing under that contract and any Law applicable when the Public-Private Partnerships was entered into or the Concession was awarded.

(2) The provisions of subsection (1) of this section shall only apply to Public-Private Partnerships or concessions listed in section 39 of this Law.

58. In this Law, unless the context provides otherwise;

**'Agency'** means the public-private partnership Agency established under section 6 of this Law;

**'Application'** means the submission made in response to a request for qualification;

**'Applicant'** means private entity which has submitted or is likely to submit its qualification;

**'Authorized Person'** means a Public Officer, Public Infrastructure Inspector, Designated Officials of the Agency and such other Person as the Agency may from time to time appoint;

**'Bid'** means an offer or proposal submitted in response to a request for proposal;

**'Bidder'** means a private entity which has submitted or is likely to submit a bid;

**'Bid Period'** means the period within which bidders prepare and submit their respective bids;

**'Board'** means Board of the Public-Private Partnership Board established to oversee the public-private partnership established under Section 7 of this Law;

**'Build-Operate-Transfer (BOT)'** means a contractual arrangement whereby a private sector entity undertakes the financing, design, construction, and operation of a public infrastructure project for a specified period, during which it is allowed to collect revenues to recover its investment and operating expenses, before transferring the project to the public sector at the end of the concession period;

**'Build-Own-Operate-Transfer (BOOT)'** means a contractual arrangement similar to BOT, but with the added element that the private sector entity owns the infrastructure during the concession period, prior to transferring it to the public sector;

**'Build-Transfer-Operate (BTO)'** means a contractual arrangement where the private sector entity finances and constructs the infrastructure, transfers ownership to the public sector upon completion, and then operates the facility under a separate agreement.

**'Concession'** means a contractual arrangement under which a Contracting Authority grants to a Private Partner the right to finance, design, build, rehabilitate, operate, maintain, and/or manage a public infrastructure or service for a defined period, during which the Private Partner assumes significant risk and management responsibility, and receives compensation through user charges, service payments, or a combination thereof.

**'Concessionaire'** means the Private Partner, whether an individual, firm, or consortium, that has been awarded and has entered into a Concession Agreement with a Contracting Authority to undertake a Public-Private Partnership project.

**'Concession Contract'** means a broad term encompassing various PPP arrangements where the public sector grants a private sector entity the right to develop, operate, and maintain a public infrastructure project or service for a specified period, often involving significant investment and risk transfer.

**'Cost Benefit Analysis'** means an economic method of comparing the cost of the public partnership project with the expected benefits to the public;

**'Competitive Dialogue'** means a dialogue between a potential bidder and the public entity during the procurement process to discuss possible solutions for the implementation of the PPP

Project and negotiate the terms of the PPP Contract;

**'Contracting Authority'** means a Ministry, State Department, Agency, State Government Board or Local Government, which intends to have a function undertaken by it, and performed by private party;

**'Design-Build-Finance-Operate-Maintain (DBFOM)'** means a comprehensive PPP arrangement where the private sector entity is responsible for the design, construction, financing, operation, and maintenance of the infrastructure project for the concession period;

**'Feasibility Assessment'** means an assessment undertaken to explore the technical, financial, legal, social and environmental feasibility of undertaking an infrastructure asset or service as a public-private partnership project;

**'Financial Close'** means a circumstance where the project financing agreements are signed, conditions precedent required are met and the concessionaire can start drawing down finances to commence work on project;

**'Fund'** means the public-private partnership development fund established under this Law;

**'Joint Venture'**: means a contractual arrangement where the public sector and a private sector entity collaborate to undertake a specific project, sharing ownership, risks, and returns;

**'Lease Contract'** means a contractual arrangement where the public sector grants a private sector entity the right to use a public asset for a specified period in exchange for rental payments.

**'Management Contract'** means a contractual arrangement where the public sector contracts a private sector entity to manage and operate a public asset or service for a fee, without transferring ownership or significant investment responsibilities;

**'Management Team'** means a team responsible for the preparation and implementation of the management plan, and established under section 22 of this Law;

**'Management Plan'** means processes and procedures established by the management team under this Law;

**'Preferred Bidder'** means the bidder who has been ranked number one in accordance with the process and criteria set out in the request for proposal;

**'Private Entity'** means a private entity that has been awarded and undertakes a project under a public-private partnership agreement with a public entity;

**'Private Partner'** means any private person or body corporate who enters into a Public-Private Partnership arrangement with the Agency under this Law;

**'Project'** means

- (a) the design, construction, development or operation and maintenance of a new infrastructure, asset or facility under a public-private partnership agreement;
- (b) provision of services under a public-private partnership agreement or;
- (c) the rehabilitation, modernization, expansion, operation or management of an existing infrastructure, asset or facility under a public-private partnership agreement.

**'Project Agency'** means an official or staff member of the public entity who is designated by the accounting Agency as the project Agency in respect of a public-partnership project

**'Project value'** means

(a) In case of public-private partnerships projects where the private entity is expected to make capital investments, the value of the infrastructure asset to be constructed including the cost of land, if the cost of land is to be borne by the private entity; or

(b) In case of public-private partnerships projects where the private party is not expected to make substantial capital investments, the current replacement value of the infrastructure asset, whose operation and maintenance is proposed to be the responsibility of private entity.

**"Public Asset"** means any physical or intangible asset owned, leased, licensed, or otherwise held by the State or any of its entities, including land, infrastructure, facilities, public utilities,

intellectual property, and service delivery rights, which may be the subject of a Public-Private Partnership arrangement;

**'Public Entity'** means any Agency, ministry or agency of the Government and includes;

(a) a local authority council

(b) regional council

(c) public enterprise

(d) body or trust that is;

(i) established by a statute

(ii) owned or controlled by the Government

**"Preferred Mandate"** means the status granted to a Private

Partner by the Agency or a Contracting Authority after a competitive procurement process, indicating its selection as the preferred bidder or proposer for a Public-Private Partnership project, subject to final negotiation and execution of the relevant agreement.

**'Private Public Partnership Agreement'** means a written contract recording the terms of a Public-Private partnership project concluded between a public entity and a private entity in accordance with the provisions of this law;

**"Qualified Private Person"** means a private sector entity that initiates or proposes a Public-Private Partnership project and is determined by the Agency to have the legal status, financial capacity, technical competence, and institutional integrity required to develop, finance, implement, or operate such a project in accordance with this Law.

**'Rehabilitation'** means repair or reconstruction of existing infrastructure assets to restore them to a functional and efficient state, often while preserving historical or cultural elements;

**'Rehabilitate-Operate-Transfer (ROT)'** means a contractual arrangement where the private sector entity rehabilitates an existing public infrastructure asset, operates it for a specified period to recover its investment and operating expenses, and then transfers the rehabilitated asset back to the public sector;

**'Request for Information (RFQ)'** means a document inviting potential bidders to submit their qualifications in respect of the PPP project. It also contains information about the PPP project to determine the interest of potential bidders and sets out the processes and requirements for the qualification process in respect of the PPP project;

**"Service Charge" or "User Fee"** means a payment collected from users, beneficiaries, or the public by a Private Partner or Concessionaire under the terms of a Public-Private Partnership Agreement, as consideration for access to or use of the public service or infrastructure provided.

**'Service Contract'** means a contractual arrangement where the public sector contracts a private sector entity to provide specific services related to a public asset or service, typically for a fixed fee or unit cost;

**'Solicited Proposal'** means a proposal relating to the implementation of a project that is initiated by a private entity or public entity;

**'State'** means Edo State

**'Shortlisting'** means to select or pre-select bidders;

**'Unsolicited Proposal'** means a proposal relating to a project that is initiated by a bidder;

**'User fee'** means the right or authority granted to a concessionaire by a public entity to recover investment and a fair return on investment, and includes tolls, fees, tariffs, charges or other benefit;

**'Value for Money'** means the value attached to the undertaking of a public function of a contracting authority by a concessionaire under a public-private partnership which results in a net benefit accruing to that contracting authority defined in terms of cost, price, quality, quantity, timeliness or risk transfer.

**"Viability Gap Funding"** means a form of financial support provided by the State to enhance the financial viability of economically and socially desirable Public-Private Partnership projects that are not financially attractive to private investors on a full commercial basis, typically through capital grants, subsidies, or guarantees.

This printed impression has been compared by me with the law which has been passed by Edo State House of Assembly and found by me to be a true and correctly printed copy of the said law.

2025/5/20

### Clerk of the House of Assembly.

Assented to by me this 20 day of July 2025.

Governor of Edo State of Nigeria.

Assent withheld by me this .....day of..... 2025.

Governor of Edo State of Nigeria.