



PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN BANGLADESH

SURVEY QUESTION	ANALYSIS
PPP Regulatory Framework	
2. Does the regulatory framework in your country allow procuring PPPs?	Yes
If yes, please specify the relevant regulatory framework and the year of adoption:	<p> PPPs in Bangladesh are mainly regulated by the Bangladesh Public-Private Partnership Act, 2015 (Act No. 18 of 2015) [hereinafter “PPP Act 2015”] which was enacted on September 16, 2015. Preceding the PPP Act 2015, there was the Policy and Strategy for Public Private Partnership, 2010 [hereinafter “PPP Policy 2010”] which was published on August 2, 2010. In exercise of the power conferred in the PPP Act 2015, the Public Private Partnership Authority has adopted “Procurement Guidelines for PPP Projects, 2016” [hereinafter “Guidelines for PPP Projects”] and “Guidelines for Unsolicited Proposals, 2016” [hereinafter “Guidelines for Unsolicited Proposals”] on 3rd May 2016, and thereby all preceding rules and regulations have been repealed according to Article 3 of the former Guideline, which identifies its “scope and applicability”. Hence, the PPP Policy 2010 shall be deemed repealed in view of the enactment of the PPP Act 2015 according to Section 47(1) of this Act. While Section 20 of PPP Act 2015 allows unsolicited proposals, more detailed guidelines are contained in the abovementioned Guideline for Unsolicited Proposals which was approved by the Cabinet Committee on Economic Affairs [hereinafter “CCEA”]. Furthermore, the PPP Office issued a PPP Screening Manual [hereinafter “PPP Screening Manual 2013”] on April 9, 2013. A relevant law on procurement is the Public Procurement Act 2006 (Act No. 24 of 2006) [hereinafter “Public Procurement Act 2006”] which was enacted on July 6, 2006 and its corresponding Public Procurement Rules 2008 which took effect on January 31, 2008. In case of inconsistency with other laws, the provisions of the PPP Act 2015 shall prevail. The previous regulations shall be considered the regulatory framework on PPPs in Bangladesh for the purposes of this analysis. </p>
and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:	<p align="center"> http://pppo.gov.bd/government_policy.php </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	Yes

to be adopted BEFORE June 1, 2017?	
Please describe:	The Public Private Partnership Authority has adopted “Procurement Guideline for PPP Projects, 2016” [hereinafter “Guideline for PPP Projects”] and “Guidelines for Unsolicited Proposals, 2016” [hereinafter “Guideline for Unsolicited Proposals”] on 3rd May 2016.
2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?	Yes
Please describe:	Policy for Implementing PPP Projects through Government-to-Government (G2G) Partnership, 2017 adopted on June 7, 2017. This Policy recently replaced the aforementioned repealed 2010 Policy, but shall not be taken into account because it falls outside of the cut off period.
3.1. Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Transportation.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.2 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Water and Irrigation	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.3 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Energy generation and distribution.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.4 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Telecom	No

If yes, please provide the relevant legal/regulatory provisions:	n/a
3.5 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Other	No
If yes, specify and provide the relevant legal/regulatory provisions:	n/a
4. Does the regulatory framework provide for a specific tax regime for PPP transactions (i.e. tax incentives, special tax depreciation treatment, etc.)?	Yes
If yes, please specify and provide the relevant legal/regulatory provision (if any):	Section 17 of PPP Act 2015 provides, Power of the Government to provide incentives: - Upon recommendation of the Board of Governors, the Government may, by general or special order in the official Gazette, declare incentives in order to encourage private sector investment in PPP projects. Contributors provided that a corporate tax Exemption for 10 years is granted with a VAT exemption related to PPP projects in the form of deductions in accordance with Section 52 of the Income Tax Ordinance 1984 specifically mentioning (xiii) a public-private partnership.
5. Please identify the PPP procuring authorities in Bangladesh and provide their website(s) (if available):	The procuring authorities include all infrastructure line ministries and executing agencies under those ministries.
6. In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?	Yes
If yes, please indicate its name, and its website (if available):	Public Private Partnership Authority, Prime Minister's Office; http://www.pppo.gov.bd/
6.1 If yes, what are the main responsibilities of the PPP Unit (check all that apply): PPP regulation and policy guidance.	Yes
6.2 PPP capacity building for other public authorities.	Yes
6.3 PPP promotion among the public and/or private sectors in national and international forums.	Yes

6.4 Technical support in implementing PPP projects.	Yes
6.5 Identification and selection of PPP projects from the pipeline.	No
6.6 Revision of fiscal risks born by the Government.	No
6.7 Consultation with affected communities on potential impact of PPP projects.	No
6.8 Approval of PPP projects.	Yes
6.9 Undertaking the procurement of PPPs.	No
6.10 Oversight of PPP implementation.	Yes
6.11 Other	Yes
6.11 please specify:	According to PPP Act 2015, Sec. (9)(1), the PPP Authority's powers and functions shall be as follows: (b) decision of financial participation and incentives of the government; (g) audit and vetting of partnership agreement; (h) approval of PPP projects...; (o) determining and approval of organisational structure for officers and employees; (p) determining and approval of salary structure for officers and employees; (q) appointment and allocation of work of consultants and/or experts... (v) manage and monitor the process of selecting the private partner; (w) forming a panel of advisors or experts or both for PPP projects and through set guidelines select advisors or experts from that panel; (x) perform any functions relating to PPP; (2) assigned to it by the other party concerned.
Please provide the relevant legal/regulatory provisions:	According to PPP Act 2015, Sec. (9)(1), the PPP Authority's powers and functions shall be as follows: (b) decision of financial participation and incentives of the government; (g) audit and vetting of partnership agreement; (h) approval of PPP projects...; (o) determining and approval of organisational structure for officers and employees; (p) determining and approval of salary structure for officers and employees; (q) appointment and allocation of work of consultants and/or experts... (v) manage and monitor the process of selecting the private partner; (w) forming a panel of advisors or experts or both for PPP projects and through set guidelines select advisor or expert from that panel; (x) perform any functions relating to PPP; (2) assigned to it by the other party concerned.
PPP Preparation	
8. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
8.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP	No

project before signing the PPP contract?	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
8.2. Does the Ministry of Finance (or government more broadly) have a specific system of: Budgeting for PPP projects.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Section 16 of the PPP Act, 2015, The Government may provide financing against the following activities of PPP projects, such as: (a) technical assistance financing; (b) viability gap financing;(c) financing against equity and loan; (d) financing against linked component;(e) financing against such other activities as may be determined by the PPP Authority. Contributors provide that in circumstances of viability gap financing, there is a system of budgeting PPP projects as per the Guideline for Viability Gap Financing (VGF) for Public-Private Partnership (PPP) Projects (2012) http://pppo.gov.bd/download/ppp_office/Guideline-for-VGF-PPP-Sep2012.pdf
Accounting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Reporting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
8.3. If yes to question 8.2, which of the following alternatives best describes the regulation?: Accounting and reporting according to International Public Sector Accounting Standards (IPSAS).	No
Accounting and reporting according to other international standard (e.g. European System of Accounts).	No
Please specify:	n/a
Other.	No
Please specify:	n/a
9. Besides the procuring authority and the Ministry of	Yes

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.)?	
If yes, please specify the relevant authority	Cabinet Committee on Economic Affairs (CCEA)
and provide the relevant legal/regulatory provisions (if any):	<p>According to Section 14 of PPP Act 2015, PPP projects will be carried out in principle and final approval by the CCEA. The PPP Policy 2010, Sec. 11.3, also provides: Cabinet Committee on Economic Affairs (CCEA) or “CCEA” means the committee established by the Government under Clause 18 of the Rules of Business, 1996. The Role of CCEA related to PPP are the following: h). To provide ‘In Principle’ approval for Medium and Large PPP projects; i). To approve a selected bidder for Large PPP projects after Request for Proposal stage; j). To approve termination of PPP contract as proposed by the line Ministry. To approve organizational structure and ToR of Office for PPP. For the purposes of Section 14 of PP Act 2015, the Convener of this Committee is the Minister to the Government, Ministry of Finance. Moreover, the supporting personnel for this committee includes: Governor of Bangladesh Bank, Senior Secretary of Ministry of Finance, Senior Secretary of Economic Affairs Department, Secretary of Internal Resources Department, and Secretary of Bank and Financial Institution Department.</p>
9.1. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before signing the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>According to Section 14 of PPP Act 2015, PPP projects will be carried out in principle and final approval by the CCEA. Additionally, the PPP Policy 2010, Sec. 11.3, also provides that the Role of CCEA related to PPPs are the following:</p> <p>i). To approve selected bidder for Large PPP projects after Request for Proposal stage</p>
10. Does the procuring authority use transaction advisors during the PPP project cycle?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Section 14 of the Guideline for PPP Projects 2016 provides, “The Contracting Authority or the PPP Authority may appoint external transaction adviser(s) and/or consultant(s), use any internal and/or in-house experts and/or any other resources retained by the PPP Authority or the Contracting Authority for purposes, which may include carrying out the feasibility study, marketing, supporting the procurement process, negotiations, contract signature, Condition Precedent (“CP”), construction and/or operations, etc.”</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>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>The regulatory framework does not include any provisions but the procuring authority evaluates the consistency of PPPs with other government investment priorities in practice.</p>	<p>Yes</p>
<p>If yes, please elaborate:</p>	<p>The PPP Act 2015 does not include any express provision to prioritize PPP projects in comparison with other public investment projects; however, Section 15 of the PPP Act 2015: National Priority Project 15, provides that (1) to accelerate socio-economic development of the country or any of the sufferings of the public authorities to quickly resolve the contractor, if necessary, the case may be, PPP authorities, subject to the approval of the Cabinet, declare any project of national priority projects. (i) different from anything contained in this Act Notwithstanding subsection (1) for the purposes of the contractor, the case may be, PPP authorities, subject to the approval of</p>

	<p>the cabinet, the national priority project, the private partner selection, negotiation, etc. inter-ministerial committees or sub-committees may. (3) Sub-section (ii) under the jurisdiction of the committee, the procedure and the ceremonial meeting of the national priority project, the private partner selection, negotiation, etc. shall be determined by law matters. Additionally, the POLICY AND STRATEGY FOR PUBLIC-PRIVATE PARTNERSHIP (PPP), 2010, part 5: 5 SECTORAL COVERAGE OF PPP provides for the coverage of any project fulfilling one or more of the above-mentioned applicability criteria in any economic sector, according to the International Standard Industrial Classification (ISIC) of all Economic Activities, Revision 4, specified by the United Nations, is eligible for PPP, and sets priority sectors.</p>
The procuring authority does not evaluate PPPs against existing government priorities.	No
Please elaborate and provide examples:	n/a
11.1. Based on your experience, is it always the case that this prioritization is done in practice in accordance with the provisions of the regulatory framework described above?	No
If yes, please specify:	n/a
If no, please elaborate:	Seventh Five-year Plan or Vision 2021 that generally embody such prioritizations are more like guiding principles. These do not provide for specific guidelines as how to achieve the PPP targets. Additionally, an informal synchronization is done with Ministry of Planning for project prioritization in terms of public procurement vs. PPP approach.
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)	Shadow Pricing Modeling is used as a means to conduct a socio-economic assessment. While identifying and preparing a PPP, the PPP authority would consider whether the project falls under any strategic plans, which also involves the socio-economic analysis among other things. Paragraphs 2.3 and 2.4 of the PPP Screening Manual provides a basis, available at: http://www.pppo.gov.bd/download/ppp_office/PPP-Screening-Manual_Final-Draft_09April2013.pdf (pages 12-37)
Is there a specific methodology for the assessment?	Yes

If yes, please elaborate	Shadow Pricing Modeling is the methodology used. While identifying and preparing a PPP, the PPP authority would consider whether the project falls under any strategic plans which also involves the socio-economic analysis among other things. Paragraphs 2.3 and 2.4 of the PPP Screening Manual provides a basis, available at: http://www.pppo.gov.bd/download/ppp_office/PPP-Screening-Manual_Final-Draft_09April2013.pdf (pages 12-37)
Is the assessment done in practice?	No
Details:	n/a
12.2. Affordability assessment, including the identification of the required long term public commitments (explicit and implicit, direct and contingent liabilities)	Yes
Relevant legal/regulatory provision (if any)	The PPP Screening Manual 2013, Criteria 5.1, asks the following questions: Is the delivery cost likely to be disproportionate to the project size and; thus, affect commercial viability of the project? It also provides that in order to assess the level of compliance with this criterion, the PPP proposal needs to present some preliminary estimate of the project costs and highlight if there are any aspects of the projects that may lead to higher than expected transaction costs for a project of this size. It further states that the public sector may deem the project feasible as long as the project features high affordability, and covers transaction costs. Moreover, Section 26(3) of the PPP Act 2015 provides the scope to include similar terms in the contract.
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Demand Assessment as part of the Preliminary Feasibility Studies [hereinafter "PFS"] is the methodology used. The PPP Screening Manual 2013, Criteria 6.1, asks the following questions: Can the private sector operator raise sufficient revenue from the project to recover their costs and generate a sufficient commercial return? It also states that if a proposed PPP requires public financial support through Viability Gap Financing (VGF), it can still be considered for PPP as the Value for Money [hereinafter "VFM"] analysis (figure: 2-11) performed in the feasibility study may show that the PPP (even with public support) is still more cost-effective than a traditional publicly procured project. It would be valuable to have this information as early in the process as possible. A Viability Gap Financing [hereinafter "VGF"] Analysis provides that if the VGF requirement does not exceed the threshold set out in the country's PPP policy and guidelines, the project is affordable to the public sector.
Is the assessment done in practice?	No
Details:	There has not been clear evidence that this assessment is actually conducted in practice

12.3. Risk identification, allocation and assessment (risk matrix)	Yes
Relevant legal/regulatory provision (if any)	Under Section 26 of the PPP Act 2015, the partnership agreement may contain matters relating to risk distribution. The PPP Screening Manual 2013, Criteria 8.1., asks the following questions: Has the risk matrix been completed to show the indicative risk allocation? Are risks envisaged to be transferred potentially manageable by private sector?
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Section 26(2) of the PPP Act 2015 allows the inclusion of terms relating to risk sharing in the contract. The PPP Screening Manual 2013, Criteria 8.1., provides that in order to assess the level of compliance with this criterion, the PPP Proposal needs to include a tentative risk allocation matrix, which is to be in accordance with internationally accepted risk allocation schemes.
Is the assessment done in practice?	No
Details:	There has not been clear evidence that this assessment is actually conducted 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)	According to Section 26(2) of the PPP Act 2015, the PPP Screening Manual 2013 (pages 13-17) provides the elements of whether to procure the project as a PPP or not.
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	The PPP Screening Manual 2013 (pages 13-17) provides the elements of whether to procure the project as a PPP or not.
Is the assessment done in practice?	No
Details:	There has not been clear evidence that this assessment is actually consistently conducted in practice
12.5. Financial viability or bankability assessment	Yes
Relevant legal/regulatory provision (if any)	In accordance with Section 26(2) of the PPP Act 2015, the PPP Screening Manual 2013, Screening Condition 6: Financially Viable, provides that a project must be financially viable in order to attract private sector partners to develop, implement and operate the services. Therefore, some initial estimates of the financial viability is required in terms of whether sufficient charges can be imposed to recover the costs of construction, operations and financing and provide a return to the private sector partner. Criteria 6.1. of the same manual asks the following questions: Can the private sector operator

	<p>raise sufficient revenue from the project to recover their costs and generate a sufficient commercial return? The projects must demonstrate the ability of generating adequate revenue from the operations to recover the life-cycle costs and yield sufficient commercial return. The interpretation of this condition is twofold, depending on the type of PPP mode proposed i.e. (i) cost recovery through user charges or (ii) cost recovery through BOT Annuity. Screening Condition 8 of the same manual also provides that bankable availability of financing is a key aspect of PPP projects. Whether banks are willing to provide financing or not, does not solely depend on the financial viability i.e. affordability as illustrated in the Financial Viability Condition above. Even more important is the likelihood that they will receive back their money and their interest. The financial viability may indicate that there is sufficient revenue potential though how certain is this revenue potential and how certain are the life cycle costs may still need to be ascertained.</p>
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	The PPP Screening Manual 2013, Screening Condition 6: Financially Viable and Screening Condition 8: Bankable provide details about standards of such assessments https://www.pppo.gov.bd/download/ppp_office/PPP-Screening-Manual_Final-Draft_09April2013.pdf Screening Condition 8 also discusses the elements of the project being “bankable”.
Is the assessment done in practice?	No
Details:	There has not been clear evidence that this assessment is actually conducted in practice
12.6. Market sounding and/or assessment (showing evidence of investors’ interest in the market for the project)	Yes
Relevant legal/regulatory provision (if any)	According to Section 26(2) of the PPP Act 2015, the PPP Screening Manual 2013, Screening Condition 7, provides that marketable PPP projects are reliant on private sector developers with appropriate skills and experience being attracted to invest in delivering the project. Therefore, attracting private sector developers to bid for this project is crucial to ensure delivery of the project and also to maximize competition between the parties to ensure that the public sector can benefit from selecting the best VFM proposition.
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Market Analysis as part of the DFS is the methodology being used. Furthermore, the PPP Screening Manual 2013, Criteria 7.1. asks the following question: Has envisaged PPP been done before elsewhere? Authorities need to market their project and also need to look at case studies from elsewhere as how the project can be best delivered. To assess the level of compliance with this criterion, the PPP proposal should confirm and include examples of reference projects (if available) or clarify the potential market prospects of this project that might make it attractive to private sector partners to create an effective and a competitive bidding process. Criteria 7.2. of the same

	manual provides: Is there a market capability to deliver this project? To assess the level of compliance with this criterion, the PPP Proposal needs to illustrate the capability of the market to deliver the proposed project.
Is the assessment done in practice?	No
Details:	There has not been clear evidence that this assessment is actually conducted in practice
12.7. Environmental impact assessment	Yes
Relevant legal/regulatory provision (if any)	Section 13 of the Guideline for PPP Projects provides, “13.1 to test the overall viability and in order to finalize the scope and commercial structure of the PPP Project, a feasibility study of the PPP Project must be carried out by or on behalf of the Contracting Authority. The scope of the feasibility study may include, but shall not be limited to, the following: a) Technical issues; b) Commercial and financial considerations; c) Environmental factors; d) Social issues; e) Linked projects; and f) Any other issues which may be deemed relevant by the PPP Authority or the Contracting Authority.”
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No
Details:	There has not been clear evidence that this assessment is actually conducted in practice
12.8. Consultation process with affected communities on potential impact of the PPP project	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology for the assessment?	n/a
If yes, please elaborate	n/a
Is the assessment done in practice?	n/a
Details:	There has not been clear evidence that this assessment is actually conducted 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	Yes

Information Memorandum to the bidders)?	
If yes, please provide the relevant legal/regulatory provisions (if any):	Section 25 of the Guideline for PPP Projects provides that the invitation for bids (IFB) document shall contain, “detailed information and instructions required to submit a Bid (Technical Bid and Financial Bid). Further, it may stipulate the pre-qualification criteria as well as the technical and financial criteria. The draft PPP Contract shall also be annexed to the IFB document.”
and specify which of the assessments are included in the request for proposals and/or tender documents:	Contributors provide that it is anticipated that all assessments should be included in such documents in reference to the phrase “detailed information and instructions” being required.
13.1. Are the assessments published online?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Section 19.1 of the Guideline for PPP Projects provides, “The Contracting Authority may use an online Data Room in order to share documents and communicate with Applicants or Bidders (as applicable). During the RFQ Stage and IFB stage, only Registered Entities shall be given access to the Data Room which shall contain the RFQ or IFB (as applicable), any Addenda and/or Corrigenda to the RFQ or IFB issued by the Contracting Authority, notice of invitation to the Pre-Application Meeting or Pre-Bid Meeting and/or any other relevant information for the bidding process. Further, any updates or additional information relating to the PPP Project may be uploaded to the Data Room.” Contributors confirm that the virtual dataroom is made available to registered applicants.
specify the website	http://www.pppo.gov.bd/dataroom/batmup/myaccount.php
please specify which of the assessments are published online:	All assessments relevant to the project are published online
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):	Section 25 of the Guideline for PPP Projects provides that the invitation for bids (IFB) document shall contain, “detailed information and instructions required to submit a Bid (Technical Bid and Financial Bid). Further, it may stipulate the pre-qualification criteria as well as the technical and financial criteria. The draft PPP Contract shall also be annexed to the IFB document.”
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):	Section 17.3 of the Guideline for PPP Projects provides, “All invitations shall also be advertised on the Contracting Authority’s, Applicable Line Ministry’s and the PPP Authority’s website.”
and please specify the website:	http://www.pppo.gov.bd/tenders_for_ppp_projects.php
15. In a case comparable to the case study assumptions,	Yes

have standardized PPP 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:	Transaction documents like project proposal forms are available at: http://www.pppo.gov.bd/downloads.php
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)	Yes
To be established in the contract	No
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 procuring authority obtains a Site Clearance Certificate. Rule 7(4) of Environment Conservation Rules 1997 provides that for industrial units and projects falling under the Orange – A and B, and Red categories, firstly, a location clearance certificate and thereafter an Environmental Clearance Certificate shall be issued. Location Clearance Certificate is also known as “Site Clearance Certificate”.
16.3. Obtaining the required operational permits: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to	Yes

the procuring authority (or other Government entity)	
To be established in the contract	No
Relevant legal/regulatory provision (if any)	No regulatory basis
16.4. Obtaining the required land: Procuring authority (or other Government entity)	Yes
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	No
Relevant legal/regulatory provision (if any)	No regulatory basis
16.5. Obtaining the required right of way: Procuring authority (or other Government entity)	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)	<p>Section 28 of the PPP Act 2015 grants the Private Partner the right to access any land allocated or identified as suitable for any given PPP Project for the purpose of inspecting any material or documents related to such material, survey, collection of sample, development, excavation. Contributors confirm this points to the responsibility of the government entity to provide this right.</p> <p>Additionally, the Private Partner or PPPCo, is required to serve at least five (5) working days to the existing landowner or occupier of the land (Section 28(2)). Moreover, the Private Partner or PPPCo shall be responsible for indemnifying any loss or damages caused by such activities and suffered by the landowner or possessor and amount of such damages shall be mutually determined.</p>
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	Yes

<p>are required to meet detailed qualifications.</p>	
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Section 39 of the Guidelines for PP Projects provides,</p> <p>39.1 The Evaluation Committee shall be comprised of either 5 (five) members or 7 (seven) members. Where the value of the PPP Project is BDT 800 (Eight Hundred) crore or more, then the Evaluation Committee shall comprise of 7 (seven) members. A 5(five) member Evaluation Committee shall be constituted in the following manner:</p> <ul style="list-style-type: none"> a) 1 (one) member from the Applicable Line Ministry to be nominated by the Applicable Line Ministry; b) 2 (two) members from the Contracting Authority to be nominated by the Contracting Authority; c) 2 (two) External Members nominated by the PPP Authority form within or outside the PPP Authority. <p>39.2 A 7 (seven) member Evaluation Committee shall be constituted in the following manner:</p> <ul style="list-style-type: none"> a) 1 (one) member from the Applicable Line Ministry to be nominated by the Applicable Line Ministry; b) 2 (two) members from the Contracting Authority to be nominated by the Contracting Authority; c) 1 (one) member nominated by the Contracting Authority from outside the Applicable Line Ministry, Contracting Authority or PPP Authority; d) 3 (three) External Members nominated by the PPP Authority form within or outside the PPP Authority. <p>39.3 The members from the Contracting Authority shall be designated to act as the chairman and the member secretary of the Evaluation Committee.</p> <p>39.4 The chairman of the Evaluation Committee shall be an officer of at least Grade-4 or equivalent category. In the event that there is no officer of such ranking in the requisite Government entity, then that Government entity shall contact the PPP Authority for advice to constitute the Evaluation Committee.</p> <p>Section 40 of these Guidelines further provide,</p> <p>40.1 The Evaluation Committee members may be selected from -</p> <ul style="list-style-type: none"> a) officers of the concerned units of the Applicable Line Ministry or Contracting Authority, namely finance, commercial, technical units or PPP cell, if any; b) officers having experience in technical, commercial, financial or legal matters from other ministries, divisions, departments, authorities or agencies, or any other Government entities or experts from universities or reputable professional bodies or specialists from the relevant fields (applicable in case of the External Members). <p>40.2 In nominating the members of the Evaluation Committee, the Applicable Line Ministry, the Contracting Authority and/or the PPP Authority shall, in order to accelerate the review and approval process of the evaluation report, ensure that the members of the Evaluation Committee are qualified officials or professionals with experience in technical, commercial, financial, legal matters and/or PPPs and are persons of high integrity.</p> <p>40.3 The members of the Evaluation Committee shall include officers of at least Grade-6 or equivalent category. In the event that there is no officer of such ranking in the requisite Government entity, then that Government entity</p>

	shall contact the PPP Authority for advice to constitute the Evaluation Committee.
The bid evaluation committee members require sufficient qualification without specific details.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The bid evaluation committee members are not required to have any specific qualifications.	No
Please elaborate and provide examples:	n/a
19. Does the procuring authority issue a public procurement notice of the PPP project?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	<p>Section 17 of the Guideline for PPP Projects 2016 sets out the guidance for advertisement.</p> <p>Section 17.1 states that the Contracting Authority shall advertise all Request for Proposal (“RFQ”) or Invitation for Bid (“IFB”), as applicable based on any guidance or standard templates issued by the PPP Authority or as may be specifically approved by the PPP Authority. The PPP Authority may also issue advertisements in relation to the RFQ or IFB, as applicable.</p> <p>Section 17.2 states that invitations for interested parties to participate in the RFQ or IFB process shall be advertised in at least 1 (one) Bangla language national newspaper and 1 (one) English language national newspaper, both of which shall have a wide daily circulation within Bangladesh.</p> <p>Section 17.3 states that all invitations shall also be advertised on the Contracting Authority’s, Applicable Line Ministry’s and the PPP Authority’s website.</p> <p>Section 17.4 states that the Contracting Authority shall publish the invitation on the Development Gateway Market (dgMarket) and may also consider any other similar publications or sites, as appropriate.</p> <p>Section 17.5 states that the PPP Authority may directly contact any foreign trade missions in Bangladesh, Bangladeshi trade missions abroad and/or Interested Investors in the PPP Authority’s database to inform them about the launch/issue of the RFQ or IFB.</p> <p>Section 17.6 states that in order to generate further interest in the PPP Project, the PPP Authority or their transaction adviser(s) or consultant(s) may carry out Project promotion activities at any time up until submission of the Applications or Bids.</p> <p>Section 18.3 states that notice of any subsequent change or amendment to the invitation for the RFQ or IFB may be made available to only the Registered Entities through an online medium and/or also in writing, as appropriate.</p>

19.1. If yes, is the public procurement notice published online?	Yes
If yes, please specify the website:	The Central Procurement Agency website, PPP Authority website, and procuring agency website; http://www.pppo.gov.bd/tenders_for_ppp_projects.php
20. Are foreign companies prohibited from participating in the bidding process?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
21. In a case comparable to the case study assumptions, does the procuring authority grant the potential bidders a minimum period of time to submit their bids?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Section 26 of the Guideline for PPP Projects sets the timeline in relation to the bidding process.</p> <p>Section 26.1 sets the following minimum timelines shall apply in relation to the bidding process. The overall timelines may be extended on a case by case basis and the timelines for detailed actions within the RFQ Stage, Request for Proposal (“RFP”) Stage or the IFB stage shall be as set out in the respective bid documents or as stipulated in any guidance or standard templates issued by the PPP Authority or specifically approved by the PPP Authority.</p> <p>26.2 The Contracting Authority may, at its discretion, upon informing the PPP Authority extend the Due Date, for any reason whatsoever.</p> <p>IFB: The Bids submitted in response to the IFB shall be received within a minimum of 56 (fifty-six) Days from issue of the IFB document.</p> <p>RFQ: The Applications submitted in response to the RFQ shall be received within a minimum of 28 (twenty-eight) Days from the issue of the RFQ document.</p> <p>RFP: The Proposals submitted in response to the RFP shall be received within a minimum of 56 (fifty-six) Days from the issue of the RFP document.</p>
and the time in calendar days:	56
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:	Yes
Default	No
Relevant legal/regulatory provision (if any)	<p>Section 21 of the Guideline for PPP Projects provides,</p> <p>Types of Bidding Process 21.1 Single-Stage Bidding Process</p> <p>a) The single-stage bidding process shall comprise of only an IFB. As part of the</p>

	<p>IFB process, interested parties shall complete their registration in order to become Registered Entities. An IFB document shall be issued to Registered Entities inviting them to participate in the bidding process. The Bidders shall submit their Technical Bids and their Financial Bids in two separate, sealed envelopes enclosed together in an outer single envelope. Initially only the Technical Bids shall be opened and evaluated in accordance with the IFB.</p> <p>b) Thereafter, the Financial Bids of only those Bidders who are compliant and who conformed to the specified requirements under the technical evaluation shall be opened and evaluated in accordance with the criteria stipulated in the IFB. Upon completion of the evaluation of the Financial Bids, the Preferred Bidder shall be selected for award of the PPP Contract.</p>
22.2. Restricted tendering (with pre-qualification stage): Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	<p>Section 21.2 of the Guideline for PPP Projects provides, Two-Stage Bidding Process</p> <p>a) The two-stage bidding process shall comprise of an RFQ Stage as well as an RFP Stage. As part of the RFQ Stage, interested parties shall complete their registration in order to become Registered Entities. An RFQ document shall be issued to Registered Entities inviting them to participate in the bidding process. The Applicants shall thereafter submit their Applications in response to the RFQ.</p> <p>b) The RFQ Stage of the bidding process shall include pre-qualification and shortlisting. The Applications shall be evaluated on the basis of predetermined qualifying criteria stipulated in the RFQ. The Pre-Qualified Bidders shall thereafter be shortlisted in accordance with the process stipulated in the RFQ. The maximum number of Shortlisted Bidders shall be 5 (five).</p> <p>c) Only those Applicants who pre-qualify and are shortlisted in line with the criteria set out in the RFQ under this RFQ Stage, shall be eligible to submit their Proposals during the RFP Stage of the bidding process.</p> <p>d) During the RFP Stage, subject to the qualification criteria, the Shortlisted Bidders may be invited to submit their Technical Proposals and Financial Proposals in two separate, sealed envelopes enclosed together in an outer single envelope. Initially only the Technical Proposals shall be opened and evaluated in accordance with the RFP on the basis of the pre-determined selection criteria stipulated in the RFP. Thereafter, the Financial Proposals of only those Shortlisted Bidders who are compliant and who conformed to the specified requirements under the technical evaluation shall be opened and evaluated in accordance with the criteria stipulated in the RFP in order to select the Preferred Bidder.</p> <p>e) Alternatively, during the RFP Stage, subject to the qualification criteria, the Shortlisted Bidders may be invited to submit only their Financial Proposals in sealed envelopes. Financial Proposals of the Shortlisted Bidders shall be opened and evaluated in accordance with the criteria stipulated in the RFP in order to select the Preferred Bidder.</p>

22.3 Multi-stage tendering (with shortlisting of final candidate(s)): Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	Section 21.2 of the Guideline for PPP Projects provides, Two-Stage Bidding Process a) The two-stage bidding process shall comprise of an RFQ Stage as well as an RFP Stage. As part of the RFQ Stage, interested parties shall complete their registration in order to become Registered Entities. An RFQ document shall be issued to Registered Entities inviting them to participate in the bidding process. The Applicants shall thereafter submit their Applications in response to the RFQ.
22.4. Competitive dialogue: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.5. Direct negotiation with more than one candidate: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.6. Direct negotiation with only one candidate: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.7. Other. Specify:	No
Available	n/a
Default	n/a
Relevant legal/regulatory provision (if any)	n/a
22.8. Do the tender documents detail the procedure of the procurement process providing the same information to all the bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Section 19.1 of the Guideline for PPP Projects provides, “The Contracting Authority may use an online Data Room in order to share documents and communicate with Applicants or Bidders (as applicable). During the RFQ Stage and IFB stage, only Registered Entities shall be given access to the Data Room which shall contain the RFQ or IFB (as applicable), any Addenda and/or Corrigenda to the RFQ or IFB issued by the Contracting Authority, notice of invitation to the Pre-Application Meeting or Pre-Bid Meeting and/or any other relevant information for the bidding process. Further, any updates or additional information relating to the PPP Project may be uploaded to the

	Data Room.” Moreover, Section 25 of the Guideline for PPP Projects provides that the invitation for bids (IFB) document shall contain, “detailed information and instructions required to submit a Bid (Technical Bid and Financial Bid). Further, it may stipulate the pre-qualification criteria as well as the technical and financial criteria. The draft PPP Contract shall also be annexed to the IFB document.”
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 19.1 of the Guideline for PPP Projects provides, “The Contracting Authority may use an online Data Room in order to share documents and communicate with Applicants or Bidders (as applicable). During the RFQ Stage and IFB stage, only Registered Entities shall be given access to the Data Room which shall contain the RFQ or IFB (as applicable), any Addenda and/or Corrigenda to the RFQ or IFB issued by the Contracting Authority, notice of invitation to the Pre-Application Meeting or Pre-Bid Meeting and/or any other relevant information for the bidding process. Further, any updates or additional information relating to the PPP Project may be uploaded to the Data Room.” Moreover, Section 25 of the Guideline for PPP Projects provides that the invitation for bids (IFB) document shall contain, “detailed information and instructions required to submit a Bid (Technical Bid and Financial Bid). Further, it may stipulate the pre-qualification criteria as well as the technical and financial criteria. The draft PPP Contract shall also be annexed to the IFB document.”
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):	State agencies are obliged to follow rules on PPPs to all
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):	Section 29 of the Guideline for PPP Projects provides, “29.1. A Pre-Application Meeting, Pre-Proposal Meeting or a Pre-Bid Meeting (as applicable) shall be held for Registered Entities or Shortlisted Bidders (as the case may be) at the designated date, time and place as mentioned in the RFQ, RFP or IFB document. Only the Registered Entities or Shortlisted Bidders (as the case may be) shall be allowed to participate in the Pre-Application Meeting, Pre-Proposal Meeting or Pre-Bid Meeting.

	<p>29.2. During these meetings the Contracting Authority shall provide further information about the PPP Project and the bidding process. During the course of these meetings, Registered Entities or Shortlisted Bidders (as the case may be) may seek clarifications and make suggestions for consideration of the Contracting Authority. The Contracting Authority may provide responses and clarifications at the meeting, as it deems appropriate. However the official responses shall only be provided in writing.”</p> <p>Additionally, according to Public Procurement Rules 2008, Sec. 117. Preparation and Issue of RFP Document, the RFP shall indicate the time periods whereby the Procuring Entity can entertain any request by an Applicant for clarification as well as the timing of the issue of the corresponding response.</p>
<p>23.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose those questions and clarifications to all potential bidders?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Section 29.3 of the Guideline for PPP Projects provides, “The Contracting Authority may also issue, if it deems appropriate, minutes of the Pre-Application Meeting, Pre-Proposal Meeting or Pre-Bid Meeting. These minutes may include the text of the questions raised and the responses given, together with any responses prepared after the meetings and shall be uploaded to the Data Room for information purposes only. Such minutes, questions, and responses shall not constitute an addition or revision to the RFQ, RFP or IFB. Any addition or revision to the RFQ, RFP or IFB that may become necessary as a result of the Pre-Application Meeting, Pre-Proposal Meeting or Pre-Bid Meeting will be made by the Contracting Authority exclusively through the issue of an Addendum or a Corrigendum and not through the minutes of the meeting.”</p> <p>Moreover, according to Public Procurement Rules 2008, Sec. 94 (9), Procuring Entities that publish Tender Documents on their website shall ensure -</p> <p>(a) the Tender Document is not removed from the website, before the closing date for the submission of Tenders; and</p> <p>(b) all modifications and clarifications to the Tender Document, if made and issued, including the reference numbers and dates are also posted on the website.</p>
<p>23.2. Based on your experience, is it always the case that this disclosure of information is done in practice?</p>	<p>Yes</p>
<p>If yes, please specify:</p>	<p>State agencies are obliged to follow the regulatory framework</p>
<p>If no, please elaborate:</p>	<p>n/a</p>
<p>24. Besides questions and clarifications, can the</p>	<p>Yes</p>

procuring authority conduct pre-bidding conference?	
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	Section 29 of the Guideline for PPP Projects provides, "29.1. A Pre-Application Meeting, Pre-Proposal Meeting or a Pre-Bid Meeting (as applicable) shall be held for Registered Entities or Shortlisted Bidders (as the case may be) at the designated date, time and place as mentioned in the RFQ, RFP or IFB document. Only the Registered Entities or Shortlisted Bidders (as the case may be) shall be allowed to participate in the Pre-Application Meeting, Pre-Proposal Meeting or Pre-Bid Meeting."
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?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Section 29.3 of the Guideline for PPP Projects provides, "The Contracting Authority may also issue, if it deems appropriate, minutes of the Pre-Application Meeting, Pre-Proposal Meeting or Pre-Bid Meeting. These minutes may include the text of the questions raised and the responses given, together with any responses prepared after the meetings and shall be uploaded to the Data Room for information purposes only. Such minutes, questions, and responses shall not constitute an addition or revision to the RFQ, RFP or IFB. Any addition or revision to the RFQ, RFP or IFB that may become necessary as a result of the Pre-Application Meeting, Pre-Proposal Meeting or Pre-Bid Meeting will be made by the Contracting Authority exclusively through the issue of an Addendum or a Corrigendum and not through the minutes of the meeting."
24.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	Yes
If yes, please specify:	State agencies are obliged to follow the regulatory framework
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):	Section 21.2 (d) of the Guidelines for PPP Projects, provides, "During the RFP Stage, subject to the qualification criteria, the Shortlisted Bidders may be invited to submit their Technical Proposals and Financial Proposals in two separate, sealed envelopes enclosed together in an outer single envelope. Initially only the Technical Proposals shall be opened and evaluated in accordance with the RFP on the basis of the pre-determined selection criteria stipulated in the RFP. Thereafter, the Financial Proposals of only those

	Shortlisted Bidders who are compliant and who conformed to the specified requirements under the technical evaluation shall be opened and evaluated in accordance with the criteria stipulated in the RFP in order to select the Preferred Bidder.”
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):	<p>Section 38 of Guidelines for PPP Projects provides, the Evaluation Committee members shall on their own responsibility, following the provisions of the PPP Act and/or any policies, rules, regulations, guidance, guidelines or notifications made there under and the terms and conditions of the RFQ, RFP or IFB (as applicable) shall examine and evaluate the Applications, Proposals or Bids (as applicable).</p> <p>Section 22.2 of Guidelines for PPP Projects provides, the shortlisting process may include a single test or multiple tests. The shortlisting process will be carried out based on the criteria as stipulated in the RFQ document.</p> <p>Section 23.1 of Guidelines for PPP Projects provides, The evaluation method may either include the Quality and Cost Based Selection (“QCBS”) method or the Cost Based Selection (“CBS”) method. The Contracting Authority shall determine and thereafter seek concurrence of the PPP Authority on the appropriate evaluation method, on the criteria and the weighting (where relevant), and this shall be clearly stipulated in the RFP or IFB document.</p>
Evaluation criteria is not set in the tender documents	No
27. In the case where only one proposal is submitted (sole proposals), which of the following options best describes the way the procuring authority deals with them? (Please select only one)?: The procuring authority follows a specific procedure before awarding a PPP contract where only one proposal is submitted.	Yes
Please specify and provide the relevant legal/regulatory provisions (if any):	<p>Section 27 of the Guidelines for PPP Projects under “Treatment of a Single Application, Proposal or Bid” provides,</p> <p>“27.1 IFB: In the event that only one Bid is received in response to the IFB, the bidding process shall continue.</p> <p>27.2 RFQ: In the event that only one Application is received in response to the RFQ or if there is only one Applicant who has been pre-qualified at the end of the RFQ Stage, the bidding process shall be cancelled. The Contracting Authority may re-launch the RFQ process, modifying the RFQ as required, after taking into account any feedback received from the interested private parties, transaction advisers, consultants and/or any directions from the PPP Authority</p>

	<p>on the cancelled RFQ process. Alternatively, the Contracting Authority may opt for a single-stage bidding process and issue an IFB.</p> <p>27.3 RFP: If only one Proposal is received in response to the RFP, the bidding process shall continue, provided that the Shortlisted Bidder is compliant and technically responsive and the amount quoted in its Financial Proposal is close to the estimated figures set out in the approved feasibility study subject to any subsequent amendments thereof or in any other studies carried out in this regard with the concurrence of the PPP Authority.”</p>
The procuring authority considers sole proposals valid as long as they meet the conditions outlined in the tender documents.	No
Please provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority does not award a PPP contract if only one proposal is submitted.	No
Please provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework does not include any provisions.	No
28. Does the procuring authority publish the award notice?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	No regulatory basis
28.1. If yes, is the public procurement award notice published online?	Yes
If yes, please specify the website:	www.pppo.gov.bd
29. Does the procuring authority provide all the bidders with the result of the PPP procurement process?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
If no, please elaborate:	PPP Act 2015, Sec. 34. (1), provides that unless otherwise provided in the PPP Act 2015 or the Right to Information Act, 009, the pre-qualification, tender and negotiation process and approval of all relevant documents, information, documents shall remain private.

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?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
30. Is there a standstill (or pause) period after the contract award and before the signing of the contract in order to allow unsuccessful bidders to challenge the award decision?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and the time in calendar days:	n/a
30.1. Is the standstill period set out in the notice of intention to award?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
31. Does the regulatory framework restrict negotiations with the selected bidder between the award and the signature of the PPP contract in order to prevent an unfair disadvantage to the other bidders?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
31.1. Based on your experience, is it always the case that this restriction is respected in practice?	n/a
If yes, please specify:	n/a
If no, please elaborate:	n/a
32. Does the procuring authority publish the PPP contract?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
32.1. If yes, which of the following options best	n/a

describes this publication (choose only one)?: Publication of the full PPP contract including all its annexes and appendixes	
Publication of the full PPP contract without including all its annexes and appendixes	n/a
Publication of a summary of the PPP contract without publishing the full PPP contract	n/a
Publication of a summary of the PPP contract along with the full PPP contract including all its annexes and appendixes	n/a
Publication of a summary of the PPP contract along with the full PPP contract without including all its annexes and appendixes	n/a
32.2. If yes, is it published online?	n/a
If yes, please specify the website:	n/a
32.3. If yes, does the procuring authority also publish any subsequent amendment made to the PPP contract?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
PPP Contract Management	
41. Has the procuring or contract management 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):	Section 18(3) of PPP Act 2015 provides that the Procuring Authority must furnish reports related to the development and implementation of a PPP Project to the PPP Authority established in accordance with the Act in such a manner and time as may be prescribed.
41.1. If yes, which of the following tools does it include (check all that apply)?:	Yes

Establishment of a PPP contract management team	
Relevant legal/regulatory provisions (if any):	Section 12.1 of the Guideline for PPP Projects provides, “Upon receipt of the In-Principle Approval from the CCEA, the PPP Authority shall communicate with the Contracting Authority to form a Project Delivery Team led by a Project Director to ensure smooth development and delivery of the PPP Project.”
Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa	No
Relevant legal/regulatory provisions (if any):	n/a
Elaboration of a PPP implementation manual or an equivalent document	No
Relevant legal/regulatory provisions (if any):	n/a
Establishment of personnel training programs (i.e. initial training and continued training throughout the course of the project)	No
Relevant legal/regulatory provisions (if any):	n/a
Establishment of a risk mitigation mechanism which considers the evolving nature of risks throughout the project lifecycle (guidelines, specific processes, insurance regime, etc.)	No
Relevant legal/regulatory provisions (if any):	n/a
41.2. Which of the following options best describes the required qualifications of the PPP contract management team members? (Please select only one): The membership of the PPP contract management team is specified and/or its members are required to meet detailed qualifications.	No
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a

<p>The PPP contract management team members are required to meet sufficient qualification without specific details.</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Section 12 of the Guideline for PPP Projects provides, 12.2 The Project Director should be appointed by the Contracting Authority subject to the PPP Authority’s concurrence or any guidance issued in this regard. 12.3 The Contracting Authority shall ensure that there is a succession plan in place to appoint a new Project Delivery Team member so that no interruption is caused to the procurement process in the event that there is any change in the Project Delivery Team. 12.4 The PPP Authority shall nominate a representative from the PPP Authority who will coordinate activities with the Project Delivery Team and liaise with the transaction adviser(s), consultant(s), Contracting Authority and/or other stakeholders.</p>
<p>The PPP contract management team members are not required to meet any specific qualifications.</p>	<p>No</p>
<p>Please elaborate and provide examples:</p>	<p>n/a</p>
<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>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Section 18(2) of PPP Act 2015 provides that the contracting authority may delegate its responsibilities to any individual or organization to ensure effective execution of PPP Project. Section 18(3) of the PPP Act 2015 requires that the contracting authority shall submit reports to the PPP Authority on the progress and activities of projects, in such manner and interval as may be prescribed. Moreover, Section 12 of the Guideline for PPP Projects provides, 12.5. The responsibilities of the Project Director shall include Project development, administration, management, coordination, execution, monitoring and reporting on the progress. Further, the Project Director shall ensure that the feasibility study is completed within the timescales as set out in the agreement with the transaction adviser(s) and/or consultant(s) or as may be agreed with the PPP Authority. 12.6 The Project Delivery Team shall oversee progress and development of the feasibility study and shall ensure that the agreed timelines are met. The Project Delivery Team shall work closely with the transaction adviser(s) and/or consultant(s) and shall implement any recommendation received from the PPP Authority. 12.7 The Project Delivery Team shall brief the PPP Authority on a fortnightly basis or on any time scale as may be instructed by the PPP Authority regarding</p>

	<p>the progress and/or any new findings in relation to the PPP Project.</p> <p>12.8 The PPP Authority, the Applicable Line Ministry or other Government stakeholders may, at any time, convene a meeting with the Project Delivery Team or the Contracting Authority to expedite the delivery of the PPP Project.</p>
42.1. If yes, is the PPP contract construction performance information made available to the public?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
42.2. If yes, is the PPP contract construction performance information made publicly available online?	No
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):	Section 9 (t) of the PPP Act 2015 provides for the power of the PPP authority to review and monitor the PPP project, although the PPP Act 2015 does not explicitly provide for the establishment of a monitoring and evaluation system.
43.1. If yes, which of the following tools does it include (check all that apply)?: Performance is assessed against evaluation criteria set in the tender documents and the PPP contract	No
Relevant legal/regulatory provisions (if any)	n/a
The procuring or contract management authority can abate (reduce) payments for non-performance of operating obligations under the PPP contract	No
Relevant legal/regulatory provisions (if any)	n/a
The private partner must provide the procuring or contract management authority with periodic operational and financial data	Yes

Relevant legal/regulatory provisions (if any)	No regulatory basis
The procuring or contract management authority must periodically gather information on the performance of the PPP contract	Yes
Relevant legal/regulatory provisions (if any)	According to PPP Act 2015, Section 18 on Powers and Functions of Contractor, there must be a project progress report.
The PPP contract performance information must be available to the public	No
Relevant legal/regulatory provisions (if any)	n/a
43.2. Is PPP contract performance information made publicly available online?	No
If yes, please specify the website:	n/a
44. Are foreign companies prohibited from repatriating the income resulting from the operation of a PPP project?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
45. Does the regulatory framework (including standard contractual clauses) expressly regulate changes in the ownership structure (i.e. stakeholder composition) of the private partner and/or assignment of the PPP contract?	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
45.1. If yes, which of the following circumstances are specifically regulated? (check all that apply): Any change in the private partner during an initial period (e.g. construction and first five years of operation).	n/a

<p>If yes, please provide the relevant legal/regulatory/standard 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>n/a</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>n/a</p>
<p>In other cases, flexibility to change the ownership structure and/or assign the contract.</p>	<p>n/a</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>n/a</p>
<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>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>PPP Act 2015, Section 12 allows the Contracting Authority to seek guidance and assistance from the PPP Authority for... (c) Negotiation procedures and... (e) Amendment of the Partnership Contract after its signing. Section 12(e) of the PPP Act 2015 provides that a proposal may be made to the PPP authority for their assistance in making amendments to an implemented PPP contract. No elaboration was further provided on the circumstances.</p>
<p>46.1. If yes, is an approval from a government authority, other than the procuring authority, required?</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>n/a</p>
<p>46.2. If yes to question 46, which of the following circumstances are specifically</p>	<p>No</p>

regulated? (check all that apply): -A change in the scope and/or object of the contract.	
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the risk allocation of the contract.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the financial and/or economic balance of the contract.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the duration of the contract.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the agreed price or tariff.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
46.3. Can the procuring authority unilaterally modify a PPP contract?	No
If yes, please provide the relevant legal/regulatory/standard 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	Yes

the PPP contract? (check all that apply): Force Majeure	
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	According to the PPP Act 2015, Section 26, the contractor shall prepare a partnership agreement which may contain the legal relationship between the authorities and the private partner, risk distribution, and their rights and responsibilities shall be determined by the terms of the partnership agreement. Moreover, Sec. 26 provides that the PPP contract may contain provisions relating to natural disaster immediate action and interests of safety.
Material Adverse government action .	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Change in the Law.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Refinancing.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Subcontracting and replacement of the subcontractors.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
48. Does the regulatory framework (including standard contractual clauses) allow for administrative and/or contractual complaint review mechanisms to address disputes arising from the implementation of PPP contracts?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	Section 30(1) of the PPP Act 2015 provides that disputes arising from application or interpretation of the provision of the PPP agreement shall be settled by the parties under the PPP agreement as follows: (a) through mutual consent of the parties; or (b) if the dispute is not settled through clause, resort would be made to an independent mediator; or through arbitration.

	Sub-section (2) further states that disputes may only be settled through the prescribed method in sub-section (1) irrespective of other Acts or enactments, by the means of national or international arbitration rules and the seat of arbitration shall be in Dhaka; however, in special circumstances through consent, the seat may be in other countries. Sub-section (3) states that redress from national or international courts cannot be sought before invoking the dispute resolution process under sub-section (1) as it takes precedence over any Acts or Enactments.
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>Section 30 of the PPP Act allows multiple options of complaint mechanisms, albeit, a specific order must be followed. Section 30(1) of the PPP Act 2015 provides that disputes arising from application or interpretation of the provision of the PPP agreement shall be settled by the parties under the PPP agreement as follows:</p> <p>(a) through mutual consent of the parties; or</p> <p>(b) if the dispute is not settled through clause, resort would be made to an independent mediator; or through arbitration.</p> <p>Sub-section (2) further states that disputes may only be settled through the prescribed method in sub-section (1) irrespective of other Acts or enactments, by the means of national or international arbitration rules and the seat of arbitration shall be in Dhaka; however, in special circumstances through consent, the seat may be in other countries. Sub-section (3) states that redress from national or international courts cannot be sought before invoking the dispute resolution process under sub-section (1) as it takes precedence over any Acts or Enactments.</p>
48.2. If applicable, are arbitration awards enforceable by the local courts?: Domestic Arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	After stating the different available complaint mechanism options, of which is arbitration, Section 30(4) of the PPP Act provides that the decision taken under an arbitration arrangement pursuant to this section shall be final. Contributors provide that thus arbitration awards are enforced, given they are considered final awards.
International arbitration	Yes
If yes, please provide the relevant legal/ regulatory	As previously mentioned, Section 30(4) of the PPP Act provides that the decision taken under an arbitration arrangement pursuant to this section shall

provisions/standard contractual provisions (if any):	be final, and that final arbitration awards are enforceable as such. Moreover, Bangladesh acceded to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, New York, 10 June 1958 (New York Convention) on May 6, 1992, which allows for enforcement of “foreign” awards amongst contracting states.
Investor-State arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	As previously mentioned, Section 30(4) of the PPP Act provides that the decision taken under an arbitration arrangement pursuant to this section shall be final, and that final arbitration awards are enforceable as such. Moreover, Bangladesh acceded to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, New York, 10 June 1958 (New York Convention) on May 6, 1992, which allows for enforcement of “foreign” awards amongst contracting states. Additionally, Bangladesh is a contracting state to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID Convention or Washington Convention) on March 27, 1980
49. Does the regulatory framework (including standard contractual clauses) allow for the restructuring of a PPP private partner (SPV) in financial difficulty prior to insolvency?	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
50. Does the regulatory framework (including standard contractual clauses) allow for the lenders to take control of the PPP project (lender step-in rights) if either the private partner defaults or if the PPP contract is under threat of termination for failure to meet service obligations?	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
50.1. If yes, which of the following options best describes the lender step-in right? (Please select only one): The regulatory framework expressly	n/a

regulates the lender step-in rights.	
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
The regulatory framework prescribes that a direct agreement should be signed with the lenders.	n/a
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.	n/a
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Other.	n/a
Please Specify:	n/a
51. Does the regulatory framework (including standard contractual clauses) expressly establish the grounds for termination of a PPP contract?	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
51.1. If yes, does the regulatory framework (including standard contractual clauses) establish the consequences for the termination of the PPP contract?	n/a
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Unsolicited Proposals	

34. Are unsolicited proposals in Bangladesh : (choose only one): Explicitly prohibited by the legal framework? (If prohibited, skip to section F)	No
Explicitly allowed by the legal framework?	Yes
Not regulated by the legal framework, but do happen in practice?	No
Not regulated by the legal framework, and do not happen in practice? (if not done in practice, skip to section F)	No
If the legal framework explicitly prohibits or allows unsolicited proposals, please provide the relevant legal/regulatory provisions	Section 20 of the PPP Act 2015 provides that any private establishment may, in accordance with the procedure prescribed by the board of governors of the PPP Authority, provide an unsolicited proposal for a PPP project. Guidelines are likewise contained in the Guideline for Unsolicited Proposals, which defines unsolicited proposals as, “a written proposal for the implementation of a PPP Project submitted unilaterally by an Original Proponent on its own initiative and not in response to any Formal Government Request.”
35. Does the procuring authority conduct an assessment to evaluate unsolicited proposals? (if not, skip to question 37)	Yes
If yes, please specify and provide the relevant legal/regulatory provisions (if any)	PPP Act 2015, Unsolicited Offer (Unsolicited Proposal) Section 20 (2), provides that unsolicited proposals shall be evaluated. Section 5 of the Guideline for Unsolicited Proposals provides, (a) The Applicable Line Ministry shall formally submit the endorsed Concept Note and the PPP Project Proposal to the PPP Authority for processing of the same. (b) On receipt of the formal submission from the Applicable Line Ministry, the PPP Authority shall at first subject the Concept Note and the PPP Project Proposal to a screening process to assess whether the proposed PPP Project is suitable to be submitted to the Approving Authority to provide the In Principle Approval for delivery of this Project through a PPP arrangement.
35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Section 6 of the Guideline for Unsolicited Proposals provides, “An Unsolicited Proposal must contain sufficient information to enable the Government to carry out a proper evaluation of the scope and viability of the Unsolicited Proposal and the qualifications of the Original Proponent. To meet this requirement the Unsolicited Proposal must include the following information: (iii) A broad feasibility study covering the following:

	<ul style="list-style-type: none"> • Technical Proposal - Outline description, conceptual design and layout to clarify the purpose and intention of the proposed PPP Project and how it will be developed and operated. • Financial Proposal - (i) broad cost estimate and proposed revenue model; (ii) the estimated internal rate of return for the proposed PPP Project with key assumptions underpinning these calculations. • Implementation Plan - An indicative implementation plan, broken out by major milestones, describing how the proposed PPP Project will be delivered. • Environmental and Social Safeguards - A broad overview of the environmental and social issues that may need to be addressed.” <p>Section 7(g) of the Guideline for Unsolicited Proposals provides, If the PPP Authority assesses that the requirements of Article 6 have not been met then it may request the submission of further information, or reject the Unsolicited Proposal from further consideration and shall inform its decision in writing to the Applicable Line Ministry and the Contracting Authority. Based on the PPP Authority’s response, the Contracting Authority may request the Original Proponent for further information or may inform the Original Proponent that the Unsolicited Proposal has been rejected from further consideration. The PPP Authority may also engage in discussions with the Original Proponent in order to clarify the scope of the Unsolicited Proposal and to provide guidance on the criteria that need to be met.”</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>Yes</p>
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p>	<p>Section 4(c) of the Guideline for Unsolicited Proposals provides, “The Contracting Authority shall review the Concept Note to determine whether the proposed PPP Project meets with their sector development plans and is likely to deliver a positive socio-economic benefit.”</p>
<p>The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>

The procuring authority does not evaluate unsolicited proposals against existing government priorities.	No
Please elaborate and provide examples:	n/a
37. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Section 8 of the Guideline for Unsolicited Proposals provides,</p> <p>“(a) Following receipt of the PPP Authority’s concurrence, the Applicable Line Ministry shall submit the proposed Project to the Approving Authority for In Principle Approval. In its submission for In-Principle Approval it should also seek approval confirming the status of the Original Proponent as the Unsolicited Bidder on the basis of the Unsolicited Proposal and seek confirmation on the mode of competitive bidding that shall be applied to test the competitiveness of the Unsolicited Proposal.</p> <p>(b) The mode of competitive bidding may include a bonus system or other appropriate methods that may be proposed by the PPP Authority and approved by the Approving Authority.”</p>
38. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Sections 8-14 of the Guideline for Unsolicited Proposals provides for the bidding process to take place and additional bidders to join, however, the minimum period of time is not specified, priority is primarily given to the original proponent yet the rules for solicited proposals apply as per Section 26 of the Guideline for PPP Projects.</p>
and the time in calendar days:	56
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.	No
39.2 Developer’s fee (reimbursing the original proponent for the project development cost).	No

39.3 Bid Bonus.	Yes
39.4 Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).	Yes
39.5 Other.	Yes
Please specify:	Other appropriate methods that may be proposed by the PPP Office and approved by the CCEA.
Please provide the relevant legal/regulatory provisions (if any):	<p>Sections 17 of the Guideline for Unsolicited Proposals provides, “Application of the Bonus System</p> <p>(a) Subject to the provision set out below, under the bonus system, the Evaluation Committee shall evaluate all the Proposals or Bids (as applicable) received in line with the provisions set out under the PPP Act and the RFP or IFB document, as applicable.</p> <p>(b) When aggregating the evaluation score for the Proposal or Bid submitted by the Unsolicited Bidder, the Evaluation Committee shall include a bonus for the Unsolicited Bidder in order to enhance the evaluation score of the Unsolicited Bidder. The bonus for the Unsolicited Bidder shall be equivalent to 7% of the evaluation score assessed by the Evaluation Committee for the Proposal or Bid submitted by the Unsolicited Bidder.</p> <p>(c) After taking into account the benefit of the bonus attributed to the Unsolicited Bidder, the Shortlisted Bidder or Bidder (as applicable) with the highest evaluated score will be recommended by the Evaluation Committee for selection as the Preferred Bidder.”</p>