

## PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN AZERBAIJAN

SURVEY QUESTION	ANALYSIS
<b>PPP Regulatory Framework</b>	
<b>2. Does the regulatory framework in your country allow procuring PPPs?</b>	Yes
<b>If yes, please specify the relevant regulatory framework and the year of adoption:</b>	<p>PPPs in Azerbaijan are regulated by the Law of the Republic of Azerbaijan on the Implementation of Special Financing for Investment Projects in Connection with Construction and Infrastructure Facilities, adopted on March 15, 2016 (hereinafter the BOT Law) and the Order on establishment of conditions of the realization by investors of investment projects with respect to construction and infrastructure objects with the “BOT” model, requirements to investors as per type of construction and infrastructure objects, particularities and conditions of concluded projects, value of goods and services, obtained as a result of investment, approved by the Presidential decree dated 7 December, 2016 (hereinafter the “BOT Order”). It is relevant to notice that according to article 13.1 of the BOT Law, the provisions of Law “On State Procurement” of the Republic of Azerbaijan are not applied to the investment projects implemented with special financing and thus the BOT Law and BOT Order constitute the sole regime applicable for PPP type projects and will be the basis of our analysis.</p>
<b>and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:</b>	<p>(i) BOT Law: <a href="http://e-qanun.az/framework/32612">http://e-qanun.az/framework/32612</a>  (ii) BOT Order: <a href="http://e-qanun.az/framework/34279">http://e-qanun.az/framework/34279</a></p>
<b>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?</b>	Yes
<b>Please describe:</b>	<ol style="list-style-type: none"> <li>1. BOT Law dated 03/15/2016</li> <li>2. BOT Order dated 12/07/2016</li> </ol>

<b>2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?</b>	No
<b>Please describe:</b>	n/a
<b>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.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>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</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>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.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>3.4 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of</b>	No

<b>the following sectors?: Telecom</b>	
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>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</b>	No
<b>If yes, specify and provide the relevant legal/regulatory provisions:</b>	n/a
<b>4. Does the regulatory framework provide for a specific tax regime for PPP transactions (i.e. tax incentives, special tax depreciation treatment, etc.)?</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory provision (if any):</b>	According to the Article 11 of the BOT Law; the investor implementing BOT investment project in connection with construction and infrastructure facilities defined in Article 3.1 of this Law, will be exempt from state duties and charges regarding the relevant activity.
<b>5. Please identify the PPP procuring authorities in Azerbaijan and provide their website(s) (if available):</b>	The BOT Law defines, on Article 2.0.4., competent authority as the relevant executive body authorized to conclude agreement with investors and take over the facility after the expiration of contract term in order to ensure the implementation of investment projects under BOT model in connection with construction and infrastructure facilities indicated in Article 3.1 of this Law. The Ministry of Economy of the Republic of Azerbaijan ("Ministry of Economy", <a href="http://www.economy.gov.az">www.economy.gov.az</a> ) assumes the role of competent authority for all BOT projects according to Article 2.1 of the BOT Order.
<b>6. In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?</b>	Yes
<b>If yes, please indicate its name, and its website (if available):</b>	Ministry of Economy, <a href="http://www.economy.gov.az">www.economy.gov.az</a> . As the competent authority, according to the BOT Law and the BOT Order, the Ministry of Economy assumes a prominent role on the development and implementation of PPPs.

<b>6.1 If yes, what are the main responsibilities of the PPP Unit (check all that apply): PPP regulation and policy guidance.</b>	No
<b>6.2 PPP capacity building for other public authorities.</b>	No
<b>6.3 PPP promotion among the public and/or private sectors in national and international forums.</b>	No
<b>6.4 Technical support in implementing PPP projects.</b>	No
<b>6.5 Identification and selection of PPP projects from the pipeline.</b>	No
<b>6.6 Revision of fiscal risks born by the Government.</b>	Yes
<b>6.7 Consultation with affected communities on potential impact of PPP projects.</b>	No
<b>6.8 Approval of PPP projects.</b>	Yes
<b>6.9 Undertaking the procurement of PPPs.</b>	Yes
<b>6.10 Oversight of PPP implementation.</b>	Yes
<b>6.11 Other</b>	No
<b>6.11 please specify:</b>	n/a
<b>Please provide the relevant legal/regulatory provisions:</b>	BOT Law and BOT Order, in particular, Articles 5 and 6
<b>PPP Preparation</b>	
<b>8. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a

<b>8.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before signing the PPP contract?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>The Ministry of Economy shall coordinate with the Ministry of Finance on the draft investment agreement with the winner, technical-economic assessment and project estimation prepared by the winner. The BOT Order provides this in the following articles: 1) 6.0.4. Together with the Ministry of Finance, stipulated in paragraph 3.16 of this document, the Ministry of Economy takes measures to allocate funds, as well as the state's financial obligations with respect to investors and calculates risks and evaluates their allocation; 2) 6.0.6. The Ministry of Economy coordinates with the Ministry of Finance on the sign of investment contracts with the company, designation of the winning projects, review of the feasibility study and cost estimate documents prepared by the winning bidder. These documents shall be submitted to the Ministry of Finance within five (5) working days after the sign of agreements;</p>
<b>8.2. Does the Ministry of Finance (or government more broadly) have a specific system of: Budgeting for PPP projects.</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>For the purpose of aid cooperation and guaranteeing obligations financing, each year, certain amount is allocated to the Ministry of Economy in accordance with the Law on State Budget of the Republic of Azerbaijan. The order regarding method of allocated funds calculation is prepared and approved jointly by the Ministry of Finance and Ministry of Economy. Art. 3.16 of the BOT Order details, according to Articles 2, 5, and 7.2 of the Law, in accordance with the Law of the Republic of Azerbaijan "On the budget system", every year the relevant budget for the competent authority is envisaged in order to finance co-operation and guarantee obligations under concluded contracts. The procedure for calculating the volume of these funds is jointly prepared and approved by the Ministry of Finance and the Ministry of Economy of the Republic of Azerbaijan</p>
<b>Accounting liabilities (explicit and implicit, direct and contingent) arising from PPPs.</b>	<p>No</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>n/a</p>
<b>Reporting liabilities (explicit and implicit, direct and contingent) arising from PPPs.</b>	<p>No</p>
<b>If yes, please provide the relevant</b>	<p>n/a</p>

<b>legal/regulatory provisions (if any):</b>	
<b>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).</b>	n/a
<b>Accounting and reporting according to other international standard (e.g. European System of Accounts).</b>	n/a
<b>Please specify:</b>	n/a
<b>Other.</b>	n/a
<b>Please specify:</b>	n/a
<b>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.)?</b>	No
<b>If yes, please specify the relevant authority</b>	n/a
<b>and provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>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?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a

<b>10. Does the procuring authority use transaction advisors during the PPP project cycle?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>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.</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>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.</b>	No

<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The regulatory framework does not include any provisions but the procuring authority evaluates the consistency of PPPs with other government investment priorities in practice.</b>	No
<b>If yes, please elaborate:</b>	n/a
<b>The procuring authority does not evaluate PPPs against existing government priorities.</b>	Yes
<b>Please elaborate and provide examples:</b>	There is no specific regulation or generally followed practice in this area.
<b>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?</b>	No Data
<b>If yes, please specify:</b>	n/a
<b>If no, please elaborate:</b>	According to our contributors, the regulatory framework on PPPs was adopted in 2016 (BOT Law and BOT Order) but no project has been developed so far as in accordance with these provisions, so practice relates to it cannot be asserted.
<b>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)</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	According to the Articles of 1.3.3 and 2.1 of the BOT Order (Azeri Version- <a href="http://e-qanun.az/framework/34279">http://e-qanun.az/framework/34279</a> ), the company should prepare the initial feasibility analysis in regard to technical and economic assessment and submit it to the competent organ (Ministry of Economy). The Ministry of Economy analyses this



	report and if it is regarded as successful, then the MoE pursues the steps mentioned in Article 2.4 and 5.
<b>Is there a specific methodology for the assessment?</b>	n/a
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	No Data
<b>Details:</b>	According to our contributors, the regulatory framework on PPPs was adopted in 2016 (BOT Law and BOT Order) but no project has been developed so far as in accordance with these provisions, so practice relates to it cannot be asserted.
<b>12.2. Affordability assessment, including the identification of the required long term public commitments (explicit and implicit, direct and contingent liabilities)</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>Is there a specific methodology for the assessment?</b>	n/a
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	n/a
<b>Details:</b>	n/a
<b>12.3. Risk identification, allocation and assessment (risk matrix)</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	No regulatory basis
<b>Is there a specific methodology for the assessment?</b>	No
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	No Data
<b>Details:</b>	According to our contributors, the regulatory framework on PPPs was adopted in 2016 (BOT Law and BOT Order) but no project has been developed so far as in accordance with these provisions, so practice relates to it cannot be asserted.
<b>12.4. Comparative assessment to evaluate whether a PPP is the best option when compared to other procurement</b>	No

<b>alternatives (i.e. value for money analysis, public sector comparator)</b>	
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>Is there a specific methodology for the assessment?</b>	n/a
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	n/a
<b>Details:</b>	n/a
<b>12.5. Financial viability or bankability assessment</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	No regulatory basis
<b>Is there a specific methodology for the assessment?</b>	No
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	No Data
<b>Details:</b>	According to our contributors, the regulatory framework on PPPs was adopted in 2016 (BOT Law and BOT Order) but no project has been developed so far as in accordance with these provisions, so practice relates to it cannot be asserted.
<b>12.6. Market sounding and/or assessment (showing evidence of investors' interest in the market for the project)</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>Is there a specific methodology for the assessment?</b>	n/a
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	n/a
<b>Details:</b>	n/a
<b>12.7. Environmental impact assessment</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a

<b>Is there a specific methodology for the assessment?</b>	n/a
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	n/a
<b>Details:</b>	n/a
<b>12.8. Consultation process with affected communities on potential impact of the PPP project</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>Is there a specific methodology for the assessment?</b>	n/a
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	n/a
<b>Details:</b>	n/a
<b>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)?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>and specify which of the assessments are included in the request for proposals and/or tender documents:</b>	n/a
<b>13.1. Are the assessments published online?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>specify the website</b>	n/a

<b>please specify which of the assessments are published online:</b>	n/a
<b>14. Does the procuring authority include a draft PPP contract in the request for proposals?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Art. 5.9.5 of the BOT Order: 5.9. The contest is a set of documents including the following: (...) 5.9.5. An example of the contract.
<b>If no, please elaborate</b>	n/a
<b>14.1. Are the tender documents published online?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>and please specify the website:</b>	n/a
<b>15. In a case comparable to the case study assumptions, have standardized PPP model contracts and/or transaction documents been developed?</b>	No
<b>If yes, please specify and provide a government- supported website where the mentioned standards are available or provide an electronic copy of them:</b>	n/a
<b>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)</b>	No
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring</b>	No

<b>authority (or other Government entity)</b>	
<b>To be established in the contract</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	The matters related to obtainment of permits required under the Law on Licenses and Permits of the Republic of Azerbaijan and division of responsibility with this respect are determined for each investment project depending on the project specifications (Art. 2.3.13 of the Order).
<b>16.2. Obtaining the required environmental permits: Procuring authority (or other Government entity)</b>	No
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</b>	No
<b>To be established in the contract</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	The matters related to obtainment of permits required under the Law on Licenses and Permits of the Republic of Azerbaijan and division of responsibility with this respect are determined for each investment project depending on the project specifications (Art. 2.3.13 of the Order).
<b>16.3. Obtaining the required operational permits: Procuring authority (or other Government entity)</b>	No
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</b>	No
<b>To be established in the contract</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	The matters related to obtainment of permits required under the Law on Licenses and Permits of the Republic of Azerbaijan and division of responsibility with this respect are determined for each investment project depending on the project specifications (Art. 2.3.13 of the Order).
<b>16.4. Obtaining the required land: Procuring authority (or other Government entity)</b>	No
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring</b>	No

<b>authority (or other Government entity)</b>	
<b>To be established in the contract</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	No regulatory basis
<b>16.5. Obtaining the required right of way: Procuring authority (or other Government entity)</b>	No
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</b>	No
<b>To be established in the contract</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	No regulatory basis
<b>PPP Procurement</b>	
<b>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.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	According to Article 5.4 of the BOT Order, the composition of the Competition Commission shall consist of field organizations and representatives of the Ministry of Finance of the Republic of Azerbaijan, depending on the eligibility of the competent authority and the investment project. The total number of members of the Competition Commission should not be less than 5 (five) people, and it should be odd number. The Chairperson and Secretary of the Competition Commission shall be appointed by the representatives of the competent authority when forming a commission.
<b>The bid evaluation committee members require sufficient qualification without specific details.</b>	No

<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The bid evaluation committee members are not required to have any specific qualifications.</b>	No
<b>Please elaborate and provide examples:</b>	n/a
<b>19. Does the procuring authority issue a public procurement notice of the PPP project?</b>	Yes
<b>If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):</b>	In accordance with the conditions indicated in paragraph 2.3 of this document, the rules of the contest are prepared and announced by the competition commission. At least 45 (forty five) working days prior to the contest. Competent authority (MoE) will announce the official state and foreign mass media contest, time, location, participants in the competition, investors who wish to, tender documents set to take the order, the place and time, bid evaluation criteria as well as the basic conditions of the competition, including the process of closing the contract with the winner through its official website.
<b>19.1. If yes, is the public procurement notice published online?</b>	Yes
<b>If yes, please specify the website:</b>	There are examples of tender announcement in the website. Such as: <a href="http://www.economy.gov.az/index.php?option=com_content&amp;view=article&amp;id=2528:musabiqe-senaye-25-07-2014&amp;catid=51:elanlar&amp;lang=en">http://www.economy.gov.az/index.php?option=com_content&amp;view=article&amp;id=2528:musabiqe-senaye-25-07-2014&amp;catid=51:elanlar&amp;lang=en</a> or public procurement announcement such as: <a href="http://www.economy.gov.az/index.php?option=com_content&amp;view=article&amp;id=5020:elan-2017-06-12&amp;catid=51:elanlar&amp;lang=en">http://www.economy.gov.az/index.php?option=com_content&amp;view=article&amp;id=5020:elan-2017-06-12&amp;catid=51:elanlar&amp;lang=en</a>
<b>20. Are foreign companies prohibited from participating in the bidding process?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>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?</b>	Yes

<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Period of time for submission of bids is indicated on a case by case basis in the respective announcement (Arts. 5.6 and 5.11 of the BOT Order). In particular, according to article 5.6 of the order, the period of time will be 45 days when an open competition is held.
<b>and the time in calendar days:</b>	45
<b>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</b>	Yes
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	The competent authority (Ministry of Economy) can choose open tendering between all companies-candidates as the mean for selection of investor for respective investment project (Art.2.5.1 of the BOT Order)
<b>22.2. Restricted tendering (with pre-qualification stage): Available</b>	Yes
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	Depending on the investment project specifications, the competent authority (Ministry of Economy) can conduct tendering among the candidates having respective experience on technical and financial capabilities compatible with investment project specifications (Arts. 2.5.2, 2.5.7 of the BOT Order).
<b>22.3 Multi-stage tendering (with shortlisting of final candidate(s)): Available</b>	No
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>22.4. Competitive dialogue: Available</b>	No
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>22.5. Direct negotiation with more than one candidate: Available</b>	No
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a



<b>22.6. Direct negotiation with only one candidate: Available</b>	No
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	0
<b>22.7 Other. Specify:</b>	No
<b>Available</b>	n/a
<b>Default</b>	n/a
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>22.8. Do the tender documents detail the procedure of the procurement process providing the same information to all the bidders?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Art. 5.6 of the BOT Order indicates that in the announcement of the competition, the basic conditions of the competition will be detailed
<b>If no, please elaborate:</b>	n/a
<b>22.9. Do the tender documents specify the prequalification/shortlisting criteria (when applicable) in order to make them available to all the bidders?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	No regulatory basis
<b>22.10. Based on your experience, is it always the case that the specified criteria are respected in practice?</b>	No Data
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>If no, please elaborate:</b>	According to our contributors, the regulatory framework on PPPs was adopted in 2016 (BOT Law and BOT Order) but no project have been developed so far as in accordance with these provisions, so practice relates to it cannot be asserted.
<b>23. Can interested parties/potential</b>	Yes

<b>bidders submit questions to clarify the public procurement notice and/or the request for proposals?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	No regulatory basis
<b>23.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose those questions and clarifications to all potential bidders?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	No regulatory basis
<b>23.2. Based on your experience, is it always the case that this disclosure of information is done in practice?</b>	No Data
<b>If yes, please specify:</b>	n/a
<b>If no, please elaborate:</b>	No tendering has been developed under the newly enacted legislation regarding PPPs.
<b>24. Besides questions and clarifications, can the procuring authority conduct pre-bidding conference?</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>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?</b>	n/a

<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>24.2. Based on your experience, is it always the case that this disclosure of information is done in practice?</b>	n/a
<b>If yes, please specify:</b>	n/a
<b>If no, please elaborate:</b>	n/a
<b>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?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	No regulatory basis
<b>If no, please elaborate:</b>	n/a
<b>26. Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	While evaluating proposals, members of tendering commission are governed by participants' proposals valuation criteria prepared in the framework of terms and conditions for investors and investment project itself (Art. 5.16 of the Order).
<b>Evaluation criteria is not set in the tender documents</b>	No
<b>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</b>	No

specific procedure before awarding a PPP contract where only one proposal is submitted.	
Please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority considers sole proposals valid as long as they meet the conditions outlined in the tender documents.	No
Please provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority does not award a PPP contract if only one proposal is submitted.	Yes
Please provide the relevant legal/regulatory provisions (if any):	If less than 3 (three) proposals are submitted in the first tendering process, the tendering process is considered as ineffective and need to be commenced again (Art. 2.8 of the Order).
The regulatory framework does not include any provisions.	No
28. Does the procuring authority publish the award notice?	No
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	n/a
28.1. If yes, is the public procurement award notice published online?	n/a
If yes, please specify the website:	n/a
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):	The participant has the right to receive a written answer regarding results of its proposal evaluation (Art. 5.23 of the Order).

<b>If no, please elaborate:</b>	n/a
<b>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?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>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?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>and the time in calendar days:</b>	n/a
<b>30.1. Is the standstill period set out in the notice of intention to award?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>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?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>31.1. Based on your experience, is it always the case that this</b>	No Data

<b>restriction is respected in practice?</b>	
<b>If yes, please specify:</b>	n/a
<b>If no, please elaborate:</b>	No tendering conducted yet applying the new BOT framework for PPPs
<b>32. Does the procuring authority publish the PPP contract?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>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</b>	n/a
<b>Publication of the full PPP contract without including all its annexes and appendixes</b>	n/a
<b>Publication of a summary of the PPP contract without publishing the full PPP contract</b>	n/a
<b>Publication of a summary of the PPP contract along with the full PPP contract including all its annexes and appendixes</b>	n/a
<b>Publication of a summary of the PPP contract along with the full PPP contract without including all its annexes and appendixes</b>	n/a
<b>32.2. If yes, is it published online?</b>	n/a
<b>If yes, please specify the website:</b>	n/a
<b>32.3. If yes, does the procuring authority also publish any subsequent amendment made to the PPP contract?</b>	n/a
<b>If yes, please provide the relevant</b>	n/a

<b>legal/regulatory provisions (if any):</b>	
<b>PPP Contract Management</b>	
<b>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)?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 2.3.7 of the BOT Order includes the terms to be developed regarding the investment projects, the requirements for management principles and methodology; Additionally, Article 6 of the BOT Order assigns the following functions to the competent authority (Ministry of Economy): 1) 6.0. The competent authority shall have the following power in relation to the implementation of the model RFP; 2) 6.0.1. RFP for the development of measures to implement the model; 3) 6.0.2. monitor and evaluate the implementation of the agreements; 4) 6.0.3. the activities of investors in state and local government agencies, legal entities and individuals to coordinate;
<b>41.1. If yes, which of the following tools does it include (check all that apply)?: Establishment of a PPP contract management team</b>	No
<b>Relevant legal/regulatory provisions (if any):</b>	n/a
<b>Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa</b>	No
<b>Relevant legal/regulatory provisions (if any):</b>	n/a
<b>Elaboration of a PPP implementation manual or an equivalent document</b>	No
<b>Relevant legal/regulatory provisions (if any):</b>	n/a
<b>Establishment of personnel training</b>	No

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



<b>Please elaborate and provide examples:</b>	n/a
<b>42. Does the procuring or contract management authority establish a system for tracking progress and completion of construction works under a PPP contract?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>42.1. If yes, is the PPP contract construction performance information made available to the public?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>42.2. If yes, is the PPP contract construction performance information made publicly available online?</b>	No
<b>If yes, please specify the website:</b>	n/a
<b>43. Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract implementation after construction?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	The Ministry of Economy as competent authority, for evaluation and control over performance of agreement with investor, conducts monitor together with the Ministry of Finance (Article 6 of the BOT Order and more in particular and detailed Article 3.10 of the BOT Order: 3.10. The competent authority monitors the investor 's fulfillment of the terms of the contract with the Ministry of Finance of the Republic of Azerbaijan. The violations revealed during the monitor must be eliminated by the investor within the period specified in the contract. The revealed violations shall be materially liable in accordance with the Civil Code of the Republic of Azerbaijan and sub-clause 3.1.11 of this document, unless the investor eliminates the term specified in the contract.

<b>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</b>	No
<b>Relevant legal/regulatory provisions (if any)</b>	n/a
<b>The procuring or contract management authority can abate (reduce) payments for non-performance of operating obligations under the PPP contract</b>	No
<b>Relevant legal/regulatory provisions (if any)</b>	n/a
<b>The private partner must provide the procuring or contract management authority with periodic operational and financial data</b>	No
<b>Relevant legal/regulatory provisions (if any)</b>	n/a
<b>The procuring or contract management authority must periodically gather information on the performance of the PPP contract</b>	No
<b>Relevant legal/regulatory provisions (if any)</b>	n/a
<b>The PPP contract performance information must be available to the public</b>	No
<b>Relevant legal/regulatory provisions (if any)</b>	n/a
<b>43.2. Is PPP contract performance information made</b>	No

<b>publicly available online?</b>	
<b>If yes, please specify the website:</b>	n/a
<b>44. Are foreign companies prohibited from repatriating the income resulting from the operation of a PPP project?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>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?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	During the term of the agreement, investor can assign its rights and obligations (totally or partially) under the agreement to another investor with consent of the Ministry of Economy (Art. 3.11 of the BOT: The investor may transfer all or part of the contractual rights and obligations of the contract in full or in part to another investor in accordance with the same terms and conditions as set out in this document with the consent of the competent authority. When the rights and obligations arising from the contract are transferred to another investor, all other rights and obligations under this contract are deemed to have been transferred to that investor.)
<b>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).</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>Changes of ownership/contract</b>	No

assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.	
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
In other cases, flexibility to change the ownership structure and/or assign the contract.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
46. Does the regulatory framework (including standard contractual clauses) expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
46.1. If yes, is an approval from a government authority, other than the procuring authority, required?	n/a
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	n/a

<b>the scope and/or object of the contract.</b>	
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>A change in the risk allocation of the contract.</b>	n/a
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>A change in the financial and/or economic balance of the contract.</b>	n/a
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>A change in the duration of the contract.</b>	n/a
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>A change in the agreed price or tariff.</b>	n/a
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>46.3. Can the procuring authority unilaterally modify a PPP contract?</b>	n/a
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>47. Does the regulatory framework (including standard contractual clauses) expressly regulate the following circumstances that may</b>	Yes

occur during the life of the PPP contract? (check all that apply): <b>Force Majeure</b>	
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	The agreement shall include the provisions regarding force majeure cases. (Art. 3.1.17 of the BOT Order)
<b>Material Adverse government action .</b>	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
<b>Change in the Law.</b>	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
<b>Refinancing.</b>	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
<b>Subcontracting and replacement of the subcontractors.</b>	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
<b>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?</b>	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	The Agreement concluded between investor and the competent authority (Ministry of Economy) shall include a dispute resolution clause (Art. 2.3.14 of the BOT Order).

<b>rd contractual provisions (if any):</b>	
<b>48.1. If yes, please specify which of the following options are available (check all that apply): Local administrative review body</b>	No
<b>If yes, please specify:</b>	n/a
<b>Local courts</b>	Yes
<b>Domestic arbitration</b>	No
<b>International arbitration</b>	Yes
<b>Investor-State Dispute Settlement (ISDS)</b>	Yes
<b>Mediation</b>	Yes
<b>Please provide the relevant legal/regulatory/standard contractual provisions (if any)</b>	The Agreement concluded between investor and the competent authority (Ministry of Economy) shall include a dispute resolution clause (Art. 2.3.14 of the BOT Order). More in general, disputes or disagreements arising among foreign investors, enterprises with foreign investments and state bodies of the Azerbaijan Republic, enterprises, public organizations and other legal entities of the Azerbaijan Republic; disputes and disagreements between participants of the enterprise with foreign investments and such enterprise itself are to be settled in Law Courts of the Azerbaijan Republic or, on agreement between the Parties, in the Court of Arbitration, including those abroad (Art. 42 of the Law on protection of foreign investment dated January 15, 1992).
<b>48.2. If applicable, are arbitration awards enforceable by the local courts?: Domestic Arbitration</b>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions/standard contractual provisions (if any):</b>	n/a
<b>International arbitration</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions/standard contractual provisions (if any):</b>	Republic of Azerbaijan has signed and ratified New York Convention on recognition and enforcement of foreign arbitral awards with no reservation (1958). Arbitration award shall be recognized and enforced accordingly (Art. 35 of the Law on International Arbitration dated November 18, 1999).
<b>Investor-State arbitration</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions/standard</b>	Republic of Azerbaijan has signed and ratified New York Convention on recognition and enforcement of foreign arbitral awards with no reservation (1958) as well as Convention on the Settlement of Investment Disputes between States and Nationals

<b>contractual provisions (if any):</b>	of other States (ICSID Convention). Arbitration award shall be recognized and enforced accordingly (Art. 35 of the Law on International Arbitration dated November 18, 1999).
<b>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?</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>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?</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>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.</b>	n/a
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>The regulatory framework prescribes</b>	n/a



that a direct agreement should be signed with the lenders.	
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
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	Grounds for termination of a PPP contract are indicated in the contract (Art. 3.1.20 of the BOT Order)
51.1. If yes, does the regulatory framework (including standard contractual clauses) establish the consequences for the termination of the PPP contract?	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
<b>Unsolicited Proposals</b>	

<b>34. Are unsolicited proposals in Azerbaijan: (choose only one): Explicitly prohibited by the legal framework? (If prohibited, skip to section F)</b>	No
<b>Explicitly allowed by the legal framework?</b>	No
<b>Not regulated by the legal framework, but do happen in practice?</b>	No
<b>Not regulated by the legal framework, and do not happen in practice? (if not done in practice, skip to section F)</b>	Yes
<b>If the legal framework explicitly prohibits or allows unsolicited proposals, please provide the relevant legal/regulatory provisions</b>	n/a
<b>35. Does the procuring authority conduct an assessment to evaluate unsolicited proposals? (if not, skip to question 37)</b>	n/a
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any)</b>	n/a
<b>35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?</b>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>36. Which of the following options best describe how the procuring authority ensures that unsolicited proposals are consistent with existing</b>	n/a

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

<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>and the time in calendar days:</b>	n/a
<b>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.</b>	n/a
<b>39.2 Developer's fee (reimbursing the original proponent for the project development cost).</b>	n/a
<b>39.3 Bid Bonus.</b>	n/a
<b>39.4 Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).</b>	n/a
<b>39.5 Other.</b>	n/a
<b>Please specify:</b>	n/a
<b>Please provide the relevant legal/regulatory provisions (if any):</b>	n/a