



PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN AUSTRIA

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>Austria has not adopted a specific regulatory framework for PPPs. PPPs can be developed following the general public procurement framework. As a consequence, if the PPP is based either on a construction, supply or service contract or a construction or service concession, the Austrian Federal Public Procurement Act (BundesvergabeGesetz, BVergG 2006, BGBl. I Nr. 17/2006), as amended in 2016, is applicable (hereinafter referred as “PPA”). If the scope of business of the PPP encompasses the operation of a plant, the procedure, pursuant to sec 356 to 359c Austrian Industrial Code (GewO), has to be observed. This last case does not fit with the case study assumptions, so our analysis will be based on the former.</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>https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20004547</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?	Yes
Please describe:	<p>Two amendments to the 2006 Austrian Federal Public Procurement Act were published in Federal Law Gazette No. 7/2016 and No. 250/2016. Both made a number of changes, especially in regard to the assessment whether the procurement contract is awarded to the technically and economically most advantageous bid or the bid with the lowest price. Links: https://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2016_I_7/BGBLA_2016_I_7.pdf; https://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2016_II_250/BGBLA_2016_I_250.pdf</p>

2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?	Yes
Please describe:	A revision of the current Federal Public Procurement Law is planned in order to transpose EU Directives 2014/23, 2014/24 and 2014/25. It is currently in the legislative process (the so-called "Federal Public Procurement Law 2017", Vergaberechtsänderungsgesetz 2017; Link: https://www.parlament.gv.at/PAKT/VHG/XXV/I/I_01658/fname_640090.pdf).
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	No

security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Telecom	
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.5 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Other	No
If yes, specify and provide the relevant legal/regulatory provisions:	n/a
4. Does the regulatory framework provide for a specific tax regime for PPP transactions (i.e. tax incentives, special tax depreciation treatment, etc.)?	No
If yes, please specify and provide the relevant legal/regulatory provision (if any):	n/a
5. Please identify the PPP procuring authorities in Austria and provide their website(s) (if available):	<p>Any public authority may act as a procuring authority and initiate a PPP procedure. On the national (federal) level the followings are of particular relevance: (i) The infrastructure SPVs ASFINAG (Federal highway entity), (ii) ÖBB (Austrian railways), as well as (iii) Ministry of Transportation, Innovation and Technics (https://www.bmvit.gv.at/), (vi) Ministry of Agriculture, Forestry, Environment and Water Management (https://www.bmlfuw.gv.at/) and, (v) the Ministry of Science, Research and Economics (https://www.bmwfw.gv.at/Seiten/default.aspx). On provincial level the governments of each province (federal state) as well as municipalities (in particular with respect to school / health care etc. buildings) initiate PPP proceedings (for example, city of Vienna (https://www.wien.gv.at/bildung/schulen/schulbau/bildungsinfrastrukturinitiative.html))</p>
6. In addition to the PPP procuring authorities listed	No

above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?	
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	Yes

Budgetary Authority approve the PPP project before launching the procurement process?	
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>According to Section 58 (2) of the Federal Budget Law, projects of extraordinary financial importance have to be approved by the Ministry of Finance before its implementation. Where the intention is to execute a project, pursuant to sec. 57 (1) from which it is envisaged, that Federal Government allocations will arise which are of extraordinary financial significance in light of the type or scope of the project, the competent line ministry shall consult and reach agreement in a timely manner during the planning stage with the Federal Minister of Finance. Such agreement may be dispensed with when projects of this kind have been previously prescribed by Federal Act. The Federal Minister of Finance shall issue regulations prescribing when a project is deemed to be of extraordinary financial significance. That regulation may authorize the Federal Minister of Finance, in consultation with any line ministry, to agree to departures from these rules which are specific to the ministry; compliance with the budgeting principles, pursuant to Art. 51 (8) Austrian Federal Constitution [B-VG] in conjunction with sec. 2, may not be adversely impacted thereby. It is possible for higher ceiling amounts to be set with respect to reaching agreement where, on the basis of experience with budget execution over the course of several years, compliance with the principles of Art. 51 (8) Austrian Federal Constitution in conjunction with sec. 2 and thus simultaneously due performance of the duties of the Federal Minister of Finance under Art. 51b (1) Austrian Federal Constitution, is not adversely impacted. Additionally, Section 60. (1) states that the competent line ministry shall reach agreement with the Federal Minister of Finance on execution of any project (sec. 57 (1)) and creation of related liabilities, the settlement of which upon maturity shall require expenditures by the Federal Government in multiple fiscal years or at least in a single future fiscal year (future obligations). The Federal Minister of Finance shall, in the context of his or her collaboration, take particular care to ensure that the prerequisites under sec. 58 (1) have been met and that the requisite report is submitted, pursuant to sub-sec. 3, or that the required federal statutory authority, under sub-sec. 4, is obtained. According to Section 60. (2), it shall not be necessary for such agreement to be reached under sub-sec. 1 hereof if agreement has already been reached with the Federal Minister of Finance under sec. 58 (2) with respect to this project and there have been no material changes to the terms and conditions envisaged for execution of this project since that time (sec. 59 (2)).</p>
8.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before signing the PPP contract?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Section 60. (1) of the Federal Budget Law states that the competent line ministry shall reach agreement with the Federal Minister of Finance on execution of any project (sec. 57 (1)) and creation of related liabilities, the settlement of which upon maturity shall require expenditures by the Federal Government in multiple fiscal years or at least in a single future fiscal year (future obligations). The Federal Minister of Finance shall, in the context of his or her collaboration, take particular care to ensure that the</p>

	<p>prerequisites, under sec. 58 (1), have been met and that the requisite report is submitted, pursuant to sub-sec. 3, or that the required federal statutory authority, under sub-sec. 4, is obtained. According to Section 60. (2), it shall not be necessary for such agreement to be reached under sub-sec. 1 hereof if agreement has already been reached with the Federal Minister of Finance, under sec. 58 (2), with respect to this project and there have been no material changes to the terms and conditions envisaged for execution of this project since that time (sec. 59 (2)).</p>
<p>8.2. Does the Ministry of Finance (or government more broadly) have a specific system of: Budgeting for PPP projects.</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Section 60 of the Federal Budget Law regulates particular budgetary requisites to be met in order to execute a project entailing an obligation in future fiscal years; future obligations and Section 61 that of a project creating entitlements on the part of the Federal Government; future entitlements. Both cases may be present in the case of a PPP and thus this provision is applicable in such cases.</p>
<p>Accounting liabilities (explicit and implicit, direct and contingent) arising from PPPs.</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>European System of Accounts is applicable according to the Austrian Federal Budget Act 2013 (Bundeshaushaltsgesetz 2013, BHG) Austrian Cost Estimate and Accounting Order 1999 (Voranschlags- und Rechnungsabschlussverordnung) for Federal regions and municipalities.</p>
<p>Reporting liabilities (explicit and implicit, direct and contingent) arising from PPPs.</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Section 60.3 of the Federal Budget Law mandates that within one month from the end of each calendar quarter, the Federal Minister of Finance shall report to the National Council committee charged with preliminary deliberations on the Federal Finance Acts with respect to every future obligation, the creation of which the Federal Minister of Finance has consented to within the preceding calendar quarter, provided that the total of future obligations reaches the value equal to the ceiling on expenditures for a global budget contemplated in the current Federal Finance Act at the time of consenting to creating the future obligation. All liabilities previously incurred, to the extent of maturing liabilities in future fiscal years, shall be debited against this maximum amount.</p>
<p>8.3. If yes to question 8.2, which of the following alternatives best describes the regulation?: Accounting and reporting according to International Public</p>	<p>No</p>

Sector Accounting Standards (IPSAS).	
Accounting and reporting according to other international standard (e.g. European System of Accounts).	Yes
Please specify:	European System of Accounts (ESA)
Other.	No
Please specify:	n/a
9. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before launching the procurement process (e.g. Cabinet, Cabinet Committee, Parliament, Supreme Audit Office, etc.)?	No
If yes, please specify the relevant authority	n/a
and provide the relevant legal/regulatory provisions (if any):	No
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?	n/a
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

<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>No regulatory basis</p>
<p>11. In a case comparable to the case study assumptions, please select the option that best describes the way your government integrates the prioritization of PPP projects with other public investment project prioritization? (e.g. in the context of a national public investment system, multi-year perspective plans, medium-term budgetary framework): The regulatory framework provides for the inclusion of PPPs in the national public investment system/medium term budgetary framework and details a specific procedure to 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>Yes</p>
<p>If yes, please provide the relevant</p>	<p>According to Sec. 58. (1) of the Federal Budget Act, a project may only be executed when it is necessary to perform tasks of the Federal Government, in line with the objectives, pursuant to sec. 2 (1), and financial coverage thereof is assured by the</p>

legal/regulatory provisions (if any):	Federal Medium-Term Expenditure Framework Act and the Federal Finance Act. The Federal Minister of Finance shall issue regulations prescribing more detailed rules with respect to it.
The regulatory framework does not include any provisions but the procuring authority evaluates the consistency of PPPs with other government investment priorities in practice.	No
If yes, please elaborate:	n/a
The procuring authority does not evaluate PPPs against existing government priorities.	No
Please elaborate and provide examples:	n/a
11.1. Based on your experience, is it always the case that this prioritization is done in practice in accordance with the provisions of the regulatory framework described above?	Yes
If yes, please specify:	Most of the contributors answering this question consider that this is usually the case.
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)	According to Section 17. (1) of the Federal Budget Law, all entities assigned to make preparations for issuing legal rules of the Federal Government (laws, regulations, supra- or international agreements, agreements pursuant to Art. 15a Austrian Federal

	Constitution), other legislative measures of fundamental type, pursuant to sec. 16 (2), or of projects, pursuant to sec. 58 (2), shall take account of their material effects when undertaking an impact assessment, pursuant to sub-sec. 2. In any event, the financial, economic, environmental, consumer protection effects as well as the effects on children and youth and the administrative cost to citizens and to businesses including in social respects and, in particular, on actual equality of the genders, shall be taken into account. Section (2) of the same article continues detailing that the member of the Federal Government or the line ministry within whose remit the draft is prepared or the project was planned shall append an outcome-oriented impact assessment to every draft legislative proposal or any other project (sub-sec. 1). Only the material effects shall be the subject of the impact assessment; financial effects shall, in any event, be deemed material.
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	According to Section 17. (3) of the Federal Budget Law, the Federal Chancellor shall, unless otherwise provided in the sections set out below, issue regulations in consultation with the Federal Minister of Finance to govern more specific details of outcome-oriented impact assessments. In this context, the Ministry of Finance have adopted binding ordinances implementing § 17 Fed. Budget Law and provides a manual for its implementation(only in German). https://www.bmf.gv.at/budget/Handbuch_Wirkungsorientierte_Folgenabschaetzung.pdf?5te38f
Is the assessment done in practice?	Yes
Details:	Contributors answering this question confirm that the assessment is done in practice.
12.2. Affordability assessment, including the identification of the required long term public commitments (explicit and implicit, direct and contingent liabilities)	Yes
Relevant legal/regulatory provision (if any)	It is part of the assessment required by Section 17 of the Federal Budget Law mentioned above.
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	As part of the assessment required by Section 17 of the Federal Budget Law, it is further detailed in the binding ordinances and manual provided by the Ministry of Finance. Specifically, the referred manual makes reference to the evaluation of financial impact in its Section 9
Is the assessment done in practice?	Yes
Details:	Confirmed by contributors answering the question.

12.3. Risk identification, allocation and assessment (risk matrix)	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	Contributors answering the question confirm that it happens in practice.
12.4. Comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives (i.e. value for money analysis, public sector comparator)	Yes
Relevant legal/regulatory provision (if any)	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:	Contributors confirm that the assessment is done in practice
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:	Confirmed by contributors as done in practice
12.6. Market sounding and/or assessment	No

(showing evidence of investors' interest in the market for the project)	
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)	Austrian Environment Assessment Act 2000 (UVP-G)
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Austrian Environment Impact Assessment Act 2000 (UVP-G) and associated regulations
Is the assessment done in practice?	Yes
Details:	Contributors confirm that it happens in practice
12.8. Consultation process with affected communities on potential impact of the PPP project	Yes
Relevant legal/regulatory provision (if any)	Article 19 of the Environmental Impact Assessment Act provides impacted citizens and communities with the opportunity to participate in the assessment.
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Austrian Environment Impact Assessment Act 2000 (UVP-G) and associated regulations
Is the assessment done in practice?	Yes
Details:	Contributors confirm that this assessment happens in practice
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	No

Information Memorandum to the bidders)?	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and specify which of the assessments are included in the request for proposals and/or tender documents:	n/a
13.1. Are the assessments published online?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
specify the website	n/a
please specify which of the assessments are published online:	n/a
14. Does the procuring authority include a draft PPP contract in the request for proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	The invitation to tender has to contain specifications, either constructive (listing partial services) or functional (provisional and functional requirements), pursuant to secs 95 and 96 PPA. Also, while the current legal provisions regarding concessions do not explicitly require the attachment of a draft contract, the procuring authority is required to provide all information a bidder for a PPP contract needs to prepare his bid. Moreover, as PPPs can be regarded as public works or service contracts (or a mix of both), according to Section 79 and Section 99 of the PPA, the request for proposals (RFP) needs to include a draft PPP contract.
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):	According to Section 88 of the PPA, the tender documents must be available online except in cases where the contracting authority does not have the necessary technical resources to do so.
and please specify the website:	Dedicated websites for the federal level and each regional level (i.e. www.auftrag.at ; http://www.wien.gv.at/Vergabeportal)
15. In a case comparable to the case study assumptions, have standardized PPP	No

model contracts and/or transaction documents been developed?	
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)	The environmental permits have to be obtained by the developer, which might be a private person applying for a private project, or a public authority, which initiates a project (according to Art 1 lit b Dir 2011/92/EU). This Directive was implemented in Austria by the Law on environmental impact assessment (UVP-G). Thus, according to this Austrian Law, the public partner of a PPP has to obtain the environmental permits.
16.3. Obtaining the required operational permits: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	Yes
To be established in the contract	No
Relevant legal/regulatory provision (if any)	According to Part 74, 353 Trade Regulation Act (Gewerbeordnung), these permits may be obtained by the private partner or the authority. However, if an environmental permit has to be obtained prior to the construction of, e.g. a road, the environmental permit also covers the operational permit. This is based on Sec. 3 (3) of the Austrian Law on environmental impact assessment (UVP-G). According to this provision, the procedure regarding the environmental impacts of a project is a “concentrated procedure”, which means, that in this procedure it is also decided on further necessary permits such as operational permits.
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:	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
PPP Procurement	
18. Which of the following options best describes the required qualifications of the bid evaluation committee members? (Please select only one): The membership of the bid evaluation committee is specified and/or its members are required to meet detailed qualifications.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The bid evaluation committee members require sufficient qualification without specific details.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Generally, according to Section 122 of PPA, the evaluation committee has to have sufficient qualification. The examination and assessment of an offer is to be transferred only to persons who fulfill the professional requirements. Where necessary, impartial experts, independent from the tenderers, shall be consulted.
The bid evaluation committee members are not required to have any specific qualifications.	No
Please elaborate and provide examples:	n/a
19. Does the procuring authority issue a	Yes

public procurement notice of the PPP project?	
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	Section 46 of PPA: 46. (1) To be announced are: 1st- the intended award of a construction, supply or service contract in the open procedure, the restricted procedure with prior notice or the negotiated procedure with prior notice; 2nd- the intended implementation of an open or restricted competition; 3rd- the intended award of a construction concession contract or a construction contract to be awarded by a construction concessionaire who is not a client (§ 3 para. 1); 4th - unless the possibility of applying the negotiation procedure is used without prior notice to conclude a framework agreement, - the proposed conclusion of a framework agreement; 5th - the intended establishment of a dynamic purchasing system; 6th - the intended award of a construction, supply or service contract by means of a competitive dialogue.
19.1. If yes, is the public procurement notice published online?	Yes
If yes, please specify the website:	http://ted.europa.eu/TED/main/HomePage.do ; as well as in other dedicated websites for the federal level and each regional level (i.e. www.auftrag.at)
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 143 of PPA: (2) Contracting entities wishing to award a building concession contract shall specify a time limit for the receipt of applications for the concession which must be: 1. at least 52 days from the date of dispatch of the procurement notice (...)
and the time in calendar days:	52
22.1. In a case comparable to the case study assumptions, which are the procurement procedures available and/or set as default	Yes

for PPP projects? Open tendering: Available	
Default	No
Relevant legal/regulatory provision (if any)	Section 142.2 of PPA: In awarding construction concession contracts, the contracting authority may freely choose between the open procedure, the restricted procedure with prior notice and the negotiated procedure with prior notice. If the prerequisites of § 34 are met, the contracting authority may also award building concession contracts by means of a competitive dialogue. In this case, §§ 159 to 162 apply mutatis mutandis.
22.2. Restricted tendering (with pre-qualification stage): Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	Section 142.2 of PPA: In awarding construction concession contracts, the contracting authority may freely choose between the open procedure, the restricted procedure with prior notice and the negotiated procedure with prior notice. If the prerequisites of § 34 are met, the contracting authority may also award building concession contracts by means of a competitive dialogue. In this case, §§ 159 to 162 apply mutatis mutandis.
22.3 Multi-stage tendering (with shortlisting of final candidate(s)): Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	Section 142.2 of PPA: In awarding construction concession contracts, the contracting authority may freely choose between the open procedure, the restricted procedure with prior notice and the negotiated procedure with prior notice. If the prerequisites of § 34 are met, the contracting authority may also award building concession contracts by means of a competitive dialogue. In this case, §§ 159 to 162 apply mutatis mutandis.
22.4. Competitive dialogue: Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	Section 142.2 of PPA: In awarding construction concession contracts, the contracting authority may freely choose between the open procedure, the restricted procedure with prior notice and the negotiated procedure with prior notice. If the prerequisites of § 34 are met, the contracting authority may also award building concession contracts by means of a competitive dialogue. In this case, §§ 159 to 162 apply mutatis mutandis.
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):	Sections 19 that includes the principles of transparency and fair treatment in connection with Section 78 and 79 that describes the principles of the tender and the content of the tender document respectively, including the applicable procurement rules. The identification of the chosen procurement procedure should also be included in the procurement notice, according to Section 46 PPA
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):	Section 46.3 of PPA: (3) The contracting authority shall indicate in the contract notice which proof or evidence of authority (§ 71 (1)), professional reliability (§ 72), financial and economic capacity (§ 74) and technical capacity (§ 75) to be submitted at the request of the client. This in connection with Sections 19, 78 and 79 ensures that in restricted procedures the selection criteria will be available to all bidders. Annex VIII and XI of the PPA regulates in detail the content of the tender notice and the tender documents including, when applicable, the selection criteria. Also, Section 103 establish the details to be followed in the prequalification during the restricted procedure.
22.10. Based on your experience, is it always the case that the specified criteria are respected in practice?	Yes

If yes, please specify and provide the relevant legal/regulatory provisions (if any):	The majority of contributors agree that this is the case. According to some of them, given easy access to appealing procedures, authorities strive to comply with the specified criteria.
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):	According to Section 58 of the PPA: 2. If the request is submitted in a timely manner, the contracting entity or the competent authority shall provide additional information on the tender documents, additional documents or description of the competitive dialogue without delay, but not later than six days, in the case of restricted procedures or accelerated negotiation procedures to issue Sections 63 and 67 no later than four days before the deadline for the receipt of tenders.
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):	Answers to request for clarifications based on the possibility established in Section 58 of the PPA will have to be provided to all the potential bidders according to the equal treatment requirement (article 19 of PPA) and case law that requires fair treatment of bidders.
23.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	Yes
If yes, please specify:	Contributors confirm that information is disclosed to all bidders 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?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
If no, please elaborate:	n/a
26. Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Section 130. (1) of PPA: Tenders shall be awarded to the technically and economically most advantageous tender or to the tender offering the lowest price, in accordance with the information given in the invitation to tender.
Evaluation criteria is not set in the tender documents	No

<p>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.</p>	<p>Yes</p>
<p>Please specify and provide the relevant legal/regulatory provisions (if any):</p>	<p>According to Section 103 (8) of PPA, the authority has to continue based on the chosen procedure, however it may revoke the procedure following Part 139 (2) 1 of PPA: (2) A contract award procedure may be revoked if: 1. only an offer has been received, or 2. after the withdrawal of offers, pursuant to § 129, only remains one offer, or 3. there are factual reasons</p>
<p>The procuring authority considers sole proposals valid as long as they meet the conditions outlined in the tender documents.</p>	<p>No</p>
<p>Please provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>The procuring authority does not award a PPP contract if only one proposal is submitted.</p>	<p>No</p>
<p>Please provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>The regulatory framework does not include any provisions.</p>	<p>No</p>
<p>28. Does the procuring authority publish the award notice?</p>	<p>Yes</p>
<p>If yes, please specify the means of publication and provide the relevant</p>	<p>Section § 54 of PPA: (1) The contracting authority shall notify the Commission of any contract awarded for the construction, supply or service and the result of any competition.</p>

legal/regulatory provisions (if any):	
28.1. If yes, is the public procurement award notice published online?	Yes
If yes, please specify the website:	http://ted.europa.eu/TED/main/HomePage.do
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):	Section 131 of PPA: § 131. (1) The contracting entity shall provide evidence of the tenderers remaining in the contract award procedure to which tenderer the contract will be awarded. In this notification, the remaining bidders are informed of the respective end of the standstill period, pursuant to § 132 para. 1, the reasons for the rejection of their offer, the total price as well as the characteristics and advantages of the successful offer, the legitimate business interests of entrepreneurs, or harm free and fair competition.
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):	Section 131 of PPA: § 131. (1) The contracting entity shall provide evidence of the tenderers remaining in the contract award procedure to which tenderer the contract will be awarded. In this notification, the remaining bidders are informed of the respective end of the standstill period pursuant to § 132 para. 1, the reasons for the rejection of their offer, the total price as well as the characteristics and advantages of the successful offer, the legitimate business interests of entrepreneurs, or harm free and fair competition.
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):	§ 132. (1) In the case of other absolute nullity, the procuring authority may not award the contract within the standstill period. The standstill period shall begin with the date on which the notification of the award decision is sent. The standstill period will be 10 days if notified by electronic means or by fax and 15 days if notified by letter.
and the time in calendar days:	15

30.1. Is the standstill period set out in the notice of intention to award?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Section 131 of PPA: § 131. (1) The contracting entity shall provide evidence of the tenderers remaining in the contract award procedure to which tenderer the contract will be awarded. In this notification, the remaining bidders are informed of the respective end of the standstill period pursuant to § 132 para. 1, the reasons for the rejection of their offer, the total price as well as the characteristics and advantages of the successful offer, the legitimate business interests of entrepreneurs, or harm free and fair competition.
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):	Section 135.1 of PPA establishes the procurement procedure ends with the award of the contract; prior to the end of the procurement procedure, the public authority is under the statutory obligation to treat all bidders fair, according to Section 19 and other general principles
31.1. Based on your experience, is it always the case that this restriction is respected in practice?	Yes
If yes, please specify:	Contributors confirm that this 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	n/a

including all its annexes and appendices	
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 appendices	n/a
Publication of a summary of the PPP contract along with the full PPP contract without including all its annexes and appendices	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):	No regulatory basis

41.1. If yes, which of the following tools does it include (check all that apply)?: Establishment of a PPP contract management team	No
Relevant legal/regulatory provisions (if any):	n/a
Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa	No
Relevant legal/regulatory provisions (if any):	n/a
Elaboration of a PPP implementation manual or an equivalent document	No
Relevant legal/regulatory provisions (if any):	n/a
Establishment of personnel training programs (i.e. initial training and continued training throughout the course of the project)	No
Relevant legal/regulatory provisions (if any):	n/a
Establishment of a risk mitigation mechanism which considers the evolving nature of risks throughout the project lifecycle (guidelines, specific processes, insurance regime, etc.)	No
Relevant legal/regulatory provisions (if any):	n/a
41.2. Which of the following options best describes the required qualifications of the	n/a

<p>PPP contract management team members? (Please select only one): The membership of the PPP contract management team is specified and/or its members are required to meet detailed qualifications.</p>	
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p>	n/a
<p>The PPP contract management team members are required to meet sufficient qualification without specific details.</p>	n/a
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	n/a
<p>The PPP contract management team members are not required to meet any specific qualifications.</p>	n/a
<p>Please elaborate and provide examples:</p>	n/a
<p>42. Does the procuring or contract management authority establish a system for tracking progress and completion of construction works under a PPP contract?</p>	Yes
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	No regulatory basis
<p>42.1. If yes, is the PPP contract construction performance information made available to the public?</p>	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):	<p>Evaluation of project implementation is conducted by the procuring authority itself (according to Section 18 of Budget Law) but there might also be an external control by an audit office (Rechnungshof): Art 121 B-VG (Austrian Constitution); Additionally, it is common practice to establish in the PPP-contract reporting obligations and monitoring rights. Section 18 of the Federal Budget Law establishes in paragraph (2), every head of a budget managing body shall, at reasonable intervals, evaluate the implementation of a project (sec. 57) or of a programme comprising multiple related projects, which it shall determine in light of the nature or scope of the project or programme. According to paragraph (3) of the same Section: (3) That internal evaluation must show 1. whether the intended outcome and the measures contemplated to achieve it continue to be in line with the objectives referenced in sec. 2 (1); 2. whether and to what extent the goals and targets have been achieved and what the impacts of the measures are and 3. how great the actual financial impacts on the federal budget are.</p>
43.1. If yes, which of the following tools does it include (check all that apply)?: Performance is assessed against evaluation criteria set in the tender documents and the PPP contract	Yes
Relevant legal/regulatory provisions (if any)	No regulatory basis
The procuring or contract management authority can abate (reduce) payments for	Yes

non-performance of operating obligations under the PPP contract	
Relevant legal/regulatory provisions (if any)	No regulatory basis
The private partner must provide the procuring or contract management authority with periodic operational and financial data	No
Relevant legal/regulatory provisions (if any)	n/a
The procuring or contract management authority must periodically gather information on the performance of the PPP contract	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	Yes

<p>(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?</p>	
<p>If yes, please provide the relevant legal/regulatory/stand and contractual provisions (if any):</p>	<p>Universal or partial succession into the position of the initial contractor, following corporate restructuring, including takeover, merger, acquisition or insolvency, of another economic operator that fulfils the criteria for qualitative selection initially established provided that this does not entail other substantial modifications to the contract and is not aimed at circumventing the application of this Directive is one of the grounds that allow for a legal change in contracts according to Art 72 lit d) ii of the Directive 2014/24/EU.</p>
<p>45.1. If yes, which of the following circumstances are specifically regulated? (check all that apply): Any change in the private partner during an initial period (e.g. construction and first five years of operation).</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory/stand and contractual provisions (if any):</p>	<p>n/a</p>
<p>Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory/stand and contractual provisions (if any):</p>	<p>Universal or partial succession into the position of the initial contractor, following corporate restructuring, including takeover, merger, acquisition or insolvency, of another economic operator that fulfils the criteria for qualitative selection initially established provided that this does not entail other substantial modifications to the contract and is not aimed at circumventing the application of this Directive is one of the grounds that allow for a legal change in contracts according to Art 72 lit d) ii of the Directive 2014/24/EU.</p>
<p>In other cases, flexibility to change</p>	<p>Yes</p>

the ownership structure and/or assign the contract.	
If yes, please provide the relevant legal/regulatory/stand and contractual provisions (if any):	<p>Other than the mentioned regulations and restrictions, there is flexibility to change the ownership structure and/or assign the contract.</p>
46. Does the regulatory framework (including standard contractual clauses) expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory/stand and contractual provisions (if any):	<p>Article 72 of the Directive 2014/24/EU (still to be implemented in Austrian Law) is applicable and regulates the modification of contract during its term. This limitation to modification of contracts was already applicable in European Court of Justice case law.</p>
46.1. If yes, is an approval from a government authority, other than the procuring authority, required?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory/stand and contractual provisions (if any):	<p>According to Section 58 (3) Fed. Budget Law and the directive of the Ministry of Finance based on this provision, an approval from the Ministry of Finance is necessary, if the proposed budget is exceeded by more than 10%. Section 58 (3) of the Federal Budget Law states that to the extent that, for execution of any project or programme referenced in sec. 18 (2), agreement with the Federal Minister of Finance was or is required, the line ministry shall also reach agreement with the Federal Minister of Finance on the intended termination of or material change to the project or programme in question, or with respect to the continuation of the project or programme in question, which is deemed necessary despite a lack of conformity with the objectives referenced in sec. 2 (1); for purposes of evaluating, when any change should be deemed material, the regulation issued, pursuant to sub-sec. 1, by the Federal Minister of Finance shall apply mutatis mutandis.</p>
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.	<p>Yes</p>
If yes, please provide the relevant	<p>Article 72 Directive 2014/24/EU, Modification of contracts during their term: 1. Contracts and framework agreements may be modified without a new</p>

**legal/regulatory/stand
ard contractual
provisions (if any):**

procurement procedure in accordance with this Directive in any of the following cases:

(a) where the modifications, irrespective of their monetary value, have been provided for in the initial procurement documents in clear, precise and unequivocal review clauses, which may include price revision clauses, or options. Such clauses shall state the scope and nature of possible modifications or options as well as the conditions under which they may be used. They shall not provide for modifications or options that would alter the overall nature of the contract or the framework agreement;

(b) for additional works, services or supplies by the original contractor that have become necessary and that were not included in the initial procurement where a change of contractor:

(i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, services or installations procured under the initial procurement; and

(ii) would cause significant inconvenience or substantial duplication of costs for the contracting authority.

However, any increase in price shall not exceed 50 % of the value of the original contract. Where several successive modifications are made, that limitation shall apply to the value of each modification. Such consecutive modifications shall not be aimed at circumventing this Directive;

(c) where all of the following conditions are fulfilled:

(i) the need for modification has been brought about by circumstances which a diligent contracting authority could not foresee;

(ii) the modification does not alter the overall nature of the contract;

(iii) any increase in price is not higher than 50 % of the value of the original contract or framework agreement. Where several successive modifications are made, that limitation shall apply to the value of each modification. Such consecutive modifications shall not be aimed at circumventing this Directive;

(d) where a new contractor replaces the one to which the contracting authority had initially awarded the contract as a consequence of either:

(i) an unequivocal review clause or option in conformity with point(a);

(ii) universal or partial succession into the position of the initial contractor, following corporate restructuring, including takeover, merger, acquisition or insolvency, of another economic operator that fulfils the criteria for qualitative selection initially established provided that this does not entail other substantial modifications to the contract and is not aimed at circumventing the application of this Directive; or

(iii) in the event that the contracting authority itself assumes the main contractor's obligations towards its subcontractors where this possibility is provided for under national legislation pursuant to Article 71;

(e) where the modifications, irrespective of their value, are not substantial within the meaning of paragraph 4.

Contracting authorities having modified a contract in the cases set out under points (b) and (c) of this paragraph shall publish a notice to that effect in the Official Journal of the European Union. Such notice shall contain the information set out in Annex V Part G and shall be published in accordance with Article 51.

2. Furthermore, and without any need to verify whether the conditions set out under points (a) to (d) of paragraph 4 are met, contracts may equally be modified without a new procurement procedure in accordance with this Directive being necessary where the value of the modification is below both of the following values:

	<p>(i) the thresholds set out in Article 4; and</p> <p>(ii) 10 % of the initial contract value for service and supply contracts and below 15 % of the initial contract value for works contracts.</p> <p>However, the modification may not alter the overall nature of the contract or framework agreement. Where several successive modifications are made, the value shall be assessed based on the net cumulative value of the successive modifications.</p> <p>3. For the calculation of the price mentioned in paragraph 2 and points (b) and (c) of paragraph 1, the updated price shall be the reference value when the contract includes an indexation clause.</p> <p>4. A modification of a contract or a framework agreement during its term shall be considered to be substantial within the meaning of point (e) of paragraph 1, where it renders the contract or the framework agreement materially different in character from the one initially concluded. In any event, without prejudice to paragraphs 1 and 2, a modification shall be considered to be substantial where one or more of the following conditions is met:</p> <p>(a) the modification introduces conditions which, had they been part of the initial procurement procedure, would have allowed for the admission of other candidates than those initially selected or for the acceptance of a tender other than that originally accepted or would have attracted additional participants in the procurement procedure;</p> <p>(b) the modification changes the economic balance of the contract or the framework agreement in favor of the contractor in a manner which was not provided for in the initial contract or framework agreement;</p> <p>(c) the modification extends the scope of the contract or framework agreement considerably;</p> <p>(d) where a new contractor replaces the one to which the contracting authority had initially awarded the contract in other cases than those provided for under point (d) of paragraph 1.</p> <p>5. A new procurement procedure in accordance with this Directive shall be required for other modifications of the provisions of a public contract or a framework agreement during its term than those provided for under paragraphs 1 and 2.</p>
A change in the risk allocation of the contract.	Yes
If yes, please provide the relevant legal/regulatory/stand and contractual provisions (if any):	When such change implies a material change to the contract, according to the regulation of Article 72 Directive 2014/24/EU about modification of contracts, during their term mentioned and transcribed in the previous answer.
A change in the financial and/or economic balance of the contract.	Yes
If yes, please provide the relevant legal/regulatory/stand and contractual provisions (if any):	When such change implies a material change to the contract, according to the regulation of Article 72 Directive 2014/24/EU about modification of contracts, during their term mentioned and transcribed in the previous answer.

A change in the duration of the contract.	Yes
If yes, please provide the relevant legal/regulatory/stand and contractual provisions (if any):	When such change implies a material change to the contract, according to the regulation of Article 72 Directive 2014/24/EU about modification of contracts, during their term mentioned and transcribed in the previous answer.
A change in the agreed price or tariff.	Yes
If yes, please provide the relevant legal/regulatory/stand and contractual provisions (if any):	When such change implies a material change to the contract, according to the regulation of Article 72 Directive 2014/24/EU about modification of contracts, during their term mentioned and transcribed in the previous answer.
46.3. Can the procuring authority unilaterally modify a PPP contract?	No
If yes, please provide the relevant legal/regulatory/stand and contractual provisions (if any):	n/a
47. Does the regulatory framework (including standard contractual clauses) expressly regulate the following circumstances that may occur during the life of the PPP contract? (check all that apply): Force Majeure	Yes
If yes, please provide the relevant legal/regulatory/stand and contractual provisions (if any):	No regulatory basis
Material Adverse government action .	No
If yes, please provide the relevant legal/regulatory/stand and contractual provisions (if any):	n/a
Change in the Law.	No
If yes, please provide the relevant legal/regulatory/stand	n/a

ard contractual provisions (if any):	
Refinancing.	No
If yes, please provide the relevant legal/regulatory/stand ard contractual provisions (if any):	n/a
Subcontracting and replacement of the subcontractors.	Yes
If yes, please provide the relevant legal/regulatory/stand ard contractual provisions (if any):	Section 83 of PPA contains detailed provisions regarding changes of subcontractors in case of public works or services contracts. For concessions, Section 145 of PPA sets out basic requirements.
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/stand ard contractual provisions (if any):	In general dispute, resolutions will be considered in the PPP contract. Particularly, Section 343 of the PPA states that in cases where an arbitration court has been agreed upon, the validity of the provisions of Section 4 of Section 6 of the Code of Civil Procedure (ZPO), RGBI. No 113/1895. Any derogations from these rules may not be provided for in the invitation to tender. The Federal Government may, by ordinance, make more detailed provisions regarding the principles governing thriftiness, efficiency and expedience.
48.1. If yes, please specify which of the following options are available (check all that apply): Local administrative review body	No
If yes, please specify:	n/a
Local courts	Yes
Domestic arbitration	Yes
International arbitration	Yes
Investor-State Dispute Settlement (ISDS)	Yes
Mediation	Yes

Please provide the relevant legal/regulatory/standard contractual provisions (if any)	<p>The Jurisdiction of local courts is based on the Civil Procedure Code. Arbitration and Mediation may be chosen if provided for in the contract. As mentioned, Particularly, Section 343 of the PPA states that in cases where an arbitration court has been agreed upon, the validity of the provisions of Section 4 of Section 6 of the Code of Civil Procedure (ZPO), RGBI. No 113/1895. Any derogations from these rules may not be provided for in the invitation to tender. The Federal Government may, by ordinance, make more detailed provisions regarding the principles governing thriftiness, efficiency and expedience.</p>
48.2. If applicable, are arbitration awards enforceable by the local courts?: Domestic Arbitration	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions/standard contractual provisions (if any):	<p>Sections 1 to 16 EO (Act on Enforcement of Awards, Exekutionsordnung). In particular, Section 1 of the EO recognizes as execution title the judgments of arbitrators and arbitral tribunals which are no longer subject to appeal by a higher arbitral tribunal and the settlements concluded before them.</p>
International arbitration	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions/standard contractual provisions (if any):	<p>Sections 1 to 16 EO (Act on Enforcement of Awards, Exekutionsordnung). Austria is a contracting state of The Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention).</p>
Investor-State arbitration	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions/standard contractual provisions (if any):	<p>Sections 1 to 16 EO (Act on Enforcement, Exekutionsordnung) and ICSID-Convention</p>
49. Does the regulatory framework (including standard contractual clauses) allow for the restructuring of a PPP private partner (SPV) in financial difficulty prior to insolvency?	<p>Yes</p>
If yes, please specify and provide the relevant legal/regulatory/stand ar d contractual provisions (if any):	<p>Universal or partial succession into the position of the initial contractor, following corporate restructuring, including takeover, merger, acquisition or insolvency, of another economic operator that fulfils the criteria for qualitative selection initially established provided that this does not entail other substantial modifications to the contract and is not aimed at circumventing the application of this Directive; and in the event that the contracting authority itself assumes the main contractor's obligations towards its subcontractors where this possibility is provided for under national</p>

	legislation, pursuant to Article 71; are two of the grounds to allow for a legitimate change in the operator according to Art 72 lit d) ii and iii of the Directive 2014/24/EU.
50. Does the regulatory framework (including standard contractual clauses) allow for the lenders to take control of the PPP project (lender step-in rights) if either the private partner defaults or if the PPP contract is under threat of termination for failure to meet service obligations?	No
If yes, please provide the relevant legal/regulatory/stand and 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/stand and 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/stand and contractual provisions (if any):	n/a
The regulatory framework prescribes that the lender step-in rights should be	n/a

regulated in the contract.	
If yes, please specify and provide the relevant legal/regulatory/stand and contractual provisions (if any):	n/a
Other.	n/a
Please Specify:	n/a
51. Does the regulatory framework (including standard contractual clauses) expressly establish the grounds for termination of a PPP contract?	Yes
If yes, please specify and provide the relevant legal/regulatory/stand and contractual provisions (if any):	No regulatory basis in the PPA but Article 44 about causes of termination of the EU Directive on Concessions could apply.
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/stand and contractual provisions (if any):	No regulatory basis
Unsolicited Proposals	
34. Are unsolicited proposals in Austria: (choose only one): Explicitly prohibited by the legal framework? (If prohibited, skip to section F)	No
Explicitly allowed by the legal framework?	No
Not regulated by the legal framework, but do happen in practice?	No

<p>Not regulated by the legal framework, and do not happen in practice? (if not done in practice, skip to section F)</p>	<p>Yes</p>
<p>If the legal framework explicitly prohibits or allows unsolicited proposals, please provide the relevant legal/regulatory provisions</p>	<p>n/a</p>
<p>35. Does the procuring authority conduct an assessment to evaluate unsolicited proposals? (if not, skip to question 37)</p>	<p>n/a</p>
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any)</p>	<p>n/a</p>
<p>35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?</p>	<p>n/a</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<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>	<p>n/a</p>

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.	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority does not evaluate unsolicited proposals against existing government priorities.	n/a
Please elaborate and provide examples:	n/a
37. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
38. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and the time in calendar days:	n/a

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