



PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN BELGIUM

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>The following analysis will be based on the federal regulations, which do not regulate PPPs specifically. Consequently, public procurement and concessions regulations apply; and are as follows:</p> <ul style="list-style-type: none"> - Law related to concession contracts of June 17, 2016, C – 2016/21052 - Law related to public procurement contracts of June 17, 2016, C – 2016/21053 - Royal regulation related to procurement of public procurement contracts in classic sectors of April 16, 2017, C – 2017/20322
and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:	http://www.publicprocurement.be/fr/marches-publics/reglementation/lois
2.1. Are you aware of any reforms (in the regulatory frameworks – laws, regulations, policies, etc.- or in generally followed practices) related to PPPs that: Took place in 2016, are ongoing and/or are planned to be adopted BEFORE June 1, 2017?	Yes
Please describe:	Law related to concession contracts of June 17, 2016, C – 2016/21052; Law related to public procurement contracts of June 17, 2016, C – 2016/21053; Royal regulation related to procurement of public procurement contracts in classic sectors of April 16, 2017, C – 2017/20322
2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?	Yes
Please describe:	Law of July 31, 2017 on financial and tax provisions and on measures for concession contracts, C – 2017/40487. Royal regulation of June 25, 2017 on procurement and implementation of concession contracts.
3.1 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the	No

following sectors?: Transportation.	
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	Yes
If yes, please provide the relevant legal/regulatory provisions:	Article 7 of Concession Law relates to specific exclusions in water.
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	Yes
If yes, please provide the relevant legal/regulatory provisions:	Article 8 of the Concession Law refers to specific exclusions in the electronic communications.
3.5 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Other	No
If yes, specify and provide the relevant legal/regulatory provisions:	n/a
4. Does the regulatory framework provide for a specific tax regime for PPP transactions (i.e. tax incentives, special tax depreciation treatment, etc.)?	No
If yes, please specify and provide the relevant	n/a

legal/regulatory provision (if any):	
5. Please identify the PPP procuring authorities in Belgium and provide their website(s) (if available):	<p>Pursuant to article 2 of the Concession Law, procuring authorities are the State; regions, communities and local authorities; and institutions of public Law and public persons.</p> <p>This includes: Vlaamse Vervoermaatschappij De Lijn (https://www.delijn.be/en/overdelijn/organisatie/?vertaling=true); Regie der Gebouwen (http://www.regiedergebouwen.be/); Flemish Region (www.vlaanderen.be); Walloon Region (www.wallonie.be); Brussels Capital Region (be.brussels/brussel); Cities and municipalities such as the City of Antwerp (www.antwerpen.be).</p>
6. In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?	No
If yes, please indicate its name, and its website (if available):	n/a
6.1 If yes, what are the main responsibilities of the PPP Unit (check all that apply): PPP regulation and policy guidance.	n/a
6.2 PPP capacity building for other public authorities.	n/a
6.3 PPP promotion among the public and/or private sectors in national and international forums.	n/a
6.4 Technical support in implementing PPP projects.	n/a
6.5 Identification and selection of PPP projects from the pipeline.	n/a
6.6 Revision of fiscal risks born by the Government.	n/a
6.7 Consultation with affected communities on potential impact of PPP projects.	n/a
6.8 Approval of PPP projects.	n/a
6.9 Undertaking the procurement of PPPs.	n/a
6.10 Oversight of PPP implementation.	n/a
6.11 Other	n/a
6.11 please specify:	n/a
Please provide the relevant legal/regulatory provisions:	n/a

PPP Preparation	
8. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
8.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before signing the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
8.2. Does the Ministry of Finance (or government more broadly) have a specific system of: Budgeting for PPP projects.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Accounting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	ESA 2010
Reporting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	ESA 2010
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).	Yes
Please specify:	ESA 2010
Other.	No

Please specify:	n/a
9. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before launching the procurement process (e.g. Cabinet, Cabinet Committee, Parliament, Supreme Audit Office, etc.)?	Yes
If yes, please specify the relevant authority	Council of Ministries
and provide the relevant legal/regulatory provisions (if any):	No regulatory basis
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):	No regulatory basis
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):	No regulatory basis
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	No

ensure the consistency of PPPs with other public investment priorities.	
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework prescribes the need for PPPs to be consistent with all other investment priorities without establishing a specific procedure to achieve that goal.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework does not include any provisions but the procuring authority evaluates the consistency of PPPs with other government investment priorities in practice.	Yes
If yes, please elaborate:	Prioritization of PPP projects within public investment projects is done in practice
The procuring authority does not evaluate PPPs against existing government priorities.	No
Please elaborate and provide examples:	n/a
11.1. Based on your experience, is it always the case that this prioritization is done in practice in accordance with the provisions of the regulatory framework described above?	Yes
If yes, please specify:	If the impact of a project on the need for financing (established in SEC 2010) is not on the planned financial trajectory, the government will not approve it.
If no, please elaborate:	n/a
12.1 Which of the following assessments are conducted when identifying and preparing a PPP in order to inform the decision to proceed with it? (check all that apply): Socio-economic analysis (cost-benefit analysis of the socio-economic impact of the PPP project)	Yes

Relevant legal/regulatory provision (if any)	No regulatory basis
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	Socio economic impacts are assessed
12.2. Affordability assessment, including the identification of the required long term public commitments (explicit and implicit, direct and contingent liabilities)	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	Affordability assessment is made based on ESA 2010
12.3. Risk identification, allocation and assessment (risk matrix)	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology for the assessment?	n/a
If yes, please elaborate	n/a
Is the assessment done in practice?	n/a
Details:	n/a
12.4. Comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives (i.e. value for money analysis, public sector comparator)	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology for the assessment?	n/a

If yes, please elaborate	n/a
Is the assessment done in practice?	n/a
Details:	n/a
12.5. Financial viability or bankability assessment	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology for the assessment?	n/a
If yes, please elaborate	n/a
Is the assessment done in practice?	n/a
Details:	n/a
12.6. Market sounding and/or assessment (showing evidence of investors' interest in the market for the project)	Yes
Relevant legal/regulatory provision (if any)	Article 39 of the Concession Law provides for the possibility of consulting independent experts, public or private institutions and actors on the market before launching a procurement process.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No
Details:	Concession Law provides for the possibility of consultation, which does not seem to be used at the moment.
12.7. Environmental impact assessment	Yes
Relevant legal/regulatory provision (if any)	The environment is a regional competence, consequently there are no federal regulations. However, the Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment is applied by the different regions (For example, the Code of Brussels of the territory management).
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	The environment is a regional competence, consequently there are no federal regulations. However, the Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment is applied by the different regions (For example, the Code of Brussels of the territory management).
Is the assessment done in practice?	Yes
Details:	Environmental impact assessment is made in practice

12.8. Consultation process with affected communities on potential impact of the PPP project	Yes
Relevant legal/regulatory provision (if any)	The environment is a regional competence, consequently there are no federal regulations. However, the Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment is applied by the different regions (For example, the Code of Brussels of the territory management). Within an environmental assessment are including consultations of potentially affected populations.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	Consultation process is included in the Environmental impact assessment, which is done 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 Information Memorandum to the bidders)?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and specify which of the assessments are included in the request for proposals and/or tender documents:	n/a
13.1. Are the assessments published online?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
specify the website	n/a
please specify which of the assessments are published online:	n/a
14. Does the procuring authority include a draft PPP contract in the request for proposals?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a

If no, please elaborate	There are no regulatory provisions pertaining to inclusion of a draft PPP in the request for proposals.
14.1. Are the tender documents published online?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to article 45 of the concession Law, procuring authorities offer through electronical means free, restriction less, direct and complete access to the concession documents from the publication of a concession notice. The concession notice indicates the internet address on which the documents are accessible.
and please specify the website:	https://my.publicprocurement.be/ and Official EU publication journal
15. In a case comparable to the case study assumptions, have standardized PPP model contracts and/or transaction documents been developed?	Yes
If yes, please specify and provide a government-supported website where the mentioned standards are available or provide an electronic copy of them:	Standard contract has been developed but is not publicly available. In practice, the different government units prefer to use their own internal standard.
16.1 In a case comparable to the case study assumptions, who is the responsible party for each of the following requirements? Obtaining the required urban permits: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
16.2. Obtaining the required environmental permits: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes

Relevant legal/regulatory provision (if any)	No regulatory basis
16.3. Obtaining the required operational permits: Procuring authority (or other Government entity)	No
Private Partner	Yes
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
16.4. Obtaining the required land: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
16.5. Obtaining the required right of way: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
PPP Procurement	
18. Which of the following options best describes the required qualifications of the bid evaluation committee members? (Please select only one): The membership of the bid evaluation committee is specified and/or its members are required to meet detailed qualifications.	No

If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The bid evaluation committee members require sufficient qualification without specific details.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The bid evaluation committee members are not required to have any specific qualifications.	Yes
Please elaborate and provide examples:	Members of the bidding committee are usually chosen within the procuring authorities and external experts.
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):	Pursuant to article 42 of the Concession Law, a concession notice is published.
19.1. If yes, is the public procurement notice published online?	Yes
If yes, please specify the website:	https://enot.publicprocurement.be/ http://ted.europa.eu/TED/main/HomePage.do
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):	Article 47 of concession Law: The minimal deadline of reception of the demands of participation, accompanied or not by offers, is of at least thirty days from the date of sending in the notice of concession. Article 36 of the public procurement Law indicates a minimum of 35 days for open tendering.
and the time in calendar days:	35
22.1. In a case comparable to the case study assumptions, which are the procurement	Yes

procedures available and/or set as default for PPP projects? Open tendering: Available	
Default	No
Relevant legal/regulatory provision (if any)	Pursuant to article 35 of the public procurement Law, are available: open tendering; restricted tendering; competition with negotiation according to article 38; competitive dialogue; innovation partnership; direct negotiated procedure with publicity according to article 41. Article 36 provides details on open tendering.
22.2. Restricted tendering (with pre-qualification stage): Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	Pursuant to article 35 of the public procurement Law, are available: open tendering; restricted tendering; competitive procedure with negotiation according to article 38; competitive dialogue; innovation partnership; direct negotiated procedure with publicity according to article 41. Article 37 provides details on restricted tendering.
22.3 Multi-stage tendering (with shortlisting of final candidate(s)): Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.4. Competitive dialogue: Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	Pursuant to article 35 of the public procurement Law, are available: open tendering; restricted tendering; competitive procedure with negotiation; competitive dialogue; innovation partnership; direct negotiated procedure with publicity. Article 39 provides details on competitive dialogue.
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:	Innovation partnership
Available	Yes
Default	No

Relevant legal/regulatory provision (if any)	Pursuant to article 35 of the public procurement Law, are available: open tendering; restricted tendering; competitive procedure with negotiation according to article 38; competitive dialogue; innovation partnership; direct negotiated procedure with publicity according to article 41. Article 40 provides details on innovation partnership.
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):	Pursuant to article 64 of the public procurement Law, the procuring authority grants complete and direct access, without restrictions to the tender documents from the publication of tender notice. The general rule is that all bidders are treated equal by the procuring authority. This follows from the following legal provisions. 1) The Constitution, more specifically articles 10 and 11. 2) The general principles of proper administration (“Algemene Beginselen van Behoorlijk Bestuur”). 3) The Belgian Act on Public Procurement (article 4).
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):	Annex 4 of the public procurement royal regulation refers to the content of a procurement notice, and includes selection criteria. More specifically, item 11.c. provides for a list and short description of the selection criteria and criteria related to the personal situation of the economic operators which could lead to their exclusion; minimal levels of norms; required information.
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):	Prequalified bidders are selected based on the criteria established by the procuring authority and included in the tender documents.
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):	Pursuant to article 45 of the concession Law, procuring authorities or competent services provide to all participating candidates the additional

	information on tender documents, provided the request has been made on time.
23.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose those questions and clarifications to all potential bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to article 45 of the concession Law, procuring authorities or competent services provide to all participating candidates the additional information on tender documents, provided the request has been made on time.
23.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	Yes
If yes, please specify:	A platform is created for the private partners to raise questions. If further to the Q&A and input from the private partners, amendments to the tender documents or the PPP contract are required, this is done by means of addenda to the tender documents or the PPP contract
If no, please elaborate:	n/a
24. Besides questions and clarifications, can the procuring authority conduct pre-bidding conference?	Yes
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	No regulatory basis
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):	No regulatory basis
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:	When pre bidding conferences are organized, results are disclosed to all bidders.
If no, please elaborate:	n/a
25. In a case comparable to the case study assumptions,	Yes

does the procuring authority require the bidders to prepare and present a financial model with their proposals?	
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
If no, please elaborate:	n/a
26. Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to article 46 of the concession Law, concessions are awarded based on the criteria established by the procuring authority.
Evaluation criteria is not set in the tender documents	No
27. In the case where only one proposal is submitted (sole proposals), which of the following options best describes the way the procuring authority deals with them? (Please select only one?): The procuring authority follows a specific procedure before awarding a PPP contract where only one proposal is submitted.	No
Please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority considers sole proposals valid as long as they meet the conditions outlined in the tender documents.	Yes
Please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
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):	Pursuant to article 44 of the concession Law, at most 48 days after entering into the concession, procuring authorities send for publication an award notice of the concession related to results of the procedure.
28.1. If yes, is the public procurement award notice published online?	Yes
If yes, please specify the website:	https://eten.publicprocurement.be/ ; http://ted.europa.eu
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):	Pursuant to article 8 of Act of 17 June 2013 on the motivation, information and legal remedies in relation to public procurement, as soon as it has taken the award decision, the procuring authority communicates to non selected candidates the motives for its non selection.
If no, please elaborate:	n/a
29.1. If yes, does the notification of the result of the PPP procurement process include the grounds for the selection of the winning bid?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to article 8 of Law 2013-06-17, as soon as it has taken the award decision, the procuring authority communicates to non selected candidates the motives for its non selection.
30. Is there a standstill (or pause) period after the contract award and before the signing of the contract in order to allow unsuccessful bidders to challenge the award decision?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 11 of Act of 17 June 2013 on the motivation, information and legal remedies in relation to public procurement indicates signature of the contract cannot occur earlier than 15 days after the award notice.
and the time in calendar days:	15
30.1. Is the standstill period set out in the notice of intention to award?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to standard European documents

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?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Article 43 of the Concession law: It treats the economic operators whom it invites to hand offer and, where necessary, to negotiate, in the respect for the principle of equal treatment. The contracting authority or the public enterprise can negotiate. Within the framework of these negotiations, the object of the concession, Possible selection criteria and the criteria of attribution are not modified. Exceptionally, the possibly fixed minimal requirements can be modified during the negotiation, in the respect for the principles of equal treatment and for transparency</p>
31.1. Based on your experience, is it always the case that this restriction is respected in practice?	<p>Yes</p>
If yes, please specify:	<p>If the outcome of the negotiations provides a discriminatory advantage to the preferred bidder competitors who are aware may challenge this in court.</p>
If no, please elaborate:	<p>n/a</p>
32. Does the procuring authority publish the PPP contract?	<p>No</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>n/a</p>
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	<p>n/a</p>
Publication of the full PPP contract without including all its annexes and appendixes	<p>n/a</p>
Publication of a summary of the PPP contract without publishing the full PPP contract	<p>n/a</p>
Publication of a summary of the PPP contract along with the full PPP contract including all its annexes and appendixes	<p>n/a</p>
Publication of a summary of the PPP contract along with	<p>n/a</p>

the full PPP contract without including all its annexes and appendixes	
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)?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
41.1. If yes, which of the following tools does it include (check all that apply)? Establishment of a PPP contract management team	n/a
Relevant legal/regulatory provisions (if any):	n/a
Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa	n/a
Relevant legal/regulatory provisions (if any):	n/a
Elaboration of a PPP implementation manual or an equivalent document	n/a
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)	n/a

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.)	n/a
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
Please elaborate and provide examples:	n/a
42. Does the procuring or contract management authority establish a system for tracking progress and completion of construction works under a PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Regulation of January 14 2013 provides for the procuring authority receiving the works. Section 6 refers to control and monitoring of the contract; article 40 to modes of reception of the works, article 41 to prior technical reception, article 42 to technical reception afterwards.
42.1. If yes, is the PPP contract construction	No

performance information made available to the public?	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
42.2. If yes, is the PPP contract construction performance information made publicly available online?	n/a
If yes, please specify the website:	n/a
43. Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract implementation after construction?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Regulation of January 14 2013 indicates in its article 39 that the procuring authority can monitor or have monitored the preparation or realization of the works/services with any appropriate mean. The private partner shall provide all necessary information to accomplish that mission.
43.1. If yes, which of the following tools does it include (check all that apply)?: Performance is assessed against evaluation criteria set in the tender documents and the PPP contract	Yes
Relevant legal/regulatory provisions (if any)	No regulatory basis
The procuring or contract management authority can abate (reduce) payments for non-performance of operating obligations under the PPP contract	Yes
Relevant legal/regulatory provisions (if any)	No regulatory basis
The private partner must provide the procuring or contract management authority with periodic operational and financial data	Yes
Relevant legal/regulatory provisions (if any)	No regulatory basis
The procuring or contract management authority must periodically gather information on the	Yes

performance of the PPP contract	
Relevant legal/regulatory provisions (if any)	No regulatory basis
The PPP contract performance information must be available to the public	No
Relevant legal/regulatory provisions (if any)	n/a
43.2. Is PPP contract performance information made publicly available online?	No
If yes, please specify the website:	n/a
44. Are foreign companies prohibited from repatriating the income resulting from the operation of a PPP project?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
45. Does the regulatory framework (including standard contractual clauses) expressly regulate changes in the ownership structure (i.e. stakeholder composition) of the private partner and/or assignment of the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 38/3 of law January 14 2013 authorizes a change of private partner only when provided for in the contract, or in case of restructuring of the company, provided that it does not affect any other substantial modification of the contract.
45.1. If yes, which of the following circumstances are specifically regulated? (check all that apply): Any change in the private partner during an initial period (e.g. construction and first five years of operation).	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a

<p>Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>Article 43 of the 2014/23/EU Directive on Concession contracts : d) where a new concessionaire replaces the one to which the contracting authority or the contracting entity had initially awarded the concession as a consequence of either:</p> <p>(i) an unequivocal review clause or option in conformity with point (a);</p> <p>(ii) universal or partial succession into the position of the initial concessionaire, following corporate restructuring, including takeover, merger, acquisition or insolvency, of another economic operator that fulfils the criteria for qualitative selection initially established provided that this does not entail other substantial modifications to the contract and is not aimed at circumventing the application of this Directive; or</p> <p>(iii) in the event that the contracting authority or contracting entity itself assumes the main concessionaire’s obligations towards its subcontractors where this possibility is provided for under national legislation.</p>
<p>In other cases, flexibility to change the ownership structure and/or assign the contract.</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. 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>Pursuant to article 37 of regulation of January 14 2013, modification is only possible in the cases described in the Law. Those are additional works or services; unforeseeable events; non substantial modifications; some price revisions; changes in taxes; unforeseeable circumstances for the procuring authority; acts of either party.</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>

46.2. If yes to question 46, which of the following circumstances are specifically regulated? (check all that apply): A change in the scope and/or object of the contract.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 43 of the 2014/23/EU Directive on Concession contracts
A change in the risk allocation of the contract.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	No regulatory basis
A change in the financial and/or economic balance of the contract.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 43 of the 2014/23/EU Directive on Concession contracts
A change in the duration of the contract.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	No regulatory basis
A change in the agreed price or tariff.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 43 of the 2014/23/EU Directive on Concession contracts
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	Yes

following circumstances that may occur during the life of the PPP contract? (check all that apply): Force Majeure	
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Regulation of January 14, 2013 provides for Force majeure (Articles 56 and 114).
Material Adverse government action .	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Change in the Law.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 38/8 of Regulation of January 14 2013 provides for change in taxation.
Refinancing.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	No regulatory basis
Subcontracting and replacement of the subcontractors.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 12 of Regulation of January 14 2013 provides for subcontractors, specifically when and how to hire them, the information to be provided to the procuring authority, the possible verifications to be operated by the procuring authority.
48. Does the regulatory framework (including standard contractual clauses) allow for administrative and/or contractual complaint review mechanisms to address disputes arising from the implementation of PPP contracts?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	No regulatory basis
48.1. If yes, please specify which of the following	No

options are available (check all that apply): Local administrative review body	
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)	No regulatory basis
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):	Belgium ratified the New-York arbitration convention on 18 Aug 1975
International arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	Belgium ratified the New-York arbitration convention on 18 Aug 1975
Investor-State arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	The ICSID convention entered into force in Belgium on Sep 26, 1970.
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	Yes

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?	
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	No regulatory basis
50.1. If yes, which of the following options best describes the lender step-in right? (Please select only one): The regulatory framework expressly regulates the lender step-in rights.	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
The regulatory framework prescribes that a direct agreement should be signed with the lenders.	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	No regulatory basis
The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Other.	No
Please Specify:	n/a
51. Does the regulatory framework (including standard contractual clauses) expressly establish the grounds for termination of a PPP contract?	Yes

If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 61 of Regulation of January 14 2013 provides for termination in the event of death; article 62 provides for profligacy and insanity.
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
Unsolicited Proposals	
34. Are unsolicited proposals in Belgium: (choose only one): Explicitly prohibited by the legal framework? (If prohibited, skip to section F)	No
Explicitly allowed by the legal framework?	No
Not regulated by the legal framework, but do happen in practice?	No
Not regulated by the legal framework, and do not happen in practice? (if not done in practice, skip to section F)	Yes
If the legal framework explicitly prohibits or allows unsolicited proposals, please provide the relevant legal/regulatory provisions	n/a
35. Does the procuring authority conduct an assessment to evaluate unsolicited proposals? (if not, skip to question 37)	n/a
If yes, please specify and provide the relevant legal/regulatory provisions (if any)	n/a
35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?	n/a

<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>36. Which of the following options best describe how the procuring authority ensures that unsolicited proposals are consistent with existing government priorities? (Please select only one): The procuring authority follows a specific procedure to ensure the consistency of PPPs with other government investment priorities.</p>	<p>n/a</p>
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</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>n/a</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>The procuring authority does not evaluate unsolicited proposals against existing government priorities.</p>	<p>n/a</p>
<p>Please elaborate and provide examples:</p>	<p>n/a</p>
<p>37. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?</p>	<p>n/a</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>38. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?</p>	<p>n/a</p>

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