



**PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN  
BURUNDI**

SURVEY QUESTION	ANALYSIS
<b>PPP Regulatory Framework</b>	
<b>2. Does the regulatory framework in your country allow procuring PPPs?</b>	<p>Yes</p>
<b>If yes, please specify the relevant regulatory framework and the year of adoption:</b>	<p>PPPs in Burundi are regulated by Law no1/14 of April 27th 2015 related to the general regime of public private partnership contracts (hereinafter the “PPP Law”). Decree no100/31 of February 24th 2017 details the procedures used in procuring PPPs (hereinafter the “PPP Decree”)</p> <p>This framework has been completed by Decree no100/12 of January 6th 2016 related to the Agency supporting realization of PPP contracts (hereinafter the “PPP Agency Decree”).</p> <p>PPPs are defined as a mode of contractual collaboration by which a procuring authority entrusts the contractor with activities of conception, financing, construction or transformation, exploitation, operation, maintenance of the necessary equipment to a public service through a partnership contract (Articles 2 and 3 of the PPP Law).</p> <p>The public procurement framework seems to be partly applicable to PPPs in particular the public procurement Code (Law no1/01 of February 4th 2008). Provisions related to general principles, procurement, publicity and sanctions are applicable if not contrary to the PPP regulations. Further regulations are expected for the PPP Law and will clarify the applicability of the public procurement Code.</p>
<b>and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:</b>	<p><a href="http://www.finances.gov.bi/images/download/lois/loi_27_avril_2015_regime_general_contrat_public_privive_.PDF">http://www.finances.gov.bi/images/download/lois/loi_27_avril_2015_regime_general_contrat_public_privive_.PDF</a></p>
<b>2.1. Are you aware of any reforms (in the regulatory frameworks – laws, regulations, policies, etc.- or in generally followed practices) related to PPPs that: Took place in 2016, are ongoing and/or are planned to be adopted BEFORE June 1, 2017?</b>	<p>Yes</p>

<b>Please describe:</b>	Decree no100/12 of January 6th 2016 related to the Agency supporting realization of PPP contracts Decree no100/31 of February 24th 2017 about the procurement process in PPPs
<b>2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?</b>	No
<b>Please describe:</b>	n/a
<b>3.1 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Transportation.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>3.2 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Water and Irrigation</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>3.3 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Energy generation and distribution.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a

<b>3.4 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Telecom</b>	<p>No</p>
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>n/a</p>
<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>	<p>No</p>
<b>If yes, specify and provide the relevant legal/regulatory provisions:</b>	<p>n/a</p>
<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>	<p>No</p>
<b>If yes, please specify and provide the relevant legal/regulatory provision (if any):</b>	<p>n/a</p>
<b>5. Please identify the PPP procuring authorities in Burundi and provide their website(s) (if available):</b>	<p>Pursuant to article 2 of the PPP Law, procuring authorities are: the State, territorial communities, public establishments or any other legal person acting on behalf of a public authority, and legal persons with special or exclusive rights.</p>
<b>6. In addition to the PPP procuring authorities listed above, is there a</b>	<p>Yes</p>

<b>specialized government entity that facilitates the PPP program (PPP Unit)?</b>	
<b>If yes, please indicate its name, and its website (if available):</b>	<p>There is an Agency supporting realization of PPP contracts. That agency is made of a National Committee and a Unit of National Coordination for PPP contracts management. The agency is oversighted by the Ministry of Finance but has an administrative and financial autonomy. Article 9 of the PPP Law states the existence of a PPP Agency, details were provided by the PPP Agency Decree.</p> <p>As its website has not been created yes, information are provided on the Ministry of Finance's: <a href="http://www.finances.gov.bi">www.finances.gov.bi</a></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>	<p>Yes</p>
<b>6.2 PPP capacity building for other public authorities.</b>	<p>Yes</p>
<b>6.3 PPP promotion among the public and/or private sectors in national and international forums.</b>	<p>Yes</p>
<b>6.4 Technical support in implementing PPP projects.</b>	<p>Yes</p>
<b>6.5 Identification and selection of PPP projects from the pipeline.</b>	<p>Yes</p>
<b>6.6 Revision of fiscal risks born by the Government.</b>	<p>No</p>
<b>6.7 Consultation with affected communities on potential impact of PPP projects.</b>	<p>No</p>
<b>6.8 Approval of PPP projects.</b>	<p>Yes</p>
<b>6.9 Undertaking the procurement of PPPs.</b>	<p>No</p>
<b>6.10 Oversight of PPP implementation.</b>	<p>Yes</p>

<b>6.11 Other</b>	Yes
<b>6.11 please specify:</b>	The PPP agency can order injunctions against the private partner to abide by the laws, apply contractual penalties, take over the service if performance is not satisfying and suggest the contract's termination.
<b>Please provide the relevant legal/regulatory provisions:</b>	Articles 5 to 8 of the PPP Agency Decree describe the Agency's missions.
<b>PPP Preparation</b>	
<b>8. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>8.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before signing the PPP contract?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Pursuant to article 15 of the PPP Law, a partnership contract cannot be signed by the procuring authority without an approval by the Ministry of Finance.
<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</b>	n/a

<b>legal/regulatory provisions (if any):</b>	
<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 International Public Sector Accounting Standards (IPSAS).</b>	n/a
<b>Accounting and reporting according to other international standard (e.g. European System of Accounts).</b>	n/a
<b>Please specify:</b>	n/a
<b>Other.</b>	n/a
<b>Please specify:</b>	n/a
<b>9. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before launching the procurement process (e.g. Cabinet, Cabinet Committee, Parliament, Supreme Audit Office, etc.)?</b>	Yes
<b>If yes, please specify the relevant authority</b>	The PPP Agency approves every partnership project before the procuring authority initiates a procurement process.

<b>and provide the relevant legal/regulatory provisions (if any):</b>	Article 11 of the PPP Law
<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>	Pursuant to article 7 of the PPP Agency Decree, the council of Ministries adopts the partnership contract before its signature.
<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>	Pursuant to article 18 of the PPP Agency Decree, when a sector requires specific qualifications, experts can be hired within the National Committee of the Agency. They are internationally hired for a maximum of 2 years. Article 13 of the PPP Decree indicates that the ad hoc commission can be supported by one or several experts, national or international.
<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</b>	No

<p><b>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><b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b></p>	n/a
<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>	No
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	n/a
<p><b>The regulatory framework does not include any provisions but the procuring authority evaluates the consistency of PPPs with other government investment priorities in practice.</b></p>	No
<p><b>If yes, please elaborate:</b></p>	n/a
<p><b>The procuring authority does not evaluate PPPs against existing government priorities.</b></p>	Yes
<p><b>Please elaborate and provide examples:</b></p>	According to article 7 of the PPP Agency Decree, the PPP Agency centralizes and compiles all proposals of line ministries or programs to be under the PPP regime. This

	does not include prioritisation within the national public investment system. Vision 2025 does not mention PPPs either.
<b>11.1. Based on your experience, is it always the case that this prioritization is done in practice in accordance with the provisions of the regulatory framework described above?</b>	No
<b>If yes, please specify:</b>	n/a
<b>If no, please elaborate:</b>	Neither the regulatory framework nor the practice consistently prioritizes PPPs within the national budget. However, the Agency participates to the consistency of the PPP projects.
<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 12 of the PPP Law, a partnership contract can only be prepared if the evaluation realized by the PPP Agency shows the benefits of the project. This evaluation includes the economic, financial, legal and administrative motives, after a comparative analysis, in particular in terms of global cost, economic fallout, performance and sharing of the risks between the contracting authority and the cocontracting party, alternative options and protection of environment and sustainable development. Article 15 of the PPP Agency Decree also mentions evaluations made by the procuring authorities which are validated by the PPP Agency.
<b>Is there a specific methodology for the assessment?</b>	No
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	No Data
<b>Details:</b>	Instruments created by the PPP regulatory framework have not been used yet.
<b>12.2. Affordability assessment, including the identification of the</b>	No

<b>required long term public commitments (explicit and implicit, direct and contingent liabilities)</b>	
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>Is there a specific methodology for the assessment?</b>	n/a
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	n/a
<b>Details:</b>	n/a
<b>12.3. Risk identification, allocation and assessment (risk matrix)</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	Pursuant to article 12 of the PPP Law, a partnership contract can only be prepared if the evaluation realized by the PPP Agency shows the benefits of the project. This evaluation includes the economic, financial, legal and administrative motives, after a comparative analysis, in particular in terms of global cost, economic fallout, performance and sharing of the risks between the contracting authority and the cocontracting party, alternative options and protection of environment and sustainable development.
<b>Is there a specific methodology for the assessment?</b>	No
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	No Data
<b>Details:</b>	The provisions related to evaluations have not yet been applied.
<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 12 of the PPP Law, a partnership contract can only be prepared if the evaluation realized by the PPP Agency shows the benefits of the project. This evaluation includes the economic, financial, legal and administrative motives, after a comparative analysis, in particular in terms of global cost, economic fallout, performance and sharing of the risks between the contracting authority and the cocontracting party,

	alternative options and protection of environment and sustainable development. Article 17 of the PPP Decree furthermore requires the evaluation to show a positive cost/benefits balance compared to other procurement forms.
<b>Is there a specific methodology for the assessment?</b>	No
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	No Data
<b>Details:</b>	The provisions related to evaluations have not yet been applied.
<b>12.5. Financial viability or bankability assessment</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>Is there a specific methodology for the assessment?</b>	n/a
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	n/a
<b>Details:</b>	n/a
<b>12.6. 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 12 of the PPP Law, a partnership contract can only be prepared if the evaluation realized by the PPP Agency shows the benefits of the project. This evaluation includes the economic, financial, legal and administrative motives, after a comparative analysis, in particular in terms of global cost, economic fallout, performance and

	sharing of the risks between the contracting authority and the cocontracting party, alternative options and protection of environment and sustainable development.
<b>Is there a specific methodology for the assessment?</b>	No
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	No Data
<b>Details:</b>	The provisions related to evaluations have not yet been applied.
<b>12.8. Consultation process with affected communities on potential impact of the PPP project</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>Is there a specific methodology for the assessment?</b>	n/a
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	n/a
<b>Details:</b>	n/a
<b>13. Does the procuring authority include the assessments (indicated in Question 12 above) in the request for proposals and/or tender documents (for example, as part of an Information Memorandum to the bidders)?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	No regulatory basis
<b>and specify which of the assessments are included in the request for proposals and/or tender documents:</b>	The evaluation made by the PPP Agency is entirely published.

<b>13.1. Are the assessments published online?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Pursuant to article 8 of the PPP Decree, all tender documents and notices are available on the Agency's website.
<b>specify the website</b>	While creating the Agency's website, publication is made on the Ministry of Finance's: <a href="http://www.finances.gov.bi">www.finances.gov.bi</a>
<b>please specify which of the assessments are published online:</b>	The evaluation made by the PPP Agency is entirely published.
<b>14. Does the procuring authority include a draft PPP contract in the request for proposals?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>If no, please elaborate</b>	There are no provisions pertaining to inclusion of a draft PPP contract in the request for proposals.
<b>14.1. Are the tender documents published online?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Pursuant to article 8 of the PPP Decree, tender documents are always available on the PPP Agency's website.
<b>and please specify the website:</b>	While creating the Agency's website, publications are made on the Ministry of Finance's website: <a href="http://www.finances.gov.bi">www.finances.gov.bi</a>
<b>15. In a case comparable to the case study assumptions, have standardized PPP model contracts and/or transaction documents been developed?</b>	No
<b>If yes, please specify and provide a government-supported website where the mentioned standards are available or provide an electronic copy of them:</b>	n/a

<b>16.1 In a case comparable to the case study assumptions, who is the responsible party for each of the following requirements? Obtaining the required urban permits: Procuring authority (or other Government entity)</b>	No
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</b>	No
<b>To be established in the contract</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	Pursuant to article 37 of the PPP Law, the contract shall include clauses related to obtaining modalities of all permits, licenses and authorizations necessary for the contract's implementation.
<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>	Pursuant to article 37 of the PPP Law, the contract shall include clauses related to obtaining modalities of all permits, licenses and authorizations necessary for the contract's implementation.
<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</b>	No

assigned to the procuring authority (or other Government entity)	
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	Pursuant to article 37 of the PPP Law, the contract shall include clauses related to obtaining modalities of all permits, licenses and authorizations necessary for the contract's implementation.
<b>16.4. Obtaining the required land: Procuring authority (or other Government entity)</b>	Yes
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	No
Relevant legal/regulatory provision (if any)	Pursuant to article 39 of the PPP Law, when the contract includes occupation of the public domain, it implies authorization of occupation for the entirety of its duration.
<b>16.5. Obtaining the required right of way: Procuring authority (or other Government entity)</b>	Yes
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	No
Relevant legal/regulatory provision (if any)	Pursuant to article 39 of the PPP Law, when the contract includes occupation of the public domain, it implies authorization of occupation for the entirety of its duration.
<b>PPP Procurement</b>	
<b>18. Which of the following options best describes the required qualifications of the bid evaluation committee</b>	Yes

<b>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>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Pursuant to article 13 of the PPP Law, an ad hoc commission is created by the PPP Agency for each partnership contract and is composed of at least a representative of the procuring authority, a representative of the PPP Agency and a representative of the Ministry of Finance. This Commission is in charge of conducting the procurement process, select the cocontractor and negotiate the terms of the contract. Article 18 furthermore indicates that only the ad hoc Commission can initiate the procurement process, prepare the tender documents, conduct the prequalification stage if any, analyze the offers, select the potential cocontractor and negotiate and enter into a contract.</p> <p>Adding to this, the National Committee within the PPP Agency is in charge of selecting the winning bid (article 15 of the PPP Agency Decree). It is composed of:</p> <ul style="list-style-type: none"> <li>- secretary of the Ministry of finance</li> <li>- secretary of the Ministry of planification</li> <li>- secretary of the Ministry of decentralization</li> <li>- secretary of the Ministry of public works</li> <li>- secretary of the Ministry of land use policy</li> <li>- secretary of the Ministry of Justice</li> <li>- secretary of the Ministry of Energy and Mines</li> <li>- coordinator of the committee of evaluation of public administration entities' performance</li> <li>- two people chosen because of their qualifications, chosen among personalities with an established professional reputation in technical domains and their possession of moral integrity</li> <li>- national coordinator of the management Unit.</li> </ul> <p>Article 13 furthermore requires the members to not have interests, neither direct nor indirect, in a company bidding to a PPP contract.</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</b>	No

<b>have any specific qualifications.</b>	
<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>	According to article 28 of the PPP Law, publicity of calls for tenders are made accordingly to the public procurement code. Pursuant to article 4 of the PPP Decree, PPP procurement is always preceded by publicity allowing several offers to be presented. This includes a publication on the Agency website and on at least one of the following: most read national newspaper, procurement newspaper, international newspaper.
<b>19.1. If yes, is the public procurement notice published online?</b>	Yes
<b>If yes, please specify the website:</b>	The PPP Decree requires the public procurement notice to be published on the Agency's website. It however appears that this website has not been created yet. Meanwhile, publication is made on the Ministry of Finance's website: <a href="http://www.finances.gov.bi">www.finances.gov.bi</a>
<b>20. Are foreign companies prohibited from participating in the bidding process?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>21. In a case comparable to the case study assumptions, does the procuring authority grant the potential bidders a minimum period of time to submit their bids?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 8 of the PPP Decree requires at least 90 days between sending the tender notice and the limit date of bids reception.
<b>and the time in calendar days:</b>	90
<b>22.1. In a case comparable to the case study</b>	Yes

<b>assumptions, which are the procurement procedures available and/or set as default for PPP projects? Open tendering: Available</b>	
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	Article 17 of the PPP Law indicates: the procurement of a partnership contract is made through: open tendering with a pre-qualification stage, restricted tendering or competitive dialogue. Title II of the PPP Decree provides details. Only the PPP Unit can decide which of the 3 procedures is applied.
<b>22.2. Restricted tendering (with pre-qualification stage): Available</b>	Yes
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	Article 17 of the PPP Law indicates: the procurement of a partnership contract is made through: open tendering with a pre-qualification stage, restricted tendering or competitive dialogue. Title II of the PPP Decree provides details. Only the PPP Unit can decide which of the 3 procedures is applied.
<b>22.3 Multi-stage tendering (with shortlisting of final candidate(s)): Available</b>	No
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>22.4. Competitive dialogue: Available</b>	Yes
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	Article 17 of the PPP Law indicates: the procurement of a partnership contract is made through: open tendering with a pre-qualification stage, restricted tendering or competitive dialogue. Articles 21 to 25 of the PPP Law and Title II of the PPP Decree provide details. Only the PPP Unit can decide which of the 3 procedures is applied.
<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>	Article 44 of the public procurement code provides for the content of public procurement notice, which includes the type of procurement, location where tender documents can be viewed, qualification of candidates, location and time of limit to make an offer, ...
<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 30 of the PPP Law, offers are evaluated applying criteria defined in the tender notice. Article 23 of the PPP Decree furthermore indicates that pre-qualification criteria, related to professional, technical and financial skills are mentioned in the tender notice.
<b>22.10. Based on your experience, is it always the case that the specified criteria are respected in practice?</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>If no, please elaborate:</b>	The institutions are too recent and lack experience at the moment.

<b>23. Can interested parties/potential bidders submit questions to clarify the public procurement notice and/or the request for proposals?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Pursuant to article 29 of the PPP Decree, related to restricted procedure, the tender notice indicates the timelines within which clarifications and questions are received and answers are provided.</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>No</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>n/a</p>
<b>23.2. Based on your experience, is it always the case that this disclosure of information is done in practice?</b>	<p>No Data</p>
<b>If yes, please specify:</b>	<p>n/a</p>
<b>If no, please elaborate:</b>	<p>The PPP regulatory framework is too recent to evaluate that disclosure. However, it is the case for public procurement.</p>
<b>24. Besides questions and clarifications, can the procuring authority conduct pre-bidding conference?</b>	<p>Yes</p>
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	<p>No regulatory basis</p>
<b>24.1. If yes, notwithstanding confidential information pertaining to the</b>	<p>No</p>

<b>bidders, does the procuring authority disclose the content and the results of the pre-bid conference to all bidders?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>24.2. Based on your experience, is it always the case that this disclosure of information is done in practice?</b>	No Data
<b>If yes, please specify:</b>	n/a
<b>If no, please elaborate:</b>	The PPP regulatory framework is too recent to evaluate that disclosure. However, it is the case for public procurement.
<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>	The regulatory framework does not require a financial model to be included in proposals and practice is not developed enough to determine if it is actually required by procuring authorities.
<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 30 of the PPP Law, offers are evaluated applying criteria defined in the tender notice.

<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>	Yes
<b>Please specify and provide the relevant legal/regulatory provisions (if any):</b>	<p>Pursuant to article 5 of the PPP Decree, the number of candidates for procuring of a contract cannot be lower than three.</p> <p>When in spite of the advertising of the procedure and the extension of deadlines this number is not reached, the Agency sends a request making a brief summary of the followed procedure and candidates' rarity and submits the case to the Ministry of finance.</p> <p>The brief request and the written answer of the Secretary are published on the website of the Agency, and a copy is reserved for the public personnel responsible for the project.</p>
<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</b>	No

<b>include any provisions.</b>	
<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>	Pursuant to article 25 of the PPP Decree, detailed results are provided to candidates and published on the Agency's website.
<b>28.1. If yes, is the public procurement award notice published online?</b>	Yes
<b>If yes, please specify the website:</b>	Pursuant to article 25 of the PPP Decree, detailed results are provided to candidates and published on the Agency's website. While creating the Agency's website, publications are made on the Ministry of Finance's: <a href="http://www.finances.gov.bi">www.finances.gov.bi</a>
<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>	Pursuant to article 25 of the PPP Decree, detailed results are provided to candidates and published on the Agency's website. Upon request, the procuring authority will furthermore provide the grounds for rejecting a bidder's offer, characteristics and advantages of the winning bid and the name of the chosen contractor (article 6).
<b>If no, please elaborate:</b>	n/a
<b>29.1. If yes, does the notification of the result of the PPP procurement process include the grounds for the selection of the winning bid?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>30. Is there a standstill (or pause) period after the contract award and before the signing of the contract in order to allow unsuccessful</b>	Yes

<b>bidders to challenge the award decision?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Pursuant to article 6 of the PPP Decree, there is a period of 20 days at least between the award notification and the signature.
<b>and the time in calendar days:</b>	20
<b>30.1. Is the standstill period set out in the notice of intention to award?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>31. Does the regulatory framework restrict negotiations with the selected bidder between the award and the signature of the PPP contract in order to prevent an unfair disadvantage to the other bidders?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>31.1. Based on your experience, is it always the case that this restriction is respected in practice?</b>	n/a
<b>If yes, please specify:</b>	n/a
<b>If no, please elaborate:</b>	n/a
<b>32. Does the procuring authority publish the PPP contract?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Pursuant to article 7 of the PPP Decree, the Agency's website contains a maximum of details about PPP contracts, such as the cocontractor, the object, contract's value and duration.
<b>32.1. If yes, which of the following options best describes this</b>	No

<b>publication (choose only one)?: Publication of the full PPP contract including all its annexes and appendixes</b>	
<b>Publication of the full PPP contract without including all its annexes and appendixes</b>	No
<b>Publication of a summary of the PPP contract without publishing the full PPP contract</b>	Yes
<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>	Yes
<b>If yes, please specify the website:</b>	Pursuant to article 7 of the PPP Decree, the Agency's website PPP contains the contracts and other details, such as the co-contractor, the object, contract's value, duration...
<b>32.3. If yes, does the procuring authority also publish any subsequent amendment made to the PPP contract?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>PPP Contract Management</b>	
<b>41. Has the procuring or contract management authority established a system to manage</b>	Yes

<b>the implementation of the PPP contract (e.g. attributing responsibilities or establishing specific management tools)?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 5 of the PPP Agency Decree includes the principal missions of the Agency's assistance to the government on monitoring PPP contracts throughout their whole cycle.
<b>41.1. If yes, which of the following tools does it include (check all that apply)?: Establishment of a PPP contract management team</b>	No
<b>Relevant legal/regulatory provisions (if any):</b>	n/a
<b>Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa</b>	No
<b>Relevant legal/regulatory provisions (if any):</b>	n/a
<b>Elaboration of a PPP implementation manual or an equivalent document</b>	No
<b>Relevant legal/regulatory provisions (if any):</b>	n/a
<b>Establishment of personnel training programs (i.e. initial training and continued training throughout the course of the project)</b>	No
<b>Relevant legal/regulatory provisions (if any):</b>	n/a
<b>Establishment of a risk mitigation</b>	No

<p><b>mechanism which considers the evolving nature of risks throughout the project lifecycle (guidelines, specific processes, insurance regime, etc.)</b></p>	
<p><b>Relevant legal/regulatory provisions (if any):</b></p>	n/a
<p><b>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.</b></p>	n/a
<p><b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b></p>	n/a
<p><b>The PPP contract management team members are required to meet sufficient qualification without specific details.</b></p>	n/a
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	n/a
<p><b>The PPP contract management team members are not required to meet any specific qualifications.</b></p>	n/a
<p><b>Please elaborate and provide examples:</b></p>	n/a

<b>42. Does the procuring or contract management authority establish a system for tracking progress and completion of construction works under a PPP contract?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Pursuant to article 37.4 of the PPP Law, the contract shall include clauses related to the project realization's monitoring when the partnership contract entrusts the private partner with part or whole of conception.</p>
<b>42.1. If yes, is the PPP contract construction performance information made available to the public?</b>	<p>No</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>n/a</p>
<b>42.2. If yes, is the PPP contract construction performance information made publicly available online?</b>	<p>No</p>
<b>If yes, please specify the website:</b>	<p>n/a</p>
<b>43. Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract implementation after construction?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Article 43 of the PPP Law requires an annual report to be prepared by the private partner, and article 44 requires periodical audits to be made by the PPP Agency.</p>
<b>43.1. If yes, which of the following tools does it include (check all that apply)?:</b>	<p>Yes</p>

<b>Performance is assessed against evaluation criteria set in the tender documents and the PPP contract</b>	
<b>Relevant legal/regulatory provisions (if any)</b>	Article 37.14 of the PPP Law requires clauses related to provisions in case of non-respect to the performance objectives or technical specifications.
<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 43 of the PPP Law, an annual report is prepared by the private partner and transferred to the procuring authority and copying the PPP Agency.
<b>The procuring or contract management authority must periodically gather information on the performance of the PPP contract</b>	No
<b>Relevant legal/regulatory provisions (if any)</b>	n/a
<b>The PPP contract performance information must be available to the public</b>	No
<b>Relevant legal/regulatory provisions (if any)</b>	n/a
<b>43.2. Is PPP contract performance</b>	No

<b>information made publicly available online?</b>	
<b>If yes, please specify the website:</b>	n/a
<b>44. Are foreign companies prohibited from repatriating the income resulting from the operation of a PPP project?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>45. Does the regulatory framework (including standard contractual clauses) expressly regulate changes in the ownership structure (i.e. stakeholder composition) of the private partner and/or assignment of the PPP contract?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Pursuant to article 37.15 of the PPP Law, the contract shall include clauses related to the public authority's control over total or partial cession of the contract.
<b>45.1. If yes, which of the following circumstances are specifically regulated? (check all that apply): Any change in the private partner during an initial period (e.g. construction and first five years of operation).</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a

<b>Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.</b>	<p>No</p>
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	<p>n/a</p>
<b>In other cases, flexibility to change the ownership structure and/or assign the 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>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>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	<p>Pursuant to article 37.15 of the PPP Law, the contract shall include clauses related to renegotiation according to a set schedule or, without an agreement, unilateral decision of the public authority to modify some aspects or terminate the contract, to take into account an evolution of its needs, technological innovations or modification of financing conditions of the private partner.</p> <p>Article 8 of the PPP Agency decree indicates that the Agency shall inform the government in case of any violation or unbalance of the contract that could generate renegotiation.</p>
<b>46.1. If yes, is an approval from a government authority, other than the procuring authority, required?</b>	<p>No</p>
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	<p>n/a</p>

<b>Standard contractual provisions (if any):</b>	
<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>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>A change in the duration of the contract.</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>A change in the agreed price or tariff.</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>46.3. Can the procuring authority</b>	Yes

<b>unilaterally modify a PPP contract?</b>	
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Pursuant to article 37.15 of the PPP Law, the contract shall include clauses related to renegotiation according to a set schedule or, without an agreement, unilateral decision of the public authority to modify some aspects or terminate the contract, to take into account an evolution of its needs, technological innovations or modification of financing conditions of the private partner.
<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>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>Material Adverse government action .</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	No regulatory basis
<b>Change in the Law.</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>Refinancing.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Pursuant to article 37.15 of the PPP Law, the contract shall include clauses related to renegotiation according to a set schedule or, without an agreement, unilateral decision of the public authority to modify some aspects or terminate the contract, to take into account an evolution of its needs, technological innovations or modification of financing conditions of the private partner.
<b>Subcontracting and replacement of the subcontractors.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Pursuant to article 37.12 and 37.13. of the PPP Law, the contract shall include clauses related to conditions within which the private partner recurses to other companies to implement the contract and reserves a part of the contract to small and medium

<b>Standard contractual provisions (if any):</b>	companies, and the obligation of the private partner to have the subcontractors constituting a security to guarantee payment of their work throughout realization of work.
<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>	Pursuant to article 37.22 of the PPP Law, the contract shall include clauses related to prevention and resolution of disputes and conditions within which parties can recourse to arbitration.
<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>	Pursuant to article 15 of the PPP Agency Decree, the National Committee is in charge of resolving disputes between the co-contractors.
<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 37.22 of the PPP Law, the contract shall include clauses related to prevention and resolution of disputes and conditions within which parties can recourse to arbitration. Arbitration is regulated by articles 337 and sq. of the civil procedure Code. For administrative matters, an administrative or hierarchical appeal shall be made first.
<b>48.2. If applicable, are arbitration awards enforceable by the local courts?: Domestic Arbitration</b>	Yes

<b>If yes, please provide the relevant legal/regulatory provisions/standard contractual provisions (if any):</b>	Arbitration is regulated by articles 337 and sq. of the civil procedure Code, article 365 indicates the appeal court is competent in case of inexecution of the arbitral decision.
<b>International arbitration</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions/standard contractual provisions (if any):</b>	Burundi has ratified the New-York arbitration Convention on the Recognition and Enforcement of Foreign Arbitral Awards on 23 June 2014. Arbitration is regulated by articles 337 and sq. of the civil procedure Code, article 365 indicates the appeal court is competent in case of inexecution of the arbitral decision.
<b>Investor-State arbitration</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions/standard contractual provisions (if any):</b>	The ICSID convention entered into force in Burundi on Dec 05, 1969. Arbitration is regulated by articles 337 and sq. of the civil procedure Code, article 365 indicates the appeal court is competent in case of inexecution of the arbitral decision.
<b>49. Does the regulatory framework (including standard contractual clauses) allow for the restructuring of a PPP private partner (SPV) in financial difficulty prior to insolvency?</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>50. Does the regulatory framework (including standard contractual clauses) allow for the lenders to take control of the PPP project (lender step-in rights) if either the private partner defaults or if the PPP contract is under threat of</b>	No

<b>termination for failure to meet service obligations?</b>	
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>50.1. If yes, which of the following options best describes the lender step-in right? (Please select only one): The regulatory framework expressly regulates the lender step-in rights.</b>	n/a
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>The regulatory framework prescribes that a direct agreement should be signed with the lenders.</b>	n/a
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.</b>	n/a
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>Other.</b>	n/a
<b>Please Specify:</b>	n/a
<b>51. Does the regulatory</b>	Yes

<b>framework (including standard contractual clauses) expressly establish the grounds for termination of a PPP contract?</b>	
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Pursuant to article 37.15 of the PPP Law, the contract shall include clauses related to renegotiation according to a set schedule or, without an agreement, unilateral decision of the public authority to modify some aspects or terminate the contract, to take into account an evolution of its needs, technological innovations or modification of financing conditions of the private partner.
<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>	Pursuant to article 37.21 of the PPP Law, the contract shall include clauses related to the consequences of early termination, especially related to property of buildings and equipment, and, if necessary, compensation.
<b>Unsolicited Proposals</b>	
<b>34. Are unsolicited proposals in Burundi: (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</b>	Articles 32 to 36 of the PPP Law and articles 37 to 50 of the PPP Decree are related to unsolicited proposals.

<p><b>prohibits or allows unsolicited proposals, please provide the relevant legal/regulatory provisions</b></p>	
<p><b>35. Does the procuring authority conduct an assessment to evaluate unsolicited proposals? (if not, skip to question 37)</b></p>	<p>Yes</p>
<p><b>If yes, please specify and provide the relevant legal/regulatory provisions (if any)</b></p>	<p>Unsolicited proposals are only valid if they are innovative. They are considered innovative if they aim an operation with new functionalities, or aim new services or technical innovations within a market or sector. The procuring authority has to appreciate the innovative quality of every proposal (Article 39 of the PPP Decree).</p>
<p><b>35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?</b></p>	<p>Yes</p>
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	<p>Pursuant to article 42 of the PPP Decree, the procuring authority drafts a report of prefeasibility evaluation. It can modify some aspects of the proposal's content and perimeter, to take into account the budgetary and technical feasibility of the project. Preliminary studies are also prepared by the original proponent in order to present an eligible project (article 32).</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>	<p>No</p>
<p><b>If yes, please specify and provide the</b></p>	<p>n/a</p>

<b>relevant legal/regulatory provisions (if any):</b>	
<b>The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The procuring authority does not evaluate unsolicited proposals against existing government priorities.</b>	Yes
<b>Please elaborate and provide examples:</b>	Pursuant to article 33 of the PPP Law, an unsolicited proposal is only valid if the procuring authority had not stated its intention, even potential, of realizing such a project.
<b>37. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Pursuant to article 34 of the PPP Law, a procurement procedure is organized if the procuring authority decides to go through with the unsolicited proposal. Article 49 of the PPP Decree mentions the Agency is free to choose the procedure to adopt.
<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>	Article 8 of the PPP Decree requires at least 90 days between sending the tender notice and the limit date of bids reception.

<b>and the time in calendar days:</b>	90
<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>	No
<b>39.2 Developer's fee (reimbursing the original proponent for the project development cost).</b>	Yes
<b>39.3 Bid Bonus.</b>	Yes
<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 36 of the PPP Law makes provision for the possibility to offer the private partner reimbursement of a share of the fees involved in preparing the offer, and for a bid bonus. Articles 44 to 46 of the PPP Decree detail the developer's fee mechanism.