

**PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN
ARGENTINA****NOTE**

Please note that Argentina has a dual regime of PPPs and Concessions. Both regimes are evaluated and scored separately in order to ensure the accuracy of the analysis. This document contains the data for **both** regimes. For your convenience, we have specified the page numbers for when the analysis for each regime begins and ends.

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PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN ARGENTINA (PPP)

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>PPPs in Argentina are now specifically regulated by the Public-Private Partnership Agreements Law, Law 27,328 (Ley No. 27.328 Contratos de Participación Público - Privada), passed on 30 November, 2016 and hereinafter referred as the “PPP Law” and its regulatory decree, Decree No. 118/2017 (Decreto No. 118/2017, Reglamentación Ley No. 27.328), passed on 20 February, 2017, hereinafter referred as “Decree 118/2017 and/or PPP Regulations”. Article 7 of Decree 118/2017 derogates Decree 967/2005 (Decreto No. 967/2005, “Regimen Nacional de Asociación Publico-Privada” - National Regime of Public Private Partnerships) previously in place for PPPs. Articles 9 and 31 of the PPP Law specifically excludes the direct, subsidiary or analogical application of the usual applicable regulations to government contracts, such as the Public Procurement Law (Decree No. 1023/2001), the Public Works Law (Law No. 13064/1947), the Public Concessions Law (Law No. 17520/1967), as well as the Eminent Domain Law (Law No. 21499/1977) and the State Liability Law (Law No. 26944/2014) and the application of articles 7 and 10 of the Law No. 23928/1991. Article 11 of the PPP Law establishes the application of the Civil and Commercial Code to regulate the contracting parties’ liability if no specific provision was made. Finally, Article 2 of the PPP provides that PPPs involving the provision of public services shall also be governed by the applicable regulatory framework for the relevant sector (i.e., for electric energy, Law 24,065, and for natural gas, Law 24,076). Decree No. 966/2005 (“Decreto No. 966/2005”) continues to apply to the regime for private initiatives (unsolicited proposals). This analysis will focus on the regime established by the just described regulatory framework.</p> <p>Previous laws and regulations applicable to PPPs continue to apply as alternative tendering methods (with the exception of Decree No. 967/2005, expressly derogated by Decree 118/2007) to the PPP procurement model set out in the PPP Law, including the provisions of Law 13,064/1947 (public works regime) and Law 17,520/1967 as amended (public works concession regime) and Decree 1023/2001 (national public procurement regime, further developed by and Decree No. 893/2012), and its amendments. This alternative regime will be analyzed in a separate assessment under the headline Argentina (Concessions).</p>
and provide a link to a government-supported website where the mentioned regulatory framework is	<p>In general, Argentinian legislation is available online from http://www.infoleg.gov.ar/. The key relevant regulatory texts pertaining to this analysis (PPPs) are the following</p> <p>-PPP Law: http://servicios.infoleg.gov.ar/infolegInternet/anexos/265000-</p>

available or provide an electronic copy of it:	<p>269999/268322/norma.htm -Decree 118/2017: http://servicios.infoleg.gob.ar/infolegInternet/anexos/270000-274999/271968/norma.htm -Decree 966/2005: http://servicios.infoleg.gob.ar/infolegInternet/anexos/105000-109999/108805/norma.htm</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>As explained above, on November, 2016, the Congress enacted the PPP Law and on February, 2017, the Executive Power enacted the Decree 118/2017 containing the regulations of the PPP Law. As already mentioned article 2 of the PPP Law is considered an alternative tendering process to the ones set out in the more general public works and public procurement regulatory framework</p>
2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?	<p>Yes</p>
Please describe:	<p>Regulations that complement the Decree 118 are in progress in 2017. Some of them would be related to the functioning of a new PPP unit, to bidding processes, and to the involvement of other governmental entities over the projects. Also, according to our contributors, it is expected that regulations on the interface between the existing regulation of “unsolicited proposals” and the new PPP regime will be established at some point in the future.</p>
3.1 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Transportation.	<p>No</p>
If yes, please provide the relevant legal/regulatory provisions:	<p>n/a</p>
3.2 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Water and Irrigation	<p>No</p>

If yes, please provide the relevant legal/regulatory provisions:	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	Yes
If yes, specify and provide the relevant legal/regulatory provisions:	Article 21 of the PPP Law 27,328 provides that certain power of the state cannot be delegated, and excludes some of its non-delegable functions (i.e., regulation and police power). Article 1, Annex I of the Decree 118/2017, prohibits the application of the PPP procurement regime established by the PPP Law to projects which exclusively provide for the provision of labor, the supply and provision of goods and the construction of works substantially financed with National Treasury funds.
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):	Article 9 of PPP Law indicates that, under certain conditions, specific tax benefits may be established in the bidding documents. In addition, Section 6 of Decree 118, allows government jurisdictions to employ the PPP Law to exempt PPP contracts from stamp tax, totally or partially.
5. Please identify the PPP procuring authorities in Argentina and provide their website(s) (if available):	Article 1 of Law 27,328 provides that the PPP regime applies to bodies in the National Public Sector (or "Sector Público Nacional"), the scope of which is set out in Article 8 of Law 24,156 to include any entity and/or agency belonging to the federal administration, centralized or decentralized, including government-owned companies of all types, non-governmental public organizations controlled by the Federal Government and trusts funded

	<p>primarily by the Federal Government. As a consequence, the regulatory framework does not establish a specific authority in charge of procuring all the PPP Contracts. According to the definitions contained in the PPP Regulations, each PPP contract is possible to define both the (i) procuring entity (Entidad Contratante), which is the body or entity of the National Public Sector that enters into the PPP Contract with the PPP Contractor, entrusting it with the responsibility of the PPP Project's execution and (ii) procuring authority (Autoridad Convocante), which in the case of the National Public Administration is the Minister in whose jurisdiction the PPP Project is carried out and, in the case of other entities of the National Public Sector, it is the Superior Authority of the entity that will act as the Contracting Entity. For example, for major transport projects, the procuring authority should be the Ministry of Transportation (https://www.argentina.gob.ar/transporte).</p>
<p>6. In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?</p>	<p>Yes</p>
<p>If yes, please indicate its name, and its website (if available):</p>	<p>Articles 28 and 29 of the PPP Law provide for the creation of the Public Private Partnership Unit (Unidad de Participación Pública-Privada). Article 2 of the Decree 118/2017 mandates the creation of the Unit and its Annex's concordant provisions further regulate it. Article 10 of Decree 808/2017 (approved after the legal cut off date of this study, but available at the time of publication) provides for the Public-Private Participation Sub-secretariat to become the PPP Unit: https://www.minfinanzas.gob.ar/secretarias/subsecretaria-de-participacion-publico-privada/.</p> <p>Additionally, article 30 of the PPP Law also establishes a bicameral congressional committee to follow up on PPP Contracts and assign different responsibilities over PPPs to other entities, include Ministry of Treasury, Ministry of Finance and Ministry of Production.</p>
<p>6.1 If yes, what are the main responsibilities of the PPP Unit (check all that apply): PPP regulation and policy guidance.</p>	<p>Yes</p>
<p>6.2 PPP capacity building for other public authorities.</p>	<p>Yes</p>
<p>6.3 PPP promotion among the public and/or private sectors in national and international forums.</p>	<p>No</p>
<p>6.4 Technical support in implementing PPP projects.</p>	<p>No</p>
<p>6.5 Identification and selection of PPP projects from the pipeline.</p>	<p>No</p>

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:	Disclosure and document gathering, centralizing all documentation of each contract executed under PPP regime.
Please provide the relevant legal/regulatory provisions:	Article 28 of the PPP Law contains the main functions of the PPP Unit: (a) centralizing the regulations of the PPP contracts, (b) providing consulting, operational and technical support to other governmental agencies in regard to the design of project, the feasibility assessment, the promotion of projects, the preparation of bidding documents and the performance of contract, (c) advising the Executive Branch in elaboration of programs to foster PPP projects, the drafting of supplementing regulations, the drafting of manuals and guidelines on PPPs, (d) advising the contracting agencies in the design and implementation of surveillance mechanisms, (e) advise (and build capacities) to procuring authorities to structure and develop PPP projects, (f) register the precedent (support) documentation of PPP contracts, (g) lead the commission of congress in charge of monitoring of performance of contracts.
PPP Preparation	
8. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Article 6 of the PPP Regulations, before launching the procurement process of each project, the Ministry of Treasury shall issue an opinion on the following aspects: (i) reasonableness of the use of public resources, and (ii) the financial and economic aspects of the terms and conditions of the PPP Agreement, in regard to the assumption of risks and commitments by the National Public Sector. In addition, according to the same article, before launching the procurement process of each project, the Ministry of Finance shall issue an opinion regarding the proposed financial structure, including the financial cost in case there is public debt.
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.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Article 6 of PPP Law, expenses and contributions incurred in connection with PPP projects must be consistent with government financial planning, in accordance with Law N 24156 on Financial Administration and Control Systems of the Federal Public Sector and Law 25152 on the Administration of Public Resources. The Executive Branch will inform the Congress on the fiscal impacts and incurred commitments, and will incorporate the fiscal impacts in the corresponding budgetary laws. In addition, according to Article 13 of PPP Law, prior to the call for tendering to award a PPP contract, the procuring authority must issue an opinion on, among others, the financial and budgetary effects of the contract during the budget periods of the execution of contract, and the sufficiency of public resources flows during the contract term, for each committed budget period.
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.	Yes
Please specify:	According to article 6, Annex I of Decree 118/2017, the standards shall be established by the Ministry of Finance (with the participation of the Public-Private Partnership Unit) through the issuance of specific regulations. Such regulation shall guarantee the consistency of the corresponding expenses and commitments with the financial programming of the State, within a frame of fiscal responsibility and the proper accountability, in accordance with the general budgeting principles of Laws No. 24156 of "Financial Administration

	and Control of the National Public Sector” and Law No. 25.152 of “National Administration of Public Resources”. These principles guarantee the consistency of the corresponding expenses and commitments with the financial programming of the State, within a frame of fiscal responsibility and the proper accountability.
9. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before launching the procurement process (e.g. Cabinet, Cabinet Committee, Parliament, Supreme Audit Office, etc.)?	Yes
If yes, please specify the relevant authority	The Ministry of Environment and Sustainable Development must issue the corresponding environmental authorizations to execute the PPP Project (article 5 PPP Law). In addition, if the PPP Contract contains fiscal resources of the public budget, the National Congress must issue an authorization to compromise future budget periods (set forth in Article 15 of Law no. 24.156) in the corresponding general budget law or a special law.
and provide the relevant legal/regulatory provisions (if any):	Article 5, Annex 1 of Decree 118/2017, and Article 16 of PPP Law.
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?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
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):	Article 12.24 of Annex I of Decree 118/2017 provides for the possibility for the Bid Evaluation Committee of the PPP project to engage technical experts or to request reports from public or private institutions. Additionally, the Procuring Authority may request the advice from Ministries and other governmental bodies (see Decree No. 118/2017, art. 13), or external auditors with sufficient technical aptitude, independence and impartiality and verified national or international career to control the projects’ execution (article 21 PPP Law).
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	No

<p>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.</p>	
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p>	n/a
<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>	No
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	n/a
<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.</p>	Yes
<p>If yes, please elaborate:</p>	<p>According to Article 6 of PPP Law, expenses and contributions incurred in connection with PPP projects must be consistent with government financial planning, in accordance with Law No 24.156 on Financial Administration and Control Systems of the Federal Public Sector and Law N 25.152 on the Administration of Public Resources. This procedure under article 6 of the PPP Law seeks expressly to ensure consistency with financial planning, not specifically consistency between priorities. Consistency among different projects will be checked as a matter of practice but is not expressly required in the regulatory framework.</p>
<p>The procuring authority does not evaluate PPPs against existing government priorities.</p>	No
<p>Please elaborate and provide examples:</p>	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 Data
If yes, please specify:	n/a
If no, please elaborate:	No PPP projects has been developed yet under the new PPP regime.
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)	According to Article 4.e of PPP Law, when structuring PPP projects, the procuring entity must estimate the economic and social returns or cost effectiveness of the projects. Additionally, according to Article 13 of PPP Law, prior to launching the procurement process, the procuring authority must issue an assessment on the externalities the project will generate, including an estimation of the forecasted income flows the project will produce, and the impact the project will generate in terms of employment, and SMEs and national industry development.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No Data
Details:	No PPP project has been developed yet under the new PPP regime
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)	According to Article 13 of PPP Law, prior to the call for tendering to award a PPP contract, the procuring authority must issue an opinion on, among others, the financial and budgetary effects of the contract during the budget periods of the execution of the contract, and the sufficiency of public resources flows during the contract term, for each committed budget period.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a

Is the assessment done in practice?	No Data
Details:	No PPP project has been developed yet under the new PPP regime
12.3. Risk identification, allocation and assessment (risk matrix)	Yes
Relevant legal/regulatory provision (if any)	According to Article 13 of PPP Law, prior to the call for tendering to award a PPP contract the procuring authority must issue an opinion on, among others, an assessment on the equal allocation of risks between the parties of the PPP contract, considering the principles set forth in Article 4 of the mentioned Law.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No Data
Details:	No PPP project has been developed yet under the new PPP regime
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)	According to Article 13 of PPP Law, prior to the call for tendering to award a PPP contract the procuring authority must issue an opinion on, among others, the project's feasibility and grounds for its execution, expressing the reasons why the public interest would be better addressed through this procurement method instead of other available ones. In addition, the procuring authority must also perform a cost benefit analysis with respect to the use of this procurement method.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No Data
Details:	No PPP project has been developed yet under the new PPP regime
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?	No Data
Details:	No PPP project has been developed yet under the new PPP regime
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 13 of PPP Law, prior to the call for tendering to award a PPP contract the procuring authority must issue an opinion on, among others, the socio-environmental impacts of the project under consideration.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No Data
Details:	No PPP project has been developed yet under the new PPP regime
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)?	Yes

If yes, please provide the relevant legal/regulatory provisions (if any):	Article 13 of the PPP Law states that the procuring authority has to provide the “conclusions” over the assessments to the PPP Unit in order to comply with article 29 of the PPP Law and mandates those “conclusions” to be included in the tendering documents. Finally, according to Article 29, the PPP Unit has to implement a website where interested parties can access and make consultations over those conclusions of the assessments and related reports and administrative documents.
and specify which of the assessments are included in the request for proposals and/or tender documents:	The “conclusions” of the assessments included in the tendering documents are the following: socio-economic analysis, feasibility, impact on the public funds, estimation of the financial and budgetary effects of contract, estimation of the flows of public resources to be needed, externalities of the project including forecasted income flows, socio-environmental impacts, and risk allocation.
13.1. Are the assessments published online?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Article 29 of the PPP Law, the PPP Unit has to implement a website where interested parties can access and make consultations over those conclusions of the assessments and related reports and administrative documents.
specify the website	No PPP project has been developed yet under the new PPP regime and only lately (after the cut off date for this assessment) the website of the PPP Unit, now the Public Private Participation Sub-secretariat was opened with some general information: https://www.minfinanzas.gob.ar/secretarias/subsecretaria-de-participacion-publico-privada/
please specify which of the assessments are published online:	All the assessments included in the opinion issued by the Procuring Authority in the terms of Article 13 PPP Law. Amongst others, such opinions shall comprise the following: socio-economic analysis, feasibility, impact on the public funds, estimation of the financial and budgetary effect of contract, estimation of the flow of public resources needed, externalities of the project including forecasted income flows, socio-environmental impacts, risk allocation.
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 12.9, Annex I of Decree 118/2017 requires the procuring authority to disclose the call for tendering and the tender documents in the PPP Unit’s website and on the Procuring Authority’s website.
and please specify the website:	https://www.minfinanzas.gob.ar/secretarias/subsecretaria-de-participacion-publico-privada/ No PPP project has been developed yet under the new PPP regime and only lately (after the cut off date for this assessment) the website of the PPP Unit,

	now the Public Private Participation Sub-secretariat was opened with some general information.
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)	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)	Article 5.b Annex I of Decree 118 requires the government (procuring authority and Ministry of Environment and Sustainable Development) to obtain all environmental permits relevant to the development of project, prior to the call for tendering.
16.3. Obtaining the required operational permits: Procuring authority (or other Government entity)	No
Private Partner	No

Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
16.4. Obtaining the required land: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	Article 9.g of the PPP Law mandates that the tender documents specify the commitments of the procuring authority including the right to use public property, public domain, establishment of right of way, public and private domain exploitation rights, etc.
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)	Article 9.g of the PPP Law mandates that the tender documents specify the commitments of the procuring authority including the right to use public property, public domain, establishment of right of way, public and private domain exploitation rights, etc.
PPP Procurement	
18. Which of the following options best describes the required qualifications of the bid evaluation committee members? (Please select only one): The membership of the bid evaluation committee is specified and/or its members are required to meet detailed qualifications.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a

The bid evaluation committee members require sufficient qualification without specific details.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The bid evaluation committee members are not required to have any specific qualifications.	Yes
Please elaborate and provide examples:	According to Decree 118/2017 (Annex, Article 12.24), the procuring authority shall appoint Bid Evaluation Commissions members, with the sole limitation that such designation should not fall on those who have the authority to authorize the call or award the bidding.
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):	Article 12.8, Annex, of Decree 118/2017 sets that after the expiration of the 30-day term from the assessment publication date, the Procuring Authority shall issue the call for tendering of notice of the PPP project in the Official Gazette for a 3-day term. In addition, it should also be published in the official website of the PPP Unit and the Procuring Authority. In case of an international tender, the call for tendering shall also be published for such terms by means of a publication in the United Nations website named (UN Development Business), or in the website of the World Bank (GD Market), indistinctly. According to the nature of the project, the procuring authority can additionally publish the call for tendering in mass media.
19.1. If yes, is the public procurement notice published online?	Yes
If yes, please specify the website:	https://www.minfinanzas.gob.ar/secretarias/subsecretaria-de-participacion-publico-privada/ No PPP project has been developed yet under the new PPP regime and only lately (after the cut off date for this assessment) the website of the PPP Unit, now the Public Private Participation Sub-secretariat was opened with some general information.
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):	Section 8, Article 12, Annex I of Decree No 118/2017, sets the last publication of the call for tendering of the PPP project shall be made at least 60 calendar days before the offer submission or the withdrawal of the tender documents, whichever happens first.
and the time in calendar days:	60
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)	Article 12 of PPP Law states the selection of the contractor must be through a public tender or a public contest.
22.2. Restricted tendering (with pre-qualification stage): Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.3 Multi-stage tendering (with shortlisting of final candidate(s)): Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	Article 12.2, Annex of Decree 118, sets this procedure when the specific characteristics of the PPP project, such as the high degree of complexity or the extension of contract, require so.
22.4. Competitive dialogue: Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	According to article 14 of the PPP Law, when the complexity or amount of the project justifies, a transparent procedure of queries, debate and exchange of opinions may be established between the Contracting Agency and the shortlisted interested parties, which, based on experiences, technical knowledge and best practices available, allows to develop and determine the most convenient solution to the public interest upon which offers shall be made. The PPP Unit must participate in this procedure. Among other aspects, and according to the project's characteristics, the direct or indirect participation of small and medium-sized enterprises and the industry and national work must be fostered.
22.5. Direct negotiation with more than one candidate: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.6. Direct negotiation with only one candidate: Available	No

Default	No
Relevant legal/regulatory provision (if any)	n/a
22.7 Other. Specify:	No
Available	n/a
Default	n/a
Relevant legal/regulatory provision (if any)	n/a
22.8. Do the tender documents detail the procedure of the procurement process providing the same information to all the bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 12 of PPP Law sets that the general principles of transparency, publicity, communication, equality, concurrence and competition in the selection process shall be guaranteed. In addition, Section 5, Article 12 of Decree 118 states that the technical specification must be developed in a way as to allow bidders to access to the selection procedure on an equal basis and shall not create unjustified obstacles to interested parties or restrict the participation and competition among bidders.
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):	Decree No. 118, Annex I, Section 12.5, 12.19 and 12.35 indicate that the tender documents must contain the selection procedure, giving equal conditions to participants, and allowing competition, as well as the requirements to make offers. The award will be done based on the conditions set in the tender documents.
22.10. Based on your experience, is it always the case that the specified criteria are respected in practice?	No Data
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
If no, please elaborate:	No PPP projects has been developed yet under the new PPP regime
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):	Article 12.11, Annex I of Decree 118/2017 states that interested parties and potential bidders can submit questions to clarify content of the tender documents up to 7 days before the bid submissions.
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):	According to Article 12.12 Annex I of the Decree 118/2017, the procuring authority can issue clarifying or modifying circulars, in accordance to its own criteria, in an official way or as a consequence of bidders' questions. Clarifications should be communicated 4 days before the expiration to submit the bids. The clarifications must be communicated to every person that has acquired or downloaded the tender documents, and they should be disclosed in the PPP Unit's and Procuring Authority's websites.
23.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	No Data
If yes, please specify:	n/a
If no, please elaborate:	No PPP projects has been conducted yet under the new PPP regime
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:	<p>It depends on the kind of project and requirements set forth in the bidding terms. For example, in the last Port of Buenos Aires bid, the procuring authority requires the submission of a business plan to be suited to the corresponding terminal output. This is stated in the particular public tender documents. It will depend on the budget required to perform the work, the subject-matter on the project, and the decision of the authority governing the bidding process altogether with the National Contracting Office (Oficina Nacional de Contrataciones).</p>
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):	<p>According to Article 15 of PPP Law, the contract should be awarded to the bid that is most convenient to the public interest, in accordance with the criteria set forth in the tender documents.</p>
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.	Yes

Please provide the relevant legal/regulatory provisions (if any):	According to article 12.35, Annex of Decree 118/2017, the contract may be awarded even if only one tender has been submitted.
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.	No
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):	According to Section 9, Article 12, Annex I of Decree 118, the Procuring Authority shall publish the award notice in the PPP Unit's and its own website.
28.1. If yes, is the public procurement award notice published online?	Yes
If yes, please specify the website:	No PPP project has been developed yet under the new PPP regime and only lately (after the cut off date for this assessment) the website of the PPP Unit, now the Public Private Participation Sub-secretariat, was opened with some general information: https://www.minfinanzas.gob.ar/secretarias/subsecretaria-de-participacion-publico-privada/
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):	Decree 118/2017 (Annex I, Section 12.31 and 12.35 also requires that notice be given to the awardee/s and the rest of the offerors within 3 days.
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):	According to Article 12.27, Annex, of the Decree 118/2017, the evaluation report will contain the evaluation of offers according to the parameters set forth in the tender documents.
30. Is there a standstill (or pause) period after the contract award and before the signing of the contract in order to allow unsuccessful	Yes

bidders to challenge the award decision?	
If yes, please provide the relevant legal/regulatory provisions (if any):	Decree No. 118/2017 (Article 12.31) states that bidders may challenge the evaluation report within five days from its notification. Article 12(35) of Decree No. 118/2017 provides that any objections to the offers submitted or the Assessment Committee's assessment opinion shall be addressed at the time of making award. As a consequence, before the award of contract, bidders will have a period of at least five days to challenge the evaluation on which the award will be based.
and the time in calendar days:	5
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 12.17, Annex of the Decree 118 prevents any modification of an offer after the date of its submission.
31.1. Based on your experience, is it always the case that this restriction is respected in practice?	No Data
If yes, please specify:	n/a
If no, please elaborate:	No PPP projects has been awarded so far under the new PPP regime
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 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 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):	According to Article 21 of PPP Law, the regulation and the control of the execution of PPP contract are non-delegable functions of the procuring authorities. The fulfillment of PPP contracts is subject to the control of the procuring authority or the entity created specifically for that purpose. Such authorities have power of inspection and control, being able to require all type of information related to the fulfillment of the PPP contract and development of the project. In addition, external auditors might intervene to control the contract implementation. This possibility is further regulated and identified in Article 21 of Decree 118. Finally, according to Article 9 of PPP Law, the tender documents and contracts from PPP projects should include, among others, the control mechanisms of the contracted or assumed obligations, the minimum technical requirements applicable to the developed infrastructure, the quality

	and efficiency standards to comply with the assumed obligations, as well as the corresponding mechanisms to measure, evaluate and control these standards.
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):	According to Article 21 of PPP Law, the fulfillment of PPP contracts is subject to the control of the Procuring Authority or the entity created specifically for that purpose. Such authorities have powers of inspection and control, being able to require all type of information related to the fulfillment of the PPP contract and development of the project. Furthermore, article 21 of Decree 118/2017 establishes the possibility to regulate in the tender documents the creation of a technical inspector (auditor tecnico) to oversight the implementation of the PPP contract.
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	Yes

contract management team is specified and/or its members are required to meet detailed qualifications.	
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	Article 21 of Decree 118/2017 establishes the requirements for an external auditor, to be in charge of overseeing the execution of the project. Those requirements have sufficient technical suitability, independence and impartiality, verified national or international trajectory and economic and financial capacity. However, the contracting authorities can choose to have or not have an external auditor.
The PPP contract management team members are required to meet sufficient qualification without specific details.	No
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.	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):	According to Section d, Article 9 of PPP Law, the PPP contract must establish the mechanisms for monitoring the compliance of obligations assumed and penalties in case of a breach of the contract, its procedures of implementation and forms of execution, among others. In addition, external auditors might intervene to control the contract implementation. This possibility is further regulated and identified in Article 21 of Decree 118/2017. In particular, article 9.5 of the Decree 118/2017 regulates the reception of the works and its control and oversight by the technical inspector (Auditor Técnico).
42.1. If yes, is the PPP contract construction performance information made available to the public?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
42.2. If yes, is the PPP contract construction performance information made publicly available online?	n/a

If yes, please specify the website:	n/a
43. Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract implementation after construction?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Section d, Article 9 of PPP Law, the PPP contract must establish the mechanisms for monitoring the compliance of obligations assumed and penalties in case of a breach of the contract, its procedures of implementation and forms of execution, among others. In addition, external auditors might intervene to control the contract implementation. This possibility is further regulated and identified in Article 21 of Decree 118. Thus, the Procuring Authority will determine, in a case-by-case basis, the most convenient system to implement the PPP contract, which will be included in the tender documents.
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 9.e of the PPP Law requires that the tender documents include among others: the minimum technical requirements applicable to the infrastructure to be developed, the objective standards of quality and efficiency in the fulfillment of the assumed obligations, as well as their respective mechanisms and procedures of measurement, evaluation and control;
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	No
Relevant legal/regulatory provisions (if any)	n/a
The procuring or contract management authority must periodically gather information on the performance of the PPP contract	Yes

Relevant legal/regulatory provisions (if any)	Article 22 of the PPP Law provides that the General Audit of the contract shall include in each annual action plan an audit of all existing PPP agreements, their development and results.
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):	Article 9, sections r) and t) of the PPP Law, regulates changes in the ownership structure. As a general rule, changes in the ownership structure, assignment of the PPP contract or subcontracting shall be previously approved by the procuring authority.
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).	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 9.t) of the PPP Law regulates the assignment or change to a third party in a PPP contract. It states the third party must have similar requirements to those of the original contractor and at least 20% of the original contract term must have expired or the agreed investment term has elapsed.
Changes of ownership/contract assignment, at any time	Yes

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):	Article 9.t) of PPP Law regulates the assignment or change to a third party in a PPP contract. It states the third party must have similar requirements to those of the original contractor and at least 20% of the original contract term must have expired or the agreed investment term has elapsed.
In other cases, flexibility to change the ownership structure and/or assign the contract.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Once the requirements stated above are fulfilled, changes are permitted
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):	Article 9.i) of PPP Law, and Articles 9.8, Annex I of Decree 118/2017, states the PPP Agreement shall contain a clause that enables the Procuring Authority or the National Public Administration to unilaterally make variations to the contract only in relation to the execution of the project and up to a maximum of twenty percent (20%) of the value 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/standard 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/standard contractual provisions (if any):	Article 9.i) of PPP Law, and Articles 9.8, Annex I of Decree 118/2017, states the PPP Agreement shall contain a clause that enables the Procuring Authority or the National Public Administration to unilaterally make variations to the contract only in relation to the execution of the project and up to a maximum of twenty percent (20%) of the value of the contract.

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):	Section 7, Article 9, Annex I of Decree 118/2017 sets the terms to preserve the economic balance of the contract, including the mechanisms to re-establish the original economic-financial equation when it is significantly altered by unforeseen reasons at the time of the awarding of the contract. Also, Section 8, Article 9, Annex I of Decree 118/2017 makes reference to preserving the economic balance of the contract when modifications are required.
A change in the duration of the contract.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 4.d) of the PPP Law states the PPP Agreement shall include a clause indicating its term and the possibility of extending the contract. In any case the PPP Agreement cannot exceed a 35-year term (including extensions).
A change in the agreed price or tariff.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 9.6 of the Decree 118/2017 establishes the possibility of introducing the tender documents and PPP contract automatic and non automatic mechanisms for the revision of the agreed payments on the PPP contract.
46.3. Can the procuring authority unilaterally modify a PPP contract?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 9.i) of PPP Law, and Articles 9.8, Annex I of Decree 118/2017, states the PPP Agreement shall contain a clause that enables the Procuring Authority or the National Public Administration to unilaterally make variations to the contract only in relation to the execution of the project and up to a maximum of twenty percent (20%) of the value of the contract.
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	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 9.b) of PPP Law, states the bid specifications and tender documents shall regulate the distribution of risks, how to avoid, bare or mitigate them, including the consequences derived from force majeure events.

Material Adverse government action .	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 9.b of PPP Law, states the bid specifications and tender documents shall regulate the distribution of risks, how to avoid, bare or mitigate them, including the consequences derived from adverse government action.
Change in the Law.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Refinancing.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Subcontracting and replacement of the subcontractors.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 9.u) of PPP Law, regulates the faculty of concessionaires to subcontract.
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):	Article 9.w of PPP Law, states the bid specifications shall include the proceedings and methods that will be applicable to settle technical, interpretative or patrimonial disputes that may arise during the PPP contract execution and termination, including the possibility to constitute a dispute board. Article 9.x of the same Law and Article 25, Annex of Decree 118/2017 regulate the possibility of establishing different dispute resolution mechanisms in the tender documents, including arbitration, for every dispute that may arise regarding the execution, application and/or interpretation of a PPP contract.
48.1. If yes, please specify which of the following options are available (check all that apply): Local administrative review body	Yes

If yes, please specify:	When dispute boards and/or arbitration courts are not established, the dispute shall be reviewed by the procuring authority and, eventually by the higher entity. Finally, the dispute may be filed with the local judiciary courts.
Local courts	Yes
Domestic arbitration	Yes
International arbitration	Yes
Investor-State Dispute Settlement (ISDS)	Yes
Mediation	Yes
Please provide the relevant legal/ regulatory/standard contractual provisions (if any)	Article 9.w of PPP Law, states the bid specifications shall include the proceedings and methods that will be applicable to settle technical, interpretative or patrimonial disputes that may arise during the PPP contract execution and termination, including the possibility to constitute a dispute board ("Panel Tecnico") further regulated in the Decree 118/2017 (article 9.13, Annex). Article 9 of the same Law and Article 25, annex of Decree 118/2018 regulate the possibility of establishing different dispute resolution mechanisms in the tender documents, including arbitration, for every dispute that may arise regarding the execution, application and/or interpretation of a PPP contract.
48.2. If applicable, are arbitration awards enforceable by the local courts?: Domestic Arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	Article 499 of Civil and Commercial Procedural Code regulates enforceability of arbitration awards. Article 26 of the PPP Law establishes that the arbitral award will be finalized with exception of the appeals regulated by article 760 of the Civil and commercial Procedural Code.
International arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	Article 517-519 bis of Civil and Commercial Procedural Code and international treaties as the New York Convention. Article 26 of the PPP Law establishes that the arbitral award will be finalized with exception of the appeals regulated by article 760 of the Civil and commercial Procedural Code.
Investor-State arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	Article 517-519 bis National Civil and Commercial Procedural Code and international treaties as the New York Convention. Article 26 of the PPP Law establish that the arbitral award will be finalized with exception of the appeals regulated by article 760 of the Civil and commercial Procedural Code.
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	n/a

contractual provisions (if any):	
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?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	According to Article 9.r of PPP Law, the PPP contract must specify the requirements and conditions under which the contracting authority may authorize the transfer of ownership control of the special purpose company or the transfer of the control of certificates of participation in the case of trusts, either to third parties or to those who finance the project or a company controlled by them.
50.1. If yes, which of the following options best describes the lender step-in right? (Please select only one): The regulatory framework expressly regulates the lender step-in rights.	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
The regulatory framework prescribes that a direct agreement should be signed with the lenders.	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	According to Article 9.r of PPP Law, the PPP contract must specify the requirements and conditions under which the contracting authority may authorize the transfer of ownership control of the special purpose company or the transfer of the control of certificates of participation in the case of trusts, either to third parties or to those who finance the project or a company controlled by them.

Other.	No
Please Specify:	n/a
51. Does the regulatory framework (including standard contractual clauses) expressly establish the grounds for termination of a PPP contract?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 9.p of the PPP Law states the PPP Agreement shall include a provision on the grounds for termination of the contract, indicating the measures and proceedings to be followed and the applicable compensations in case of premature termination.
51.1. If yes, does the regulatory framework (including standard contractual clauses) establish the consequences for the termination of the PPP contract?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 9.p of the PPP Law states the PPP Agreement shall include a provision on the grounds for termination of the contract, indicating the measures and proceedings to be followed and the applicable compensations in case of premature termination.
Unsolicited Proposals	
34. Are unsolicited proposals in Argentina: (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	Decree 966/2005 (Annex I) establishes the Private Initiative Regime, which allows private parties to file proposals before the Public Administration executes public interest projects. While this decree does not regulate a regime of unsolicited proposals for PPPs specifically or exclusively, article 17 of PPP Law states that the proceedings set forth in the PPP Law are also compatible with the Private Initiative Regime proceedings.
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)	Articles 4 and 5, Annex I of Decree No. 966/2005 state that the proposal must be evaluated by the competent entity, which issues a report with a recommendation to the Commission of Evaluation and Development of Private Initiatives. This Commission will evaluate if there is public interest over the proposal and deliver a report to the Executive Branch, who will decide if the proposal shall be included in the private initiative regime.
35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 2, Annex I of Decree 966/2005 requires that to be considered under the Private Initiative Regime, proposals must be submitted with specific information (e.g. the nature of the proposed project, the basis of economic and technical feasibility, estimation amount of investment, background of the proponent and the source of resources and financing). After the Private Initiatives and Evaluation and Development Commission verifies the above requirements of admissibility, the relevant jurisdiction affected by the proposal will consider (and make further evaluations) the proposal.
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.	No
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
The procuring authority does not evaluate unsolicited proposals against existing government priorities.	No

Please elaborate and provide examples:	n/a
37. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 6 of Decree No. 966/2005 establishes that the competent authority must call for tender within 60 days of the approval of the resolution that dictates the procuring mechanism.
38. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Section 8, Article 12, Annex I Decree 118, states the last publication of the call for tender should be at least 60 days before the deadline to present offers.
and the time in calendar days:	60
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.	Yes
39.2 Developer's fee (reimbursing the original proponent for the project development cost).	Yes
39.3 Bid Bonus.	Yes
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):	Article 8, 9 and 10, Annex of Decree No. 966/2005 refers to the terms and conditions of a Bid Bonus, access to the best offer or opportunity to challenge the best offer under specific considerations, and developer's fee.

PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN ARGENTINA (CONCESSION)

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>After the adoption of the new Public-Private Partnership Agreements Law, Law 27,328 (Ley No. 27.328 Contratos de Participación Público - Privada), passed on 30 November, 2016 (hereinafter referred as the “PPP Law”) and its associated regulatory Decree 118/2017, previous laws and regulations applicable to PPPs continue to apply as alternative tendering method to the PPP procurement model set out in the PPP Law (as expressly indicated by article 2 of the PPP Law and with the exception of Decree No. 967/2005, expressly derogated by article 7 of Decree 118/2007). This includes the provisions of Law 13,064/1947 (public works regime) and Law 17,520/1967 as amended (public works concession regime) and Decree 1023/2001 (national public procurement regime, further developed by Decree No. 1030/2016), and its amendments. Decree No. 966/2005 (“Decreto No. 966/2005”) continues to apply to the regime for private initiatives (unsolicited proposals). This analysis will focus on the regime established by the just described alternative regulatory framework. The regime established by the new PPP Law will be analyzed in a separate assessment under the headline Argentina (PPPs)</p>
and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:	<p>In general, Argentinian legislation is available online from http://www.infoleg.gob.ar/. The key relevant regulatory texts pertaining to this analysis (Concessions) are the following:</p> <ul style="list-style-type: none"> - Law 17,520/1967 as amended (public works concession regime): http://servicios.infoleg.gob.ar/infolegInternet/anexos/15000-19999/16942/norma.htm - Law 13,064/1947 (public works regime): http://servicios.infoleg.gob.ar/infolegInternet/anexos/35000-39999/38542/texact.htm - Decree 1023/2001 (national public procurement regime): http://servicios.infoleg.gob.ar/infolegInternet/anexos/65000-69999/68396/texact.htm - Decree No. 1030/2016: http://servicios.infoleg.gob.ar/infolegInternet/anexos/265000-269999/265506/norma.htm - Decree No. 966/2005: http://servicios.infoleg.gob.ar/infolegInternet/anexos/105000-109999/108805/norma.htm
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	Yes

ongoing and/or are planned to be adopted BEFORE June 1, 2017?	
Please describe:	As explained above, on November, 2016, the Congress enacted the PPP Law and on February, 2017, the Executive Power enacted the Decree 118/2017 containing the regulations of the PPP Law. As already mentioned article 2 of the PPP Law is considered an alternative tendering process to the ones set out in the more general public works and public procurement regulatory framework. Also, Decree No. 1030/2016 adopted on September, 15, 2016 derogates the previously applicable Decree No. 893/2012.
2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?	No
Please describe:	n/a
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.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
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	No
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/a
4. Does the regulatory framework provide for a specific tax regime for PPP transactions (i.e. tax incentives, special tax depreciation treatment, etc.)?	No
If yes, please specify and provide the relevant legal/regulatory provision (if any):	n/a
5. Please identify the PPP procuring authorities in Argentina and provide their website(s) (if available):	Article 1 of the Law 17.520 establishes broadly that the “Executive Power may grant concessions (...)”. More in general, the national public procurement regime is applicable to the federal administration and its decentralized entities. And each entity can act as procuring authority. For example, for the case at study, the procuring authority could be the Ministry of Interior, Public Works and Housing (https://www.argentina.gob.ar/interior) or the Ministry of Transport (https://www.argentina.gob.ar/transporte).
6. In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?	No
If yes, please indicate its name, and its website (if available):	n/a
6.1 If yes, what are the main responsibilities of the PPP Unit (check all that apply): PPP regulation and policy guidance.	n/a
6.2 PPP capacity building for other public authorities.	n/a
6.3 PPP promotion among the public and/or private sectors in national and international forums.	n/a
6.4 Technical support in implementing PPP projects.	n/a

6.5 Identification and selection of PPP projects from the pipeline.	n/a
6.6 Revision of fiscal risks born by the Government.	n/a
6.7 Consultation with affected communities on potential impact of PPP projects.	n/a
6.8 Approval of PPP projects.	n/a
6.9 Undertaking the procurement of PPPs.	n/a
6.10 Oversight of PPP implementation.	n/a
6.11 Other	n/a
6.11 please specify:	n/a
Please provide the relevant legal/regulatory provisions:	n/a
PPP Preparation	
8. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?	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):	The executive Power that has the authority as to grant Concessions, according to article 1 of the Law 17.520
10. Does the procuring authority use transaction advisors during the PPP project cycle?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a

<p>11. In a case comparable to the case study assumptions, please select the option that best describes the way your government integrates the prioritization of PPP projects with other public investment project prioritization? (e.g. in the context of a national public investment system, multi-year perspective plans, medium-term budgetary framework): The regulatory framework provides for the inclusion of PPPs in the national public investment system/medium term budgetary framework and details a specific procedure to ensure the consistency of PPPs with other public investment priorities.</p>	<p>No</p>
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<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>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<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.</p>	<p>No</p>
<p>If yes, please elaborate:</p>	<p>n/a</p>
<p>The procuring authority does not evaluate PPPs against existing government priorities.</p>	<p>Yes</p>
<p>Please elaborate and provide examples:</p>	<p>The regulatory framework does not include provisions regarding prioritization of concessions among other public investment projects.</p>
<p>11.1. Based on your experience, is it always the</p>	<p>n/a</p>

case that this prioritization is done in practice in accordance with the provisions of the regulatory framework described above?	
If yes, please specify:	n/a
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)	No regulatory basis
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No
Details:	n/a
12.2. Affordability assessment, including the identification of the required long term public commitments (explicit and implicit, direct and contingent liabilities)	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No
Details:	n/a
12.3. Risk identification, allocation and assessment (risk matrix)	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
12.4. 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)	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
12.5. 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:	No further details provided
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)	Environmental impact assessment as regulated in the Law 25.675 general of environment

Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	No further details provided
12.8. Consultation process with affected communities on potential impact of the PPP project	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology for the assessment?	n/a
If yes, please elaborate	n/a
Is the assessment done in practice?	n/a
Details:	n/a
13. Does the procuring authority include the assessments (indicated in Question 12 above) in the request for proposals and/or tender documents (for example, as part of an Information Memorandum to the bidders)?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and specify which of the assessments are included in the request for proposals and/or tender documents:	n/a
13.1. Are the assessments published online?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
specify the website	n/a
please specify which of the assessments are published online:	n/a
14. Does the procuring authority include a draft PPP contract in the request for proposals?	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?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and please specify the website:	n/a
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:	No
Procuring authority (or other Government entity)	
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:	No
Procuring authority (or other Government entity)	
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes

Relevant legal/regulatory provision (if any)	No regulatory basis
16.3. Obtaining the required operational permits: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
16.4. Obtaining the required land: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
16.5. Obtaining the required right of way: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to 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.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The bid evaluation committee members are not required to have any specific qualifications.	Yes
Please elaborate and provide examples:	Decree 1030/2016 (Annex, Section 62) only requires the bid evaluation committee members that they (i) be designated by an administrative act issued by the highest authority of the hiring entity, and (ii) have no authority to call the tenders or to approve the PPP project. If special or technical knowledge is required, Decree 1030/2016 empowers the bid evaluation committee to request (i) the intervention of specialists or (ii) reports from public or private institutions.
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):	According to Decrees No. 1023/2001 (Section 32) and 1030/2012 (Annex, Section 40), the notice must be published on the (i) official bulletin for two days, with at least twenty days in advance of the bids' opening date; and on the (ii) official website of the National Procurement Office since the date of the publication on the official bulletin. In addition, the notice must be also communicated to associations of potential bidders and to at least five potential bidders. Publication is also compulsory according to Sections 10 and 11, Law No. 13.064; Section 9, Decree No. 1023/2001; Sections 13 to 18.
19.1. If yes, is the public procurement notice published online?	Yes
If yes, please specify the website:	www.argentinacompra.gov.ar
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):	Section 10 of Law 13.064 establishes that for public works of more than 260,000 Argentinian pesos, the publication must be done at least 20 days before the submission of the proposals and has to be published for at least 15 days. That period of time can be increased if necessary or decreased due to urgency.
and the time in calendar days:	20
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)	Decrees No. 1023/2001 (Section 26) establishes single stage procurement processes as the default mechanism. Multi-stage procurement is possible if the complexity of the project requires.
22.2. Restricted tendering (with pre-qualification stage): Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.3 Multi-stage tendering (with shortlisting of final candidate(s)): Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	Decrees No. 1023/2001 (Section 26) empowers the procurement authority to use a multi-stage process for the selection of private party.
22.4. Competitive dialogue: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.5. Direct negotiation with more than one candidate: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.6. Direct negotiation with only one candidate: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.7 Other. Specify:	No
Available	n/a
Default	n/a

Relevant legal/regulatory provision (if any)	n/a
22.8. Do the tender documents detail the procedure of the procurement process providing the same information to all the bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Tender documents shall include a detail of single or multiple stages through which it will be conducted, in order to comply with general principles established in Decree 1023/01 (such as transparency, set forth in section 9 of Decree 1023/01).
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):	Decree No. 1030/2016 (Annex, Section 37) establishes that the Specific Terms and Conditions will ensure that all bidders understand the evaluation requirements and allows for the evaluation of all offers equally.
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):	Most contributors answer this question so affirmatively, explaining that in general terms they consider the criteria respected.
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):	Decree 1030/2016 (Annex, Section 49) empowers interested parties and potential bidders to submit questions to clarify the tender documents.
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):	Decree 1030/2016 (Annex, Section 50) empowers the procuring authority to issue clarifying notices -officially or as a consequence of bidders' questions-

	which should be communicated 48 hours before the expiration of the term to submit the bids to all of the interested parties.
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:	When the bidders made questions, the disclosure of information is always done in practice.
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:	It depends on the kind of project and requirements set forth in the bidding terms. For example, in the last Port of Buenos Aires bid, the procuring authority requires the submission of a business plan to be suited to the corresponding terminal output. This is stated in the particular public tender documents. It will depend on the budget required to perform the work, the

	subject-matter on the project, and the decision of the authority governing the bidding process altogether with the National Contracting Office (Oficina Nacional de Contrataciones).
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 15 of the Decree 1023/2001, the award of the contract will be done according to the conditions set forth in the tender documents.
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.	Yes
Please provide the relevant legal/regulatory provisions (if any):	Article 18 of the Law 13064 allows the award if only one offer was presented, as long as it meets the conditions set forth in the tender documents.
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.	No
28. Does the procuring authority publish the award notice?	Yes
If yes, please specify the means of publication and	Decree No. 1023/2001 (Section 32) requires the procuring authority to publish the award notice on the official website of the National Procurement Office.

provide the relevant legal/regulatory provisions (if any):	
28.1. If yes, is the public procurement award notice published online?	Yes
If yes, please specify the website:	www.argentinacompra.gov.ar
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):	Decree No. 1030/2016 Annex, Article 72, requires communicating the evaluation report to all bidders within 2 days.
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 72, Annex, of the Decree No. 1030/2016 requires communicating the evaluation report to all bidders within 2 days. The evaluation report will contain ,according to the article 65, Annex of the same Decree 1030/2016, the grounds that allow the procuring authority to select the awardee.
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?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Decree No. 1030/2016 (Article 73, Annex) states that bidders may challenge the evaluation report within three days from its notification. Article 74, Annex 12(35) of Decree No. 1030/2016 provides that any objections to the offers submitted or the Assessment Committee's assessment opinion shall be addressed at the time of making award. As a consequence, before the award of the contract, bidders will have at least three days to challenge the evaluation on which the award will be based.
and the time in calendar days:	3
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	Yes

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?	
If yes, please provide the relevant legal/regulatory provisions (if any):	Decree No. 1023/2001 prevents any negotiations after the issuance of award from modifying the tender documents previously issued. Based on the transparency principle (Decree 1023/2011, section 3.c.) and the fair and equal treatment among bidders (Decree 1023/2001, section 3.f), the procurement authority can not change the conditions established at the bidding terms or the bid as it was submitted and awarded.
31.1. Based on your experience, is it always the case that this restriction is respected in practice?	Yes
If yes, please specify:	Most contributors answer this question considering that the restriction is respected in practice.
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 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 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):	Decree No. 1023/2001 (Section 12.c) empowers the procuring authority with vast power to control, inspect and direct the contract execution. This power is further regulated in Decree 1030/2016, articles 84 and following about contract implementation.
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):	Decree 1030/2016, article 93, requires the establishment of a procurement management team (Commission de Reception) to oversight the contract implementation.
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 sufficient qualification without specific details.	No
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.	Yes
Please elaborate and provide examples:	No further regulation exists regarding the composition of the "Comision Receptora".
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):	Articles 40 to 44 of the Law 13064 regulates reception of the executed works.
42.1. If yes, is the PPP contract construction	No

performance information made available to the public?	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
42.2. If yes, is the PPP contract construction performance information made publicly available online?	n/a
If yes, please specify the website:	n/a
43. Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract implementation after construction?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Decree No. 1023/2001 (Section 12.c) empowers the procuring authority with vast power to control, inspect and direct the contract execution. This authority is further regulated in Decree 1030/2016, article 93 and following. Thus, the procuring authority will determine, in a case-by-case basis, the most convenient system to implement the Concession contract, which will be included in the tender documents. More in general, Sections 5 and 7, Law No. 17.520; Section 25 and 28, Law No. 13.064, regulate rights and obligations in the implementation of contract but without further specifying monitoring and oversight mechanisms.
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	No

Relevant legal/regulatory provisions (if any)	n/a
The procuring or contract management authority must periodically gather information on the performance of the PPP contract	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 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):	Article 101, Annex of Decree 1030/2016, regulates contract assignment and subcontracting.
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 assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 101, Annex of Decree 1030/2016, expressly requires that the assignee meets all the requirements of the bidding process.
In other cases, flexibility to change the ownership structure and/or assign the contract.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Once the requirements stated above are fulfilled, changes are permitted.
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):	Decreets 1023/2001 (Article 12.b) and 1030/2016 (Article 100), and Law No. 13.064 (Sections 29, 30, 37, 38 and 53) empower the procuring authority to modify 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/standard contractual provisions (if any):	n/a
46.2. If yes to question 46, which of the following circumstances are specifically regulated? (check all that	Yes

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):	Decree 1030/2016 (Article 100) establishes that the procuring authority may unilaterally increase or decrease up to 20% of the total amount of the contract; extraordinarily up to 35% but with the awardee's consent.
A change in the risk allocation of the contract.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the financial and/or economic balance of the contract.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the duration of the contract.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Decree 1030/2016 (Article 100) sets forth that supply or services contracts may be extended once, if an extension option is contemplated by the bidding terms, for a period equal or inferior to the original one.
A change in the agreed price or tariff.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
46.3. Can the procuring authority unilaterally modify a PPP contract?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Decrees 1023/2001 (Article 12.b) and 1030/2016 (Article 100), and Law No. 13.064 (Sections 29, 30, 37, 38 and 53) empower the procuring authority to modify the contract.
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	Yes

If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Decrees No. 1023 (Article 13.c) and No. 1030/2016 (Annex, Article 94) exempt the private party of its obligations in case of a Force Majeure event. Law No. 13.064 establishes that (i) risks of Force Majeure events must be supported by the Public Administration (Article 39), and that (ii) the private party may terminate the agreement when the Force Majeure event frustrates the agreement's fulfilment.
Material Adverse government action .	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	A Material Adverse government action could be construed as a Force Majeure Event. In fact, according to article 39, Law No. 13.064, effects arising from actions of the public administration not established in the tender documents will be considered Force Majeure.
Change in the Law.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Refinancing.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Subcontracting and replacement of the subcontractors.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 101, Annex of Decree 1030/2016, regulates contract assignment and subcontracting.
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):	Article 115, Annex of Decree 1030/2016, assigns the procurement regulatory authority, among other responsibilities, to establish a dispute resolution mechanism.
48.1. If yes, please specify which of the following options are available (check	No

all that apply): Local administrative review body	
If yes, please specify:	n/a
Local courts	Yes
Domestic arbitration	No
International arbitration	No
Investor-State Dispute Settlement (ISDS)	No
Mediation	No
Please provide the relevant legal/ regulatory/standard contractual provisions (if any)	According to article 55 of the Law 13064, issues arising from the interpretation and execution of public works contracts will be subject to the courts.
48.2. If applicable, are arbitration awards enforceable by the local courts?: Domestic Arbitration	n/a
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	n/a
International arbitration	n/a
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	n/a
Investor-State arbitration	n/a
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	n/a
49. Does the regulatory framework (including standard contractual clauses) allow for the restructuring of a PPP private partner (SPV) in financial difficulty prior to insolvency?	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
50. Does the regulatory framework (including standard contractual clauses) allow for the lenders to take control of the PPP project	No

(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?	
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) expressly establish the grounds for termination of a PPP contract?	Yes

<p>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>Articles 49, 50 and 53 of the Law No. 13.064 and article 29 of Decree No. 1023/2001 regulate termination. A contract shall be terminated in case of death, bankruptcy or reorganization of the company, unless the heirs or official receiver decide the continuation of the project. Furthermore, the authority is entitled to terminate the contract if the private partner incurs in fraud or gross negligence, fails to fulfill its obligations or fulfills them with slowness, does not initiate the works on due time, transfers its obligations to a third party without prior acknowledgement by the authority, or abandons or interrupts the fulfilment of its obligations. On the other hand, the contractor/private partner is entitled to terminate the contract if the authority requests modifications to the project that entail a change in its total value that is higher than 20%, suspends for more than three months the performance of the project or fails to deliver materials to the private partner, and as a consequence the latter has to suspend the fulfilment of its obligations for more than three months. In addition, the private partner is entitled to terminate the contract in case of force majeure.</p>
<p>51.1. If yes, does the regulatory framework (including standard contractual clauses) establish the consequences for the termination of the PPP contract?</p>	<p>Yes</p>
<p>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>Article 54 of the Law No. 13.064 regulates the consequences of the termination. Further regulation on the consequences is done by Decree and 1030/2016 (Article 97 and 98).</p>
<p>Unsolicited Proposals</p>	
<p>34. Are unsolicited proposals in Argentina: (choose only one): Explicitly prohibited by the legal framework? (If prohibited, skip to section F)</p>	<p>No</p>
<p>Explicitly allowed by the legal framework?</p>	<p>Yes</p>
<p>Not regulated by the legal framework, but do happen in practice?</p>	<p>No</p>
<p>Not regulated by the legal framework, and do not happen in practice? (if not done in practice, skip to section F)</p>	<p>No</p>
<p>If the legal framework explicitly prohibits or allows unsolicited proposals, please provide the relevant legal/regulatory provisions</p>	<p>Decree 966/2005 (Annex I) establishes the Private Initiative Regime, which allows private parties to file proposals before the Public Administration executes public interest projects. While this decree does not regulate a regime of unsolicited proposals for Concessions specifically or exclusively, article 25 of the Decree 1030/2016 recognizes private initiative as one of the available contracting modalities.</p>

35. Does the procuring authority conduct an assessment to evaluate unsolicited proposals? (if not, skip to question 37)	<p>Yes</p>
If yes, please specify and provide the relevant legal/regulatory provisions (if any)	<p>Articles 4 and 5, Annex I of Decree No. 966/2005 state that the proposal must be evaluated by the competent entity, which issues a report with a recommendation to the Commission of Evaluation and Development of Private Initiatives. This Commission will evaluate if there is public interest over the proposal and deliver a report to the Executive Branch, who will decide if the proposal shall be included in the private initiative regime.</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>Article 2, Annex I of Decree 966/2005, requires that to be considered under the Private Initiative Regime, proposals must be submitted with specific information (e.g. the nature of the proposed project, the basis of economic and technical feasibility, estimated amount of investment, background of the proponent and the source of resources and financing). After the Private Initiatives and Evaluation and Development Commission has verified the above requirements of admissibility, the relevant jurisdiction affected by the proposal will consider (and make further evaluations) the proposal.</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>No</p>
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	<p>n/a</p>
The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>No regulatory basis</p>

The procuring authority does not evaluate unsolicited proposals against existing government priorities.	No
Please elaborate and provide examples:	n/a
37. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 6 of Decree No. 966/2005 establishes that the competent authority must call for tender within 60 days of the approval of resolution that dictates the procuring mechanism.
38. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Sections 10 of Law No. 13.064 regulates that for public works of more than 260,000 Argentinian pesos, the publication must be done with 20 days of anticipation and at least 15 days of publication. That period of time can be increased if necessary or decreased due to urgency.
and the time in calendar days:	20
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.	Yes
39.2 Developer's fee (reimbursing the original proponent for the project development cost).	Yes
39.3 Bid Bonus.	Yes
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):

Article 8, 9 and 10, Annex of Decree No. 966/2005 refer to the terms and conditions of a Bid Bonus, access to the best offer or opportunity to challenge the best offer under specific considerations, and developer's fee.