



PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN ALGERIA

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>Algeria has specific regulations on public procurement and delegation of public service: Public Procurement Code 2015 : Presidential Decree Number 15-247, of September 16, 2015 (the “Presidential Decree”) (Publication: JORA n 50 of September 20, 2015, page 3)</p> <p>Moreover, Law No. 16-09 of August 3, 2016 about promotion of investments, is applicable to public investment in general and, as a result, to PPPs (Publication: JORA No. 46 of August 3, 2016, page 16)</p> <p>Additionally, we refer to the Executive Decree No. 04-162 related to the status, organization, missions and assignments of the National Fund for equipment’s development, 5th of June, 2004, (“Executive Decree No. 04-162”). The prerogatives and missions of the National Fund for equipment applies for public investment projects, and is therefore extendable on public procurement and concession contracts. (Publication: JORA No. 36 of June 6, 2004, page 10)</p> <p>Several sectorial regulations include provisions relating to concessions. However, according to our case study, a transportation project, we will be focusing on the provisions above, and we will also use the following general laws:</p> <p>(1) Law No. 08-09 of February 2008: Civil and Administrative Code (Publication: JORA No. 21 of April 23, 2008, page 3)</p> <p>(2) Decree No. 07-364 of November 28, 2007 about the organization of the central administration of the Ministry of Finance (Publication: JORA No. 75 of December 2, 2007, page 4)</p> <p>(3) Decree No. 14-320 of November 20, 2014 relating to the contracting authority and the delegated contracting authority (Publication: JORA No. 68 of November 23, 2014)</p> <p>(4) Ordinance No. 76-80 of October 23, 1976, as modified and completed, about the Maritime code. (Publication: JORA No. 29 of April 10, 1977, page 398)</p> <p>(5) Law No. 98-06 of June 27, 1998, as modified and completed, containing general rules about civil aviation. (Publication: JORA No. 48 of June 28, 1998, page 3)</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>Presidential Decree: http://www.joradp.dz/FTP/JO-FRANCAIS/2015/F2015050.pdf</p> <p>Law n 16-09: http://www.joradp.dz/FTP/JO-FRANCAIS/2016/F2016046.pdf</p> <p>Decree 04-162: http://www.joradp.dz/FTP/jo-francais/2004/F2004036.pdf</p> <p>Civil Code: http://www.joradp.dz/TRV/FPCivil.pdf</p> <p>MOF Administration: http://www.joradp.dz/FTP/jo-francais/2007/F2007075.pdf</p>

	<p>Decree 14-320: http://www.joradp.dz/FTP/JO-FRANCAIS/2014/F2014068.pdf</p> <p>Maritime Code: http://www.joradp.dz/HFR/Index.htm</p> <p>Civil Aviation: http://www.joradp.dz/HFR/Index.htm</p>
<p>2.1. Are you aware of any reforms (in the regulatory frameworks – laws, regulations, 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>	Yes
<p>Please describe:</p>	<p>(1) Law No. 16-09 of August 3, 2016 on the promotion of investment; (2) Inter-ministerial decree of April 17, 2016 provides the list of documents forming the file for the qualification and classification of firms, and groups involved in the award of public contracts; and finally (3) Law of finances for FY2017 No. 16-14 of December 28, 2016</p>
<p>2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?</p>	Yes
<p>Please describe:</p>	<p>A draft bill regarding PPP has been presented by a ministerial working group to the government at the beginning of this year. No more information concerning this draft bill seems to be available (Source: http://www.algerie-eco.com/2016/12/14/projet-de-loi-partenariat-publicprivé-janvier-2017/)</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>	Yes
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	<p>The regulatory framework in Algeria restricts PPPs in the transportation sector. According to Article 43 of the Law No. 98-06 dated 3 Rabie El Aouel 1419 corresponding 27 June 1998 relating to general rules of civil aviation, airports, aerodromes and helipads for public traffic can be constructed and operated with a concession. However, only Algerian individuals or society (capital held for the greater part by Algerian individuals) can create and operate an airport, aerodrome or helipad for public and private traffic. Pursuant to the Law No. 98-05 dates Aouel Rabie Aouel 1419 corresponding 25 June 1998 modifying Ordinance No. 76-80 dated 23 October 1976 creating Maritime code (Maritime code art 571-1): Concessions on maritime transportation is possible. However, only public companies, Algerian individuals or companies can operate maritime transportation services.</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</p>	No

following sectors?: Water and Irrigation	
If yes, please provide the relevant legal/regulatory provisions:	n/a
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.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
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	No
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/s
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 Algeria and provide their website(s) (if available):	<p>Article 207 of the Presidential Decree indicates that procuring entities are Public entities in charge of a public service. Sectorial regulations indicate that the authority in charge of the sector is the procuring authority. It will be ministers of ministries or heads of local authorities (communes, wilayate) charged with public service (water, transport, health, education, etc.).</p> <p>Furthermore, Article 4 of Presidential Decree No. 15-247 provides that: “Public contracts shall be valid and final only after they have been approved</p>

	<p>by the competent authority referred to above, that is to say, as the case may be:</p> <ul style="list-style-type: none"> - the head of the public institution; - The Minister ; - the wali; - the president of the communal people’s assembly; - the director general or the head of the public establishment. <p>Each of these authorities may delegate its powers in this matter to officials responsible, in any event, for the award and execution of public contracts, in accordance with the laws and regulations in force. “</p>
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):	<p>The National Development Equipment Fund (la Caisse Nationale d’Équipement pour le Développement CNED) acts as a PPP Unit (Art. 5 of the Executive Decree No. 04-162 of 5 June 2004)</p> <p>We also note that the Regulatory Authority for public procurement (Title 4 of presidential decree) is an advisory body, that takes care of proposals, studies and information.</p>
6.1 If yes, what are the main responsibilities of the PPP Unit (check all that apply): PPP regulation and policy guidance.	Yes
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	Yes

<p>6.11 please specify:</p>	<p>The Regulatory Authority for public procurement is provided with a national mechanism of conflict resolution in the event of a dispute between the parties.</p> <p>Furthermore, annual economic survey of public procurement;</p> <ul style="list-style-type: none"> - Consultation link, within the framework of the observatory of public order; - Audit of procedures for the award of public contracts and public service delegations and their execution; - Statute on disputes arising from the execution of public contracts concluded with foreign contracting partners; - Management and operation of the public procurement information system; - Modernization of procedures for the award, execution and management of public procurement contracts. <p>Also, Art. 5 of the Executive Decree No. 04-162 of 5 June 2004 on the status, organization, tasks and responsibilities of the National Development Equipment Fund (http://www.joradp.dz/FTP/jo-francais/2004/F2004036.pdf) provides that- The CNED's mission is to increase efficiency the government's capital expenditure, to improve the process of evaluation, implementation and monitoring of major social and economic infrastructure projects, requiring the mobilization of financial resources and human resources, in order to diversify the sources of financing and to optimize the financing costs of these large projects.</p>
<p>Please provide the relevant legal/regulatory provisions:</p>	<p>Executive Decree No. 04-162 of 5 June 2004 provides:</p> <p>Art. 5. - The fund's purpose is to increase efficiency of State equipment expenditure, to improve the process of evaluation, implementation and monitoring of major economic and social infrastructure projects, requiring the mobilization of financial means and important human resources, to diversify the sources of financing and optimize the cost of financing these big projects. In this respect, it aims in particular to:</p> <ul style="list-style-type: none"> - rationalize the management of capital expenditure by greater control over the costs of production and financing arrangements; - provide support and technical assistance in the evaluation of major public equipment projects; - pronounce on the economic feasibility, technical, social and financial aspects of major projects equipment and give an opinion before they register with the nomenclature of public investments; - propose, for major equipment projects, the financial arrangement and the financing structure of the project the most appropriate; - allocate on behalf of the State, according to a expenses, the parts of resources assigned to an account Special Treasury Act, by Government Decision at the proposal of the Minister of Finance, at financing and / or support for capital projects public initiated under a program or plan of national or regional development. <p>Art. 6. - In relation to institutions and bodies concerned, the fund's mission is to:</p> <ul style="list-style-type: none"> - appraise studies related to major projects equipment proposed for inscription in the nomenclature public investment and, where appropriate,

	<p>complementary studies;</p> <ul style="list-style-type: none"> - monitor and evaluate the physical and financial realization major capital projects in the respect of conditions fixed for carrying out the project; - design and promote management systems and economic exploitation of public infrastructures; - propose or validate financial packages for the benefit of investment projects, of a strategic nature and / or priority decided or supported by the State; - manage on a conventional basis, with the State, the financing credits for public investment projects national character; - assist the public authorities in the evaluation and monitoring of equipment subsidies likely to be granted to companies in a conventional framework; - issue, where appropriate, compulsory borrowings on national or international market, with a view to financing of public equipment projects of character trader ; - support local authorities in mobilization of financial resources for the development; - provide technical assistance services, consulting, study, financial engineering and training in areas related to its activities.
PPP Preparation	
8. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
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.	n/a
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.)?	No
If yes, please specify the relevant authority	n/a
and provide the relevant legal/regulatory provisions (if any):	n/a
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?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to article 4 of the Presidential Decree, public contracts are not valid until they are approved by: <ul style="list-style-type: none"> - The person in charge of the public institution; - Ministry; - Wali; - President of the popular communal assembly; or - The general director or the director of the public institution

10. Does the procuring authority use transaction advisors during the PPP project cycle?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Article 191 of Presidential Decree No. 15-247, the sectorial commission of public procurement can use any experts that can provide advice in order to be informed in the process of its work.
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 ensure the consistency of PPPs with other public investment priorities.	No
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.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework does not include any provisions but the procuring authority evaluates the consistency of PPPs with other government investment priorities in practice.	Yes
If yes, please elaborate:	In practice, the National Investment Commission makes the decisions regarding public investments and priorities

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?	Yes
If yes, please specify:	In practice, the Algerian Government always integrates the prioritization of PPP projects with other public investment project prioritization. In fact, article 9 of the executive decree No. 07-364 provides that the direction of public procurements controls the uniform application of the public procurement regulations .
If no, please elaborate:	n/a
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 analysis (cost-benefit analysis of the socio-economic impact of the PPP project)	Yes
Relevant legal/regulatory provision (if any)	Pursuant to Article 5 of the Executive Decree No. 04-162, National Fund for equipment's development gives an opinion on economic, social, technic and financial feasibility for large equipment's within a national or regional plan.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	The cost-benefit analysis of the socio-economic impact of the PPP project, such as for any public investment done in Algeria, is always done in practice.
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)	Pursuant to Article 5 of the Executive Decree No. 04-162, National Fund for equipment's development allocates the State's resources granted for the

	project. Even though the Decree does not precise it, in order to allocate those funds, the national fund would have to assess the public commitments.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	The affordability assessment, including the identification of the required long term public commitments (explicit and implicit, direct and contingent liabilities) for PPPs, such as any other public investment done in Algeria, is always done in practice
12.3. Risk identification, allocation and assessment (risk matrix)	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:	The risk identification, allocation and assessment is always done in practice for PPP projects in Algeria.
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)	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:	A Comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives is always done in practice in Algeria. For example, value for money analysis, public sector comparator, and other assessment are done.
12.5. Financial viability or bankability assessment	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:	In Algeria, the Contracting Authority or Procurement Entity must provide a bankability assessment in its feasibility study in practice.
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)	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:	Even though there is no specific provision which requires market assessment in identifying and preparing a PPP plan and tender document, however, in practice, market assessment will be included in the feasibility study for justification of the PPP project
12.7. Environmental impact 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
12.8. 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	No

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)?	
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?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
If no, please elaborate	n/a
14.1. Are the tender documents published online?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 204 of Presidential Decree No. 15-247 provides that: The contracting authorities shall place the tender documents at the disposal of tenderers or candidates for public procurement by electronic means, in accordance with a timetable fixed by decree of the Minister of Finance.
and please specify the website:	www.algeriatenders.com
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 the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
16.2. 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)	Yes
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No

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)	No
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.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to article 160 of Presidential Decree No. 15-247, the commission in charge of examining the offers is composed by qualified public agents who belong to the public procurement service, and are chosen based on their competence.
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	According to Article 61: "The use of publicity in the press is mandatory in the following cases: open tender; open tender with requirement for minimum

provide the relevant legal/regulatory provisions (if any):	capacity; restricted tender; contests, over the counter after consultation, if necessary. "Article 65 indicates that "The tender notice shall be in Arabic and, at least, in another language. It is compulsory published in the official bulletin of the markets of the public operator (BOMOP) and, at least, in two national newspapers, broadcast nationally. "
19.1. If yes, is the public procurement notice published online?	Yes
If yes, please specify the website:	www.algeriatenders.com
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):	<p>Article 66 of Presidential Decree No. 15-247 provides that: "The duration of the preparation of tenders shall be determined on the basis of factors such as the complexity of the subject-matter, the time normally required for the preparation and processing of tenders. The contracting authority may, if the circumstances justify it, extend the time for the preparation of tenders, and inform the tenderers by any means.</p> <p>The duration of the preparation of tenders shall be fixed by the contracting authority in reference to the date of the first publication of the call for tender notice in the official Bulletin for public procurement (BOMOP), the press or the public procurement portal. The date and time limit for submission of tenders and opening of bids shall be mentioned in the tender documents before it is submitted to the tenderers.</p> <p>In any case, the duration of the tender preparation must allow the widest possible competition to play fully.</p> <p>The closing date and time for submission of tenders and opening of tenders for the technical and financial offers shall correspond to the last day of the tender preparation period. If this day coincides with a statutory holiday or a legal rest day, the time for preparation of the offers is extended to the next working day.</p> <p>In the case of restricted procedures, the duration of the preparation of applications, the date and time limit for the submission of applications and opening of bids shall be determined in accordance with the provisions of this Article. "</p>
and the time in calendar days:	n/a
22.1. In a case comparable to the case study assumptions, which are the procurement procedures available and/or	Yes

set as default for PPP projects? Open tendering: Available	
Default	No
Relevant legal/regulatory provision (if any)	According to Art. 42 of the Presidential Decree, tenders (national and / or International) may be done under one of the following forms: (1) open tender; (2) open tender with prequalification; (3) restricted tender; (4) contest
22.2. Restricted tendering (with pre-qualification stage): Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	According to Art. 42 of the Presidential Decree, tenders (national and / or International) may be done under one of the following forms: (1) open tender; (2) open tender with capacity requirement; (3) restricted tender; (4) Competitive procedure Furthermore, Art. 45 provides that the restricted tender is a selective procedure where only pre-selected candidates are invited to submit their bids
22.3 Multi-stage tendering (with shortlisting of final candidate(s)): Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	Art. 46 of the Presidential Decree provides that in the case of restricted tenders in two stages, pre-selected candidates are invited, in a first stage, to submit a preliminary technical offer, without a financial offer.
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	Yes
Default	No
Relevant legal/regulatory provision (if any)	According to Article 41 of the Presidential Decree, the negotiated procedure to select a contractor without a formal call for tender, it can be a simple negotiated procedure, or a negotiated procedure after consultation. Article 49 lists the exceptional cases where the negotiated procedure can be used. Some of the cases include negotiation with more than one candidate. Finally, Article 50 lists the requirements that the procuring authority needs to verify, and the procedure to follow when it uses the negotiated procedure.

	One of them is to select the candidate that offered the most economically advantageous offer.
22.6. Direct negotiation with only one candidate: Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	<p>According to Article 41 of the Presidential Decree, the negotiated procedure to select a contractor without a formal call for tender, it can be a simple negotiated procedure, or a negotiated procedure after consultation.</p> <p>Article 49 lists the exceptional cases where the negotiated procedure can be used. It provides the following: 1- when the work can only be carried out by a single economic operator who holds either a monopoly or an exclusivity, or because of technical, cultural or artistic considerations. The projects that fall within the scope of such activities are determined by a joint decision of the Minister responsible for culture and the Minister for Finance 2- in case of emergency motivated by a peril threatening an investment, a service good ... or an imminent danger on a property or an investment ...</p> <p>Finally, Article 50 lists the requirements that the procuring authority needs to verify, and the procedure to follow when it uses the negotiated procedure.</p>
22.7 Other. Specify:	The contest
Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	According to Art. 47. of the Presidential Decree, the contest is the procedure for the selection of men of art, for a project, designed in response to a program established to carry out an operation, including technical, economic, or artistic practices, before granting the project to the winners of the contest.
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):	<p>Article 62 of Presidential Decree No. 15-247 provides that: "The call for tender notice must include the following mandatory information:</p> <ul style="list-style-type: none"> - Name, address and tax identification number (NIF) of the contracting authority; - Tendering procedure; - Conditions of eligibility or pre-selection; - Purpose of the operation; - Summary list of the documents required, with a reference to the relevant provisions of the specifications for the detailed list; - Duration of the preparation of tenders and the place where tenders are submitted; - Period of validity of the tenders; - Tender security, if applicable; - Presentation of tenders under sealed envelopes with the words "to be

	<p>opened only by the committee responsible for the opening of tenders and the evaluation of tenders” and the references to the invitation to tender;</p> <p>- Price of the documentation, if any “.</p> <p>Furthermore, pursuant to Article 63 of Presidential Decree No. 15-247, the procurement entity has, at the companies’ disposal, the terms of reference as well as the consultation dossier which, in conformity with article 64, includes all necessary information to present an acceptable offer, notably, the time limit to prepare the offer; the validity period of the offer; the date and time limit to present the offer; the date and time of examination of the offers; the specific address where the offers have to be deposit.</p>
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 62 of Presidential Decree No. 15-247, (point 3): the tender notice must include the requirements of selection and prequalification.
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):	The prequalification/ shortlisting criteria specified in the tender documents are always respected in practice. Respect of such criteria is controlled by the committee responsible for the opening of tenders and evaluation of tenders, and shall record the regularity of the registration of tenders and draw up a report signed by all Members of the Committee (Article 71 of Presidential Decree No. 15-247)
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?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
23.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose those questions and clarifications to all potential bidders?	n/a

If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
23.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	n/a
If yes, please specify:	n/a
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 case that this disclosure of information is done in practice?	n/a
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?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
If no, please elaborate:	In the presidential Decree, it is provided that the bidder must provide three different documents in his offer showing the first one: a candidacy declaration, a technical offer, and a financial offer. The financial offer would be a financial model if the nature of the project requires such document. However, no provision expressly requires a financial model to be provided and it appears there is no practice for the procuring authorities to always require

	<p>one.</p> <p>In fact, article 67(3) of Presidential Decree No. 15-247 requires the tender offer to contain a financial offer, not a financial model, as we understand, for purposes of evaluation. The financial offer must include:</p> <ul style="list-style-type: none"> - Submission letter; - Slip of unit prices; - Quantitative and estimated detail; - Detail of the global lump-sum price
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):	According to Article 78 of the Presidential Decree, the criteria for the choice of the private party and their weight ... must be mentioned in the specifications of the call for tender.
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):	Pursuant to article 52 of Presidential Decree No. 15-247, the provisional attribution of the bid is published in conformity with article 65 of the same decree. The latter article provides that the provisional attribution of the bid is published in the press journals, where the tender notice was published. Regarding the final decision, article 158 of Presidential Decree No. 15-247 provides that the list of procurement contracts concluded is published in the BOMOP as well as the website of the procurement entity.
28.1. If yes, is the public procurement award notice published online?	Yes
If yes, please specify the website:	www.algeriatenders.com
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):	According to Article 82(94) of the Presidential Decree, the contracting authority must invite candidates and tenderers, who wish to see the detailed results of the evaluation of applications, technical and financial offers, in the contract award notice, to request such service no later than three days from the first day of publication of provisional award of the contract, in order to have these results communicated to them in writing “
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?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 65, paragraph 2 of Presidential Decree No. 15-247 provides that “The notice of provisional award of the PPP contract shall be published in the press where the notice of invitation to tender was published, where possible, specifying the price, deadlines for completion and all the grounds for selection of the successful tenderer”.
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?	No
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?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 80 paragraph 3 of the Presidential Decree provides that the contracting authority may, after the award of the contract, and with the agreement of the selected bidder, proceed to specifications and optimization of the offer. However, this operation should not, in any way, call into question the conditions of competition.
31.1. Based on your experience, is it always the case that this restriction is respected in practice?	Yes
If yes, please specify:	Restriction of negotiations with the selected bidder, during the award and the signature of the PPP contract, is always respected in practice to prevent any unfair disadvantage to the other bidders
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 all its annexes and appendixes	n/a
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	n/a

the full PPP contract including all its annexes and appendixes	
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 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):	<p>- Article 159 of Presidential Decree No. 15-247 provides that: “Without prejudice to the legal provisions applicable to internal control, the latter is exercised, within the meaning of this decree, in accordance with the texts concerning the organization and statutes of the various contracting services. The practical arrangements for this exercise must specify, in particular, the content of the tasks of each inspection body and the measures necessary to ensure the consistency and effectiveness of control operations. Where the contracting authority is subject to a supervisory authority, it shall draw up a standard scheme for the organization and mission of the supervision of contracts. “</p> <p>- Article 169 of Presidential Decree No. 15-247 states that: “The contracting authority’s contracting commission is competent to assist in the preparation and formalization of public contracts, to examine draft specifications, contracts and amendments and to examine appeals submitted by tenderers, under the conditions laid down in Article 82 of this Decree “.</p>
41.1. If yes, which of the following tools does it include (check all that apply)? Establishment of a PPP contract management team	Yes

Relevant legal/regulatory provisions (if any):	Article 169 of the Presidential Decree provides that: “The contracting authority’s contracting commission is competent to assist in the preparation and formalization of public contracts, to examine draft specifications, contracts and amendments and to examine appeals submitted by tenderers, under the conditions laid down in Article 82 of this Decree “.
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.	No
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	Yes

sufficient qualification without specific details.	
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Article 211 of Presidential Decree No. 15-247: “the officials responsible for the preparation, procurement, execution and control of public contracts and public service delegations must receive qualifying training in this field.”
The PPP contract management team members are not required to meet any specific qualifications.	No
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?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 164 of Presidential Decree No. 15-247 provides that: “The supervisory control, exercised by the supervisory authority, aims to verify the conformity of the contracts awarded by the procuring authority with the objectives of efficiency and economy and to ensure that the contractual operation is effective within the framework of the programs and priorities assigned to the sector. An evaluation report on the conditions for carrying out the project and its overall cost in relation to the initial objective shall be drawn up by the contracting authority upon its final receipt. According to the nature of the expenditure incurred, the report shall be addressed to the head of the public institution, the minister, the wali or the president of the local communal assembly concerned and the competent external auditor “.
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	Yes

implementation after construction?	
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Article 156 of Presidential Decree No. 15-247: Public procurement contracts concluded by the contracting authority shall be subject to control prior to their entry into force, as well as before and after their execution. These contracts are subjected to different forms of controls: internal control, external control and supervision of guardianship.
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)	Article 26 of Presidential Decree No. 15-247 provides that: "The specifications, updated periodically, specify the conditions under which public contracts are awarded and executed."
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)	Article 147, paragraph 3 of Presidential Decree No. 15-247 provides that: "Contractual penalties applicable to contracting partners under the terms of the contract shall be deducted from payments to be made under the terms and conditions laid down in the contract".
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 8 of Decree No. 14-320 related to the contracting authority and to the delegated contracting authority, provides that the contract shall define the nature, periodicity and content of the reports that the contractor would be required to produce to the procuring authority.
The procuring or contract management authority must periodically gather information on the performance of the PPP contract	Yes
Relevant legal/regulatory provisions (if any)	In order to enable the regulatory authority for public procurement and public service delegations to carry out the economic census referred in Article 213 above, the contracting authority shall draw up statistical sheets and transmit them to the regulatory authority.
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?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>Article 29 of Law No. 16-09 provides that: “The assets forming the technical capital acquired for the purpose of carrying out the investment activity may be transferred (after authorization, as the case may be), by the agency or the territorial jurisdiction management center. The buyer commits to the structure (mentioned in the above paragraph), to honor all the obligations taken by the initial investor and having made it possible to benefit from these advantages. Failure to comply with these rules result in the withdrawals of the advantages...”</p> <p>Furthermore, Article 30 of Law No. 16-09 provides that: “Notwithstanding the provisions of Article 29 above, the State shall have a pre-emptive right on all transfers of shares made by or to foreigners.”</p>
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
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Changes of ownership/contract	No

assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.	
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
In other cases, flexibility to change the ownership structure and/or assign the contract.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
46. Does the regulatory framework (including standard contractual clauses) expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to articles 135 of Presidential Decree No. 15-247, the procurement entity or agent may amend a public contract. Furthermore, Article 136 provides that the amendment constitutes an accessory contractual document which, in all cases, is concluded when its purpose is to increase or decrease the services and / or the modification of one or more contractual clauses of the contract.
46.1. If yes, is an approval from a government authority, other than the procuring authority, required?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to article 136 of Presidential Decree No. 15-247, the procurement entity must submit the amendment to the competent market authority, when the total amount of the additional, complementary and in diminution services, is higher than the amounts fixed at article 139 of the same decree. Furthermore, pursuant to article 138 of Presidential Decree No. 15-247, any amendment has to be submitted to the external control of the market authority within the contractual period of execution, except for several cases. Article 139 of Presidential Decree No. 15-247 specifies that amendments don't need to be subject to the external control of the market authority when their object does not modify the denomination of the contracting parties, the technical and financial guarantees and the contractual period, and when its amount or cumulated amounts of the different amendments is below 10% of the initial amount of the market.
46.2. If yes to question 46, which of the following	Yes

circumstances are specifically regulated? (check all that 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):	Pursuant to article 136 of Presidential Decree No. 15-247, an amendment to the contract cannot substantially modify the public contract's economy, unless there are technical unforeseen complications which do not result from the parties. An amendment cannot modify either the object of the contract or its scope.
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.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to article 138 of Presidential Decree No. 15-247, an amendment can be introduced to a contract outside the contractual limits of performance when exceptional and unforeseeable reasons which are independent from the parties' will entail a substantial disruption in the economic balance of the contract and/or the modification of the contractual time limit initially provided.
A change in the duration of the contract.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to article 138 of Presidential Decree No. 15-247, an amendment can be introduced to a contract outside the contractual limits of performance when the amendment has no financial repercussion and concerns a modification of the clauses others than those concerning the duration of execution.
A change in the agreed price or tariff.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to article 136 of Presidential Decree No. 15-247, when the increase in the price of the contract is higher than 15% of the initial price (in case of public contract concerning services or studies) and 20% concerning works, the procurement entity must justify in front of the competent market commission that the initial conditions of competitiveness are not called into question and that a new tender would not allow the performance of the project under optimal conditions of delay and price. Furthermore, pursuant to article 137 of the same decree, if the contractual prices cannot be applied to additional services provided by amendment, new prices can be fixed.
46.3. Can the procuring authority unilaterally modify a PPP contract?	Yes
If yes, please provide the relevant legal/regulatory/standard	Article 149 of Presidential Decree No. 15-247 provides that "In the event of non-fulfillment of its obligations, the contracting party is required by the contracting service to fulfill its contractual commitments

contractual provisions (if any):	<p>within a specified period.</p> <p>If the contracting party fails to remedy the deficiency which is attributable to them within the time-limit set by the formal notice provided for above, the contracting authority may unilaterally terminate the contract. It may also impose a partial termination of the contract “.</p> <p>Additionally, Article 150 of Presidential Decree No. 15-247 provides that “Where the service is justified on grounds of general interest, the contracting authority may unilaterally terminate the contract even if the contracting partner is not at fault.”</p>
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	<p>Yes</p>
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>Pursuant to article 95 of Presidential Decree No. 15-247, any public contract must mention the cases of force majeure. Also, according to article 147 of Presidential Decree No. 15-247, in case of force majeure, the time limits are suspended, and delays do not result in the application of delay penalties within the limits fixed by the procurement entity. Finally, according to article 12 of the same decree, in the event of a compelling emergency arising from an imminent danger on property or investment ... that could not have been foreseen by the contracting authority and were not the result of delaying action on their part, the minister, the wali or the president of the local communal assembly concerned may, by motivated decision, authorize the commencement of performance of the services before the conclusion of the public contract. These allowances must be limited to strict necessary, making it possible to deal with the aforementioned circumstances “.</p>
Material Adverse government action .	<p>No</p>
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>n/a</p>
Change in the Law.	<p>No</p>
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>n/a</p>
Refinancing.	<p>No</p>
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>n/a</p>

Subcontracting and replacement of the subcontractors.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to article 140 and following of Presidential Decree No. 15-247, the contracting private party may hire subcontractors to perform part of the public contract. However, subcontractors cannot be in charge of providing common supplies (existing supplies in the market which are not made according to particular technical specifications established by the procuring authority)
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):	<p>Pursuant to article 153 of Presidential Decree No. 15-247, the procuring authority must try to find an amicable solution to any dispute arising out of the procurement contract.</p> <p>In case of disagreement, the dispute is submitted to the competent comity of amicable resolution of disputes in conformity with article 154 of the same Presidential Decree. This mechanism of amicable settlement must be provided in the terms of reference as a mandatory previous step to any judicial action. Furthermore, the aforementioned article provides that the procurement entity may submit the dispute arising out of the execution of procurement contracts to international arbitration, subject to the minister's proposal and to the government's previous consent.</p> <p>Finally, Article 24 of Law No. 16-09, provides that it is the competence of Algerian jurisdictions to decide any dispute arising between the Algerian State and an investor. However, the same article provides for an exception in the cases where the Algerian State has consented to arbitration or conciliation by a bilateral or multilateral treaty, or when the parties have consented to arbitration (the article refers to ad hoc arbitration) by an arbitration clause.</p>
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

<p>Please provide the relevant legal/ regulatory/standard contractual provisions (if any)</p>	<p>Pursuant to article 153 of Presidential Decree No. 15-247, the procuring authority must try to find an amicable solution to any dispute arising out of the procurement contract.</p> <p>In case of disagreement, the dispute is submitted to the competent comity of amicable resolution of disputes in conformity with article 154 of the same Presidential Decree. This mechanism of amicable settlement must be provided in the terms of reference as a mandatory previous step to any judicial action.</p> <p>Furthermore, the aforementioned article provides that the procurement entity may submit the dispute arising out of the execution of procurement contracts to international arbitration, subject to the minister's proposal and to the government's previous consent.</p>
<p>48.2. If applicable, are arbitration awards enforceable by the local courts?: Domestic Arbitration</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):</p>	<p>According to article 1031 of the Algerian Civil and Administrative Procedure Law No. 08-09, the arbitral award has the authority of res judicata in relation to the dispute that it decides. Additionally, according to Article 1035 of the same law, the arbitral award shall be enforced by order of the president of the court in the jurisdiction where it was made... The parties may appeal the order of refusal to execute before the court within 15 days of the refusal.</p>
<p>International arbitration</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):</p>	<p>Article 1051 of the Code of Civil Procedure provides that international arbitral awards are recognized in Algeria, if its existence is proven by the party who wants to have it executed, and if its execution is not contrary to the international public order. Such arbitral award shall be enforced by order of the president of the court in the jurisdiction where it was made, or where the award will be executed (if the jurisdiction where the award was made is not on the Algerian territory).</p> <p>Furthermore, we also refer to Articles II and III of the New York Convention on the Recognition and Enforcement of foreign arbitral awards that Algeria is a member of.</p>
<p>Investor-State arbitration</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):</p>	<p>Algeria is member of the ICSID convention (Art. 54 of the convention)</p>
<p>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?</p>	<p>No</p>
<p>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>n/a</p>

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 the private partner defaults or if the PPP contract is under threat of termination for failure to meet service obligations?	No
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.	n/a
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.	n/a
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.	n/a
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Other.	n/a
Please Specify:	n/a
51. Does the regulatory framework (including standard contractual clauses)	Yes

expressly establish the grounds for termination of a PPP contract?	
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>According to Article 149 of Presidential Decree No. 15-247: “In the event of non-fulfillment of its obligations, the contracting party is required by the contracting service to fulfill its contractual commitments within a specified period. If the contracting party fails to remedy the deficiency which is attributable to them within the time-limit set by the formal notice provided for above, the contracting authority may unilaterally terminate the contract. It may also impose a partial termination of the contract “.</p> <p>Furthermore, Article 150 of Presidential Decree No. 15-247 provides: “Where the service is justified on grounds of general interest, the contracting authority may unilaterally terminate the contract even if the contracting partner is not at fault.”</p> <p>And finally, Article 151 of Presidential Decree No. 15-247 provides that In addition to the unilateral termination referred to in Articles 149 and 150 above, contractual termination of the public contract may also be effected where it is caused by circumstances beyond the control of the contracting partner under the conditions expressly provided for in this effect”.</p>
51.1. If yes, does the regulatory framework (including standard contractual clauses) establish the consequences for the termination of the PPP contract?	<p>Yes</p>
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>Article 152 of Presidential Decree No. 15-247: “The contracting authority may not be subject to the cancellation of the public contract when it implements the contractual guarantees clauses and prosecutes the damage it has sustained through the fault of its contracting party. In addition, the additional costs incurred by the new market are borne by the latter. In the event of termination of a public contract in the course of execution, the signed termination document of both parties must provide for the accounts to be prepared according to the work performed, the work still to be carried out and the implementation, In general terms, of all the clauses of the market “.</p> <p>* Article 121 of the Civil Code: “When the contract is resolved, the parties shall be returned to the state in which they previously were. If the restitution is impossible, the court may award compensation”.</p>
Unsolicited Proposals	
34. Are unsolicited proposals in Algeria: (choose only one): Explicitly prohibited by the	<p>No</p>

legal framework? (if prohibited, skip to section F)	
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
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.	n/a
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework requires unsolicited proposals	n/a

to be among the existing government priorities without establishing specific procedures to achieve that goal.	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority does not evaluate unsolicited proposals against existing government priorities.	n/a
Please elaborate and provide examples:	n/a
37. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
38. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and the time in calendar days:	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	n/a

match the winning bid and win the contract).	
39.5 Other.	n/a
Please specify:	n/a
Please provide the relevant legal/regulatory provisions (if any):	n/a