



**PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN BURKINA FASO**

SURVEY QUESTION	ANALYSIS
<b>PPP Regulatory Framework</b>	
<b>2. Does the regulatory framework in your country allow procuring PPPs?</b>	Yes
<b>If yes, please specify the relevant regulatory framework and the year of adoption:</b>	<p>The PPP regulatory framework in Burkina Faso constitutes of the following: Law no. 020-2013/AN dated May 23th 2013 related to the legal regime of PPPs (hereinafter the “PPP Law”), detailed by Decree no. 2014-024/PRES/PM/MEF of February 3rd 2014 (hereinafter the “PPP Decree”). Furthermore, Decree no. 2014-628/PRES/PM/MEF of July 29th 2014 is related to the creation, attributions, composition and functioning of the PPP Commission (hereinafter the “Decree related to the PPP Commission”), while Decision no. 2014-0263/MEF/SG/DGCOOP of July 28th 2014 is related to the creation, attributions, composition and functioning of the Commission in charge of selecting the private partners for realizing PPPs. PPP projects are organized through a PPP program - the last one of which was adopted by Decree no. 2017-0442/PRES/PM/MINEFID.</p> <p>The PPP Law defines a PPP as a contract by which a public authority entrusts a private partner, for a determined period of time, depending on the amortization period of the investments or the financing terms, the responsibility of all or part of the following phases of a project:</p> <ul style="list-style-type: none"> <li>- Design of the necessary works or equipment for the public service;</li> <li>- Financing;</li> <li>- Construction;</li> <li>- Transformation of the works or equipment;</li> <li>- The maintenance;</li> <li>- The operation or management.</li> </ul> <p>Other services contributing to the exercise by the public authority of the mission of public service of which it is in charge can also be entrusted to a private partner within the public-private partnership agreement.</p> <p>The following analysis will be mainly based on those texts. However, is also applicable to PPPs in Burkina Faso the regulation related to public procurement and public service delegations: Law no. 039-2016 on general regulation of public procurement and its implementing decrees (Decree n2017_0049_/PRES/PM/MINEFID specifically Title III related to procurement and execution of public service delegations, Decree n2017_0050_/PRES/PM/MINEFID, Decree n2017_0051_/PRES/PM/MINEFID of February 1st 2017). Those apply to all procurement of goods, services or provision by public authorities, including public procurements, public service delegation and PPP. As a result, definitions of public service delegations and PPPs can overlap, consequently the general regulations of public procurement are applicable for any topic not covered by the specific texts related to PPPs. Interconnexions between the 2 regimes are nonetheless uncertain in practice.</p>

<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>	<p><a href="http://www.legiburkina.bf">http://www.legiburkina.bf</a></p>
<p><b>2.1. Are you aware of any reforms (in the regulatory frameworks – laws, regulations, policies, etc.- or in generally followed practices) related to PPPs that: Took place in 2016, are ongoing and/or are planned to be adopted BEFORE June 1, 2017?</b></p>	<p>Yes</p>
<p><b>Please describe:</b></p>	<p>Law no. 039-2016 on general regulation of public procurement and its implementing decrees (Decree n2017_0049_/PRES/PM/MINEFID specifically Title III related to procurement and execution of public service delegations, n2017_0050_/PRES/PM/MINEFID, n2017_0051_/PRES/PM/MINEFID of February 1st 2017)</p>
<p><b>2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?</b></p>	<p>Yes</p>
<p><b>Please describe:</b></p>	<p>i) Decree regarding the applicable administrative penalties for PPPs; ii) Order for the budgetary limits for Public Private Partnership contracts ; iii) Order related to the members of the Commission of Selection of Private Partners and the commission of reception or validation. iv) Law allowing direct negotiation for some PPPs.</p>
<p><b>3.1 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Transportation.</b></p>	<p>No</p>
<p><b>If yes, please provide the relevant legal/regulatory provisions:</b></p>	<p>n/a</p>
<p><b>3.2 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Water and Irrigation</b></p>	<p>No</p>
<p><b>If yes, please provide the relevant legal/regulatory provisions:</b></p>	<p>n/a</p>
<p><b>3.3 Besides national defense and other matters of national</b></p>	<p>No</p>

<b>security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Energy generation and distribution.</b>	
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>3.4 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Telecom</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>3.5 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Other</b>	No
<b>If yes, specify and provide the relevant legal/regulatory provisions:</b>	n/a
<b>4. Does the regulatory framework provide for a specific tax regime for PPP transactions (i.e. tax incentives, special tax depreciation treatment, etc.)?</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory provision (if any):</b>	Pursuant to Article 47 of the PPP Law: Besides the advantages planned by the fiscal and customs regimes and by the current laws and regulations, the private partners can benefit from other advantages or facilitations according to the nature of the investment or the project to be realized.
<b>5. Please identify the PPP procuring authorities in Burkina Faso and provide their website(s) (if available):</b>	<p>Article 2 of the PPP Law defines public authority as the State or one of its dismemberments as its central, decentralized or deconcentrated administrative structures, including regional authorities, public institutions and companies of the State, private persons acting for the State, the companies with a majority of public financial participation, and the associations formed by one or several of these.</p> <p>Article 5 of the PPP Decree further indicates: The following authorities shall be legally empowered to sign and enter into public-private partnership contracts within their respective spheres of competence: The Minister of Finance, within the public-private partnerships program adopted by the Council of Ministers; -The President of the regional Council, upon advice by the said council; The Mayor, upon advice by the City Council; The heads of public institutions after approval of their deliberative body; The directors of state-owned companies after approval of their deliberative.</p>

<b>6. In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?</b>	Yes
<b>If yes, please indicate its name, and its website (if available):</b>	<p>Two institutions are specialized in PPPs in Burkina Faso. On the one hand, the PPP Department within the General Direction of Cooperation of the Ministry of Finance and Economy prepares a program for PPP projects based on the technical ministries' proposals. Its website is as follows: <a href="http://dgcoop.gov.bf">dgcoop.gov.bf</a></p> <p>On the other hand, a PPP Commission has been created under the authority of the Prime Minister. It is in charge of validating the program of PPP projects as prepared by the Ministry of Finance before it is submitted to the Council of Ministries, formulates recommendations to develop PPPs, and monitors and evaluates the program of PPP projects.</p>
<b>6.1 If yes, what are the main responsibilities of the PPP Unit (check all that apply): PPP regulation and policy guidance.</b>	Yes
<b>6.2 PPP capacity building for other public authorities.</b>	Yes
<b>6.3 PPP promotion among the public and/or private sectors in national and international forums.</b>	Yes
<b>6.4 Technical support in implementing PPP projects.</b>	Yes
<b>6.5 Identification and selection of PPP projects from the pipeline.</b>	Yes
<b>6.6 Revision of fiscal risks born by the Government.</b>	No
<b>6.7 Consultation with affected communities on potential impact of PPP projects.</b>	No
<b>6.8 Approval of PPP projects.</b>	Yes
<b>6.9 Undertaking the procurement of PPPs.</b>	No
<b>6.10 Oversight of PPP implementation.</b>	Yes
<b>6.11 Other</b>	No
<b>6.11 please specify:</b>	n/a
<b>Please provide the relevant legal/regulatory provisions:</b>	<p>The PPP Department within the General Direction of Cooperation of the Ministry of Finance and Economy prepares a program for PPP projects based on the technical ministries' proposals.</p> <p>A PPP Commission has been created under the authority of the Prime Minister. It is in charge of validating the program of PPP projects as prepared by the Ministry of Finance before it is submitted to the Council of Ministries, formulates recommendations to develop PPPs, and monitors and evaluates</p>

	the program of PPP projects (Article 3 of Decree related to the PPP Commission).
<b>PPP Preparation</b>	
<b>8. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Pursuant to article 7 of the PPP Law, recourse to PPP is made for the projects appearing in the program of Public Private Partnerships adopted by the Council of Ministers. PPP projects are part of the PPP program, prepared through 3 steps, the third one being technical validation by the Prime Ministry, the Ministry of Economy and Finance and the Ministry of Industry. Centralization of projects to be included in the Program is the responsibility of the Ministry of Finance. Finally, projects included in the projected program are validated by the PPP Commission before being adopted by the Council of Ministry (Sections 3.4 and III.1 of Decree no 2017-0442).
<b>8.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before signing the PPP contract?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>8.2. Does the Ministry of Finance (or government more broadly) have a specific system of: Budgeting for PPP projects.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Accounting liabilities (explicit and implicit, direct and contingent) arising from PPPs.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Reporting liabilities (explicit and implicit, direct and contingent) arising from PPPs.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>8.3. If yes to question 8.2, which of the following alternatives best describes the regulation?: Accounting and reporting according to</b>	n/a

<b>International Public Sector Accounting Standards (IPSAS).</b>	
<b>Accounting and reporting according to other international standard (e.g. European System of Accounts).</b>	n/a
<b>Please specify:</b>	n/a
<b>Other.</b>	n/a
<b>Please specify:</b>	n/a
<b>9. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before launching the procurement process (e.g. Cabinet, Cabinet Committee, Parliament, Supreme Audit Office, etc.)?</b>	Yes
<b>If yes, please specify the relevant authority</b>	Council of Ministry, Prime Minister, the Ministry of Industry, and PPP Commission
<b>and provide the relevant legal/regulatory provisions (if any):</b>	Pursuant to article 7 of the PPP Law, recourse to PPP is made for the projects appearing in the program of Public Private Partnerships adopted by the Council of Ministers. PPP projects are part of the PPP program, prepared through 3 steps, the third one being technical validation by the Prime Ministry, the Ministry of Economy and Finance and the Ministry of Industry. Centralization of projects to be included in the Program is the responsibility of the Ministry of Finance. Finally, projects included in the projected program are validated by the PPP Commission before being adopted by the Council of Ministry (Sections 3.4 and III.1 of Decree no 2017-0442).
<b>9.1. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before signing the PPP contract?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 26 of PPP Decree: The results [of negotiations with the best bidders in order to award the contract] shall either be submitted to the Cabinet meeting for adoption regarding public-private partnership projects approved for public-private partnership program or to the consultative bodies of other public departments for other projects.
<b>10. Does the procuring authority use transaction advisors during the PPP project cycle?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	No regulatory basis

<p><b>11. In a case comparable to the case study assumptions, please select the option that best describes the way your government integrates the prioritization of PPP projects with other public investment project prioritization? (e.g. in the context of a national public investment system, multi-year perspective plans, medium-term budgetary framework): The regulatory framework provides for the inclusion of PPPs in the national public investment system/medium term budgetary framework and details a specific procedure to ensure the consistency of PPPs with other public investment priorities.</b></p>	<p>Yes</p>
<p><b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b></p>	<p>Pursuant to article 7 of the PPP Law, recourse to PPP is made for the projects appearing in the program of Public Private Partnerships adopted by the Council of Ministers. However, the projects of Public Private Partnerships of the dismemberments of the State for which no financing, neither guarantee, nor exceptional treatment in the fiscal and customs plan is required from the government can be executed regardless of the program of Public Private Partnerships.</p> <p>PPP projects are part of the PPP program, prepared through 3 steps. The first step is an arbitration of projects by the technical services of the Cooperation direction according to specific criteria. The second one is another arbitration with the technical services of the cooperation direction and representatives of departments. The third one consists of technical validation by the Prime Ministry, the Ministry of Economy and Finance and the Ministry of Industry. Centralization of projects to be included in the Program is the responsibility of the Ministry of Finance. Finally, projects included in the projected program are validated by the PPP Commission before being adopted by the Council of Ministry (Sections 3.4 of introduction and III.1 of Decree no 2017-0442).</p>
<p><b>The regulatory framework prescribes the need for PPPs to be consistent with all other investment priorities without establishing a specific procedure to achieve that goal.</b></p>	<p>No</p>
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	<p>n/a</p>
<p><b>The regulatory framework does not include any</b></p>	<p>No</p>

<b>provisions but the procuring authority evaluates the consistency of PPPs with other government investment priorities in practice.</b>	
<b>If yes, please elaborate:</b>	n/a
<b>The procuring authority does not evaluate PPPs against existing government priorities.</b>	No
<b>Please elaborate and provide examples:</b>	n/a
<b>11.1. Based on your experience, is it always the case that this prioritization is done in practice in accordance with the provisions of the regulatory framework described above?</b>	Yes
<b>If yes, please specify:</b>	Even though there is not much experience to assess yet, projects are chosen and implemented applying the Law.
<b>If no, please elaborate:</b>	n/a
<b>12.1 Which of the following assessments are conducted when identifying and preparing a PPP in order to inform the decision to proceed with it? (check all that apply): Socio-economic analysis (cost-benefit analysis of the socio-economic impact of the PPP project)</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	Pursuant to article 9 of the PPP Law: Recourse to PPPs requires a preliminary evaluation, realized by the public authority concerned with the cooperation of the structure in charge of the promotion of PPPs. This preliminary evaluation contains a comparative analysis of various options of realization of the project, in particular in terms of costs-advantages, sharing of risks and performance. It also has to contain an expertise on the general economy, the impact of the project on the budget and the national debt and take into account concerns of sustainable development in particular the environmental and social impacts.
<b>Is there a specific methodology for the assessment?</b>	No
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	Yes
<b>Details:</b>	The socio-economic impacts of the project in practice are evaluated.
<b>12.2. Affordability assessment, including the identification of the required</b>	Yes



<b>long term public commitments (explicit and implicit, direct and contingent liabilities)</b>	
<b>Relevant legal/regulatory provision (if any)</b>	Pursuant to article 9 of the PPP Law: Recourse to PPPs requires a preliminary evaluation, realized by the public authority concerned with the cooperation of the structure in charge of the promotion of PPPs. This preliminary evaluation contains a comparative analysis of various options of realization of the project, in particular in terms of costs-advantages, sharing of risks and performance. It also has to contain an expertise on the general economy, the impact of the project on the budget and the national debt and take into account concerns of sustainable development in particular the environmental and social impacts. Furthermore, article 10 indicates: current total cumulative value of the direct or contingent commitments of the expected revenues expected through the PPP shall not exceed a limit fixed by the Minister of Finance.
<b>Is there a specific methodology for the assessment?</b>	No
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	Yes
<b>Details:</b>	Public commitments are in practice evaluated before procuring a PPP.
<b>12.3. Risk identification, allocation and assessment (risk matrix)</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	Article 12 of the PPP Law indicates: The division of risks between the public authority and the private partner is made, individually, according to their respective capacities.
<b>Is there a specific methodology for the assessment?</b>	No
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	Yes
<b>Details:</b>	Risks are in practice identified, assessed and allocated.
<b>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)</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	Pursuant to article 9 of the PPP Law: Recourse to PPPs requires a preliminary evaluation, realized by the public authority concerned with the cooperation of the structure in charge of the promotion of PPPs. This preliminary evaluation contains a comparative analysis of various options of realization of the project, terms of costs-advantages, sharing of risks and performance.

	<p>Article 13 indicates: The public-private partnership agreement is concluded in particular, when the evaluation exposes exactly the economic, financial, legal and administrative motives which led, after a comparative analysis of the various options, to retain the envisaged project and to decide to launch a procedure of procurement of a public-private partnership agreement. According to section IV. 2. of the PPP Program, the interest of the risks transfer in the public sector must be individually demonstrated, for every project, according to a methodology adopted by mutual agreement and generally indicated by the expression “Comparator of the public sector” or still “Railing of comparison with the public sector” which is nothing else than a common and structured tool of decision consisting of comparing the costs and the likely advantages of the possible alternatives of realization of a project by the calculation of the clear updated value in the case of the traditional public procurements and in that of the PPP.</p>
<b>Is there a specific methodology for the assessment?</b>	No
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	No
<b>Details:</b>	Contributors do not confirm that the assessment is conducted in practice.
<b>12.5. Financial viability or bankability assessment</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	<p>Pursuant to article 9 of the PPP Law: Recourse to PPPs requires a preliminary evaluation, realized by the public authority concerned with the cooperation of the structure in charge of the promotion of PPPs. This preliminary evaluation contains a comparative analysis of various options of realization of the project, in particular in terms of costs-advantages, sharing of risks and performance. Article 13 indicates: The public-private partnership agreement is concluded in particular, when the evaluation exposes exactly the economic, financial, legal and administrative motives which led, after a comparative analysis of the various options, to retain the envisaged project and to decide to launch a procedure of procurement of a public-private partnership agreement. According to the PPP program, the preliminary feasibility studies aim at determining the fundamental technical and financial characteristics of the project such as the choice of location, conception, types of implementation possible, the revenues and financing. It will then be decided to continue or not continue the project according to its importance thanks to an evaluation of the forecasts relative to the internal rate of financial profitability, to the rate of economic profitability and to the environmental and social repercussions.</p>
<b>Is there a specific methodology for the assessment?</b>	No
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	Yes
<b>Details:</b>	Financial viability is assessed in practice.

<b>12.6. Market sounding and/or assessment (showing evidence of investors' interest in the market for the project)</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>Is there a specific methodology for the assessment?</b>	n/a
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	n/a
<b>Details:</b>	n/a
<b>12.7. Environmental impact assessment</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	Pursuant to article 9 of the PPP Law: Recourse to PPPs requires a preliminary evaluation, realized by the public authority concerned with the cooperation of the structure in charge of the promotion of PPPs. This preliminary evaluation contains a comparative analysis of various options of realization of the project, in particular in terms of costs-advantages, sharing of risks and performance. It also has to contain an expertise on the general economy, the impact of the project on the budget and the national debt and take into account concerns of sustainable development in particular the environmental and social impacts. Moreover, PPPs are to comply with the Law on Environment requiring an environmental impact study (Chapter II)
<b>Is there a specific methodology for the assessment?</b>	Yes
<b>If yes, please elaborate</b>	Chapter 2 of Law on Environment details the environmental impact assessment, requiring a strategic environmental evaluation and a study of impact on the environment. This study includes a public investigation to receive opinions of affected parties. The Ministry of environment provides an opinion on those documents.
<b>Is the assessment done in practice?</b>	Yes
<b>Details:</b>	Environmental impacts of a PPP project are assessed.
<b>12.8. Consultation process with affected communities on potential impact of the PPP project</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	Chapter 2 of Law on Environment details the environmental impact assessment, requiring a strategic environmental evaluation and a study of impact on the environment. This study includes a public investigation to receive opinions of affected parties. The Ministry of environment provides an opinion on those documents.
<b>Is there a specific methodology for the assessment?</b>	No
<b>If yes, please elaborate</b>	n/a

<b>Is the assessment done in practice?</b>	Yes
<b>Details:</b>	Consultation with the affected communities in practice organized within the environmental impact study.
<b>13. Does the procuring authority include the assessments (indicated in Question 12 above) in the request for proposals and/or tender documents (for example, as part of an Information Memorandum to the bidders)?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Pursuant to Article 16 of the PPP Decree : The bid package shall include, and limited to, the following: General information, bidders need to prepare and submit their proposals, especially information on feasibility studies, bid bonds and, if applicable, the qualification of bidders.
<b>and specify which of the assessments are included in the request for proposals and/or tender documents:</b>	All prefeasibility studies prepared are included in the tender documents.
<b>13.1. Are the assessments published online?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>specify the website</b>	n/a
<b>please specify which of the assessments are published online:</b>	n/a
<b>14. Does the procuring authority include a draft PPP contract in the request for proposals?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Pursuant to Article 16 of the PPP Decree: The bid package shall include, and is limited to, the following: The specific purpose of the contract and a draft public-private partnerships Contract; The contractual terms proposed by the public authority, including an indication of terms deemed non-negotiable.
<b>If no, please elaborate</b>	n/a
<b>14.1. Are the tender documents published online?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>and please specify the website:</b>	n/a
<b>15. In a case comparable to the case study assumptions, have standardized PPP model</b>	No

<b>contracts and/or transaction documents been developed?</b>	
<b>If yes, please specify and provide a government-supported website where the mentioned standards are available or provide an electronic copy of them:</b>	n/a
<b>16.1 In a case comparable to the case study assumptions, who is the responsible party for each of the following requirements? Obtaining the required urban permits: Procuring authority (or other Government entity)</b>	No
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</b>	No
<b>To be established in the contract</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	Article 39 of the PPP Decree requires the PPP contract to include clauses related to the assistance the procuring entity could provide the private partner to obtain the necessary licenses and permits to the project.
<b>16.2. Obtaining the required environmental permits: Procuring authority (or other Government entity)</b>	No
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</b>	No
<b>To be established in the contract</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	Article 39 of the PPP Decree requires the PPP contract to include clauses related to the assistance of the procuring entity, these could include providing the private partner with help in obtaining the necessary licenses and permits for the project.
<b>16.3. Obtaining the required operational permits: Procuring authority (or other Government entity)</b>	No
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</b>	No

<b>To be established in the contract</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	Article 39 of the PPP Decree requires the PPP contract to include clauses related to the assistance of the procuring entity, these could include providing the private partner with help in obtaining the necessary licenses and permits for the project.
<b>16.4. Obtaining the required land: Procuring authority (or other Government entity)</b>	Yes
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</b>	No
<b>To be established in the contract</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	<p>Pursuant to Article 35 of the PPP Law: The public authority can put at the disposal of the private partner the site of the project. It can also make a commitment to obtain the accessibilities in the property of a third party, to cross, work and install equipment there. Any expropriation of ground, which can be required for the execution of the project is made according to the current texts in Burkina Faso.</p> <p>Article 43 of the PPP Decree furthermore indicates: The public authority, in accordance with the provisions of the Law and clauses of the Public-Private Partnership Contract, shall make available to the private partner or help the private partner acquire the rights relating to the project site, including the site title deed, needed for project implementation.</p> <p>Any land expropriation, as may be required for implementing the project, shall be done in accordance with regulations in force.</p>
<b>16.5. Obtaining the required right of way: Procuring authority (or other Government entity)</b>	Yes
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</b>	No
<b>To be established in the contract</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	<p>Pursuant to Article 35 of the PPP Law: The public authority can put at the disposal of the private partner the site of the project. It can also make a commitment to obtain the accessibilities in the property of a third party, to cross, work and install equipment there. Any expropriation of ground, which can be required for the execution of the project is made according to the current texts in Burkina Faso.</p> <p>Article 44 of the PPP Decree furthermore indicates: The public authority, in accordance with the provisions of the Law and clauses of the public-private partnership contract, shall make available to the private partner or help the</p>

	private partner exercise the right to enter a third party property, to go through it, to work on it or set up facilities depending on the project implementation requirements.
<b>PPP Procurement</b>	
<b>18. Which of the following options best describes the required qualifications of the bid evaluation committee members? (Please select only one): The membership of the bid evaluation committee is specified and/or its members are required to meet detailed qualifications.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Pursuant to Article 14 of the PPP Decree: The Bidder selection Committee provided by Law n° 020-2013/AN of May 23, 2013 defining a legal system for public-private partnership in Burkina Faso, shall be composed as follows:</p> <p>O Members: Two representatives of the of the public authority, leading the project, including the appointed Chairperson and the rapporteur of the selection Committee; A representative of the Ministry of Finance; A representative of the Ministry of Trade; A representative of the Ministry of Environment; A representative of the Ministry of Labor; A representative of the competent technical department, if applicable; Two representatives of the body responsible for promoting public-private partnership.</p> <p>O Observers: A representative of the Office of the President of Burkina Faso; A representative of the Prime Ministry.</p> <p>The analysis and evaluation of bids shall be entrusted to a technical Subcommittee. This subcommittee shall produce a report that will serve as a reference working document for the selection Committee. The Chairperson of the Selection Committee may appeal to any person whose presence is deemed relevant to attend the meetings of the Committee in an advisory capacity. The members of the selection Committee, observers and resource persons shall not have any ties with bidders.</p> <p>Details are furthermore provided by Regulation no 0263/MEF/SG/DCCOOP related to the creation, attributions, composition and functioning of the Selection of private partners for realizing PPP projects Committee.</p>
<b>The bid evaluation committee members require sufficient qualification without specific details.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The bid evaluation committee members are not required to have any specific qualifications.</b>	No

<b>Please elaborate and provide examples:</b>	n/a
<b>19. Does the procuring authority issue a public procurement notice of the PPP project?</b>	Yes
<b>If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):</b>	Pursuant to Article 16 of the PPP Law and article 7 of the PPP Decree: The selection of the private partner is made through call for competition at the national or international level, depending on the complexity or financial span of the project. Article 9 of the PPP Decree requires the notice of prequalification to be in the public procurement journal, on the website of the controlling entity of public procurement contracts and in a national or international newspaper.
<b>19.1. If yes, is the public procurement notice published online?</b>	Yes
<b>If yes, please specify the website:</b>	www.dgmp.gov.bf
<b>20. Are foreign companies prohibited from participating in the bidding process?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>21. In a case comparable to the case study assumptions, does the procuring authority grant the potential bidders a minimum period of time to submit their bids?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 16 of the PPP Decree: The public authority, leading the project shall make available to each preselected bidder, the tender package. The preselected bidders shall have a time limit, specified in the invitation to tender, to submit their bids. Such deadline shall not be less than 45 days.
<b>and the time in calendar days:</b>	45
<b>22.1. In a case comparable to the case study assumptions, which are the procurement procedures available and/or set as default for PPP projects? Open tendering:</b>	No
<b>Available</b>	
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>22.2. Restricted tendering (with pre-qualification stage):</b>	No
<b>Available</b>	
<b>Default</b>	Yes



<b>Relevant legal/regulatory provision (if any)</b>	<p>Pursuant to article 7 of the PPP Decree: The selection of the private partner shall be done through a call for tenders, internationally or nationally, depending on the complexity and level of funding of the project, and in compliance with the provisions of this Chapter.</p> <p>The private partner shall be selected following an open tender procedure in one step, preceded by a pre-selection procedure. The open tender procedure in two steps may also apply, preceded by a pre-selection procedure. The conditions for using a two-step procedure are specified in Article 18 below.</p>
<b>22.3 Multi-stage tendering (with shortlisting of final candidate(s)): Available</b>	Yes
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	<p>Pursuant to Article 22 of the PPP Law: The public authority can, where necessary, resort to a two stages procedure to request the offers of the pre-qualified tenderers when it is not capable of describing in the documents of the call for tenders the characteristics of the project.</p> <p>Article 18 of the PPP Decree furthermore indicates: The public authority, leading the project may use a two-stage procedure to request proposals from pre-selected bidders when this authority fails to describe, in the invitation to tender the characteristics of the project, such as project terms of reference, performance Indicators, financial arrangements or contractual terms as sufficiently detailed and precise as possible for the final preparation of the bid package.</p> <p>Where a two-stage procedure is used, the following provisions shall apply. During the first stage, preselected bidders shall be called upon to submit initial proposals relating to project terms of reference, performance indicators, the legal or financial arrangement or other characteristics of the project.</p>
<b>22.4. Competitive dialogue: Available</b>	No
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>22.5. Direct negotiation with more than one candidate: Available</b>	No
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>22.6. Direct negotiation with only one candidate: Available</b>	No
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>22.7 Other. Specify:</b>	No
<b>Available</b>	n/a
<b>Default</b>	n/a

<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>22.8. Do the tender documents detail the procedure of the procurement process providing the same information to all the bidders?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Pursuant to Article 9 of the PPP Decree: A pre-selection notice shall be published in the journal of public procurement, on the website of the entity in charge of a priori control of public contracts and in a journal widely distributed at national or international level. The pre-selection notice shall contain, and is limited to, the following information: a description of the project; an indication of the other essential elements of the project such as the services to be provided by the partner private, financial arrangements proposed by the public authority, leading the project; location and conditions to obtain the pre-selection package; place and deadline for submission of the pre-selection documents; - the criteria adopted for pre-selection.
<b>If no, please elaborate:</b>	n/a
<b>22.9. Do the tender documents specify the prequalification/shortlisting criteria (when applicable) in order to make them available to all the bidders?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Pursuant to Article 9 of the PPP Decree: A pre-selection notice shall be published in the journal of public procurement, on the website of the entity in charge of a priori control of public contracts and in a journal widely distributed at national or international level. The pre-Selection notice shall contain, and is limited to, the following information: (...) the criteria adopted for pre-selection. Furthermore, Article 16 provides: the bid package shall include, and is limited to, the following: The criteria for rating proposals and the thresholds, if any, set by the public authority for identifying non-compliant proposals; The relative weight to be accorded to each rating criterion; and how such criteria and thresholds shall be applied for rating proposals.
<b>22.10. Based on your experience, is it always the case that the specified criteria are respected in practice?</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	Evaluation of the offers is, in practice, always made according to the criteria specified in the tender documents.
<b>If no, please elaborate:</b>	n/a
<b>23. Can interested parties/potential bidders</b>	Yes

<p><b>submit questions to clarify the public procurement notice and/or the request for proposals?</b></p>	
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	<p>Article 18 of the PPP Law allows bidders to request clarifications to the procuring authority. Article 11 of the PPP Decree provides: Applicants may submit requests for clarification to the public authority, leading the project within a maximum length of time not exceeding half of the time limit allowed for submission of tenders and indicated in the pre-Selection documents. The public authority, leading the project shall have not more than 10 days to answer any request for clarification received from an applicant. The reply of the public authority, leading the project shall be sent within the same time limit to all applicants who received a pre-selection package, without indication of the source of the request.</p>
<p><b>23.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose those questions and clarifications to all potential bidders?</b></p>	<p>Yes</p>
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	<p>Article 11 of the PPP Decree provides: Applicants may submit requests for clarification to the public authority, leading the project within a maximum length of time not exceeding half of the time limit allowed for submission of tenders and indicated in the pre-Selection documents. The public authority, leading the project shall have not more than 10 days to answer any request for clarification received from an applicant. The reply of the public authority, leading the project shall be sent within the same time limit to all applicants who received a pre-selection package, without indication of the source of the request.</p>
<p><b>23.2. Based on your experience, is it always the case that this disclosure of information is done in practice?</b></p>	<p>Yes</p>
<p><b>If yes, please specify:</b></p>	<p>Disclosure is either made through the same means of publication as the tender documents, or through a letter to the bidders.</p>
<p><b>If no, please elaborate:</b></p>	<p>n/a</p>
<p><b>24. Besides questions and clarifications, can the procuring authority conduct pre-bidding conference?</b></p>	<p>Yes</p>
<p><b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b></p>	<p>Pursuant to Article 19 PPP Decree, in case of a 2 stages tendering: During the first stage, preselected bidders shall be called upon to submit initial proposals relating to project terms of reference, performance indicators, the legal or financial arrangement or other characteristics of the project. The Selection Committee may convene meetings and hold discussions with any of the bidders to clarify issues concerning the initial call for proposals or the initial proposals and enclosed documents submitted by the bidders. It shall</p>

	prepare Minutes of any such meeting or discussions and the Minutes shall contain issues raised and the clarifications provided.
<b>24.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose the content and the results of the pre-bid conference to all bidders?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Pursuant to Article 19 PPP Decree, in case of a 2 stage tendering: During the first stage, preselected bidders shall be called upon to submit initial proposals relating to project terms of reference, performance indicators, the legal or financial arrangement or other characteristics of the project. The Selection Committee may convene meetings and hold discussions with any of the bidders to clarify issues concerning the initial call for proposals or the initial proposals and enclosed documents submitted by the bidders. It shall prepare Minutes of any such meeting or discussions and the Minutes shall contain issues raised and the clarifications provided.
<b>24.2. Based on your experience, is it always the case that this disclosure of information is done in practice?</b>	No
<b>If yes, please specify:</b>	n/a
<b>If no, please elaborate:</b>	Those meetings are in practice not hold, consequently the disclosure is not realized.
<b>25. In a case comparable to the case study assumptions, does the procuring authority require the bidders to prepare and present a financial model with their proposals?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>If no, please elaborate:</b>	Articles 19, 22 and 23 of the Decree require financial information to be included in their offers, but not a financial model.
<b>26. Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?</b>	Yes

<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Pursuant to Article 12 of the PPP Decree: In order to qualify for the selection proceedings, bidders shall meet the criteria as stated in the pre-selection documents. Moreover, article 23 indicates that the financial evaluation of the offers is made based on the financing criteria included in the tender documents. Plus, Article 24 provides: The selection committee shall rate the bidders according to the rating criteria.
<b>Evaluation criteria is not set in the tender documents</b>	No
<b>27. In the case where only one proposal is submitted (sole proposals), which of the following options best describes the way the procuring authority deals with them? (Please select only one)?: The procuring authority follows a specific procedure before awarding a PPP contract where only one proposal is submitted.</b>	No
<b>Please specify and provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The procuring authority considers sole proposals valid as long as they meet the conditions outlined in the tender documents.</b>	No
<b>Please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The procuring authority does not award a PPP contract if only one proposal is submitted.</b>	No
<b>Please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The regulatory framework does not include any provisions.</b>	Yes
<b>28. Does the procuring authority publish the award notice?</b>	Yes
<b>If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):</b>	Article 28 of the PPP Law provides the principle of publication. Article 24 of the PPP Decree provides details including: The selection committee shall (...) publish the results and the rating notice to bidders who shall be granted 15 days from the publishing date to lodge any possible appeal. Article 26 furthermore indicates: After the negotiations, the public authority, leading the project, shall draft the negotiation Minutes and publish the contract award

	letter in the magazines of public procurements, on the Website of the entity responsible for public procurement control.
<b>28.1. If yes, is the public procurement award notice published online?</b>	Yes
<b>If yes, please specify the website:</b>	Article 26 of the PPP Decree indicates: After the negotiations, the public authority leading the project, shall draft the negotiation Minutes and publish the contract award letter in the magazines of public procurements, on the Website of the entity responsible for public procurement control. www.dgmp.gov.bf
<b>29. Does the procuring authority provide all the bidders with the result of the PPP procurement process?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 28 of the PPP Law provides the principle of publication. Article 24 of the PPP Decree provides details, including: The selection committee shall (...) publish the results and the rating notice to bidders who shall be granted 15 days from the publishing date to lodge any possible appeal.
<b>If no, please elaborate:</b>	n/a
<b>29.1. If yes, does the notification of the result of the PPP procurement process include the grounds for the selection of the winning bid?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Pursuant to Article 24 of the PPP Decree: The selection committee shall rate the bidders according to the rating criteria in the Minutes for submission, together with all the bids, to the public authority, leading the project, and then the latter shall publish the results and the rating notice to bidders.
<b>30. Is there a standstill (or pause) period after the contract award and before the signing of the contract in order to allow unsuccessful bidders to challenge the award decision?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 28 of the PPP Law indicates that the award notice is provisional until the period of time granted to appeal the decision is passed. Article 24 of the PPP Decree provides: The selection committee shall (...) publish the results and the rating notice to bidders who shall be granted 15 days from the publishing date to lodge any possible appeal.
<b>and the time in calendar days:</b>	15
<b>30.1. Is the standstill period set out in the notice of intention to award?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	No regulatory basis
<b>31. Does the regulatory framework restrict negotiations with the</b>	Yes

<p><b>selected bidder between the award and the signature of the PPP contract in order to prevent an unfair disadvantage to the other bidders?</b></p>	
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	<p>Article 28 of the PPP Law makes provision for negotiation with the 3 best bidders. According to Article 24 of the PPP Decree: After this deadline, the public authority, leading the project, shall invite the 03 first bidders to enter into a contract negotiation. The negotiations shall not focus on contract clauses declared non-negotiable in the tender documents.</p> <p>Article 25 furthermore provides: If the public authority, leading the project, realizes that the negotiations with an invited bidder will not lead to a public-private partnership contract, this Authority shall inform the latter of its intention to terminate the negotiations and grant him a mutually agreed deadline to submit his final best bid. If the public authority, leading the project, believes that this bid is not acceptable, it shall terminate the negotiations with the bidder.</p> <p>The public authority, leading the project, shall not resume negotiations with a bidder with whom it has terminated negotiations pursuant to this paragraph.</p>
<p><b>31.1. Based on your experience, is it always the case that this restriction is respected in practice?</b></p>	<p>Yes</p>
<p><b>If yes, please specify:</b></p>	<p>Restrictions to negotiation before signature are in practice respected.</p>
<p><b>If no, please elaborate:</b></p>	<p>n/a</p>
<p><b>32. Does the procuring authority publish the PPP contract?</b></p>	<p>Yes</p>
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	<p>Pursuant to Article 39 of the PPP Law: An extract of the public-private partnership agreement is published to the Gazette of Faso. This extract contains the name and the quality of the parties to the contract as well as the object, the duration, the consistency of the partnership and the clauses concerning the users.</p>
<p><b>32.1. If yes, which of the following options best describes this publication (choose only one)?: Publication of the full PPP contract including all its annexes and appendixes</b></p>	<p>No</p>
<p><b>Publication of the full PPP contract without including all its annexes and appendixes</b></p>	<p>No</p>
<p><b>Publication of a summary of the PPP contract without publishing the full PPP contract</b></p>	<p>Yes</p>

<b>Publication of a summary of the PPP contract along with the full PPP contract including all its annexes and appendixes</b>	No
<b>Publication of a summary of the PPP contract along with the full PPP contract without including all its annexes and appendixes</b>	No
<b>32.2. If yes, is it published online?</b>	No
<b>If yes, please specify the website:</b>	n/a
<b>32.3. If yes, does the procuring authority also publish any subsequent amendment made to the PPP contract?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Pursuant to Article 39 of the PPP Law: An extract of the public-private partnership agreement is published to the Gazette of Faso. This extract contains the name and the quality of the parties to the contract as well as the object, the duration, the consistency of the partnership and the clauses concerning the users.
<b>PPP Contract Management</b>	
<b>41. Has the procuring or contract management authority established a system to manage the implementation of the PPP contract (e.g. attributing responsibilities or establishing specific management tools)?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Pursuant to Article 32 of the PPP Law, the PPP contract shall include: performance objectives of the private partner he methods of assessment and follow-up of the execution of the contract by the public authority - the applicable measures in case of breach in its obligations, in particular regarding objective of performance.</p> <p>Article 39 of the PPP decree furthermore indicates: The public-private partnership contract is made of clauses relating to the following issues:          -The scope of obligations imposed to the private partner to assure that service is changed to meet the effective demand of such service, its continuity and its provision under essentially identical conditions for all users; - The right of the public authority, leading the project or another public authority to supervise the works to be achieved and the services to be provided by the private partner and the conditions under which the public authority, leading the project or a regulatory body may order changes in works and conditions of the service. or the right to take other measures he may deem appropriate so</p>



	<p>as to see that the site is suitably used and that the services are provided in accordance with enforceable legal and contract provisions;</p> <ul style="list-style-type: none"> <li>- The extent to which the private partner shall provide reports and other information about its activities to the public authority, leading the project or to a regulatory body, depending on the case;</li> <li>- The designation of follow-up and control bodies for the contract implementation and the scope of their jurisdictions and prerogatives.</li> </ul> <p>Moreover, Article 54 details : In addition to the control exercised by the government or other authorities under regulations in force, the public authority, leading the project shall have, over the private partner, a general power of economic, financial, technical, social control and management embedded in commitments under the Public-Private Partnership Contract. The public authority shall have permanently all control powers to verify, on the basis of documents and on the spot, the smooth running of public service and the proper implementation of the public-private partnership contract. The public authority may ask for or read any document relating to the implementation of the contract operations kept by the private partner. The Public-Private Partnership Contract shall specify the periodicity and control rules to be applied by the public authority for the contract implementation and monitoring, as well as, for controlling technical, accounting and financial documents, regularly sent by the private partner to the public authority, leading the project.</p> <p>The public authority may carry out at any time audits or external controls or be assisted by experts or officials appointed and introduced to the private partner.</p> <p>Unless otherwise provided in the contract, the public authority, leading the project shall take part or be represented, in an advisory capacity, in the meetings of the Board of directors or the deliberative body as well as in general meetings of the project. The public authority shall receive copies of documents made for participants for these meetings.</p> <p>Penalties shall be provided in Public-Private Partnership Contract to punish impediments to controls by the public authority, leading the project as well as the private partner for failures to comply with his obligations under the Contract in terms of communication and information.</p>
<b>41.1. If yes, which of the following tools does it include (check all that apply)?: Establishment of a PPP contract management team</b>	<p>Yes</p>
<b>Relevant legal/regulatory provisions (if any):</b>	<p>Article 39 of the PPP decree indicates : The public-private partnership contract is made of clauses relating to the following issues: -The designation of follow-up and control bodies for the contract implementation and the scope of their jurisdictions and prerogatives.</p>
<b>Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa</b>	<p>No</p>

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

<b>Please elaborate and provide examples:</b>	The PPP decree requires follow-up and control bodies for the contract implementation to be designated, and the scope of their jurisdictions and prerogatives, but does not make further provision.
<b>42. Does the procuring or contract management authority establish a system for tracking progress and completion of construction works under a PPP contract?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Pursuant to Article 37 of the PPP law : When a public-private partnership agreement allocates to the private partner the design of the works, the public authority shall identify a team of project management in charge of the follow-up of the design of the works and their realization, require an architectural project regarding the projects relative to buildings and to works of engineering, to know the global quality of the concerned works.</p> <p>When the public authority allocates to the private partner only a part of the design of the works, it can itself appeal to a team of project management for the part of the design which it assumes.</p> <p>Article 39 furthermore indicates : The public-private partnership agreement contains clauses relative to the following questions: the procedures of examination and approval of the technical studies, plans and specifications by the public authority in charge of the project and procedures of try and final inspection, approval and acceptance of the works; the right of the public authority in charge of the project or another public authority to follow the works that must be realized and the services that must be supplied by the private partner and the conditions in which the public authority in charge of the project either a regulatory authority can order modifications of the works and the conditions of the service(department) or take other measures which he can consider appropriate to watch that the work is correctly run and the services are supplied according to the applicable legal and contractual requirements.</p>
<b>42.1. If yes, is the PPP contract construction performance information made available to the public?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>42.2. If yes, is the PPP contract construction performance information made publicly available online?</b>	n/a
<b>If yes, please specify the website:</b>	n/a
<b>43. Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract</b>	Yes

<b>implementation after construction?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>According to article 7 of the PPP Law, PPPs are subject to a periodical report to the Ministry of Finance.</p> <p>Article 54 of the PPP Decree furthermore indicates : In addition to the control exercised by the government or other authorities under regulations in force, the public authority, leading the project shall have, over the private partner, a general power of economic, financial, technical, social control and management embedded in commitments under the Public-Private Partnership Contract.</p> <p>The public authority shall have permanently all control powers to verify, on the basis of documents and on the spot, the smooth running of public service and the proper implementation of the public-private partnership contract. The public authority may ask for or read any document relating to the implementation of the contract operations kept by the private partner.</p> <p>The Public-Private Partnership Contract shall specify the periodicity and control rules to be applied by the public authority for the contract implementation and monitoring, as well as, for controlling technical, accounting and financial documents, regularly sent by the private partner to the public authority, leading the project.</p> <p>The public authority may carry out at any time audits or external controls or be assisted by experts or officials appointed and introduced to the private partner.</p> <p>Unless otherwise provided in the contract, the public authority, leading the project shall take part or be represented, in an advisory capacity, in the meetings of the Board of directors or the deliberative body as well as in general meetings of the project. The public authority shall receive copies of documents made for participants for these meetings.</p> <p>Penalties shall be provided in Public-Private Partnership Contract to punish impediments to controls by the public authority, leading the project as well as the private partner for failures to comply with his obligations under the Contract in terms of communication and information.</p> <p>Article 55 moreover provides: The private partner shall keep its books in accordance with accounting rules and procedures governed by the accounting system in force in Burkina Faso. The private partner books shall show all properties provided to him by the public authority, leading the project and/or the private partner and including, in particular, reversion and recovery properties.</p> <p>These properties shall be entered as fixed assets based on their estimated value at the time when they were provided to the private partner. The private partner shall note in his books, depreciation amortization, termination amortization and reserves needed for keeping the facilities production potential and ensuring invested capital recovery.</p> <p>If the private partner carries out many public service activities in Burkina Faso, annual individual Summary statements shall be made to state the real property, the financial status and the results of each public Service activity.</p>

<b>43.1. If yes, which of the following tools does it include (check all that apply)?: Performance is assessed against evaluation criteria set in the tender documents and the PPP contract</b>	Yes
<b>Relevant legal/regulatory provisions (if any)</b>	Article 39 of the PPP decree indicates : The public-private partnership contract is made of clauses relating to the following issues: - The scope of obligations imposed to the private partner to assure that service is changed to meet the effective demand of such service, its continuity and its provision under essentially identical conditions for all users; The right of the public authority, leading the project or another public authority to supervise the works to be achieved and the services to be provided by the private partner and the conditions under which the public authority, leading the project or a regulatory body may order changes in works and conditions of the service or the right to take other measures he may deem appropriate so as to see that the site is suitably used and that the services are provided in accordance with enforceable legal and contract provisions.
<b>The procuring or contract management authority can abate (reduce) payments for non-performance of operating obligations under the PPP contract</b>	No
<b>Relevant legal/regulatory provisions (if any)</b>	n/a
<b>The private partner must provide the procuring or contract management authority with periodic operational and financial data</b>	Yes
<b>Relevant legal/regulatory provisions (if any)</b>	Pursuant to Article 54 of the PPP Decree: The Public-Private Partnership Contract shall specify the periodicity and control rules to be applied by the public authority for the contract implementation and monitoring, as well as, for controlling technical, accounting and financial documents, regularly sent by the private partner to the public authority, leading the project.
<b>The procuring or contract management authority must periodically gather information on the performance of the PPP contract</b>	Yes
<b>Relevant legal/regulatory provisions (if any)</b>	Pursuant to Article 54 of the PPP Decree: The public authority may carry out at any time audits or external controls or be assisted by experts or officially appointed officials and introduced to the private partner. Unless otherwise provided in the contract, the public authority, leading the project shall take part or be represented, in an advisory capacity, in the meetings of the Board of Directors or the deliberative body as well as in

	general meetings of the project. The public authority shall receive copies of documents made for participants for these meetings.
<b>The PPP contract performance information must be available to the public</b>	No
<b>Relevant legal/regulatory provisions (if any)</b>	n/a
<b>43.2. Is PPP contract performance information made publicly available online?</b>	No
<b>If yes, please specify the website:</b>	n/a
<b>44. Are foreign companies prohibited from repatriating the income resulting from the operation of a PPP project?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>45. Does the regulatory framework (including standard contractual clauses) expressly regulate changes in the ownership structure (i.e. stakeholder composition) of the private partner and/or assignment of the PPP contract?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	<p>Pursuant to Article 47 of the PPP decree: Unless otherwise provided in Article 46 above, the private partner rights and obligations under this Contract may not be transferred to a third party without the consent of the public authority, leading the project.</p> <p>The contract shall state the conditions for the public authority, initiator of the project, to give its consent for a transfer of the private partner rights and obligations under this contract, including the acceptance by the new private partner of all obligations mentioned in this Contract and evidence that it has technical and financial capacities to implement the project or provide the service.</p> <p>Article 48 furthermore indicates: Unless otherwise provided in the Contract, a controlling interest in the project company may not be transferred to a third party without the consent of the public authority, leading the project. The Contract shall set out conditions for consent.</p>
<b>45.1. If yes, which of the following circumstances are specifically regulated? (check all that apply): Any change in the private partner during an initial period (e.g.</b>	No

<b>construction and first five years of operation).</b>	
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Pursuant to Article 47 of the PPP decree: The contract shall state the conditions for the public authority, initiator of the project, to give its consent for a transfer of the private partner rights and obligations under this contract, including the acceptance by the new private partner of all obligations mentioned in this Contract and evidence that he has technical and financial capacities to implement the project or provide the service.
<b>In other cases, flexibility to change the ownership structure and/or assign the contract.</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>46. Does the regulatory framework (including standard contractual clauses) expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	<p>Article 39 of the PPP Law and Article 57 of the PPP Decree regulate renegotiation related to the contract's duration.</p> <p>Pursuant to Article 50 of the PPP Decree : The Contract shall specify the conditions for granting compensation to the private partner in case of significant expenses incurred by the contract's implementation, or compensation the partner received and deemed noticeably lower than initially earmarked, due to changes in the legislation and regulations, specifically applicable for the site or services provided.</p> <p>Article 51 furthermore indicates: Without prejudice to the provision of Article 50, the contract may also state the condition for the private partner to be entitled to request a contract review to provide compensation, significant expenses incurred in implementing the contract or compensation noticeably lower than initially expected, the private</p>

	<p>partner received due to:</p> <ul style="list-style-type: none"> <li>- changes in economic or financial situation;</li> <li>- changes in the legislation or regulation not applicable specifically for the site or services provided.</li> </ul> <p>In this case, the request for the Contract review shall be deemed admissible provided that such economic, financial, legislative or regulatory changes:</p> <ul style="list-style-type: none"> <li>- occur after the contract conclusion;</li> <li>- are beyond the control of the private partner;</li> <li>- were unpredictable during the contract negotiation.</li> </ul> <p>The Contract shall set the procedures for reviewing its clauses in the event of such changes.</p>
<b>46.1. If yes, is an approval from a government authority, other than the procuring authority, required?</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>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.</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>A change in the risk allocation of the contract.</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>A change in the financial and/or economic balance of the contract.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Article 57 of the PPP Decree allows changes in the contract's duration if new works are necessary and change the general economy of the contract.
<b>A change in the duration of the contract.</b>	Yes
<b>If yes, please provide the relevant</b>	Article 39 of the PPP Law and Articles 57 and 58 of the PPP Decree regulate changes to the contract's duration.



<b>legal/regulatory/standard contractual provisions (if any):</b>	<p>Article 57: The public authority, leading the project may accept its extension only when the private partner is bound, for the good execution of the public Service or the extension of its geographical scope or at the public authority's request, to carry out the work not provided in the initial Contract likely to change the general structure of the project and could only be amortized during the remaining term of the Public-Private Partnership Contract through obviously excessive increase in prices.</p> <p>The duration of this extension shall be strictly limited to the period of time needed for reestablishing the right conditions for a continuous service or financial balance in the contract. This extension may occur only once and shall be justified in a report made by the private partner and amendments shall be made to the public private partnership contract for this purpose under the same approval conditions as the initial contract.</p> <p>Article 58: The Public-Private Partnership Contract may only be renewed once, provided that the Private Partner presents a new technical and financial bid, rated and approved under the same approval conditions as the initial Contract.</p>
<b>A change in the agreed price or tariff.</b>	<p>No</p>
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	<p>n/a</p>
<b>46.3. Can the procuring authority unilaterally modify a PPP contract?</b>	<p>No</p>
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	<p>n/a</p>
<b>47. Does the regulatory framework (including standard contractual clauses) expressly regulate the following circumstances that may occur during the life of the PPP contract? (check all that apply): Force Majeure</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	<p>Article 43 of the PPP Law makes provision for termination in case of Force majeure events.</p> <p>Pursuant to Article 51 of the PPP Decree: Without prejudice to the provision of Article 50, the contract may also state the condition for the private partner to be entitled to request a contract review to provide compensation, significant expenses incurred in implementing the contract or compensation noticeably lower than initially expected, the private partner received due to:</p>

	<ul style="list-style-type: none"> <li>- changes in economic or financial situation;</li> <li>- changes in the legislation or regulation not applicable specifically for the site or services provided.</li> </ul> <p>In this case, the request for the Contract review shall be deemed admissible provided that such economic, financial, legislative or regulatory changes:</p> <ul style="list-style-type: none"> <li>- occur after the contract conclusion;</li> <li>- are beyond the control of the private partner;</li> <li>- were unpredictable during the contract negotiation.</li> </ul> <p>The Contract shall set the procedures for reviewing its clauses in the event of such changes.</p>
<b>Material Adverse government action .</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	<p>Article 50 of the PPP Decree indicates: The Contract shall specify the conditions for granting compensation to the private partner for significant expenses incurred in implementing this Contract or compensation the partner received and deem noticeably lower than initially earmarked, due to changes in the legislation and regulations, specifically applicable for the site or services provided.</p> <p>Article 51 furthermore provides: Without prejudice to the provision of Article 50, the contract may also state the condition for the private partner to be entitled to request a contract review to provide compensation, significant expenses incurred in implementing the contract or compensation noticeably lower than initially expected, the private partner received due to:</p> <ul style="list-style-type: none"> <li>- changes in economic or financial situation;</li> <li>- changes in the legislation or regulation not applicable specifically for the site or services provided.</li> </ul> <p>In this case, the request for the Contract review shall be deemed admissible provided that such economic, financial, legislative or regulatory changes:</p> <ul style="list-style-type: none"> <li>- occur after the contract conclusion;</li> <li>- are beyond the control of the private partner;</li> <li>- were unpredictable during the contract negotiation.</li> </ul> <p>The Contract shall set the procedures for reviewing its clauses in the event of such changes.</p>
<b>Change in the Law.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	<p>Article 50 of the PPP Decree indicates: The Contract shall specify the conditions for granting compensation to the private partner for significant expenses incurred in implementing this Contract or compensation the partner received and deem noticeably lower than initially earmarked, due to changes in the legislation and regulations, specifically applicable for the site or services provided.</p>
<b>Refinancing.</b>	No

<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>Subcontracting and replacement of the subcontractors.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Article 32 of the PPP Law requires the contract to include clauses related to subcontracting.
<b>48. Does the regulatory framework (including standard contractual clauses) allow for administrative and/or contractual complaint review mechanisms to address disputes arising from the implementation of PPP contracts?</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Articles 30 31, 45 and 46 of the PPP Law, articles 35, 36, and 64-66 of the PPP Decree regulate dispute resolution mechanisms.
<b>48.1. If yes, please specify which of the following options are available (check all that apply): Local administrative review body</b>	Yes
<b>If yes, please specify:</b>	Article 64 of the PPP Decree: Any dispute arising between the public authority and the private partner at the implementation stage of the Contract shall be settled amicably before the Public Procurement Regulatory Authority.
<b>Local courts</b>	Yes
<b>Domestic arbitration</b>	Yes
<b>International arbitration</b>	Yes
<b>Investor-State Dispute Settlement (ISDS)</b>	Yes
<b>Mediation</b>	Yes
<b>Please provide the relevant legal/ regulatory/standard contractual provisions (if any)</b>	Pursuant to Article 64 of the PPP Decree: Any dispute arising between the public authority and the private partner at the implementation stage of the Contract shall be settled amicably before the Public Procurement Regulatory Authority. Failing that, the dispute shall be referred to a relevant national jurisdiction or national or international arbitration court.
<b>48.2. If applicable, are arbitration awards</b>	Yes

<b>enforceable by the local courts?: Domestic Arbitration</b>	
<b>If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):</b>	Article 30 of the OHADA Uniform Act on Arbitration dated March 11, 1999
<b>International arbitration</b>	Yes
<b>If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):</b>	<p>Article 30 of the OHADA Uniform Act on Arbitration dated March 11, 1999: The arbitration judgment is subject to forced execution only by virtue of a decision of exequatur by the competent judge in the State.</p> <p>Article 3 of the New York Convention on Recognition and Enforcement of Foreign Arbitral Awards dated June 10, 1958 (in force in Burkina Faso since 23 Mar 1987): Each Contracting State shall recognize arbitral awards as binding and enforce them in accordance with the rules of procedure of the territory where the award is relied upon, under the conditions laid down in the following articles. There shall not be imposed substantially more onerous conditions or higher fees or charges on the recognition or enforcement of arbitral awards to which this Convention applies than are imposed on the recognition or enforcement of domestic arbitral awards.</p>
<b>Investor-State arbitration</b>	Yes
<b>If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):</b>	<p>Article 54 of the International Center for the Settlement of International Disputes (ICSID) Convention (in force in Burkina Faso since Oct 14, 1966):</p> <p>(1) Each Contracting State shall recognize an award rendered pursuant to this Convention as binding and enforce the pecuniary obligations imposed by that award within its territories as if it were a final judgment of a court in that State. A Contracting State with a federal constitution may enforce such an award in or through its federal courts and may provide that such courts shall treat the award as if it were a final judgment of the courts of a constituent state.</p> <p>(2) A party seeking recognition or enforcement in the territories of a Contracting State shall furnish to a competent court or other authority which such State shall have designated for this purpose a copy of the award certified by the Secretary-General. Each Contracting State shall notify the Secretary-General of the designation of the competent court or other authority for this purpose and of any subsequent change in such designation.</p> <p>(3) Execution of the award shall be governed by the laws concerning the execution of judgments in force in the State in whose territories such execution is sought.</p>
<b>49. Does the regulatory framework (including standard contractual clauses) allow for the restructuring of a PPP private partner (SPV) in financial difficulty prior to insolvency?</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory/standard</b>	n/a

<b>contractual provisions (if any):</b>	
<b>50. Does the regulatory framework (including standard contractual clauses) allow for the lenders to take control of the PPP project (lender step-in rights) if either the private partner defaults or if the PPP contract is under threat of termination for failure to meet service obligations?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Pursuant to Article 53 of the PPP Decree: The public authority, leading the project may agree, with project funding entities and the private partner, to substitute this private partner for a new entity or person designated to implement the project under the Public-Private Partnership Contract in force, in case of serious failure of the initial private partner to comply with obligations or if other events occurred and may justify the Contract termination.
<b>50.1. If yes, which of the following options best describes the lender step-in right? (Please select only one): The regulatory framework expressly regulates the lender step-in rights.</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>The regulatory framework prescribes that a direct agreement should be signed with the lenders.</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Pursuant to Article 53 of the PPP Decree: The public authority, leading the project may agree, with project funding entities and the private partner, to substitute this private partner for a new entity or person designated to implement the project under the Public-Private Partnership Contract in force, in case of serious failure of the initial private partner to comply with

	obligations or if other events occurred and may justify the Contract termination.
<b>Other.</b>	No
<b>Please Specify:</b>	n/a
<b>51. Does the regulatory framework (including standard contractual clauses) expressly establish the grounds for termination of a PPP contract?</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	<p>Articles 41-43 of the PPP Law and Articles 59-61 of the PPP Decree indicate the grounds for termination of a PPP contract.</p> <p>Article 59: The public authority may terminate the Public-Private Partnership Contract subject to the payment of compensation to the private partner according to the requirements agreed under this Contract namely as follows:</p> <ul style="list-style-type: none"> <li>- In the event that the public authority can no longer, reasonably, expect the private partner to perform its obligations due to insolvency or serious failure;</li> <li>- For urgent reasons linked to public interest.</li> </ul> <p>Article 60: The private partner may not terminate the Public-Private Partnership Contract unless:</p> <ul style="list-style-type: none"> <li>- The public authority seriously fails to perform its obligations under this Contract;</li> <li>- The conditions to review the Public-Private Partnership Contract as provided in Paragraph 1, Article 49 are met but the Parties fail to agree on such review;</li> <li>- The private partner incurred, for the implementation of the Public-Private partnership Contract, substantially more important expenses or received significant low counterpart funds due to acts or omissions by the public authority and the Parties did not reach an agreement on the Contract review.</li> </ul> <p>Article 61: Either Party may terminate this Contract, when events beyond their control make it impossible to perform their obligations. The Parties may also terminate this Contract by mutual consent.</p>
<b>51.1. If yes, does the regulatory framework (including standard contractual clauses) establish the consequences for the termination of the PPP contract?</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	<p>Article 44 of the PPP Law and articles 62 and 63 of the PPP Decree regulate the consequences for terminating a PPP contract.</p> <p>Article 62: The Contract shall specify rules for calculating compensation due to either Party in the event of termination of the Contract, namely the compensation corresponding to the fair value of works achieved pursuant to</p>

	<p>this Contract, to expenses incurred or losses suffered by either Party.</p> <p>Article 63 : The Public-Private Partnership Contract shall provide:</p> <ul style="list-style-type: none"> <li>- Mechanism and procedures for transferring properties to the public authority;</li> <li>- Compensation for the private partner for properties transferred to the public authority or to a new private partner, or purchased by the public authority;</li> <li>- Required technology transfer for running the site;</li> <li>- Training for the staff of the public authority, leading the Project, or a new private partner for running and maintaining the site;</li> <li>- Uninterrupted provision, by the private partner, of services and support resources, including spare parts, as necessary, within reasonable deadline after the transfer of the site to the public authority or to a new private partner.</li> </ul>
<b>Unsolicited Proposals</b>	
<b>34. Are unsolicited proposals in Burkina Faso: (choose only one): Explicitly prohibited by the legal framework? (If prohibited, skip to section F)</b>	No
<b>Explicitly allowed by the legal framework?</b>	Yes
<b>Not regulated by the legal framework, but do happen in practice?</b>	No
<b>Not regulated by the legal framework, and do not happen in practice? (if not done in practice, skip to section F)</b>	No
<b>If the legal framework explicitly prohibits or allows unsolicited proposals, please provide the relevant legal/regulatory provisions</b>	Unsolicited proposals are regulated by articles 25 and 26 of the PPP Law, and articles 29 to 34 of the PPP Decree.
<b>35. Does the procuring authority conduct an assessment to evaluate unsolicited proposals? (if not, skip to question 37)</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any)</b>	Pursuant to Article 30 of the PPP Decree : After receiving and considering a spontaneous proposal, the public authority informs its initiator, within not more than one month whether or not there is potential general interest in the proposal.
<b>35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Pursuant to Article 30 of the PPP Decree : After receiving and considering a spontaneous proposal, the public authority informs its initiator, within not more than one month whether or not there is potential general interest in the

	<p>proposal.</p> <p>If there is effectively a general interest in the spontaneous proposal, the public authority shall invite the initiator of the proposal to provide the maximum information on such proposal notably, on the technical and economic feasibility, the environmental impact, the concept or technology. Such information will enable the public authority to properly assess the feasibility of the spontaneous proposal.</p>
<p><b>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.</b></p>	No
<p><b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b></p>	n/a
<p><b>The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.</b></p>	Yes
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	No regulatory basis
<p><b>The procuring authority does not evaluate unsolicited proposals against existing government priorities.</b></p>	No
<p><b>Please elaborate and provide examples:</b></p>	n/a
<p><b>37. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?</b></p>	Yes
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	<p>Article 33 of the PPP Decree provides: If the public authority decides to implement a project, for a spontaneous proposal, it shall institute a selection procedure pursuant to the provisions of Chapter II, Title II of this Decree in the following cases:</p> <ul style="list-style-type: none"> <li>- The project can be implemented without using intellectual property rights, professional secrets or other exclusive rights owned or possessed by the</li> </ul>



	<p>initiator of the proposal;</p> <p>- The proposed concept or technology is not really new or has no equivalent.</p> <p>Article 34 furthermore indicates: In the case of spontaneous proposal involving intellectual property rights, professional Secrecy or other exclusive rights, if the public authority considers that the conditions stated in paragraph 1 of Article 33 of this Decree are not fulfilled, the authority shall not be compelled to conduct a selection procedure in accordance with the provisions of Chapter II Title II of this Decree. Nevertheless, the public authority may seek comparative elements for the spontaneous proposal in compliance with the provisions stated from paragraphs 2 to 4 hereinafter.</p>
<b>38. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Pursuant to Article 34 of the PPP Decree, When the public authority expresses its intention to seek comparative element for the spontaneous proposal, it shall publish a description of essential elements of the proposed product or service while inviting other interested parties to Submit proposals within a time limit of not more than 45 days, a deadline to be set during the publication of the proposal in the public procurement Magazine and the Website of the entity responsible for the control of public procurement and in a newspaper widely distributed at the national level.
<b>and the time in calendar days:</b>	45
<b>39.1 Does the procuring authority use any of the following incentive mechanisms to reward/compensate the presentation of unsolicited proposals? (check all that apply): Access to the best and final offer (BAFO) process and/or automatic shortlisting.</b>	Yes
<b>39.2 Developer's fee (reimbursing the original proponent for the project development cost).</b>	No
<b>39.3 Bid Bonus.</b>	No
<b>39.4 Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).</b>	No
<b>39.5 Other.</b>	No
<b>Please specify:</b>	n/a
<b>Please provide the relevant legal/regulatory provisions (if any):</b>	Article 33 of the PPP Decree provides that: The initiator of the proposal shall be invited to take part in the selection procedure initiated by the public authority and this authority shall be the initiator of the project in accordance

with paragraph 1 of this Article. He may have an incentive or an advantage in accordance with the terms and conditions described by the public authority, leading the project in the tender documents.

No further details are provided, contributors' answers however suggest Access to the best and final offer (BAFO) process and/or automatic shortlisting is used in that regard.