



PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN GEORGIA

SURVEY QUESTION	ANALYSIS
PPP Regulatory Framework	
2. Does the regulatory framework in your country allow procuring PPPs?	Yes
If yes, please specify the relevant regulatory framework and the year of adoption:	<p>On 6 June 2016, the Government of Georgia adopted (1) Decree No. 245 on approval of Public and Private Partnership Policy. This document sets out the principles, in line with which the PPP legislative and institutional framework shall be organized in the country.</p> <p>Decree No. 245 explicitly provides that PPPs in Georgia shall be implemented in accordance with the preliminarily defined process and are considered a part of an unified investment strategy of the state (Article 7.1). Therefore, (2) Decree of the Government of Georgia No. 191 “Approval of Investment Projects Management Guide”, issued on 22 April 2016, (hereinafter “Decree 191”) generally applies to PPPs. The document outlines evaluation, approval and implementation procedures for public investment projects in Georgia, including PPPs. Article 9 of Decree 191 lists additional approval and assessment procedures required specifically for PPPs. The Law of Georgia on the Procedure for Granting Concessions to Foreign Countries and Companies (1994) is not applicable, because it relates to concessions of natural resources to foreign investors, and not concessions in the sense of user-pay infrastructure projects.</p> <p>Other normative acts applicable to PPPs in Georgia are the (3) Law of Georgia on Public Procurement (2005) (hereinafter “Law on Public Procurement”), (4) Order No. 9 of the Chairman of the State Procurement Agency on Approving the Rules for Conducting Simplified Electronic Tender and Electronic Tender (2011) (the “Order No. 9”); (5) Order No. 11 of the Chairman of the State Procurement Agency on Approving the Rules for Conducting Two-stage Simplified Electronic Tender and Two-stage Electronic Tender (2016) (the “Order No. 11”); (6) Law of Georgia on Promotion and Guarantees of Investment Activity (1996) It is noteworthy that in addition to the legal documents listed above, there are specific regulations in several sectors (e.g. electricity, oil and gas) which may also apply to PPPs.</p>
and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:	www.matsne.gov.ge
2.1. Are you aware of any reforms (in the regulatory frameworks – laws, regulations, policies, etc.- or in generally followed practices) related to PPPs	Yes

that: Took place in 2016, are ongoing and/or are planned to be adopted BEFORE June 1, 2017?	
Please describe:	<p>The Government of Georgia issued Ordinance of the Government of Georgia No. 245, adopted on 6 June 2016, on approval of the document on Public Private Partnership (the Ordinance No. 245). According to the policy document, the Government aims to create a special unit, which will manage PPP projects and also, to adopt law about PPP. Moreover, the special Government Commission should be created, which will approve the PPP projects. In order to analyze and monitor the fiscal risks connecting to PPP projects, the Ministry of Finance established the new division - the Fiscal Risks Management Division - at the beginning of 2017.</p>
2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?	<p>Yes</p>
Please describe:	<p>The Ministry of Economy and Sustainable Development of Georgia in cooperation with EBRD is in process of drafting PPP law, which is expected to be initiated by the government in the end of 2017.</p>
3.1 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Transportation.	<p>No</p>
If yes, please provide the relevant legal/regulatory provisions:	<p>n/a</p>
3.2 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Water and Irrigation	<p>No</p>
If yes, please provide the relevant legal/regulatory provisions:	<p>n/a</p>
3.3 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Energy generation and distribution.	<p>No</p>
If yes, please provide the relevant legal/regulatory provisions:	<p>n/a</p>
3.4 Besides national defense and other matters of national	<p>No</p>

security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Telecom	
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.5 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Other	No
If yes, specify and provide the relevant legal/regulatory provisions:	n/a
4. Does the regulatory framework provide for a specific tax regime for PPP transactions (i.e. tax incentives, special tax depreciation treatment, etc.)?	No
If yes, please specify and provide the relevant legal/regulatory provision (if any):	n/a
5. Please identify the PPP procuring authorities in Georgia and provide their website(s) (if available):	The regulatory framework does not specify the PPP procuring authorities, however, in general, all state entities are able to enter PPP using the public procurement framework mandatory for all state entities. This includes central government, ministries, legal entities of public law, state owned companies. The public procurement authority is the State Procurement Agency and the Unified Electronic System of State Procurement (www.tenders.procurement.gov.ge).
6. In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?	No
If yes, please indicate its name, and its website (if available):	n/a
6.1 If yes, what are the main responsibilities of the PPP Unit (check all that apply): PPP regulation and policy guidance.	n/a
6.2 PPP capacity building for other public authorities.	n/a
6.3 PPP promotion among the public and/or private sectors	n/a

in national and international forums.	
6.4 Technical support in implementing PPP projects.	n/a
6.5 Identification and selection of PPP projects from the pipeline.	n/a
6.6 Revision of fiscal risks born by the Government.	n/a
6.7 Consultation with affected communities on potential impact of PPP projects.	n/a
6.8 Approval of PPP projects.	n/a
6.9 Undertaking the procurement of PPPs.	n/a
6.10 Oversight of PPP implementation.	n/a
6.11 Other	n/a
6.11 please specify:	n/a
Please provide the relevant legal/regulatory provisions:	n/a
PPP Preparation	
8. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Order 191, Article 6.1- 6.3, procuring authority develops a Project Concept Card for an investment project, which is submitted for approval to the Ministry of Finance of Georgia (Article 6.4), except for the cases when municipalities use their own funds (Article 6.5) or projects that are financed by institutions of Autonomous Republics (Article 6.6). The Project Concept Card with a project proposal of a procuring authority must be assessed by the Ministry of Finance for the pre-qualification stage. If pre-qualified, the project will be examined further (Article 6.7 - 6.10). Pursuant to the Ordinance No. 191, Article 10(6, 9,10), after a positive decision is made during preliminary selection, the Project Assessment Report is submitted to the Ministry of Finance of Georgia together with the positive decision taken after the assessment by the the responsible spending public body. The Ministry of Finance of Georgia shall consider the economic and social value of the project in relation to the budgetary funds required for its financing and submits the draft to the Economic Council of Georgia. The Economic Council shall determine the list of projects which will transit to the next phase.
8.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before signing the PPP contract?	No

If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
8.2. Does the Ministry of Finance (or government more broadly) have a specific system of: Budgeting for PPP projects.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Accounting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Reporting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
8.3. If yes to question 8.2, which of the following alternatives best describes the regulation?: Accounting and reporting according to International Public Sector Accounting Standards (IPSAS).	n/a
Accounting and reporting according to other international standard (e.g. European System of Accounts).	n/a
Please specify:	n/a
Other.	No
Please specify:	n/a
9. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before launching the procurement process (e.g. Cabinet, Cabinet Committee, Parliament, Supreme Audit Office, etc.)?	Yes
If yes, please specify the relevant authority	The Economic Council and a Special Governmental Commission, which works in cooperation with relevant subdivisions of the Public and Private Co-operation, Risk Management Department and line ministries.

<p>and provide the relevant legal/regulatory provisions (if any):</p>	<p>Pursuant to the Ordinance No. 191, Article 10(6, 9,10), after a positive decision is made during preliminary selection, the Project Assessment Report is submitted to the Ministry of Finance of Georgia together with the positive decision taken after the assessment by the the responsible spending public body. The Ministry of Finance of Georgia shall consider the economic and social value of the project in relation to the budgetary funds required for its financing and submits the draft to the Economic Council of Georgia. The Economic Council shall determine the list of projects which will transit to the next phase.</p> <p>In addition, according to Decree 245, Article 7.2,“Public and Private Cooperation Project approval”, PPP proposal requires additional approval by a Special Governmental Commission, which can be obtained at any stage of the project. This commission will be set up specifically to approve PPPs and will work in cooperation with relevant subdivisions of the Public and Private Co-operation, Risk Management Department and line ministries.</p>
<p>9.1. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before signing the PPP contract?</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>10. Does the procuring authority use transaction advisors during the PPP project cycle?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>No regulatory basis</p>
<p>11. In a case comparable to the case study assumptions, please select the option that best describes the way your government integrates the prioritization of PPP projects with other public investment project prioritization? (e.g. in the context of a national public investment system, multi-year perspective plans, medium-term budgetary framework): The regulatory framework provides for the inclusion of PPPs in the national public investment system/medium term budgetary framework and details a specific procedure to</p>	<p>No</p>

ensure the consistency of PPPs with other public investment priorities.	
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework prescribes the need for PPPs to be consistent with all other investment priorities without establishing a specific procedure to achieve that goal.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Order 191, Article 8(1A): Strategic justification of an investment project is the main component of the investment proposal's Concept Card. It is important to reassure the long-term strategic importance of the project that the political direction set by the government, ministry or municipality may change over time. Consequently, the strategic reasoning given in the approved card of the project may be revised.
The regulatory framework does not include any provisions but the procuring authority evaluates the consistency of PPPs with other government investment priorities in practice.	No
If yes, please elaborate:	n/a
The procuring authority does not evaluate PPPs against existing government priorities.	No
Please elaborate and provide examples:	n/a
11.1. Based on your experience, is it always the case that this prioritization is done in practice in accordance with the provisions of the regulatory framework described above?	No
If yes, please specify:	n/a
If no, please elaborate:	In practice, the government does not impose any restrictions or obligations on investors based on identified national priorities.
12.1 Which of the following assessments are conducted when identifying and preparing a PPP in order to inform the decision to proceed with it? (check all that apply): Socio-economic	Yes

analysis (cost-benefit analysis of the socio-economic impact of the PPP project)	
Relevant legal/regulatory provision (if any)	According to Article 8(D) of Order 191, economic analysis is an essential part of the preliminary evaluation of every investment project, including PPPs. The Article further provides that analysis of the costs and benefits of the investment project is carried out in the economic context and goes beyond the narrow range of financial indicators, but also includes cost and benefits assessment for the whole society, including expenses and benefits, which can not be directly observed at market prices. Analysis includes identification, assessment, analysis and ranking of the prices and benefits, according to net economic efficiency(Db). In addition, Article provides that analysis of cost efficiency is especially needed in the case of projects that have significant goals of providing community or social well-being, as the valuation of such goals can be difficult to assess. The benefit of this kind of analysis is expressed in qualitative and quantitative terms. This analysis is part of the preliminary evaluation of every investment project, including PPPs(Dd).
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No
Details:	Contributors indicate that the assessment is not done in all cases.
12.2. Affordability assessment, including the identification of the required long term public commitments (explicit and implicit, direct and contingent liabilities)	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	Best contributor confirms that the assessment is done in practice.
12.3. Risk identification, allocation and assessment (risk matrix)	Yes
Relevant legal/regulatory provision (if any)	Pursuant to Article 9(3C) of the Ordinance 191, preliminary assessment of PPP project proposals must include clear identification, assessment and the possibility of a suitable type of risk for a private partner for the risks associated with the PPP project.
Is there a specific methodology for the assessment?	No

If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	Both best contributors agree that the assessment is done in practice.
12.4. Comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives (i.e. value for money analysis, public sector comparator)	Yes
Relevant legal/regulatory provision (if any)	Pursuant to Article 9(3A) of the Ordinance 191, preliminary assessment of PPP project proposals must include assessment of financial, construction and operational expenses for each alternative method of procurement to determine whether PPP project is the best alternative among all. Further, Article 9(4) of the Ordinance 191 provides that if the results of the preliminary tests of the procurement indicate that it is appropriate to implement the PPP option, the PPP modal choice (PPP contract type) should be considered.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No
Details:	Contributors indicate that the assessment is done in practice, but not in all cases.
12.5. Financial viability or bankability assessment	Yes
Relevant legal/regulatory provision (if any)	Pursuant to Article 8 (1E) (E.E.F.) of the Ordinance No. 191, bankability analysis is conducted as a part of the risk analysis and risk management.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No
Details:	n/a
12.6. Market sounding and/or assessment (showing evidence of investors' interest in the market for the project)	Yes
Relevant legal/regulatory provision (if any)	Pursuant to Article 9(3B) of the Ordinance 191, preliminary assessment of PPP project proposals must include assessment of the presence of potential private investors and the level of competition on the market.
Is there a specific methodology for the assessment?	No

If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	Market sounding assessment is done in practice.
12.7. Environmental impact assessment	Yes
Relevant legal/regulatory provision (if any)	Pursuant to Article 8 (1F) (F.D.) of the Ordinance No. 191 4, the Environmental Impact Assessment (EIA) report is a part of a seven-stage preliminary investment proposal analysis and is prepared in accordance with the rules and procedures established by the legislation of Georgia in the cases defined by the legislation of Georgia.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	The environmental impact assessment of PPP projects is done in practice.
12.8. Consultation process with affected communities on potential impact of the PPP project	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology for the assessment?	n/a
If yes, please elaborate	n/a
Is the assessment done in practice?	n/a
Details:	n/a
13. Does the procuring authority include the assessments (indicated in Question 12 above) in the request for proposals and/or tender documents (for example, as part of an Information Memorandum to the bidders)?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and specify which of the assessments are included in the request for proposals and/or tender documents:	n/a
13.1. Are the assessments published online?	No

If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
specify the website	n/a
please specify which of the assessments are published online:	n/a
14. Does the procuring authority include a draft PPP contract in the request for proposals?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
If no, please elaborate	If the tender is carried out under the Law on Public Procurement, the tender documents shall include essential terms and conditions of a respective contract. There is no requirement to attach a draft contract to the tender documents.
14.1. Are the tender documents published online?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 12(1&2) of the Law on Public Procurement, the respective tender application and tender documents shall be uploaded on the Unified Electronic System of State Procurement. Tender notice must be additionally published in the newspaper "24 saati" with the rule prescribed under a sub-legal Act. In case of necessity, a procurement entity is eligible to use other additional methods for disseminating tender notice and tender documentation.
and please specify the website:	www.tenders.procurement.gov.ge
15. In a case comparable to the case study assumptions, have standardized PPP model contracts and/or transaction documents been developed?	No
If yes, please specify and provide a government-supported website where the mentioned standards are available or provide an electronic copy of them:	n/a
16.1 In a case comparable to the case study assumptions, who is the responsible party for each of the following requirements? Obtaining the required urban permits: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to	Yes

the procuring authority (or other Government entity)	
To be established in the contract	No
Relevant legal/regulatory provision (if any)	No regulatory basis
16.2. Obtaining the required environmental permits: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
16.3. Obtaining the required operational permits: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
16.4. Obtaining the required land: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
16.5. Obtaining the required right of way: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to	No

the procuring authority (or other Government entity)	
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
PPP Procurement	
18. Which of the following options best describes the required qualifications of the bid evaluation committee members? (Please select only one): The membership of the bid evaluation committee is specified and/or its members are required to meet detailed qualifications.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The bid evaluation committee members require sufficient qualification without specific details.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The bid evaluation committee members are not required to have any specific qualifications.	Yes
Please elaborate and provide examples:	Pursuant to Article 11 of the Law on Public Procurement, the members of tender committee are not required to have any specific qualifications and the committee shall consist of the representatives of the procuring authority.
19. Does the procuring authority issue a public procurement notice of the PPP project?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 12 (1) of the Law on Public Procurement, the respective tender application and tender documents shall be uploaded on the Unified Electronic System of State Procurement.
19.1. If yes, is the public procurement notice published online?	Yes
If yes, please specify the website:	www.tenders.procurement.gov.ge
20. Are foreign companies prohibited from participating in the bidding process?	No

If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
21. In a case comparable to the case study assumptions, does the procuring authority grant the potential bidders a minimum period of time to submit their bids?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 15(3) of the Law on Public Procurement, the procuring authority shall grant to the bidders a certain period of time to submit their bids: The time frame for familiarization electronic tender notice and electronic tender documentation shall be at least 15 days from posting thereof in the Unified Electronic System of State Procurement. Within 5 days from the expiration of this deadline a bidder shall be authorized to submit a tender bid through the Unified Electronic System of State Procurement and alter the price of the submitted tender bid through electronic reverse auction.
and the time in calendar days:	15
22.1. In a case comparable to the case study assumptions, which are the procurement procedures available and/or set as default for PPP projects? Open tendering: Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	The general procurement procedure appears to be single stage tender while article 20.3. (3) provides the possibility of conducting a two phase state procurement in certain cases.
22.2. Restricted tendering (with pre-qualification stage): Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.3 Multi-stage tendering (with shortlisting of final candidate(s)): Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	Article 20.3. (3) of the Law on Public Procurements outlines procedure for a two-stage procurement bidding process.
22.4. Competitive dialogue: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.5. Direct negotiation with more than one candidate: Available	No

Default	No
Relevant legal/regulatory provision (if any)	n/a
22.6. Direct negotiation with only one candidate: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.7 Other. Specify:	No
Available	n/a
Default	n/a
Relevant legal/regulatory provision (if any)	n/a
22.8. Do the tender documents detail the procedure of the procurement process providing the same information to all the bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Articles 12(5 & 6) of the Law on Public Procurement specify the list of characteristics and components of a tender notice issued to the bidders. Moreover, pursuant to Article 12 of the Law, the tender documents shall indicate a contact person from whom additional information and details on the procedure of the procurement process may be obtained. The tender documents shall also specify the procedure for obtaining additional information and details.
If no, please elaborate:	n/a
22.9. Do the tender documents specify the prequalification/shortlisting criteria (when applicable) in order to make them available to all the bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 12 (5&6) of the Law on Public Procurement, the tender documents shall specify qualification criteria that shall be met by the bidders. Although Article 12 (prima) of the Law does expressly provide inclusion of shortlisting criteria, this provision implies that shortlisting criteria shall be specified.
22.10. Based on your experience, is it always the case that the specified criteria are respected in practice?	Yes
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	Contributors confirm that prequalification/shortlisting criteria are specified in the tender documents and available to all bidders.
If no, please elaborate:	n/a

23. Can interested parties/potential bidders submit questions to clarify the public procurement notice and/or the request for proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 12 (i,j) of the Law on Public Procurement, the tender documents shall indicate a contact person from whom additional information and details on the procedure of the procurement process may be obtained. Moreover, the tender documents shall specify the procedure for obtaining additional information and details.
23.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose those questions and clarifications to all potential bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
23.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	Yes
If yes, please specify:	Although there is no mandatory requirement in the Law on Public Procurement to disclose the bidders' questions and clarifications, the procuring authority may do such disclosure to ensure fair competition and transparency of the procurement process.
If no, please elaborate:	n/a
24. Besides questions and clarifications, can the procuring authority conduct pre-bidding conference?	No
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
24.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose the content and the results of the pre-bid conference to all bidders?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
24.2. Based on your experience, is it always the	n/a

case that this disclosure of information is done in practice?	
If yes, please specify:	n/a
If no, please elaborate:	n/a
25. In a case comparable to the case study assumptions, does the procuring authority require the bidders to prepare and present a financial model with their proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
If no, please elaborate:	n/a
26. Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to the Law on Public Procurement and Order No. 9, the tender committee shall evaluate the proposals strictly and solely in accordance with the criteria envisaged in the tender documents. As regards two-stage tender, according to the Order No. 11, the tender documents shall explicitly state the evaluation criteria which shall be strictly met.
Evaluation criteria is not set in the tender documents	No
27. In the case where only one proposal is submitted (sole proposals), which of the following options best describes the way the procuring authority deals with them? (Please select only one)?: The procuring authority follows a specific procedure before awarding a PPP contract where only one proposal is submitted.	No
Please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority considers sole proposals valid as long as they meet the conditions outlined in the tender documents.	No

Please provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority does not award a PPP contract if only one proposal is submitted.	No
Please provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework does not include any provisions.	Yes
28. Does the procuring authority publish the award notice?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	For electronic tender, pursuant to Article 15 of the Law on Public Procurement, the award notice shall be uploaded on the Unified Electronic System of State Procurement.
28.1. If yes, is the public procurement award notice published online?	Yes
If yes, please specify the website:	For electronic tender, the results are published here: www.tenders.procurement.gov.ge .
29. Does the procuring authority provide all the bidders with the result of the PPP procurement process?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
If no, please elaborate:	n/a
29.1. If yes, does the notification of the result of the PPP procurement process include the grounds for the selection of the winning bid?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
30. Is there a standstill (or pause) period after the contract award and before the signing of the contract in order to allow unsuccessful bidders to challenge the award decision?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a

and the time in calendar days:	n/a
30.1. Is the standstill period set out in the notice of intention to award?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
31. Does the regulatory framework restrict negotiations with the selected bidder between the award and the signature of the PPP contract in order to prevent an unfair disadvantage to the other bidders?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
31.1. Based on your experience, is it always the case that this restriction is respected in practice?	n/a
If yes, please specify:	n/a
If no, please elaborate:	n/a
32. Does the procuring authority publish the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 15 (prima) of the Law on Public Procurement, the contract shall be uploaded on the Unified Electronic System of State Procurement.
32.1. If yes, which of the following options best describes this publication (choose only one)?: Publication of the full PPP contract including all its annexes and appendixes	Yes
Publication of the full PPP contract without including all its annexes and appendixes	No
Publication of a summary of the PPP contract without publishing the full PPP contract	No
Publication of a summary of the PPP contract along with the full PPP contract including all its annexes and appendixes	No

Publication of a summary of the PPP contract along with the full PPP contract without including all its annexes and appendixes	No
32.2. If yes, is it published online?	Yes
If yes, please specify the website:	www.tenders.procurement.gov.ge
32.3. If yes, does the procuring authority also publish any subsequent amendment made to the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 7 (3), Order 9, changes to tender documents can only happen in accordance with Article 3 paragraphs “j”. Modifications of the document shall be uploaded to the Unified Electronic System of State Procurement immediately.
PPP Contract Management	
41. Has the procuring or contract management authority established a system to manage the implementation of the PPP contract (e.g. attributing responsibilities or establishing specific management tools)?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 22 of the Order No. 9, the procuring authority may select one of its employees or group of employees in order to control the compliance with and performance of the contract. Pursuant to Articles 37 and 38 of Order No. 12, the procuring authority shall monitor implementation of the procured contract and upload status of the contract in the Unified Electronic System of State Procurement.
41.1. If yes, which of the following tools does it include (check all that apply)?: Establishment of a PPP contract management team	No
Relevant legal/regulatory provisions (if any):	n/a
Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa	No
Relevant legal/regulatory provisions (if any):	n/a
Elaboration of a PPP implementation manual or an equivalent document	No

Relevant legal/regulatory provisions (if any):	n/a
Establishment of personnel training programs (i.e. initial training and continued training throughout the course of the project)	No
Relevant legal/regulatory provisions (if any):	n/a
Establishment of a risk mitigation mechanism which considers the evolving nature of risks throughout the project lifecycle (guidelines, specific processes, insurance regime, etc.)	No
Relevant legal/regulatory provisions (if any):	n/a
41.2. Which of the following options best describes the required qualifications of the PPP contract management team members? (Please select only one): The membership of the PPP contract management team is specified and/or its members are required to meet detailed qualifications.	n/a
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The PPP contract management team members are required to meet sufficient qualification without specific details.	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The PPP contract management team members are not required to meet any specific qualifications.	n/a
Please elaborate and provide examples:	n/a
42. Does the procuring or contract management authority establish a system for tracking progress and	Yes

completion of construction works under a PPP contract?	
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
42.1. If yes, is the PPP contract construction performance information made available to the public?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
42.2. If yes, is the PPP contract construction performance information made publicly available online?	n/a
If yes, please specify the website:	n/a
43. Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract implementation after construction?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
43.1. If yes, which of the following tools does it include (check all that apply)?: Performance is assessed against evaluation criteria set in the tender documents and the PPP contract	Yes
Relevant legal/regulatory provisions (if any)	No regulatory basis
The procuring or contract management authority can abate (reduce) payments for non-performance of operating obligations under the PPP contract	Yes
Relevant legal/regulatory provisions (if any)	No regulatory basis
The private partner must provide the procuring or contract management authority with periodic operational and financial data	No

Relevant legal/regulatory provisions (if any)	n/a
The procuring or contract management authority must periodically gather information on the performance of the PPP contract	Yes
Relevant legal/regulatory provisions (if any)	No regulatory basis
The PPP contract performance information must be available to the public	No
Relevant legal/regulatory provisions (if any)	n/a
43.2. Is PPP contract performance information made publicly available online?	No
If yes, please specify the website:	n/a
44. Are foreign companies prohibited from repatriating the income resulting from the operation of a PPP project?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
45. Does the regulatory framework (including standard contractual clauses) expressly regulate changes in the ownership structure (i.e. stakeholder composition) of the private partner and/or assignment of the PPP contract?	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
45.1. If yes, which of the following circumstances are specifically regulated? (check all that apply): Any change in the private partner during an initial period (e.g. construction and first five years of operation).	No

<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>n/a</p>
<p>Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>n/a</p>
<p>In other cases, flexibility to change the ownership structure and/or assign the contract.</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>n/a</p>
<p>46. Does the regulatory framework (including standard contractual clauses) expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>Pursuant to Article 20 of the Law on Public Procurement and Article 20 of the Order No. 9, the contract may be amended, unless such changes may result in the increase of the contract price or may worsen the terms and conditions of the contract for the procuring authority.</p>
<p>46.1. If yes, is an approval from a government authority, other than the procuring authority, required?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>Pursuant to Article 27.7 of the Order No. 9, if the contract price is increased by more than 10% or GEL 100,000, the consent of the Ministry of Finance shall be obtained.</p>
<p>46.2. If yes to question 46, which of the following circumstances are specifically regulated? (check all that</p>	<p>No</p>

apply): A change in the scope and/or object of the contract.	
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the risk allocation of the contract.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the financial and/or economic balance of the contract.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the duration of the contract.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the agreed price or tariff.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
46.3. Can the procuring authority unilaterally modify a PPP contract?	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
47. Does the regulatory framework (including standard contractual clauses) expressly regulate the following circumstances that may occur during the life of the PPP contract? (check all that apply): Force Majeure	No

If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Material Adverse government action .	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Change in the Law.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Refinancing.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Subcontracting and replacement of the subcontractors.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	No regulatory basis
48. Does the regulatory framework (including standard contractual clauses) allow for administrative and/or contractual complaint review mechanisms to address disputes arising from the implementation of PPP contracts?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	No regulatory basis
48.1. If yes, please specify which of the following options are available (check all that apply): Local administrative review body	No

If yes, please specify:	n/a
Local courts	Yes
Domestic arbitration	Yes
International arbitration	Yes
Investor-State Dispute Settlement (ISDS)	Yes
Mediation	Yes
Please provide the relevant legal/ regulatory/standard contractual provisions (if any)	The Civil Procedural Code of Georgia, the Law of Georgia on Arbitration, the Law of Georgia on Promotion and Guarantees of Investment Activity.
48.2. If applicable, are arbitration awards enforceable by the local courts?: Domestic Arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	Recognition and enforcement of the award rendered in Georgia is regulated by Articles 44 and 45 of the Law of Georgia on Arbitration. Domestic arbitration awards are recognized and enforced by the courts of appeal of Georgia, whereas those rendered abroad shall be recognized, enforced by the Supreme Court of Georgia under the New York Convention of 1958 on Recognition and Enforcement of Foreign Arbitral Awards.
International arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	Pursuant to Articles 44 and 45 of the Law of Georgia on Arbitration, arbitration awards rendered abroad shall be recognized, enforced by the Supreme Court of Georgia under the New York Convention of 1958 on Recognition and Enforcement of Foreign Arbitral Awards.
Investor-State arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	The arbitral awards of investor-State arbitration are enforceable under either (a) New York Convention on Recognition and Enforcement of Foreign Arbitral Awards (1958) or (b) Washington Convention on the Settlement of Investment Disputes (ICSID) (1965), if administered by ICSID.
49. Does the regulatory framework (including standard contractual clauses) allow for the restructuring of a PPP private partner (SPV) in financial difficulty prior to insolvency?	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
50. Does the regulatory framework (including standard contractual clauses) allow for the lenders to take control of the PPP project (lender step-in rights) if either	No

the private partner defaults or if the PPP contract is under threat of termination for failure to meet service obligations?	
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
50.1. If yes, which of the following options best describes the lender step-in right? (Please select only one): The regulatory framework expressly regulates the lender step-in rights.	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
The regulatory framework prescribes that a direct agreement should be signed with the lenders.	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Other.	No
Please Specify:	n/a
51. Does the regulatory framework (including standard contractual clauses) expressly establish the grounds for termination of a PPP contract?	No
If yes, please specify and provide the relevant legal/regulatory/standard	n/a

contractual provisions (if any):	
51.1. If yes, does the regulatory framework (including standard contractual clauses) establish the consequences for the termination of the PPP contract?	n/a
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Unsolicited Proposals	
34. Are unsolicited proposals in Georgia: (choose only one): Explicitly prohibited by the legal framework? (If prohibited, skip to section F)	No
Explicitly allowed by the legal framework?	No
Not regulated by the legal framework, but do happen in practice?	No
Not regulated by the legal framework, and do not happen in practice? (if not done in practice, skip to section F)	Yes
If the legal framework explicitly prohibits or allows unsolicited proposals, please provide the relevant legal/regulatory provisions	n/a
35. Does the procuring authority conduct an assessment to evaluate unsolicited proposals? (if not, skip to question 37)	n/a
If yes, please specify and provide the relevant legal/regulatory provisions (if any)	n/a
35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a

<p>36. Which of the following options best describe how the procuring authority ensures that unsolicited proposals are consistent with existing government priorities? (Please select only one): The procuring authority follows a specific procedure to ensure the consistency of PPPs with other government investment priorities.</p>	n/a
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p>	n/a
<p>The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.</p>	n/a
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	n/a
<p>The procuring authority does not evaluate unsolicited proposals against existing government priorities.</p>	n/a
<p>Please elaborate and provide examples:</p>	n/a
<p>37. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?</p>	n/a
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	n/a
<p>38. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?</p>	n/a
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	n/a
<p>and the time in calendar days:</p>	n/a

39.1 Does the procuring authority use any of the following incentive mechanisms to reward/compensate the presentation of unsolicited proposals? (check all that apply): Access to the best and final offer (BAFO) process and/or automatic shortlisting.	n/a
39.2 Developer's fee (reimbursing the original proponent for the project development cost).	n/a
39.3 Bid Bonus.	n/a
39.4 Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).	n/a
39.5 Other.	n/a
Please specify:	n/a
Please provide the relevant legal/regulatory provisions (if any):	n/a