Dentons/CHINCA MEA Project Reporter

Chinese contractors and Middle East and Africa projects markets

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Welcome to the second edition of Dentons/CHINCA Middle East Africa Project Reporter

This newsletter is produced in cooperation with CHINCA (China International Contractors Association). In this newsletter you will find a non-exhaustive shortlist, based on information gathered from publically available sources, of upcoming infrastructure projects in the Middle East and Africa together with an article on the legal framework for PPPs in selected African jurisdictions.

The continued commitment by governments in the region to investing in economic and social infrastructure is demonstrated by the introduction of a formal legal framework for PPPs in a number of jurisdictions. In the Middle East the effect of declining oil prices and the renewed aim of diversifying GCC economies has seen the introduction of plans such as Vision 2030 in the Kingdom of Saudi Arabia and the Strategic Plan 2021 in Dubai. A common theme in most of these broad socio-economic plans is an underlying recognition that PPPs can provide a cost-effective method through which the growing demands of the region can be satisfied, and in some jurisdictions this is driving a move towards the use of the PPP method rather than the more traditional public financing technique. The Middle East region continues to defy market expectations with transaction value in the first half of 2016 reaching a five year high. In Sub-Saharan Africa it is expected that spending on infrastructure could reach USD 180 billion a year by 2025 with a focus on transport and power, and there is a general consensus that private sector financing will be a vital component in meeting the infrastructural needs of and facilitating growth in the region. It is expected that the combination of these new legislative regimes, the growing infrastructural needs in the region and the formal economic and social plans will work together to boost the flow of projects in the MEA region.

Upcoming projects in MEA region

Project	Description	Project Owner	Sector	Value	Status
UAE					
Umm Al Quwain Waste	A new waste management facility in Umm Al Quwain, part of the Northern Emirates, capable of processing between 1,000 and 1,500 tonnes per day. It will house a materials recycling facility of waste, a composting site and a residue-derived fuel facility, which will convert non-recyclable waste into fuel. This fuel will then be used to power a waste-to-energy incineration plant proposed under the second phase of the project As per the integrated waste management strategy of the UAE Ministry of Climate Change and Environment, further construction and waste-handling facilities may be built	UAE Ministry of Climate Change and Environment	Energy and Waste Management	Not reported	RFP for project managers released in June 2016
Mohammed bin Rashid Stadium	A 60,000-seat, fully air-conditioned stadium in the Al-Awir area of Dubai. It will be raised off the ground, and will comply with FIFA standards. The venue will also include a training hall, 5,000-space car park, a sports museum and conference halls	Government of Dubai	Real Estate – Leisure and Entertainment	$817 million	Under design
Dubai Taxi PPP	A development involving three adjacent plots of land as part of a real estate and employee accommodation project	Dubai Roads & Transport Authority – Dubai Taxi Corporation	Real Estate – Residential, Commercial	Not reported	Advisers are being appointed to undertake a feasibility study

Project	Description	Project Owner	Sector	Value	Status
Kuwait					
Kuwait National Railroad	An integrated rail network with a total length of 511km, to link Kuwait City to Kuwait airport, seaports and the other GCC countries as part of the wider Gulf Railway Network. The project will be implemented under a BOT agreement **http://www.ptb.gov.kw/en/Kuwait-National-Rail-Road-(KNRR)**	Partnerships Technical Bureau, together with the General Authority for Roads and Transport	Transport – Rail	$2 billion	In feasibility study phase. Issuance of EOI: Q2 2016 Issuance of RFQ: Q3 2016 Issuance of RFP: Q4 2016 Announcement of preferred bidder: Q3 2017
Kuwait Metropolitan Rapid Transit (KMRT) System	A full metro network comprised of 69 stations (16% underground) with a total length of 160km. The project will be developed over five phases, with Phase 1 operations expected to commence in 2020 **http://www.ptb.gov.kw/en/Kuwait-Metropolitan-Rapid-Transit-System-(KMRT)**	Partnerships Technical Bureau, together with the Ministry of Communications	Transport – Metro	$18.5 billion	Pre-Tendering
Oman					
Port Sultan Qaboos Waterfront	The project consists of the redevelopment of Port Sultan Qaboos for tourism, with plans for a marina, five star hotels and luxury shopping	Oman Tourism Development Company	Infrastructure – Urban Development	Not reported	In planning
Al Batinah Coastal Road	A 240km carriageway with four lanes	Ministry of Transport and Communications	Infrastructure – Roads	$1.5 billion	Tendering and bidding process for Phase 2, sections 1 and 2 to be launched Q4 2016
Oman National Railway	A 2,244km railway to link the governorates of Muscat and Buraimi, including 25 stations to be used for passenger and freight transport	Oman Railway Company, together with the Ministry of Transport and Communications	Transport – Rail	$15.4 billion	Designs expected to be completed by end of Q4 2016

Project	Description	Project Owner	Sector	Value	Status
200MW Solar Project	One or more solar-based electricity generation plants with an aggregate capacity of up to 200 MW, at Adam and Manah in the Governorate of Dakhiliyah. The plants will be grid-connected and based on a combination of concentrated solar power and photovoltaic technologies Likely to be procured under an Independent Power Project model, similar to conventional gas-based power projects	Oman Power and Water Procurement Company (OPWP)	Power and Water – Solar Energy	$600 million	On hold
Egypt					
Abu Tartour Port Expansion	The project involves the expansion of Abu Tartour Port, located in South Safaga city. This is a mining and industrial-focused port, used for the export of Egyptian phosphate and packed cement. The expansion will see the development of additional industrial facilities including warehouses and auxiliary buildings	Ministry of Finance – PPP Central Unit	Infrastructure – Transport	$319.33 million	Advisers sought
Stadiums in Sharm El Sheikh, Hurghada, Matrouh and Luxor	Each stadium will have a capacity of either 25,000 or 45,000 seats and will include football fields, training sub-fields, sports halls, catering services, gym rooms and physiotherapy rooms	Ministry of Finance – PPP Central Unit	Real Estate – Leisure and Entertainment	$360 million	Study expected to be completed Q2 2016. Invitations to bid expected to be issued Q3 2016
Morocco					
200MW Noor Atlas Solar Complex	The 200MW Noor Atlas project involves the construction of eight ground-mounted PV plants, expected to be between 10-30MW each. The plants will be located at Tata, Tahla (Bouizakarne), Tan Tan, Ain Beni Mathar, Boudnib, Bounanaek, Outat El Haj and Boulemane (Enjil)	Office National de l'Electricité et de l'Eau Potable	Power and Water – Solar Energy	$332.57 million	Not reported

Project	Description	Project Owner	Sector	Value	Status
200MW Noor Argana Solar Complex	This project represents the third phase of Morocco's photovoltaic programme. The selected locations for the complex are Boumalen, Province de Tinghir, Errhamna and Essaouira	Office National de l'Electricité et de l'Eau Potable	Power and Water – Solar Energy	$273 million	Call for Pre-Qualification Bids: end of 2016/start of 2017
Uganda					
Kampala-Jinja Expressway	A new 77km expressway connecting Kampala and Jinja, including a 17.8km southern bypass between Butabika and Munyonyo. The road will be operated on a pass-through toll basis	Uganda National Roads Authority (UNRA)	Infrastructure – Roads	$1.1 billion	Not reported
Kampala-Mpigi Expressway	An upgrade of the existing 32km road located in Central Uganda, from the present two lane highway to a dual carriageway	Uganda National Roads Authority (UNRA)	Infrastructure – Roads	$100-$350 million	Not reported
Kampal-Bombo Expressway	A 30km four-lane, dual carriageway	Uganda National Roads Authority (UNRA)	Infrastructure – Roads	Not reported	Designs to be completed later in 2016
Kampala Southern Bypass	An 18km road starting at Butabika and connecting the new Kampala-Jinja Expressway and Munyonyo	Uganda National Roads Authority (UNRA)	Infrastructure – Roads	Not reported	Pre-feasibility and full feasibility studies have been conducted
Kampala Flyover	Two flyovers at Kitgum House and Clock Tower Junctions. The flyovers will involve the widening of Mukwano Road and improvements to interfacing roads and junctions	Uganda National Roads Authority (UNRA)	Infrastructure – Roads	Not reported	Designs to be released in December 2016
Kenya					
Mombasa-Nairobi Highway	An expansion of the 485km Mombasa-Nairobi highway (A109) into a dual carriageway, to ease the traffic to Mombasa port which is the main gateway to East Africa	Kenya National Highways Authority/Kenya PPP Unit	Infrastructure – Roads	$1.3 billion	Not reported

Project	Description	Project Owner	Sector	Value	Status
Nairobi Commuter Rail	An upgrade of the Nairobi commuter rail service, including the rehabilitation of stations as well as 60km of existing railway lines, introduction of new purpose-built rolling stock and new rail transport services to new areas such as the Jomo Kenyatta International Airport, and the integration of a new signalling system	Kenya Railways Corporation	Transport – Rail	$325-350 million	Not reported
Second Nyali bridge	A second bridge connecting Mombasa Island to the North Coast in Kenya, spanning 600m and with four lanes. It will ease traffic congestion on the existing Nyali Bridge	Government of Kenya	Infrastructure – Roads	$100 million	Not reported
Mozambique					
Africa Renaissance Gas Pipeline	A 2,600km pipeline to link the gas reserves of the Rovuma Basin in Palma, northern Mozambique to the Gauteng industrial hub. Gas would be supplied to Mozambique, South Africa, Swaziland, Botswana, Zimbabwe, Zambia, Malawi and parts of the DR Congo. The project would include downstream industry projects for petrochemicals, fertilisers etc. It represents China's largest-ever investment in Mozambique. The Chinese Petroleum Pipeline Bureau is planning to do a pipeline feasibility study	Mozambique (56%) South Africa (24%) China (20%)	Oil and Gas – Industrial	$6 billion	Pre-feasibility and full feasibility studies ongoing

Project	Description	Project Owner	Sector	Value	Status
Ghana					
Accra-Takoradi Highway Rehabilitation and Dualisation	A 245km coastal highway along national route N1. The project is expected to follow a DBFOM or BOT structure, and will include toll plazas and the collection of toll revenue	Ministry of Roads and Highways/ Ghana Highway Authority	Infrastructure – Roads	$600 million	Pre-feasibility and full feasibility studies have been conducted
Sogakope-Lomé Trans Boundary Water Supply PPP	A pipeline to transport drinking water from the lower Volta River in Ghana to the city of Lomé in Togo as well as various Ghanaian communities. The project will include a water treatment plant and an 82km water transmission pipeline between Sogakope in Ghana and Segbe in Togo	Ghana Water Company	Water and Sewerage	Not reported	A memorandum of understanding was signed in December 2014 between Ghana, Togo and the African Development Bank
Seychelles					
Mahé Sustainable Water Augmentation Project	The project works will include raising the height of the La Gogue Dam by six metres, the construction of a new downstream water treatment plant, and an upgrade to the islands' water pipe network	Government of Seychelles	Water – Desalination, Distribution, Treatment	$26 million	RFQ issued on 1 March 2016

Note: The information in the above table has been compiled from various public sources. We make no representation about the accuracy of this information, or whether it is up to date at the time of publication.

Legal Insight: Overview of PPP laws/frameworks in selected African jurisdictions

Uganda

In July 2014, Uganda joined the list of African countries that have implemented Public Private Partnership or "PPP" laws, by passing the Public Private Partnership Bill 2012 (Uganda PPP Law). As in many African countries, improving Uganda's infrastructure is seen as a key step in unlocking its economic potential. To address this, Uganda has identified a robust pipeline of road, power and social infrastructure projects which offer significant opportunities to both sponsors and lenders.

The Uganda PPP Law adopts a simple approach. It focuses on establishing the framework for a successful PPP programme – it is not over prescriptive and allows for various structures. This should provide comfort to both potential lenders and sponsors seeking a degree of certainty over process.

The Uganda PPP Law charges the Ministry of Finance with setting up a central PPP unit which will be a useful source of information and to address "deal breaking" issues which can arise where the public sector lacks the requisite expertise. Its remit includes providing guidance and assistance in the development of projects. It will "assess projects for [PPPs] to confirm that they are affordable and that financial commitments are manageable in terms of the debt management policy and that they are within the Government policies". This may be useful for potential investors concerned about affordability or viability. Its role also extends to advising Government on PPPs and training public sector staff on PPPs.

The Uganda PPP Law sets out a detailed procurement cycle process. It also sets out rules on evaluation, disqualification and oversight. In addition, PPP agreements above a threshold monetary value must be approved by the Cabinet. The Uganda PPP Law also sets out what a PPP agreement must cover. This comprises a list of clauses and risk allocations that an investor or lender would expect to see in any PPP agreement to ensure "bankability". It does not prescribe the drafting of these terms, but the Government may issue more detailed guidance on contractual terms in the future.

The Uganda PPP Law, now separated from general procurement requirements, provides for both competitive (open or restrictive) and non-competitive bidding methods. The latter could involve direct procurement by the Government or (subject to satisfying specified criteria) unsolicited bids from sponsors. However, even where an unsolicited bid is accepted, the proposal remains subject to a competitive bidding process in which "all interested parties" may participate.

Any procurement must be fair, equitable, transparent and competitive, an important and familiar principle in PPP. The successful bid must be "the most economically advantageous, or [have] the lowest price". The key requirement of the Uganda PPP Law is that the proposed project "fulfils the objectives of the National Development Plan".

Tanzania

Although the PPP model has been utilised in Tanzania for many years in areas such as healthcare, education and water, a lack of a clear legal PPP framework in the country prevented the propulsion of a much needed PPP programme. In 2009 the Prime Minister issued a National Public Private Partnership Policy which culminated in the introduction of the Public Private Partnership Act No. 18 of 2010 (Tanzania PPP Law). The following year, the Public Private Partnership Regulations were published pursuant to the Tanzania PPP Law. In 2014 certain amendments were made to the Tanzania PPP Law by way of the PPP Amendment Act 2014 (2014 Amendments).

At the heart of the Tanzania PPP Law is the establishment of key Government agencies. These included:

a) The PPP Centre (which replaced the PPP Co-ordination Unit after the 2014 Amendments) – the PPP Centre is the first port of call for the vetting of PPP projects. It is charged with assessing potential PPP projects, procuring the approval of the Ministry of Finance and then submitting the project to the PPP Technical Committee once approved by the Ministry of Finance.

b) The PPP Technical Committee (which replaced the PPP Finance Unit after the 2014 Amendments) – this committee is made up of representatives from both the public and private sectors and is charged with approving PPP proposals submitted to it by the PPP Centre.

c) Contracting Authority – which would be the authority which contracts with the private sector (for example, as the counterparty to concession agreements).

A key feature of the Tanzania PPP Law which can be considered unique is the concept of providing for "solicited bids" and "unsolicited bids". The former relates to PPP projects where the Government has initiated the project, whereas the latter relates to projects initiated or proposed by the private sector.

The 2014 Amendments also provided for a new facilitation fund to be set up to further encourage PPP projects in the country. The key objective of the fund is to assist with launching PPP projects which are considered viable and necessary, but which may lack the necessary resources to launch.

Kenya

The Public Private Partnership Act No. 15 of 2013 (Kenya PPP Law) came into effect on 8 February 2013. It establishes the PPP Committee, the PPP Unit and the PPP Nodes, which play very similar roles as the PPP Centre, PPP Technical Committee and Contracting Authority respectively in Tanzania.

In line with the regime established in Tanzania, the Kenya PPP Law also provides for the private sector to propose/initiate projects and for the Public Private Partnership Project Facilitation Fund.

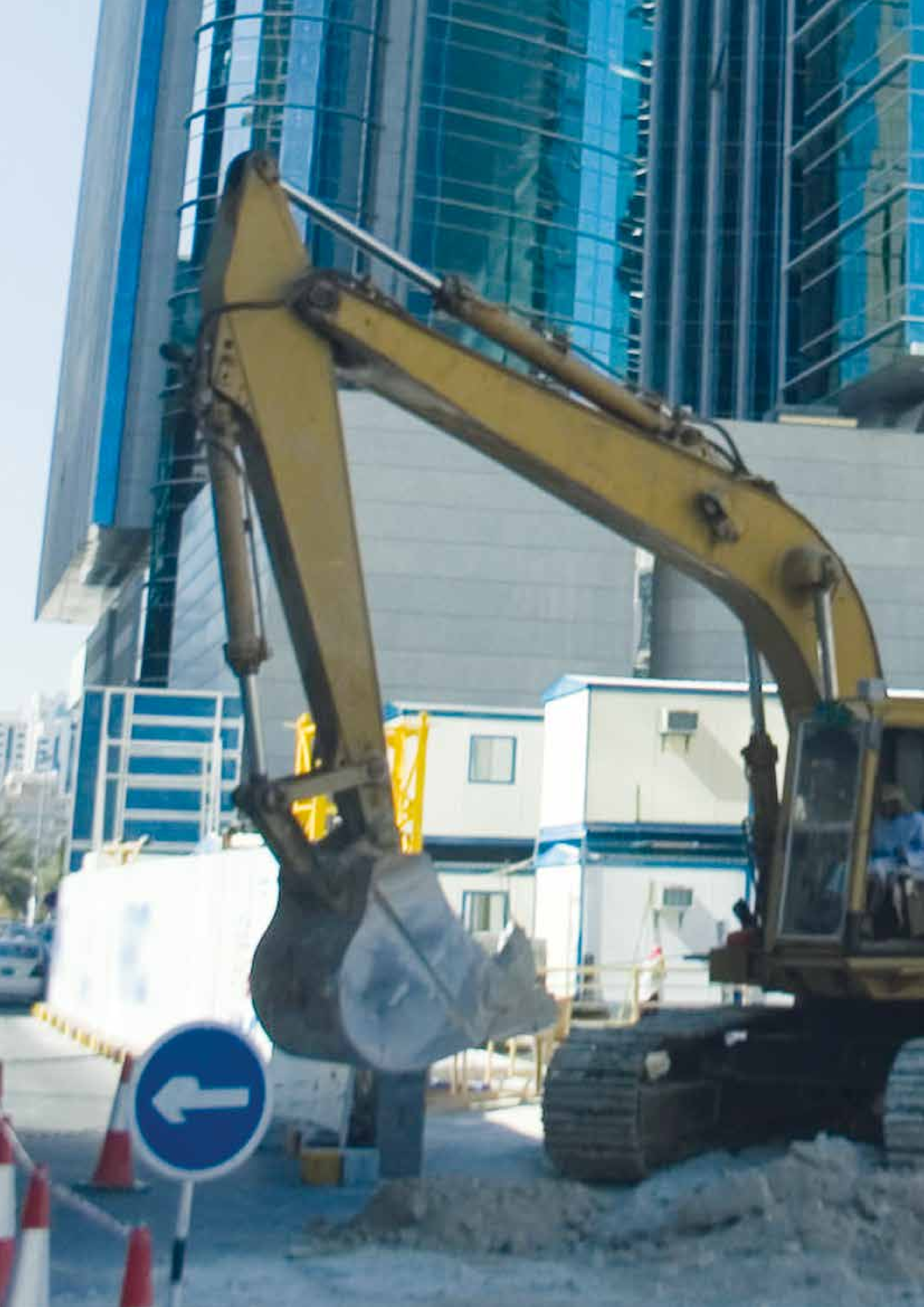
The Kenya PPP Law provides clear guidance that any project must clearly be needs tested, i.e., is a PPP the best model under which the relevant service can be provided? In addition, it sets out a clear regime pursuant to which PPP projects must be modelled. A PPP cannot be launched without a comprehensive feasibility study being tendered and a strict procurement process being adhered to. It is also required that the benefits of the project be publicised through an electronic media platform.

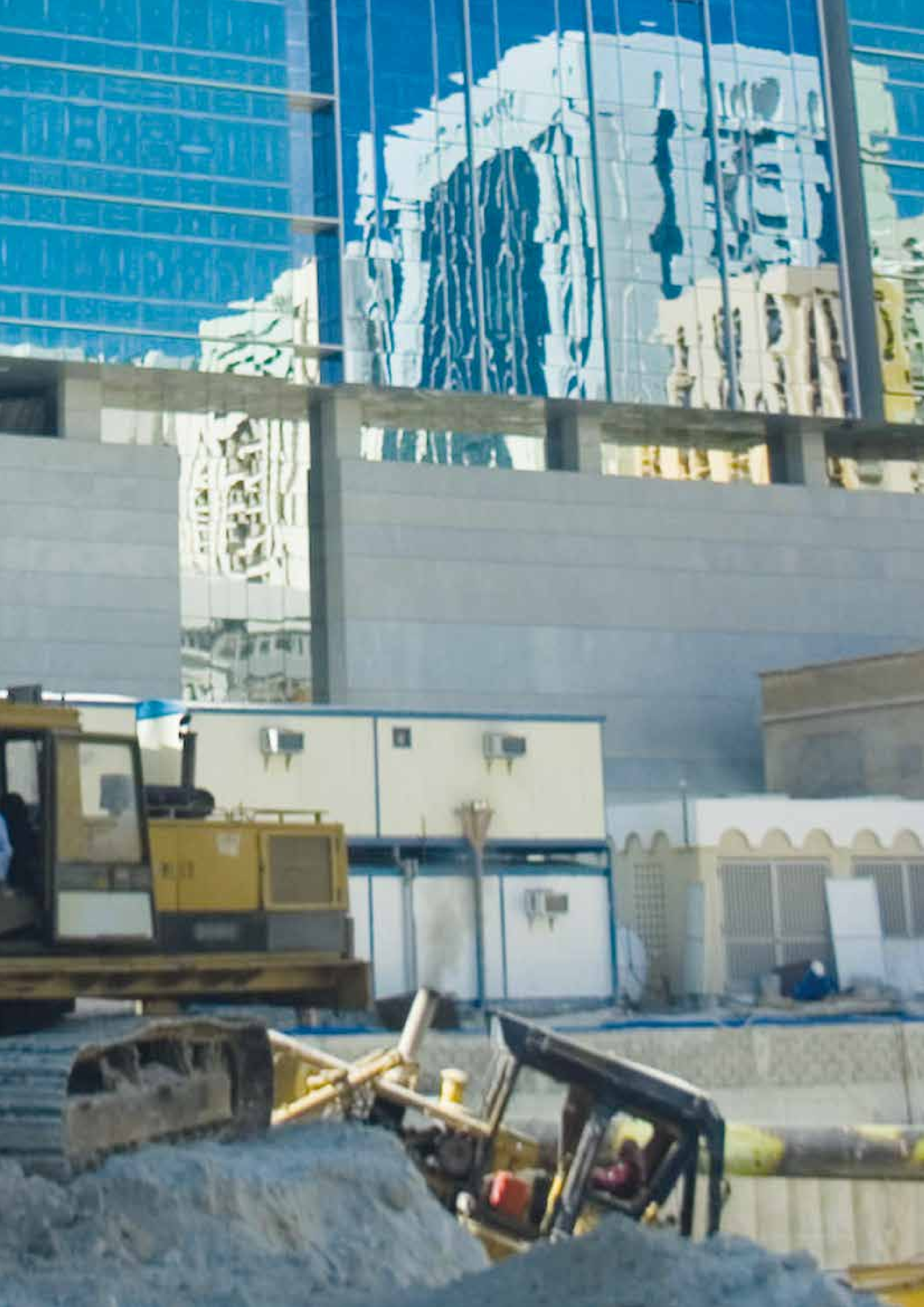
Nigeria

Nigeria's foray into the world of PPP regulation began with the Infrastructure Concession Regulatory Commission (Establishment) Act in 2005 (Nigeria PPP Law). Note that the Nigeria PPP Law is a Federal law – individual states are permitted to establish their own PPP laws and a number of them have done so. We focus here only on the Federal level.

The Nigeria PPP Law establishes the Infrastructure Concession Regulatory Commission (ICRC). The ICRC is the mainstay governmental entity in relation to PPPs and maintains overall responsibility of being the key liaison partner to the Federal Executive Council which is the body empowered with approving PPP projects in the country. The ICRC is charged with developing PPP guidelines and procedures and generally assisting with the successful implantation and facilitation of PPPs in Nigeria.

With a booming population and a thirst for new infrastructure and services to match, there were high hopes that the Nigeria PPP Law would be a launchpad for an extensive roll-out of PPP projects in the country. There have been a number of successful closures of PPPs in the country; however, the programme is firmly considered as being under development and far from a refined process. Political instability with frequent changes in Government and/or changes in heads of the relevant Ministries and, the overenthusiastic embracing of PPPs at the cost of properly understanding areas such as risk allocation have meant that PPPs are treated with some scepticism.





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