

# Managing PPP in Korea through A Think Tank Institution

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# C O N T E N T S

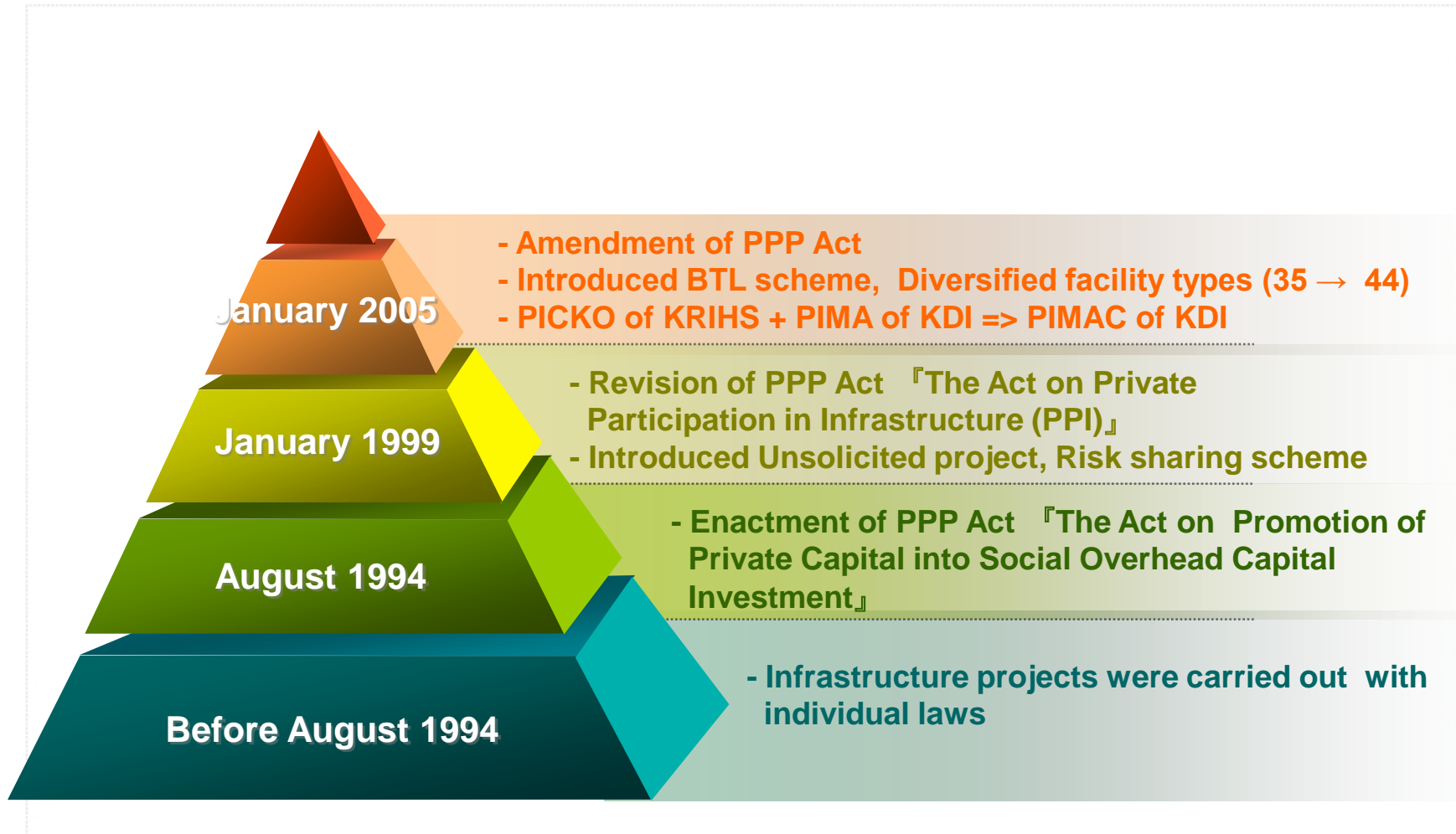


1. Legal Framework and Government Support
2. Organization in Decision Process

Part-01 | Legal Framework and  
Government Support



# History of PPP Act



# Legal Framework of the PPP System

## □ Hierarchy of legal and administrative framework of PPP System

- **PPP Act**
  - ✓ PPP Act Enforcement Decrees
    - Basic PPP Plan
      - » PPP Guidelines

## □ The Legal Status of the PPP Act

- **The PPP Act and the PPP Act Enforcement Decrees** are the principal components of the legal framework of PPP.
- The Act is a special Act that precedes other Acts.
- Exempts PPP projects from strict regulation in national property management.
- Allows a SPC to play a role of competent authority.

# Annual PPP Plan and PPP Guidelines

- ❑ The PPP Act directs the MOSF (Ministry of Strategy and Finance) and PIMAC to issue an **Annual PPP Plan** that provides detailed and practical guidelines for implementing PPP projects.
  - The yearly focus of PPP policy
  - Details in PPP project implementation procedure
  - Financing and re-financing guideline
  - Risk allocation/ Minimum revenue guarantee
  - Payment of government subsidy
  - Documentation direction
  
- ❑ PIMAC has developed **PPP Guidelines** to deliver transparency and objectivity in PPP project implementation.
  - Guidelines for VfM test
  - Guidelines for RFP preparation
  - Standard output specification by facility (school, military housing, integrated school facility)
  - Guidelines for tender evaluation
  - Standard PPP concession agreements
  - Guidelines for BTL project management

# Government Support (1)

## ❑ Acquisition of land by the concessionaire

- Granting of land expropriation rights to the concessionaire.
- National or public property in designated areas may be sold to the concessionaire.
- Concessionaires are allowed to use national or public property without charge or at lower price.

## ❑ Financial support

- Construction subsidy: The government may grant construction subsidy to the concessionaire, if it is inevitable to maintain the user fee at a reasonable level.
- Tax incentive
  - ✓ Exemption from acquisition and registration taxes on real estate for BTO projects
  - ✓ 0% VAT on construction services
  - ✓ Tax reduction for infrastructure bond

# Government Support (2) : MRG

- ❑ A certain fraction of projected annual revenues may be guaranteed when the actual operating revenue falls considerably short of the projected revenue prescribed in the contract.
  - Applicable only to solicited projects
  - Not applicable to projects that earn less than 50% of projected revenue

## Profile of Minimum Revenue Guarantee

	Jan 1999		May 2003	January 2006	
	Solicited	Unsolicited		Solicited	Unsolicited
Period	Whole operating period		15 Years	10 Years	Abolished
Guarantee Level (Max)	90%	80%	First 5 Years 90% Next 5 Years 80% Last 5 Years 70%	First 5 Years 75% Next 5 Years 65%	
Condition	None		No MRG applied if Actual Revenue < 50% of Forecasted Revenue	Same as Left	



# Government Support (3)

- ❑ SOC credit guarantee fund provides credit guarantee for PPP project finance to enhance the timely payment of debt service. Its guarantee products include:
  - Guarantee for facility loans (during construction)
  - Guarantee for working capital loans (during operation)
  - Guarantee for bridge loans
  - Guarantee for refinancing
  - Guarantee for infrastructure bond
  
- ❑ Buyout options
  - Force majeure (natural disaster or political turmoil)
  - Other specific events prescribed in the concession agreements

# Project Initiation

## ❑ Solicited Projects

- A solicited project is that the competent authority identifies a project for private investment and announces a RFP.

## ❑ Unsolicited Projects

- For an unsolicited project, a private company (project proponent) submits a project proposal, and then the competent authority examines and designates it as a PPP project.

# Procurement Schemes

## ❑ BTO (Build-Transfer-Operate) Scheme

- Both solicited and unsolicited projects are eligible
- Roads, seaports, and railway projects, etc
- User-fees, Minimum Revenue Guarantee (MRG) for solicited projects

## ❑ BTL (Build-Transfer-Lease) Scheme

- Only solicited projects are eligible
- School, dormitory, military housing, etc
- Government payments (Lease rent + operating costs)
- Low risk-low return

## ❑ Other Schemes

- BOT (Build-Operate-Transfer)
- BOO (Build-Own-Operate)

Part-02 | Organization in Decision Process



# Ministry of Strategy and Finance and PPP Review Committee

## □ **Ministry of Strategy and Finance (MOSF) is responsible for :**

- Managing the PPP Act, Enforcement Decree, and Basic PPP Plan;
- Preparing the draft budget for PPPs.

## □ **Under the PPP Act, the PPP Review Committee (PRC) is organized and managed by the MOSF.**

- The Committee members are composed of the Minister of MOSF (chairperson), vice ministers of the ministries in charge of implementing PPP projects, and private experts.

## □ **Main responsibilities of PRC are deliberation on :**

- Establishment of major PPP policies ;
- Designation and cancellation of large PPP project (total project cost with KRW 200 billion or above) ;
- Formulation and modification of the Request for Proposals for a large PPP projects ; Designation of a concessionaire of a large projects; and
- Other matters which the Minister of Strategy and Finance proposes for the active promotion of the PPPs.

# Establishment of a PPP Unit : PIMAC

- ❑ **In order to provide comprehensive and professional support for the implementation of PPP projects, the Public and Private Infrastructure Investment Management Center (PIMAC) was established under the PPP Act.**
  
- ❑ **Main responsibilities of PIMAC prescribed in the PPP Enforcement Decree are :**
  - Supporting the MOSF in the formulation of the Basic PPP Plan ;
  - Supporting the competent authorities and ministries in the procurement process of feasibility and value for money for potential PPP projects, formulation of the request for proposal, designation of the concessionaire, evaluation of project proposals by private companies, negotiation with potential concessionaire, etc ;
  - Promoting foreign investment in PPPs through consultation services and other related activities, developing and operating capacity-building programs.

# Duties of PIMAC in PPP System

## □ The role of PIMAC as stipulated by the PPP Act

### 1) Researcher

- Formulation of the Annual PPP Plan
- Theoretical and policy studies on PPP system

### 2) Advisor and/or Government Agency in Project Management

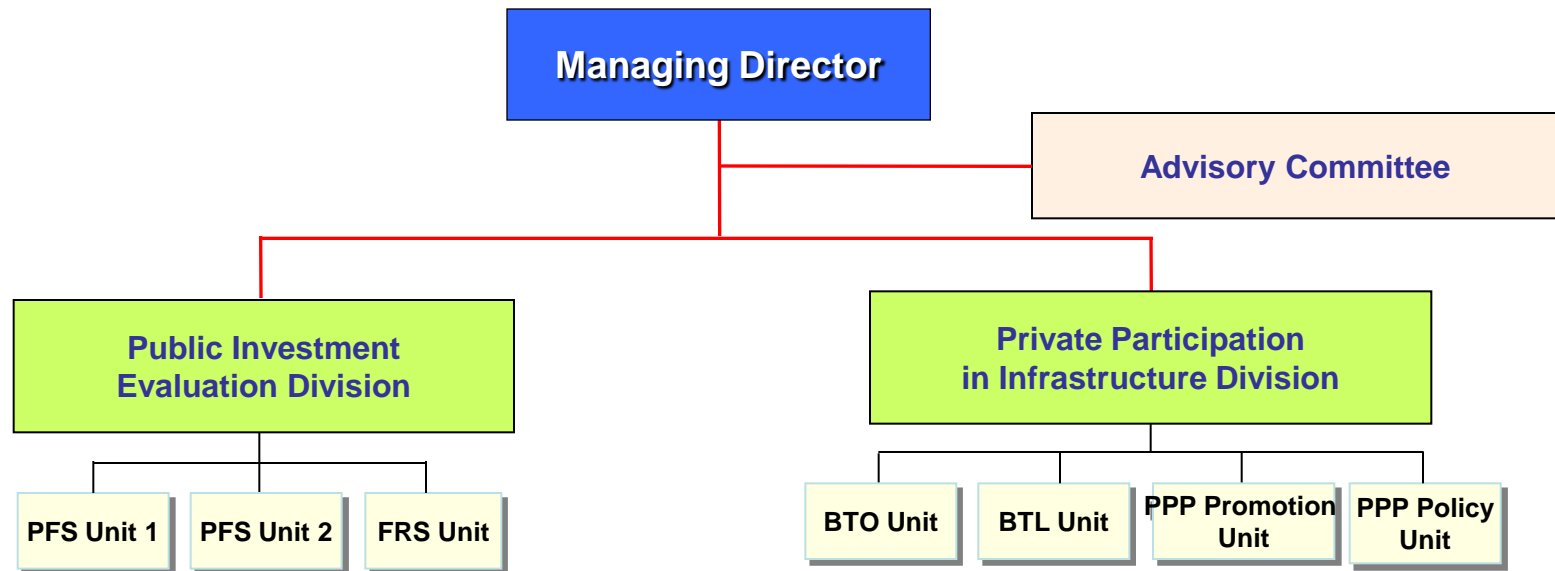
- Development of PPP projects
- Review and execution of feasibility studies of PPP projects
- Support for and execution of VfM test
- Support for formulation of RFP's
- Assistance in tendering and negotiation
- Review the calculation of refinancing gains

### 3) PPP Market Promoter

- Consultation for foreign investors and support for inducing foreign capital to Korean PPP market
- Development and promotion of education programs on PPP system
- International cooperation
- Database management

# Organization Chart of PIMAC

2 Divisions of PIMAC (70 members); and 4 Teams in PPP Division (36 members)



## Duties :

- Pre-feasibility Studies
- Feasibility Re-evaluation Studies
- Researches on Public Investment Management

## Duties :

- PPP Annual Plan
- PPP Project Evaluation
- Support for PPP Project Management
- Researches on PPP system



# Value for Money Test

## ❑ What is a VfM Test?

- Conducting feasibility study and assessing VfM (Value for Money) by comparing PFI against PSC to test if PPP procurement improves the value of tax payer's money
  - ✓ PFI (Private Finance Initiative)
  - ✓ PSC (Public Sector Comparator)

## ❑ Why conduct a VfM Test?

- Article 7, Paragraph 3 of the Enforcement Decree of the PPP Act stipulates the implementation of a VfM Test
- The Competent Authority uses VfM reports as basic material to make a judgment on whether to move forward with the PPP project proposed by the private proponent

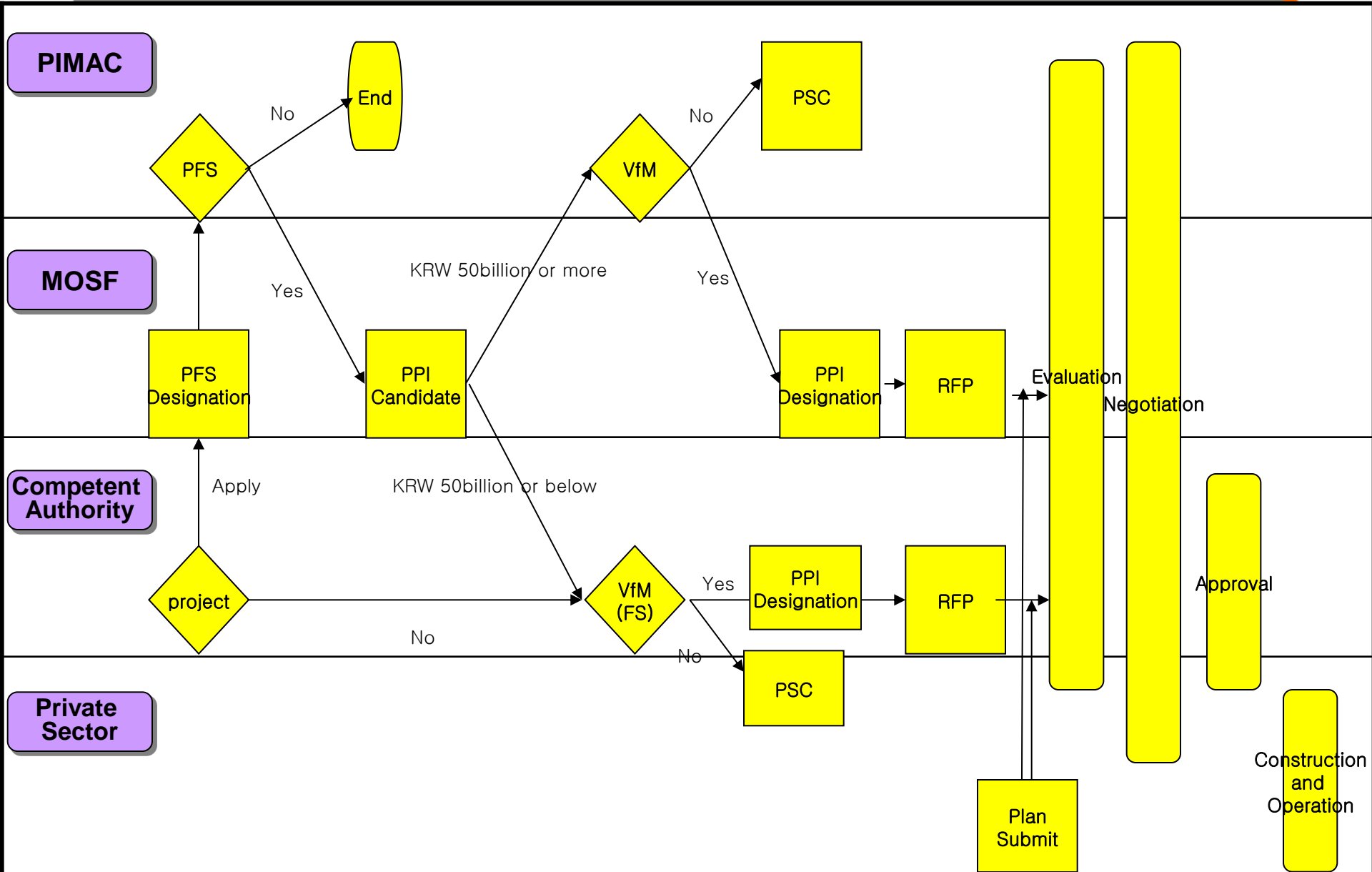
## ❑ VfM Test strongly controlled by PIMAC since 2005

- 1<sup>st</sup> stage : Decision to invest
- 2<sup>nd</sup> stage : Decision to implement by PPP
- 3<sup>rd</sup> stage : Present a best implementation practice

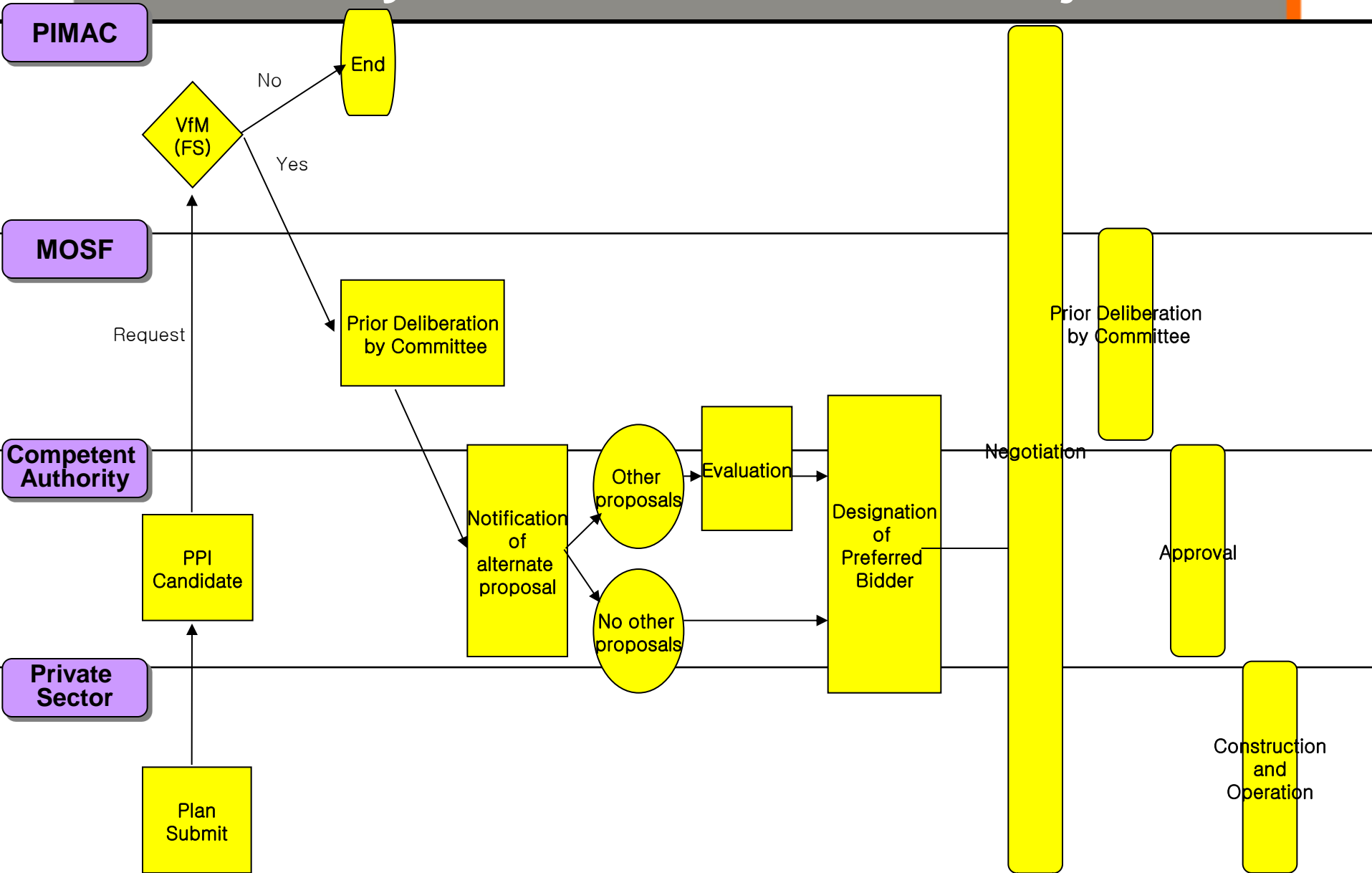
# Pre-feasibility Study (PFS)

- ❑ Short and brief evaluation of a project to produce information for budgetary decision as stipulated by the National Finance Act
  - Introduced in 1999
  - Owned by the MOSF/MLTM and conducted by PIMAC
- ❑ PFS aims to enhance fiscal productivity by launching large-scale public investment projects based on transparent and objective ex ante project evaluations
- ❑ All new large-scale projects with total costs amounting to 50 billion Won (\$50 million USD) or more are subject to PFS
  - Before the NF Act, PFS was centered on infrastructure projects
  - PFS has expanded to non-infrastructure (e.g. R&D) projects
  - Local government and PPP projects are also subject to PFS if central government subsidy exceeds 30 billion Won
- ❑ Typical building projects and legally required facilities are exempted from PFS

# Roles of Players in a Solicited Project



# Role of Players in an Unsolicited Project



*Thank you*

Korea's Leading Think Tank

