

PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN AFGHANISTAN

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>The current regulatory framework governing PPPs in Afghanistan is comprised of: 1) Presidential decree No. 103 dated September 1, 2016 regarding the PPP Law 2016 [hereinafter “PPP Law”], which provides in Article 26, “This Law shall enter into force when signed and shall be published in the Official Gazette thereupon nullifying all rules and regulations repugnant to it.” And in Article 25, provides, “ The Ministry of Finance, for enhanced implementation of this law, may propose regulations and enact and approve Procedures.” Such regulations to the PPP Law have not been issued yet; 2) National Policy on Public Private Partnerships 2017 published by the Central Partnership Authority, Ministry of Finance [hereinafter “National PPP Policy”]; 3) Public Procurement Law issued in 2015 [hereinafter “Public Procurement Law”] and 4) Public Procurement Rules of 2015 [hereinafter “2015 Public Procurement Rules”]. Article 27 of the Public Procurement Law provides that contracts for private investment in concessions regarding infrastructure projects shall be awarded in accordance with special regulations. Whilst the PPP Law and its Policy have been issued, a PPP implementing regulation to the PPP Law has not been enacted yet, hence both the Public Procurement Law and Rules shall only apply in as much as the PPP Law has not regulated and until the PPP implementing regulation is issued. The aforementioned regulations shall form the current regulatory basis that governs PPPs in Afghanistan for purposes of this analysis.</p>
and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:	<p>The regulatory framework can be found in the following government websites:</p> <ul style="list-style-type: none"> - PPP Law 2016: http://mof.gov.af/Content/Media/Documents/PPPLawOfficialEnglish263201710202518553325325.pdf - National Policy on PPPs 2017: http://mof.gov.af/Content/Media/Documents/20032017ApprovedPPPPolicyEng_Final263201710155612553325325.pdf - Procurement Law 2015: http://www.ppu.gov.af/Beta/English/PPU/PL.aspx ; http://moj.gov.af/content/files/OfficialGazette/01101/OG_01186.pdf - Rules of Procedure for Public Procurements 2015: http://www.ppu.gov.af/Documents/RulesofProcedure/English/Afg%20Procurement%20Rules%20of%20Procedure%20120407%20Eng.pdf
2.1. Are you aware of any reforms (in the regulatory frameworks – laws, regulations,	Yes

<p>policies, etc.- or in generally followed practices) related to PPPs that: Took place in 2016, are ongoing and/or are planned to be adopted BEFORE June 1, 2017?</p>	
<p>Please describe:</p>	<p>The PPP Law and National PPP Policy on PPPs 2017 were enacted to specifically regulate PPPs in Afghanistan.</p>
<p>2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?</p>	<p>Yes</p>
<p>Please describe:</p>	<p>The Implementing Regulation of the PPP Law is undergoing the legislative process and should be issued soon.</p>
<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>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	<p>n/a</p>
<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>	<p>No</p>

<p>If yes, please provide the relevant legal/regulatory provisions:</p>	<p>n/a</p>
<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>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	<p>n/a</p>
<p>3.4 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Telecom</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	<p>n/a</p>
<p>3.5 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the</p>	<p>No</p>

following sectors?: Other	
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.)?	Yes
If yes, please specify and provide the relevant legal/regulatory provision (if any):	Section 10 of the National PPP Policy provides, "To encourage investment, the GoIRA (Government of the Islamic Republic of Afghanistan) will provide incentives, such as tax exemptions, tax holidays, tariff exemptions, streamlining of the licensing process, privileges on the rights of movable and immovable assets, and concession rights to private partners in PPPs."
5. Please identify the PPP procuring authorities in Afghanistan and provide their website(s) (if available):	The PPP Law defines PPPs in Article 3(1) as, "a partnership between an Entity and a Private Party for the purpose of infrastructure development and public services provision, funding, and development of them, in a manner where responsibilities, risks, profits and losses are shared by the Entity and the Private Party on an equitable basis, the Private Party performs the functions of the Entity and utilizes its assets/resources for a particular period of time." Any competent Idara (Entity) may serve as a procuring authority and is defined in Article 3(9) as, "Ministries, General Directorates, Independent Commissions, Municipalities, State owned enterprises, State owned companies and semi-government companies (where the share of state ownership exceeds 25%) can procure PPP projects." For purposes of the case study of this Report, the Ministry of Public Works would serve as the procuring authority http://mopw.gov.af/en
6. In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?	Yes
If yes, please indicate its name, and its website (if available):	Central Partnership Authority, CPA (referred also as Central PPP Authority or Directorate General PPP) http://ppp.mof.gov.af/
6.1 If yes, what are the main	Yes

responsibilities of the PPP Unit (check all that apply): PPP regulation and policy guidance.	
6.2 PPP capacity building for other public authorities.	Yes
6.3 PPP promotion among the public and/or private sectors in national and international forums.	Yes
6.4 Technical support in implementing PPP projects.	Yes
6.5 Identification and selection of PPP projects from the pipeline.	Yes
6.6 Revision of fiscal risks born by the Government.	No
6.7 Consultation with affected communities on potential impact of PPP projects.	No
6.8 Approval of PPP projects.	No
6.9 Undertaking the procurement of PPPs.	No
6.10 Oversight of PPP implementation.	Yes
6.11 Other	No
6.11 please specify:	n/a
Please provide the relevant legal/regulatory provisions:	<p>Article 7 of PPP Law (functions of the CPA):</p> <p>“1- Providing technical advice to the entities, High Economic Council, and other relevant parties pursuant to provisions of this law, the Regulation, and the Public Private Partnership Procedure.</p> <p>2- Cooperation with other sectorial entities in developing and preparing policies for encouragement, attracting and supporting bidders/interested parties in Public Private Partnership;</p> <p>3- Registering, analyzing and reviewing concepts of entities and unsolicited proposals of</p>

	<p>the private party, and ensuring their compliance with the National and Sectorial Development Plans; National priorities social, economic and environmental impacts; and forwarding the required proposals to the High Economic Council for approval, modification or rejection of the same;</p> <p>4- Presenting the findings of feasibility study to the High Economic Council in accordance with the provisions of the Regulation and Public Private Partnership Procedure;</p> <p>5- Presenting Public-Private Partnership Contract to the National Procurement Authority, following its comprehensive review and analysis, along with all the necessary/supporting documents for approval;</p> <p>6- Ensuring project implementation in light of the provision of this law, the Regulation and the Partnership Contract;</p> <p>7- Reviewing applications on the ground of government support to the project and providing advice whenever deemed necessary to the Minister of Finance;</p> <p>8- Preparing procedures, guidelines, issuing circulars and updating them whenever deemed necessary;</p> <p>9- Liaising with the relevant Entities to identify, design, develop, appraise, procure and implement projects;</p> <p>10- Managing the project development fund and reviewing applications and providing consultation to respective authority on the method of utilizing the Project Development Fund;</p> <p>11- Formulating a policy for and facilitating the use of information technology in respect of the Partnership projects activities, including, establishing database for registration and facilitating procurement, and dissemination of this Law, the Regulations, PPP Procedure, and circulars related to the Public-Private Partnership Projects;</p> <p>12- Evaluating the capacity and professional skills of the Entities and/or the PPP Units in Partnership Projects;</p> <p>13- Consolidating annual reports received from Entities and/or the PPP Units and presenting them to the relevant authority for further improvement;</p> <p>14- Supervising the process of procurement for Public-Private Partnership to ensure that the rules of procurement are followed in accordance with the provisions of this law, the Regulation, and PPP procedure for Public-Private Partnership Projects;</p> <p>15- Performing such other functions conferred on it by a competent authority.”</p> <p>Additionally, Section 7(4) of the National PPP Policy reiterates these functions.</p>
PPP Preparation	
8. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Article 10 of the PPP Law provides, “1- The Ministry of Finance shall, after evaluation, forward the concept of a project developed by an Entity and/or the unsolicited proposal along with the feasibility study to the High Economic Council;</p> <p>2- The High Economic Council may approve, reject, or refer the concept presented back to the Ministry of Finance for improvement or modification, as the case may be;</p> <p>In the event of approval of feasibility study of a project by the High Economic Council, the</p>

	Ministry of Finance shall refer the matter to the Ministers Cabinet of the Islamic Republic of Afghanistan for approval.” Contributors confirm that the Ministry of Finance approves PPP initiatives before launching the procurement process on this basis.
8.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before signing the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
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).	No
Accounting and reporting according to other international standard (e.g. European System of Accounts).	No
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	High Economic Council, and the Cabinet (of Ministers).
and provide the relevant legal/regulatory provisions (if any):	According to Articles 10 of the PPP Law, the High Economic Council evaluates the concept of a project (along with the feasibility study) and, in the event of approval, forwards it to the Cabinet for approval. Article 18 provides for the approval of the Cabinet to precede the initiation of the procurement process through a specific bidding method.

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>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Article 11 of the PPP Law provides that PPP contracts must be approved by the National Procurement Commission.</p>
10. Does the procuring authority use transaction advisors during the PPP project cycle?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>No regulatory basis</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-	<p>No</p>

<p>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 ensure the consistency of PPPs with other public investment priorities.</p>	
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p>	<p>Article 5 of the PPP Law provides, “The government shall be obliged to support, encourage and ensure the impunity of investment of private sectors in the Public-Private Partnership Projects.”</p> <p>National PPP Policy p. 4 further provides, “It is the policy of the Government of Afghanistan (GoA) to use PPPs as an alternative funding method in addition to the national budget to expand efficient service delivery and physical infrastructure at the national level for:</p> <ul style="list-style-type: none"> • Attracting and utilizing private sector business expertise; • Effective use of public properties and assets; • Reducing reliance on foreign aid, and • Effective use of existing capital in the private sector and banks. “
<p>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.</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Article 5 of the PPP Law provides, “The government shall be obliged to support, encourage and ensure the impunity of investment of private sectors in the Public-Private Partnership Projects.”</p> <p>National PPP Policy p. 4 further provides, “It is the policy of the Government of Afghanistan (GoA) to use PPPs as an alternative funding method in addition to the national budget to expand efficient service delivery and physical infrastructure at the national level for:</p> <ul style="list-style-type: none"> • Attracting and utilizing private sector business expertise; • Effective use of public properties and assets; • Reducing reliance on foreign aid, and

	<ul style="list-style-type: none"> • Effective use of existing capital in the private sector and banks. “ <p>And according to Article 7(3) of the PPP Law, the CPA shall be responsible for, “Registering, analyzing and reviewing concepts of entities and unsolicited proposals of the private party, and ensuring their compliance with the National and Sectorial Development Plans; National priorities social, economic and environmental impacts; and forwarding the required proposals to the High Economic Council for approval, modification or rejection of the same.”</p>
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:	Contributors provide that the Government of Afghanistan has not established standardized practice as to prioritization of PPP projects in accordance with the regulatory framework.
12.1 Which of the following assessments are conducted when	Yes

identifying and preparing a PPP in order to inform the decision to proceed with it? (check all that apply): Socio-economic analysis (cost-benefit analysis of the socio-economic impact of the PPP project)	
Relevant legal/regulatory provision (if any)	<p>According to Article 7(3) of the PPP Law, the CPA shall be responsible for, “Registering, analyzing and reviewing concepts of entities and unsolicited proposals of the private party, and ensuring their compliance with the National and Sectorial Development Plans; National priorities social, economic and environmental impacts; and forwarding the required proposals to the High Economic Council for approval, modification or rejection of the same.” Paragraph 4 of this Article also provides, “Presenting the findings of feasibility study to the High Economic Council in accordance with the provisions of the Regulation and Public Private Partnership Procedure.”</p>
Is there a specific methodology for the assessment?	<p>No</p>
If yes, please elaborate	<p>n/a</p>
Is the assessment done in practice?	<p>Yes</p>
Details:	<p>This is in application of the regulatory provisions and to better prepare PPP projects.</p>
12.2. Affordability assessment, including the identification of the required long term public commitments (explicit and implicit, direct and contingent liabilities)	<p>Yes</p>
Relevant legal/regulatory provision (if any)	<p>No regulatory basis</p>
Is there a specific methodology for the assessment?	<p>No</p>
If yes, please elaborate	<p>n/a</p>
Is the assessment done in practice?	<p>Yes</p>
Details:	<p>This is in application of the regulatory provisions and to better prepare PPP projects.</p>

12.3. Risk identification, allocation and assessment (risk matrix)	Yes
Relevant legal/regulatory provision (if any)	<p>According to Article 14 of the PPP Law: “Risks resulted from Public-Private Partnership. The risks resulted from implementation of a Public-Private Partnership Project, assessment, control and its management shall be determined by virtue of one side of the Public-Private Partnership Contract.”</p> <p>Also, according to section 4(3) of the National PPP Policy: “Risk allocation is a basic principle in PPPs. Risks will be allocated to the party which is able to control and manage them the best, in order to make sure that value for money is maximized. The risks of designing, construction, maintenance, operations and services delivery are transferred to the party which is best equipped to manage these.”</p> <p>Article 7(4) of the PPP Law also provides that the CPA shall be responsible for, “Presenting the findings of feasibility study to the High Economic Council in accordance with the provisions of the Regulation and Public Private Partnership Procedure.”</p>
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	This is in application of the regulatory provisions and to better prepare PPP projects.
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)	<p>According to Article 13 of the PPP Law, “The Public-Private Partnership shall operate based on Partnership Contract considering public interest, value for money, risk sharing and protection of the environment.”</p> <p>Also, according to Section 4 (3) of the National PPP Policy: “The value for money concept means comparing the net benefit of project implementation through the public sector or PPPs, by considering the quantity and quality of benefit, and selecting the one which is more beneficial to the GoIRA for the given costs, whether delivered by the private sector, the public sector, or a partnership between the two. The GoIRA will ensure that a PPP provides the best value for money means of delivering the desired outcome, achieving development, and funding and implementing the project. PPPs should not be seen simply as an opportunity to undertake projects that would ordinarily not obtain approval through</p>

	normal public budgetary approval processes.”
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	This is in application of the regulatory provisions and to better prepare PPP projects.
12.5. Financial viability or bankability assessment	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
12.6. Market sounding and/or assessment (showing evidence of investors’ interest in the market for the 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
12.7. Environmental impact assessment	Yes
Relevant legal/regulatory provision (if any)	According to article 7(3) of the PPP Law, one of the functions of the CPA is to ensure the social, economic, and environmental impact of projects is considered as previously

	mentioned and present the findings of feasibility study to the High Economic Council according to Paragraph 4 of this Article.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	This is in application of the regulatory provisions and to better prepare PPP projects.
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	n/a

request for proposals and/or tender documents:	
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	Contributors provide that neither a current regulatory basis, that addresses the inclusion of draft PPP contracts in the request for proposals, exists nor is this done in practice.
14.1. Are the tender documents published online?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
and please specify the website:	http://www.npa.gov.af/ ; http://ppp.mof.gov.af/ ; and relevant entities' websites
15. In a case comparable to the case study assumptions, have standardized PPP model contracts and/or transaction documents been developed?	Yes

<p>If yes, please specify and provide a government-supported website where the mentioned standards are available or provide an electronic copy of them:</p>	<p>Standardized transaction documents are available at: http://ppp.mof.gov.af/standard-documents/</p>
<p>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)</p>	<p>No</p>
<p>Private Partner</p>	<p>No</p>
<p>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</p>	<p>Yes</p>
<p>To be established in the contract</p>	<p>No</p>
<p>Relevant legal/regulatory provision (if any)</p>	<p>No regulatory basis</p>
<p>16.2. Obtaining the required environmental permits: Procuring authority (or other Government entity)</p>	<p>No</p>
<p>Private Partner</p>	<p>No</p>

Private partner with facilitation role assigned to the procuring authority (or other Government entity)	Yes
To be established in the contract	No
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)	Yes
To be established in the contract	No
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)	Yes

To be established in the contract	No
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 the procuring authority (or other Government entity)	Yes
To be established in the contract	No
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	Yes

committee members require sufficient qualification without specific details.	
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
The bid evaluation committee members are not required to have any specific qualifications.	No
Please elaborate and provide examples:	n/a
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):	While no provisions are found in the PPP Law, Article 27 of the Public Procurement Law provides, "The announcement of a tendering proceeding, an invitation to pre-qualify, or a notice of a restricted tender, shall be published in mass media, or, in the case of international tendering, published in English language in media for wider international circulation. The expenditure, for the same, should be met by procuring entity. For both domestic and international procurement, procuring entities shall, to the greatest extent feasible, also publish procurement announcements through the internet."
19.1. If yes, is the public procurement notice published online?	Yes
If yes, please specify the website:	http://www.ppu.gov.af/Beta/English/More/CADA.aspx http://www.npa.gov.af/en/bidding-opportunities
20. Are foreign companies prohibited from participating in the bidding process?	No
If yes, please provide the	n/a

relevant legal/regulatory provisions (if any):	
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):	Article 31, Section 2 of the 2015 Public Procurement Rules, provides that the period specified for the procuring authority is 21- 90 days after the bid is announced. If the bid is open and domestic, the minimum period for bid submission is 21 days. If the bid is open and international, then the minimum period for bid submission is 30 days.
and the time in calendar days:	30
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	No
Default	Yes
Relevant legal/regulatory provision (if any)	<p>Article 18 of the PPP Law includes Open Tendering as one of the available methods for procurement. This Article provides, "1- Following the approval of concept of a project and its feasibility study by the Cabinet of the Islamic Republic of Afghanistan, an Entity is obliged to administer a Project of Public-Private Partnership on any of the following three methods:</p> <ul style="list-style-type: none"> a. Open Bidding; b. Competitive Dialogue; c. Direct Procurement." <p>Nonetheless, Paragraph 7 of the same Article provides, "Public-Private Partnership shall be administered on the basis of open bidding. Nonetheless, in cases where open bidding is not feasible, the Entity, in consultation with the Central Partnership Authority, might choose any of the modes referred to in Clause 1 of this Article in accordance with the Regulation and relevant." Open tendering thus shall be the default tendering procedure.</p>
22.2. Restricted tendering (with	No

pre-qualification stage): Available	
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 18 of the PPP Law provides, “2- The Entity may commence single stage tender process for inviting tender documents from Private Parties that are eligible to participate in the process; 3- The Entity may nevertheless opt for a two-stage tender process in case it apprehends that, on technical grounds, it is improbable to describe the characteristics of the project in request for technical proposals.”
22.4. Competitive dialogue: Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	Article 18 of the PPP Law includes Competitive Dialogue as one of the available methods for procurement. This Article provides, “1- Following the approval of concept of a project and its feasibility study by the Cabinet of the Islamic Republic of Afghanistan, an Entity is obliged to administer a Project of Public-Private Partnership on any of the following three methods: a. Open Bidding; b. Competitive Dialogue; c. Direct Procurement.”
22.5. Direct negotiation with more than one candidate: Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	Article 18 of the PPP Law provides, “1- Following the approval of concept of a project and its feasibility study by the Cabinet of the Islamic Republic of Afghanistan, an Entity is obliged to administer a Project of Public-Private Partnership on any of the following three methods: a. Open Bidding; b. Competitive Dialogue; c. Direct Procurement.”
22.6. Direct negotiation with only one candidate: Available	Yes

Default	No
Relevant legal/regulatory provision (if any)	Article 18 of the PPP Law provides, "1- Following the approval of concept of a project and its feasibility study by the Cabinet of the Islamic Republic of Afghanistan, an Entity is obliged to administer a Project of Public-Private Partnership on any of the following three methods: a. Open Bidding; b. Competitive Dialogue; c. Direct Procurement."
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):	According to the applicable general rules, Articles 14 & 20 of the Public Procurement Law, and Article 30 of the Public Procurement Rules provide that stages of the procurement process should be detailed in the tender documents.
If no, please elaborate:	n/a
22.9. Do the tender documents specify the prequalification/s hortlisting 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):	No regulatory basis
22.10. Based on your experience, is it always the case that the specified criteria	Yes

are respected in practice?	
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	Contributors provide that the specified criteria are always respected in practice
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):	Such clarifications and questions about the tender documents would be based on the general rules of Articles 20(4) of the Public Procurement Law and Article 33 of the 2015 Public Procurement Rules.
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):	Article 20 (4) of the Procurement Law and Article 33 of the Procurement Rules require disclosing questions and clarifications to all potential bidders.
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:	Contributors provide that this is to ensure transparency
If no, please elaborate:	n/a

24. Besides questions and clarifications, can the procuring authority conduct pre-bidding conference?	<p>No</p>
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	<p>n/a</p>
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?	<p>n/a</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>n/a</p>
24.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	<p>n/a</p>
If yes, please specify:	<p>n/a</p>
If no, please elaborate:	<p>n/a</p>
25. In a case comparable to the case study assumptions, does the procuring authority require the bidders to prepare and present a financial	<p>No</p>

model with their proposals?	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
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):	No regulatory basis
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	n/a

legal/regulatory provisions (if any):	
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):	General provisions apply, and Article 84(2) of the Public Procurement Rules provides that the procuring entity shall publish notices of the proposed award and contract award, and further elaborates that “publication” of the award means a notice in the website of PPU or other websites that the PPU deems appropriate, that consist of characteristics of the procurement [project], the information about the procuring authority, the contractor, and the total value of the contract.
28.1. If yes, is the public procurement award notice published online?	Yes
If yes, please specify the website:	http://www.ppp.gov.af http://www.npa.gov.af/en/awarded-contracts
29. Does the procuring authority provide all the bidders	Yes

with the result of the PPP procurement process?	
If yes, please provide the relevant legal/regulatory provisions (if any):	General Article 84 of the Public Procurement Rules provides that the procuring authority provides all bidders with the result of the PPP procurement process.
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	n/a

legal/regulatory provisions (if any):	
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?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
32.1. If yes, which of the following options best describes this publication (choose only one)?:Publication of the full PPP contract including	n/a

all its annexes and appendixes	
Publication of the full PPP contract without including all its annexes and appendixes	n/a
Publication of a summary of the PPP contract without publishing the full PPP contract	n/a
Publication of a summary of the PPP contract along with the full PPP contract including all its annexes and appendixes	n/a
Publication of a summary of the PPP contract along with the full PPP contract without including all its annexes and appendixes	n/a
32.2. If yes, is it published online?	n/a
If yes, please specify the website:	n/a
32.3. If yes, does the procuring authority also publish any subsequent amendment made to the PPP contract?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
PPP Contract Management	
41. Has the procuring or contract management	No

authority established a system to manage the implementation of the PPP contract (e.g. attributing responsibilities or establishing specific management tools)?	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
41.1. If yes, which of the following tools does it include (check all that apply)?: Establishment of a PPP contract management team	n/a
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	n/a
Relevant legal/regulatory provisions (if any):	n/a
Elaboration of a PPP implementation manual or an equivalent document	n/a
Relevant legal/regulatory provisions (if any):	n/a
Establishment of personnel training	n/a

<p>programs (i.e. initial training and continued training throughout the course of the project)</p>	
<p>Relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>Establishment of a risk mitigation mechanism which considers the evolving nature of risks throughout the project lifecycle (guidelines, specific processes, insurance regime, etc.)</p>	<p>n/a</p>
<p>Relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>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.</p>	<p>n/a</p>
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>The PPP contract management team members</p>	<p>n/a</p>

are required to meet sufficient qualification without specific details.	
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 completion of construction works under a PPP contract?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
42.1. If yes, is the PPP contract construction performance information made available to the public?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
42.2. If yes, is the PPP contract construction	n/a

performance information made publicly available online?	
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):	<p>Article 23 of the PPP Law provides, “1- A Private Party is obliged to report on the progress and financial condition of the Project to the Ministry of Finance; 2- The relevant Entity and the Ministry of Finance shall supervise [and evaluate] all matters related to the Public-Private Partnership Projects; 3- The mode [and extent] of supervision and evaluation shall be regulated by a Regulation.”</p>
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	No
Relevant legal/regulatory provisions (if any)	n/a
The procuring or contract management authority can abate (reduce) payments for non-performance of operating obligations under the PPP contract	No

Relevant legal/regulatory provisions (if any)	n/a
The private partner must provide the procuring or contract management authority with periodic operational and financial data	Yes
Relevant legal/regulatory provisions (if any)	Article 23(1) of the PPP Law provides that a private party is obliged to report on the progress and financial condition of the project to the Ministry of Finance.
The procuring or contract management authority must periodically gather information on the performance of the PPP contract	No
Relevant legal/regulatory provisions (if any)	n/a
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	No

operation of a PPP project?	
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/s tandard 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).	n/a
If yes, please provide the relevant legal/regulatory/s tandard contractual provisions (if any):	n/a
Changes of ownership/contra	n/a

<p>ct assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.</p>	
<p>If yes, please provide the relevant legal/regulatory/s tandard contractual provisions (if any):</p>	n/a
<p>In other cases, flexibility to change the ownership structure and/or assign the contract.</p>	n/a
<p>If yes, please provide the relevant legal/regulatory/s tandard contractual provisions (if any):</p>	n/a
<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>	Yes
<p>If yes, please provide the relevant legal/regulatory/s tandard contractual provisions (if any):</p>	<p>Articles 30 and 31 of the Public Procurement Law would serve as a basis for the circumstances on the modification of PPP contract, as no provisions are embodied in the PPP Law. Article 30 of this Law entitled "Amending the Contract," provides that renegotiation could include additions or reductions to the contract in accordance with budgetary appropriation and procedures developed in this law. Such amendments may not change the core substance of the contract. The threshold of amendments would be specified in the Rules to this Law. And if the amendment increases the cost of the contract previously agreed upon, the procurement process must be conducted once again. In regard to the duration of the contract, if there are reasonable justifications to change its duration, procedures in this Law and Rules shall be followed. If any amendment deviates</p>

	from the rules specified in this law, no compensation may be granted. Article 31 of the Public Procurement Law discusses amendments to the price of the contract.
46.1. If yes, is an approval from a government authority, other than the procuring authority, required?	No
If yes, please provide the relevant legal/regulatory/s tandard contractual provisions (if any):	n/a
46.2. If yes to question 46, which of the following circumstances are specifically regulated? (check all that apply): A change in the scope and/or object of the contract.	Yes
If yes, please provide the relevant legal/regulatory/s tandard contractual provisions (if any):	Article 30(2) of the Public Procurement Law provides that such amendments to the contract may not change the core substance of the contract.
A change in the risk allocation of the contract.	No
If yes, please provide the relevant legal/regulatory/s tandard contractual provisions (if any):	n/a
A change in the financial and/or economic balance of the contract.	Yes

If yes, please provide the relevant legal/regulatory/s tandard contractual provisions (if any):	<p>Article 30 of the Public Procurement Law provides that if the amendment increases the cost of the contract previously agreed upon, the procurement process must be conducted once again.</p>
A change in the duration of the contract.	<p>Yes</p>
If yes, please provide the relevant legal/regulatory/s tandard contractual provisions (if any):	<p>Article 30(6) of the Public Procurement Law provides that in regard to the duration of the contract, if there are reasonable justifications to change its duration, procedures in this Law and Rules shall be followed.</p>
A change in the agreed price or tariff.	<p>Yes</p>
If yes, please provide the relevant legal/regulatory/s tandard contractual provisions (if any):	<p>Article 31 of the Public Procurement Law discusses amendments to the price of the contract.</p>
46.3. Can the procuring authority unilaterally modify a PPP contract?	<p>No</p>
If yes, please provide the relevant legal/regulatory/s tandard contractual provisions (if any):	<p>n/a</p>
47. Does the regulatory framework (including standard contractual clauses) expressly regulate the following circumstances that may occur during the life of	<p>Yes</p>

the PPP contract? (check all that apply): Force Majeure	
If yes, please provide the relevant legal/regulatory/s tandard contractual provisions (if any):	Article 41(2)(3) of the Public Procurement Law discusses the termination and revocation of the contract, where the natural termination is with the completion of the contract. However, when the contractor does not abide by the provisions of the contract, the national interest necessitates, or in circumstances of force majeure in unforeseen conditions in which obligations become impossible to fulfill, the contract may or shall be terminated. Moreover, there may be additional reasons identified in the Rules to this Law.
Material Adverse government action.	No
If yes, please provide the relevant legal/regulatory/s tandard contractual provisions (if any):	n/a
Change in the Law.	No
If yes, please provide the relevant legal/regulatory/s tandard contractual provisions (if any):	n/a
Refinancing.	No
If yes, please provide the relevant legal/regulatory/s tandard contractual provisions (if any):	n/a
Subcontracting and replacement of the subcontractors.	Yes
If yes, please provide the relevant legal/regulatory/s tandard contractual provisions (if any):	No regulatory basis
48. Does the regulatory framework	Yes

(including standard contractual clauses) allow for administrative and/or contractual complaint review mechanisms to address disputes arising from the implementation of PPP contracts?	
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>Article 24 of the PPP Law provides, “Disputes arising between Entity and Private Party shall be settled in accordance with Public-Private Partnership Contract.” Disputes review mechanism thus shall be left to parties to the PPP contract to regulate and designate a particular complaint option.</p>
48.1. If yes, please specify which of the following options are available (check all that apply): Local administrative review body	<p>No</p>
If yes, please specify:	<p>n/a</p>
Local courts	<p>Yes</p>
Domestic arbitration	<p>Yes</p>
International arbitration	<p>Yes</p>
Investor-State Dispute Settlement (ISDS)	<p>Yes</p>
Mediation	<p>Yes</p>
Please provide the relevant legal/regulatory/standard contractual provisions (if any)	<p>Article 24 of the PPP Law provides, “Disputes arising between Entity and Private Party shall be settled in accordance with Public-Private Partnership Contract.” Disputes review mechanism thus shall be left to parties of the PPP contract to regulate and designate a particular complaint option.</p>
48.2. If applicable, are arbitration awards enforceable by the local courts?:	<p>Yes</p>

Domestic Arbitration	
If yes, please provide the relevant legal/regulatory provisions/standard contractual provisions (if any):	Article 56 of the Commercial Arbitration Law of 2007 provides, “1) An Arbitral Award, irrespective of the country in which it was made, shall be enforceable.”
International arbitration	Yes
If yes, please provide the relevant legal/regulatory provisions/standard contractual provisions (if any):	Article 56 of the Commercial Arbitration Law provides, “1) An Arbitral Award, irrespective of the country in which it was made, shall be enforceable.” Afghanistan is also signatory to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958) since November 30, 2004, which allows for the enforcement of foreign arbitral awards.
Investor-State arbitration	Yes
If yes, please provide the relevant legal/regulatory provisions/standard contractual provisions (if any):	Article 56 of the Commercial Arbitration Law provides, “1) An Arbitral Award, irrespective of the country in which it was made, shall be enforceable.” Afghanistan is also signatory to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID Convention) since June 25, 1968, which allows for the enforcement of investor-state arbitration awards between its signatory state members.
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	No

<p>standard contractual clauses) allow for the lenders to take control of the PPP project (lender step-in rights) if either the private partner defaults or if the PPP contract is under threat of termination for failure to meet service obligations?</p>	
<p>If yes, please provide the relevant legal/regulatory/s tandard contractual provisions (if any):</p>	n/a
<p>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.</p>	n/a
<p>If yes, please specify and provide the relevant legal/regulatory/s tandard contractual provisions (if any):</p>	n/a
<p>The regulatory framework prescribes that a direct agreement should be signed with the lenders.</p>	n/a

If yes, please specify and provide the relevant legal/regulatory/s tandard contractual provisions (if any):	n/a
The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.	n/a
If yes, please specify and provide the relevant legal/regulatory/s tandard contractual provisions (if any):	n/a
Other.	n/a
Please Specify:	n/a
51. Does the regulatory framework (including standard contractual clauses) expressly establish the grounds for termination of a PPP contract?	Yes
If yes, please specify and provide the relevant legal/regulatory/s tandard contractual provisions (if any):	Article 41 of the Public Procurement Law discusses the termination and revocation of the contract, where the natural termination is with the completion of the contract. However, when the contractor does not abide by the provisions of the contract, the national interest necessitates, or in circumstances of force majeure in unforeseen conditions in which obligations become impossible to fulfill, the contract may or shall be terminated. Moreover, there may be additional reasons identified in the Rules to this Law as grounds for termination.
51.1. If yes, does the regulatory framework (including standard contractual clauses) establish the consequences	No

for the termination of the PPP contract?	
If yes, please specify and provide the relevant legal/regulatory/s tandard contractual provisions (if any):	n/a
Unsolicited Proposals	
34. Are unsolicited proposals in Afghanistan: (choose only one): Explicitly prohibited by the legal framework? (If prohibited, skip to section F)	No
Explicitly allowed by the legal framework?	Yes
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)	No
If the legal framework explicitly prohibits or allows unsolicited proposals, please provide the relevant legal/regulatory provisions	Article 19 of the PPP Law provides, A Private Party may submit an unsolicited proposal for implementing a Project to the relevant Entity or the Central Partnership Authority.”
35. Does the procuring authority conduct an assessment to evaluate	Yes

unsolicited proposals? (if not, skip to question 37)	
If yes, please specify and provide the relevant legal/regulatory provisions (if any)	<p>According to Article 10 of PPP Law, unsolicited proposals follow the same evaluation procedure as projects developed by public entities. This process involves the Ministry of Finance, the High Economic Council, and the Cabinet. No further regulations have been issued yet in accordance with Article 19(2) of the PPP Law, which provides, "Matters pertinent to unsolicited proposals by Private Parties are regulated in the Regulation and PPP Procedure."</p>
35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>No regulatory basis</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>Yes</p>
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	<p>The general rules for solicited proposals in the PPP Law and National PPP Policy would apply. Article 5 of the PPP Law provides, "The government shall be obliged to support, encourage and ensure the impunity of investment of private sectors in the Public-Private Partnership Projects." National PPP Policy p. 4 further provides, "It is the policy of the Government of Afghanistan (GoA) to use PPPs as an alternative funding method in addition to the national</p>

	<p>budget to expand efficient service delivery and physical infrastructure at the national level for:</p> <ul style="list-style-type: none"> • Attracting and utilizing private sector business expertise; • Effective use of public properties and assets; • Reducing reliance on foreign aid, and • Effective use of existing capital in the private sector and banks. “
<p>The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.</p>	No
<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>	No
<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>	Yes
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>General rules that govern solicited projects within the PPP Law would apply at the current stage. According to Article 10 of the PPP Law, unsolicited proposals follow the same evaluation procedure as projects developed by public entities. This process involves the Ministry of Finance, the High Economic Council, and the Cabinet. No further regulations have been issued yet in accordance with Article 19(2) of the PPP Law, which provides, “Matters pertinent to unsolicited proposals by Private Parties are regulated in the Regulation and PPP Procedure.”</p>

	<p>Section 14 of the National PPP Policy further provides the general principles that govern unsolicited proposals, which include, “a) Encourage private investors to develop proposals for PPPs that address policy priorities in relevant sectors;</p> <p>b) Ensure competitive principles are considered in unsolicited proposals;</p> <p>c) Ensure transparency in assessing projects and awarding contracts based on unsolicited proposals;</p> <p>d) Minimize incentives to submit poor-quality or frivolous project proposals, to avoid creating unnecessary workload in assessing unsolicited proposals.</p> <p>The MoF and relevant agencies are responsible for assessing unsolicited proposals to determine their compliance with the principles set out for PPPs in this PPP Policy. If compliant, the proposed PPP will proceed through the procurement process in the same way as other PPPs.”</p>
38. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>The same rules that apply to solicited proposals apply to unsolicited ones in this regard. Hence, Article 31, Section 2 of the 2015 Public Procurement Rules, provides that the period specified for the procuring authority is 21- 90 days after the bid is announced. If the bid is open and domestic, the minimum period for bid submission is 21 days, and if the bid is open and international, then the minimum period for bid submission is 30 days.</p>
and the time in calendar days:	<p>30</p>
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.	<p>No</p>
39.2 Developer’s fee (reimbursing the original proponent for the	<p>No</p>

project development cost).	
39.3 Bid Bonus.	No
39.4 Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).	No
39.5 Other.	No
Please specify:	n/a
Please provide the relevant legal/regulatory provisions (if any):	n/a