

PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN CHINA

| SURVEY QUESTION | ANALYSIS |
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| PPP Regulatory Framework | |
| 2. Does the regulatory framework in your country allow procuring PPPs? | Yes |
| If yes, please specify the relevant regulatory framework and the year of adoption: | <p>There has been a PPP practice in China since the 1980s, featuring BOTs, concessions and other cooperation forms between local governments and foreign investors. The State Council Guiding Opinions (The Notice of the Ministry of Finance on The Notice 2014 (hereinafter ‘Notice 2014’) published on Nov.29 2014) have provided for the establishment and improvement of PPP mechanism systematically for the first time at the national level. Other texts provide regulations for PPPs, including several texts issued by the Ministry of Finance, such as:</p> <ul style="list-style-type: none"> (i) the MOF Notice on Issues relating to Promoting PPP, published on Sep 23, 2014 ; (ii) the MOF Notice on Regulating PPP Contract Management, published on Dec 30, 2014; (iii) the MOF Notice on Regulating the Operation of PPP Information Platform published on Dec 18, 2015; the MOF Guidance on Financial Affordability Assessment of PPP Projects published on Apr 7, 2015; (iv) the MOF Notice on Implementing the Policy of Replacing Subsidy with Reward published on Dec 8, 2015); as well as (v) Guiding Opinions of the National Development and Reform Commission on Carrying out Public-Private-Partnership, with the (vi) PPP Contract General Guidance issued by the National Development and Reform Commission (NDRC). <p>Moreover, provisions regarding PPPs are contained in</p> <ul style="list-style-type: none"> (vii) the Guiding Opinions of the State Council on Innovating in Investment and Financing Mechanism and Encouraging Social Investment in Key Fields, published on Nov. 16th 2014; (viii) Measures for the Administration of Government Procurement in Public-Private Partnership Projects (adopted on Dec.31st 2014) (hereinafter ‘PPP Procurement 2014’); (ix) and in The Guiding Opinions of the MOF, NDRC and the People’s Bank on Promoting PPP in Public Service, published on May 19th, 2015. <p>Some of the public procurement rules have been included in the PPP regulations, but not all of them. Where there are no specific rules in the PPP regulations, the public procurement rules are applicable to PPPs by reference.</p> <ul style="list-style-type: none"> (x) The Bidding Law of the People’s Republic of China generally applies to PPP tenders (‘Bidding Law’), supplemented by Regulation on the Implementation of the Bidding Law (2012 revision) (‘Bidding Regulation’). <p>The general Law on procurement (issued on 31st August, 2014) is as a result applicable to PPPs, according to article 11 (7) of the Notice 2014, which provides that the procurement of the PPP can be made in accordance with the Government Procurement Law of the PRC. Article 2(2) of the Government Procurement Law of the PRC provides that “The term “government</p> |

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| | <p>procurement” as mentioned in the present law refers to the procurement of goods, projects and services within the lawfully made centralized procurement lists or above the procurement limits by the state organs, public institutions and bodies with public fiscal funds.”</p> <p>As a result, Government Procurement Law is applicable to PPP projects in China as long as the PPP projects fall within the definition of “government procurement” as accepted above.</p> <p>In addition to all the above, China issued a number of Notices, Circulars and Guidelines, which apply at different stages of the PPP procurement:</p> <p>(i) Circular on Issuing the Interim Measures for the Administration of Finance for Public-private Partnership Projects (CaiJin [2016] No.92) published on Sept. 24th 2016 by the MOF (‘C2016/92’)</p> <p>(ii) Circular on Further Advancing the Public-Private Partnership in Public Services (CaiJin [2016] No.90) published on Oct. 11, 2016 (‘C2016/90’)</p> <p>(iii) Circular on Further Effectively and Jointly Implementing Public-Private Partnerships (Cai Jin [2016] No. 32) published on May 28th 2016 by MOF and NDRC (‘C2016/32’)</p> <p>(iv) Circular on Issuing the Interim Measures for Administration of Information Disclosure for Public-Private Partnership Integrated Information Platform (CaiJin [2017] No.1) published on Jan 23, 2017. (‘C2017/1’), enforced from March 1, 2017</p> <p>(v) Notice of NDRC on Effectively Conducting the Work concerning PPP in Traditional Infrastructure Fields published on Aug 10, 2016 (‘Notice on Works’)</p> <p>(vi) Guidelines for Implementing PPP Projects in Traditional Infrastructure Fields published on Oct 24, 2016 by NDRC (‘Implementing Guidelines’)</p> <p>(vii) Notice of NDRC and CSRC on Advancing the Work concerning the Asset Securitization for PPP Projects in Traditional Infrastructure Fields published on Dec 21, 2016 (‘Notice on Asset Securitization’)</p> <p>(viii) Measures for the Administration of the PPP Expert Database published on Dec 30, 2016 by MOF (‘Measures on Expert Database’)</p> <p>(ix) Interim Measures for the Administration of the Publication of the Information in PPP Comprehensive Information Platform effective as of Mar 1, 2017 by MOF (‘Measures on Information’)</p> <p>(x) Circular of the Ministry of Finance on Issuing the Interim Measures for the Administration of PPP Consulting Agency Database was published on Mar 22, 2017, but effective as of May 1, 2017 (‘2017/8’)</p> <p>(xi) Guidelines for Issuing Project Bonds for PPP Projects published on Apr 25, 2017 by NDRC (‘Guidelines on Bonds’)</p> <p>(xii) Guiding Opinions of the State Council on Innovating the Investment and Financing Mechanisms in Key Areas published on November 16, 2014. (‘Guiding Finance’)</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>China Public Private Partnership Center, “China PPP Center”, “Policies” section: http://www.cpppc.org/en/Policies/index.jhtml</p> |
| <p>2.1. Are you aware of any reforms (in the regulatory</p> | <p>Yes</p> |

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| <p>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?</p> | |
| <p>Please describe:</p> | <p>The following legal measures have been enforced after 2016 and before 2017 June 1st:</p> <ul style="list-style-type: none"> (i) Circular on Issuing the Interim Measures for the Administration of Finance for Public-private Partnership Projects (CaiJin [2016] No.92) published on Sept. 24th 2016 by the MOF ('C2016/92') (ii) Circular on Further Advancing the Public-Private Partnership in Public Services (CaiJin [2016] No.90) published on Oct. 11, 2016 ('C2016/90') (iii) Circular on Further Effectively and Jointly Implementing Public-Private Partnerships (Cai Jin [2016] No. 32) published on May 28th 2016 by MOF and NDRC ('C2016/32') (iv) Circular on Issuing the Interim Measures for Administration of Information Disclosure for Public-Private Partnership Integrated Information Platform (CaiJin [2017] No.1) published on Jan 27, 2017. ('C2017/1'), enforced from March 1, 2017 (v) Notice of NDRC on Effectively Conducting the Work concerning PPP in Traditional Infrastructure Fields published on Aug 10, 2016 ('Notice on Works') (vi) Guidelines for Implementing PPP Projects in Traditional Infrastructure Fields published on Oct 24, 2016 by NDRC ('Implementing Guidelines') (vii) Notice of NDRC and CSRC on Advancing the Work concerning the Asset Securitization for PPP Projects in Traditional Infrastructure Fields published on Dec 21, 2016 ('Notice on Asset Securitization') (viii) Measures for the Administration of the PPP Expert Database published on Dec 30, 2016 by MOF ('Measures on Expert Database') (ix) Interim Measures for the Administration of the Publication of the Information in PPP Comprehensive Information Platform published on Mar 1, 2017 by MOF ('Measures on Information') (x) Circular of the Ministry of Finance on Issuing the Interim Measures for the Administration of PPP Consulting Agency Database published on May 1, 2017 ('2017/8') (xi) Guidelines for Issuing Project Bonds for PPP Projects published on Apr 25, 2017 by NDRC ('Guidelines on Bonds') |
| <p>2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?</p> | <p>Yes</p> |
| <p>Please describe:</p> | <p>According to the Notice of the General Office of the State Council on Issuing the 2017 Legislative Work Plan for the State Council , the first PPP law will be enacted in 2017 as the form of “Introducing Social Capital to Infrastructure and Public Service Projects (基础设施和公共服务项目引入社会资本条例) “</p> <p>In addition, a new legislation on asset securitization and tax policies are planned. MOF has solicited public comments on tax policies for PPP projects. Specific timeline for such new regulations is not clear.</p> |

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| 3.1 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Transportation. | No |
| If yes, please provide the relevant legal/regulatory provisions: | n/a |
| 3.2 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Water and Irrigation | No |
| If yes, please provide the relevant legal/regulatory provisions: | n/a |
| 3.3 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Energy generation and distribution. | No |
| If yes, please provide the relevant legal/regulatory provisions: | n/a |
| 3.4 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Telecom | No |
| If yes, please provide the relevant legal/regulatory provisions: | n/a |
| 3.5 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Other | No |
| If yes, specify and provide the relevant legal/regulatory provisions: | n/a |
| 4. Does the regulatory framework provide for a specific tax regime for PPP transactions (i.e. tax | Yes |

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| incentives, special tax depreciation treatment, etc.)? | |
| If yes, please specify and provide the relevant legal/regulatory provision (if any): | According to Article 1 in the Supplementary Notice of the Ministry of Finance and the State Administration of Taxation on Issues concerning the Preferential Enterprise Income Tax Policies for Public Infrastructure Projects, were an enterprise invests in and operates public infrastructure projects that meet the conditions and standards under the List of Public Infrastructure Projects Enjoying Enterprise Income Tax Preferences, and such projects are approved just once but constructed in batches (such as docks, berths, terminals, runways, roads, sections, and power generator sets) and satisfy all of the following conditions, the income may be calculated for each batch and enjoy the preference for the “three-year exemption and three-year half payment” of enterprise income tax. |
| 5. Please identify the PPP procuring authorities in China and provide their website(s) (if available): | Pursuant to Article 16 of the Government Procurement Law, the central government and local governments may designate their departments or agencies as “project executive unit” for the preparation, procurement, supervision and transfer of a PPP project. |
| 6. In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)? | Yes |
| If yes, please indicate its name, and its website (if available): | At the central level, the Ministry of Finance (“MOF”) has established a Government and private operators Cooperation Centre, also known as the China Public Private Partnerships Center (“CPPPC”), to facilitate PPP programs: http://www.cpppc.org/ ; http://jrs.mof.gov.cn/ppp/ . CPPPC is mainly responsible for the policy research, consultancy and training, capacity building, financial support, information collection, international exchanges and other matters related to PPPs. |
| 6.1 If yes, what are the main responsibilities of the PPP Unit (check all that apply): PPP regulation and policy guidance. | Yes |
| 6.2 PPP capacity building for other public authorities. | Yes |
| 6.3 PPP promotion among the public and/or private sectors in national and international forums. | Yes |
| 6.4 Technical support in implementing PPP projects. | Yes |
| 6.5 Identification and selection of PPP projects from the pipeline. | No |
| 6.6 Revision of fiscal risks born by the Government. | No |

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| 6.7 Consultation with affected communities on potential impact of PPP projects. | No |
| 6.8 Approval of PPP projects. | No |
| 6.9 Undertaking the procurement of PPPs. | No |
| 6.10 Oversight of PPP implementation. | Yes |
| 6.11 Other | Yes |
| 6.11 please specify: | <p>(I) collecting and sorting PPP-related theories and case studies at home and abroad, and studying PPP practices, such as government procurement, budget management, investment and financing mechanisms, risk control etc.</p> <p>(IV) supporting and facilitating the financing for PPP projects by ways of equity, loans, guarantees and others.</p> <p>(V) establishing a PPP information platform and improving the statistical system.</p> <p>(VI) developing cooperation and communication with respect to PPP work with international organizations and institutions.</p> |
| Please provide the relevant legal/regulatory provisions: | <p>According to CPPPC website, the China Public Private Partnerships Center (“CPPPC”) is mainly responsible for the policy research, consultancy and training, capacity building, financial support, information collection, international exchanges and other matters related to public-private partnerships (PPP). Its specific responsibilities include:</p> <p>(I) collecting and sorting PPP-related theories and case studies at home and abroad, and studying PPP practices, such as government procurement, budget management, investment and financing mechanisms, risk control etc.</p> <p>(II) setting up PPP operational guidelines and contract guidelines, assisting the government in screening suitable industries for PPP, selecting appropriate PPP models and establishing standardized PPP project process, and carrying out the construction of PPP demonstration projects.</p> <p>(III) providing consultancy and training to offer technical support for the government in such stages as identification, evaluation, bidding and procuring, and contract management with respect to PPP projects; organizing training sessions to improve the operational capacity of PPP personnel.</p> <p>(IV) supporting and facilitating the financing for PPP projects by ways of equity, loans, guarantees and others.</p> <p>(V) establishing a PPP information platform and improving the statistical system.</p> <p>(VI) developing cooperation and communication with respect to PPP work with international organizations and institutions.</p> <p>The establishment of the CPPPC will provide necessary technical and organizational support for the advancement of PPP work, and will promote the development of PPP in a regularized and sound manner.</p> |
| PPP Preparation | |
| 8. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process? | Yes |

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| <p>If yes, please provide the relevant legal/regulatory provisions (if any):</p> | <p>Pursuant to Article 7A of C2016/92, the finance department shall, together with the competent department of the relevant industry, jointly review the value-for-money evaluation report according to the project implementation program. If the value-for-money evaluation fails to pass the review, the project implementing organization concerned may propose the finance department at the same level and the competent department of the relevant industry to conduct the review again, after adjusting the implementation program.</p> <p>Further, pursuant to Article 8, if a project passes the value-for-money evaluation upon review, the finance department at the same level shall prepare a financial affordability assessment report as per the project implementation program and value-for-money evaluation report (...)</p> |
| <p>8.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before signing the PPP contract?</p> | <p>No</p> |
| <p>If yes, please provide the relevant legal/regulatory provisions (if any):</p> | <p>n/a</p> |
| <p>8.2. Does the Ministry of Finance (or government more broadly) have a specific system of: Budgeting for PPP projects.</p> | <p>Yes</p> |
| <p>If yes, please provide the relevant legal/regulatory provisions (if any):</p> | <p>Article 18 of 2016/92: According to budget management requirements, a competent department of industry shall include cross-year financial expenditure responsibilities of government set out in a PPP project contract in a medium-term financial plan, and upon review and summarization by the relevant finance department, report it to the central government at the same level for review, in order to guarantee the performance capability of the government in the whole life cycle of the relevant project.</p> |
| <p>Accounting liabilities (explicit and implicit, direct and contingent) arising from PPPs.</p> | <p>Yes</p> |
| <p>If yes, please provide the relevant legal/regulatory provisions (if any):</p> | <p>Chapter V of 2016/92 contains provisions on PPP asset management and evaluations. Also, new laws on details of accounting and reporting regulations for PPPs are under development by MOF.</p> <p>E.g. Article 29 The finance departments at all levels shall, together with relevant departments, consolidate the state-owned asset management involved in the PPP projects, and supervise project implementing organizations to establish asset management ledgers of the PPP projects. Assets formed by governments by means of shareholding with stock state-owned assets or equities as consideration, contribution in cash, direct investment, etc. in the PPP projects shall be reflected and managed in the comprehensive financial report of the government as state-owned assets.</p> <p>Article 30 If any stock, state-owned assets, or equities are transferred in a stock PPP project, the project implementing organization concerned shall, together with the relevant competent department of industry and finance department, perform asset evaluations according to the administrative</p> |

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| | measures for state-owned assets and relevant laws, to prevent the loss of state-owned assets. |
| Reporting liabilities (explicit and implicit, direct and contingent) arising from PPPs. | Yes |
| If yes, please provide the relevant legal/regulatory provisions (if any): | Article 29 of 2016/92: The finance departments at all levels shall, together with relevant departments, consolidate the state-owned asset management involved in the PPP projects, and supervise project implementing organizations to establish asset management ledgers of the PPP projects. Assets formed by governments by means of shareholding with stock state-owned assets or equities as consideration, contribution in cash, direct investment, etc. in the PPP projects shall be reflected and managed in the comprehensive financial report of the government as state-owned assets. |
| 8.3. If yes to question 8.2, which of the following alternatives best describes the regulation?: Accounting and reporting according to International Public Sector Accounting Standards (IPSAS). | No |
| Accounting and reporting according to other international standard (e.g. European System of Accounts). | No |
| Please specify: | n/a |
| Other. | Yes |
| Please specify: | No regulatory basis |
| 9. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before launching the procurement process (e.g. Cabinet, Cabinet Committee, Parliament, Supreme Audit Office, etc.)? | Yes |
| If yes, please specify the relevant authority | Departments at regional government |
| and provide the relevant legal/regulatory provisions (if any): | Article 7 of 2016/92 requires that a finance department shall, together with the department of the relevant industry, jointly review the value-for-money evaluation report according to the project implementation program. Article 8 of 2016/92 requires that, if a project passes the value-for-money evaluation upon review, the finance department at the same level shall prepare a financial affordability assessment report as per the project implementation program and value-for-money evaluation report, make overall arrangements for the annual expenditure responsibilities for the PPP projects already implemented and about to be implemented at the same level in all the years, and after comprehensively considering the industrial balance |

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| | <p>and development plans of PPP projects, give review opinions on the financial affordability assessment reports.</p> <p>Article 13 of the Measures for the Administration of Concession for Infrastructure and Public Utilities provides that:</p> <p>“The project proposing department shall, through the departmental coordination mechanism established in accordance with the provisions of Article 8 of these Measures by the people’s government at the same level, review the implementation plan of concession projects in conjunction with the development and reform department, finance department, urban and rural planning department, land and resources department, environmental protection department, water resources department, and other relevant departments. For implementation plans reviewed to be feasible, all departments shall, according to their duties, respectively issue written review opinions.</p> <p>The project proposing department shall, in combination with the written review opinions of all departments, report to the people’s government at the same level or the department authorized thereby for examination and approval of the implementation plans of concession projects.”</p> <p>Article 28 of the MOF Guidance on Financial Affordability Assessment of PPP Projects requires an approval from the government after the PPP center reviewed the evaluation.</p> |
| <p>9.1. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before signing the PPP contract?</p> | <p>Yes</p> |
| <p>If yes, please provide the relevant legal/regulatory provisions (if any):</p> | <p>PPP Guidelines 2014, Article 21 - After the negotiation, the procuring entity should sign a negotiation memorandum with the selected private operators and make the contract public. If there is no objection within the public notification period, the project contract should be signed after the government examined and approved the project.</p> |
| <p>10. Does the procuring authority use transaction advisors during the PPP project cycle?</p> | <p>Yes</p> |
| <p>If yes, please provide the relevant legal/regulatory provisions (if any):</p> | <p>Article 2 of 2017/8: For the purpose of the Measures, PPP consulting agency database (hereinafter referred to as the “agency database”) refers to a set of information on consulting agencies that are established by relying on the National PPP Integrated Information Plat and provide consultation service for governments involved in PPP projects, including but not limited to the name, introduction, main personnel, qualification, and performance, of consulting agencies.</p> |
| <p>11. In a case comparable to the case study assumptions, please select the option that best describes the way your</p> | <p>No</p> |

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| <p>government integrates the prioritization of PPP projects with other public investment project prioritization? (e.g. in the context of a national public investment system, multi-year perspective plans, medium-term budgetary framework): The regulatory framework provides for the inclusion of PPPs in the national public investment system/medium term budgetary framework and details a specific procedure to ensure the consistency of PPPs with other public investment priorities.</p> | |
| <p>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p> | n/a |
| <p>The regulatory framework prescribes the need for PPPs to be consistent with all other investment priorities without establishing a specific procedure to achieve that goal.</p> | No |
| <p>If yes, please provide the relevant legal/regulatory provisions (if any):</p> | n/a |
| <p>The regulatory framework does not include any provisions but the procuring authority evaluates the consistency of PPPs with other government investment priorities in practice.</p> | Yes |
| <p>If yes, please elaborate:</p> | The procuring authority evaluates the consistency of PPPs with other government investment priorities in practice. |
| <p>The procuring authority does not evaluate PPPs against existing government priorities.</p> | No |
| <p>Please elaborate and provide examples:</p> | n/a |
| <p>11.1. Based on your experience, is it always the case that this prioritization is done in practice in accordance with the</p> | No |

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| provisions of the regulatory framework described above? | |
| If yes, please specify: | n/a |
| If no, please elaborate: | Prioritization of PPP projects is done on a case to case basis. |
| 12.1 Which of the following assessments are conducted when identifying and preparing a PPP in order to inform the decision to proceed with it? (check all that apply): Socio-economic analysis (cost-benefit analysis of the socio-economic impact of the PPP project) | Yes |
| Relevant legal/regulatory provision (if any) | <p>Article 14 of the Guiding Opinions of the MOF, NDRC and the People's Bank on Promoting PPP in Public Service requires to choose PPP projects which meet the needs of local social and economical development and keep a good financial balance.</p> <p>The MOF Notice on Issues relating to Promoting PPP, Article 3(2) requires to carefully select PPP projects based on various factors such as public service needs and to use "Value for Money" (VFM) method for reference to keep a balance between social benefits and financial benefits of the project.</p> |
| Is there a specific methodology for the assessment? | No |
| If yes, please elaborate | n/a |
| Is the assessment done in practice? | Yes |
| Details: | Contributors indicate that socio-economic assessment is done in practice. |
| 12.2. Affordability assessment, including the identification of the required long term public commitments (explicit and implicit, direct and contingent liabilities) | Yes |
| Relevant legal/regulatory provision (if any) | <p>Pursuant to Article 3(6) of the MOF Guiding Opinions, a long term budget plan is required to ensure that the affordability of the project is included in the risk management mechanisms.</p> <p>Moreover, public funds should not exceed a specific ratio of the government's income (PPP Guidelines, Article 9).</p> <p>The PPP center reviews the affordability of the project. For projects validated by this review, the procuring authority should report to the government. For those that fail, a second review is possible after adjustments. When both reviews are negative, PPP format is no longer an option (Article 12).</p> |
| Is there a specific methodology for the assessment? | Yes |

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| If yes, please elaborate | The Affordability Assessment Guidance sets out four categories of the government's financial responsibility: Equity investment, operation subsidy, risk expense, ancillary inputs and methods for calculation. |
| Is the assessment done in practice? | Yes |
| Details: | The government conducts affordability assessment of projects before procurement. |
| 12.3. Risk identification, allocation and assessment (risk matrix) | Yes |
| Relevant legal/regulatory provision (if any) | Notice 2014 , Article 11(2) : In accordance with risk allocation optimization, and other risks and benefits of risk control principles, project risks should be reasonably allocated between government and private operators. Government risk management capacity, project returns and market risk management mechanism and other factors should also be considered. MOF Guiding Opinions, Article 3(2) provides that risk allocation, key performance indicators, payment, financing arrangement and financial subsidies should be taken into account during the project assessment. |
| Is there a specific methodology for the assessment? | Yes |
| If yes, please elaborate | Notice 2014 , Article 11(2) : In accordance with risk allocation optimization, and other risks and benefits of risk control principles, project risks should be reasonably allocated between government and private operators. Government risk management capacity, project returns and market risk management mechanism and other factors should also be considered. |
| Is the assessment done in practice? | Yes |
| Details: | Risks are in practice identified and allocated for PPP projects. |
| 12.4. Comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives (i.e. value for money analysis, public sector comparator) | Yes |
| Relevant legal/regulatory provision (if any) | PPP Guidelines, Article 8 : PPP center should evaluate the project's quantitative and qualitative aspects. Within the qualitative analysis, the PPP center shall compare PPP mode and traditional procurement to determine whether the PPP mode would increase supplies and efficiency and create an innovative and fair competition environment. Within the quantitative analysis, the PPP center should determine if PPP mode decreases the project's cost. |
| Is there a specific methodology for the assessment? | Yes |

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| If yes, please elaborate | <p>“PPP Value For Money Assessment Guidelines” gives specific details on the process to evaluate VfM. The first step is preparation consisting on a preliminary explanation of the potential project outputs. The PPP center then realizes a qualitative and quantitative analysis. The qualitative analysis, will study the following : life cycle; risks; innovation; capability of the government; potential competition and financing viability. The PPP center can add indicators to those 6 if necessary.</p> <p>The VfM study is conducted by an expert committee including experts in different sectors related to that project. This expert will meet with the PPP center during the evaluation process.</p> <p>For the quantitative evaluation, the preliminary assumption is that the project’s outputs are the same as the traditional procurement’s. This includes a comparison between PPP value (i.e. current value for operation compensation, risk responsibility and investment of the stakeholders) and PSC value (i.e. risk costs, competition adjustment value and net cost of construction and maintenance), to determine whether a PPP would decrease the cost of a project through its life cycle.</p> |
| Is the assessment done in practice? | Yes |
| Details: | Comparative assessment is done through a Value for money analysis. |
| 12.5. Financial viability or bankability assessment | Yes |
| Relevant legal/regulatory provision (if any) | <p>Article 3(2) of the MOF Guiding Opinions provides that risk allocation, KPI, payment, financing arrangement and financial subsidies should be taken into account during the project assessment.</p> <p>Fiscal Affordability Assessment are required under PPP Fiscal Affordability Assessment Guidelines.</p> <p>Article 7 (2) of the of Notice 2014 requires feasibility reports for project to build or rehabilitate. The feasibility reports usually include financial viability assessment or analysis.</p> |
| Is there a specific methodology for the assessment? | No |
| If yes, please elaborate | n/a |
| Is the assessment done in practice? | Yes |
| Details: | Financial viability of PPP projects is assessed in practice. |
| 12.6. Market sounding and/or assessment (showing evidence of investors’ interest in the market for the project) | No |
| Relevant legal/regulatory provision (if any) | n/a |
| Is there a specific methodology for the assessment? | n/a |

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| If yes, please elaborate | n/a |
| Is the assessment done in practice? | n/a |
| Details: | n/a |
| 12.7. Environmental impact assessment | Yes |
| Relevant legal/regulatory provision (if any) | Pursuant to Guiding Opinions of the National Development and Reform Commission on Carrying out Public-Private-Partnership VI. 3. [...] A joint examination and approval mechanism shall be established jointly with the competent departments and the promotion of preliminary works such as [...] environment assessment approval, [...]. |
| Is there a specific methodology for the assessment? | No |
| If yes, please elaborate | n/a |
| Is the assessment done in practice? | No |
| Details: | The majority of the contributors did not confirm that environmental impact assessment of PPP projects is done in practice. |
| 12.8. Consultation process with affected communities on potential impact of the PPP project | No |
| Relevant legal/regulatory provision (if any) | n/a |
| Is there a specific methodology for the assessment? | n/a |
| If yes, please elaborate | n/a |
| Is the assessment done in practice? | n/a |
| Details: | n/a |
| 13. Does the procuring authority include the assessments (indicated in Question 12 above) in the request for proposals and/or tender documents (for example, as part of an Information Memorandum to the bidders)? | No |
| If yes, please provide the relevant legal/regulatory provisions (if any): | n/a |
| and specify which of the assessments are included in the request for proposals and/or tender documents: | n/a |
| 13.1. Are the assessments published online? | Yes |

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| <p>If yes, please provide the relevant legal/regulatory provisions (if any):</p> | <p>Pursuant to Article 5 in 2017/1, The PPP project information that must be disclosed during the project identification phase include: (...) risk allocation framework,(...) transaction structure (including financing structure, return mechanism and relevant supporting arrangements); the value-for-money evaluation report (...), including: qualitative evaluation indicators and weights, scoring standards, scoring results, main indicators, methods, processes and results (including PSC value, PPP value), etc. (if any) for the purpose of quantitative evaluation; conclusions on whether value-for-money evaluation is passed or not; (...) the financial affordability assessment report (...), including: liabilities of fiscal expenditure of each year and total expenditure liabilities, total liabilities of fiscal expenditure of the PPP projects implemented by the government at the same level in current year and that of the PPP projects to be implemented for various years, and ratios of them in the general public budget expenditures of various years, measurement basis, key factors and indicators of the financial affordability assessment as well as others, and conclusions on whether the financial affordability assessment is passed or not; feasibility study report (...) environmental impact assessment report.</p> <p>Article 6 of 2017/1: The PPP project information to be disclosed during the project preparatory phase includes: (...) risk allocation framework, the value-for-money evaluation report, the financial affordability assessment report</p> |
| <p>specify the website</p> | <p>http://www.cpppc.org</p> |
| <p>please specify which of the assessments are published online:</p> | <p>Social-economic analysis; affordability assessment; risk matrix; comparative assessment; financial viability; environmental impact assessment</p> |
| <p>14. Does the procuring authority include a draft PPP contract in the request for proposals?</p> | <p>Yes</p> |
| <p>If yes, please provide the relevant legal/regulatory provisions (if any):</p> | <p>Pursuant to Article 15 of the PPP Guidelines, a draft of the PPP contract shall be included in the request for proposals. Further, Article 9 of PPP Procurement 2014 provides that PPP procurement documents shall include a draft of the PPP contract.</p> |
| <p>If no, please elaborate</p> | <p>n/a</p> |
| <p>14.1. Are the tender documents published online?</p> | <p>Yes</p> |
| <p>If yes, please provide the relevant legal/regulatory provisions (if any):</p> | <p>Pursuant to Article 7(2) in 2017/1, the disclosure of information in the procurement process shall comply with the provisions on government procurement and other provisions. The disclosed PPP project information shall include, inter alia, project procurement documents, including notes to competitors, PPP project contract (draft), review methods (including composition of the review group, the number of review experts and the producing way thereof, the review rules, etc.)</p> |
| <p>and please specify the website:</p> | <p>http://www.cpppc.org/</p> |
| <p>15. In a case comparable to the case study assumptions, have standardized PPP model</p> | <p>No</p> |

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| contracts and/or transaction documents been developed? | |
| If yes, please specify and provide a government-supported website where the mentioned standards are available or provide an electronic copy of them: | n/a |
| 16.1 In a case comparable to the case study assumptions, who is the responsible party for each of the following requirements? Obtaining the required urban permits: Procuring authority (or other Government entity) | No |
| Private Partner | No |
| Private partner with facilitation role assigned to the procuring authority (or other Government entity) | Yes |
| To be established in the contract | No |
| Relevant legal/regulatory provision (if any) | <p>According to the Contract Guideline for PPP Projects (for trial implementation) issued by the Ministry of Finance, (i) if the project company can obtain certain permits swiftly on its own, then the project company shall be in charge of obtaining such permits; (ii) if the project company is unable to obtain certain permits without the assistance of the government, then the government shall assist in obtaining such permits; (iii) if certain permits are within the authority of the government who is party to the PPP contract, then the government shall be in charge of obtaining such permits.</p> <p>Further, Chapter V Article 19 of the Guiding Opinions of the MOF, NDRC and the People's Bank on Promoting PPP in Public Service, published on 19 May 2015 provides that after the signature of PPP contract, the PPP Co can apply for required approvals simultaneously, and the relevant authorities shall simplify the process.</p> <p>Article 22 of Measures for the Administration of Concession for Infrastructure and Public Utilities, where a concessionaire needs to handle planning and site selection, land and project confirmation or approval, and other formalities according to the law in accordance with the concession agreement, relevant governments shall simplify the formalities. The implementing institution shall assist the concessionaire in handling relevant formalities.</p> |
| 16.2. Obtaining the required environmental permits: Procuring authority (or other Government entity) | No |
| Private Partner | No |
| Private partner with facilitation role assigned to | No |

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| the procuring authority (or other Government entity) | |
| To be established in the contract | Yes |
| Relevant legal/regulatory provision (if any) | According to the Contract Guideline for PPP Projects (for trial implementation) issued by the Ministry of Finance, (i) if the project company can obtain certain permits swiftly on its own, then the project company shall be in charge of obtaining such permits; (ii) if the project company is unable to obtain certain permits without the assistance of the government, then the government shall assist in obtaining such permits; (iii) if certain permits are within the authority of the government who is party to the PPP contract, then the government shall be in charge of obtaining such permits. |
| 16.3. Obtaining the required operational permits: Procuring authority (or other Government entity) | No |
| Private Partner | No |
| Private partner with facilitation role assigned to the procuring authority (or other Government entity) | No |
| To be established in the contract | Yes |
| Relevant legal/regulatory provision (if any) | According to the Contract Guideline for PPP Projects (for trial implementation) issued by the Ministry of Finance, (i) if the project company can obtain certain permits swiftly on its own, then the project company shall be in charge of obtaining such permits; (ii) if the project company is unable to obtain certain permits without the assistance of the government, then the government shall assist in obtaining such permits; (iii) if certain permits are within the authority of the government who is party to the PPP contract, then the government shall be in charge of obtaining such permits. |
| 16.4. Obtaining the required land: Procuring authority (or other Government entity) | No |
| Private Partner | No |
| Private partner with facilitation role assigned to the procuring authority (or other Government entity) | Yes |
| To be established in the contract | No |
| Relevant legal/regulatory provision (if any) | For permits related to land, Article 22 of Measures for the Administration of Concession for Infrastructure and Public Utilities, where a concessionaire needs to handle planning and site selection, land and project confirmation or approval, and other formalities according to the law in accordance with the concession agreement, relevant governments shall simplify the formalities. The implementing institution shall assist the concessionaire in handling relevant formalities. However, Chapter V Article 20 of the Guiding Opinions of the MOF, NDRC and the People's Bank on Promoting PPP in Public Service also |

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| | provides that the government shall supply the land in a variety of ways and ensure the land supply for PPP project. |
| 16.5. Obtaining the required right of way: Procuring authority (or other Government entity) | No |
| Private Partner | No |
| Private partner with facilitation role assigned to the procuring authority (or other Government entity) | Yes |
| To be established in the contract | No |
| Relevant legal/regulatory provision (if any) | Pursuant to Article 3 of Measures for Land Registration, when an investor intends to get the right of way, it shall obtain the land right certificate. Therefore, we assume that obtaining this permit works the same way as obtaining permit for the land usage. |
| PPP Procurement | |
| 18. Which of the following options best describes the required qualifications of the bid evaluation committee members? (Please select only one): The membership of the bid evaluation committee is specified and/or its members are required to meet detailed qualifications. | Yes |
| If yes, please provide the relevant legal/regulatory provisions (if any): | Pursuant to Article 7 of C2016/92, the project implementation bodies and the procurement agencies shall establish a review team responsible for the pre-qualification and assessment on the Procurement under PPP Projects. The review team consists of five (or any other odd number above five) persons including the representatives of the project implementation bodies and the assessment experts, among which, the number of the assessment experts shall not be less than two-thirds of the total number of the review team members. The project implementation bodies may select the assessment experts at their own options while the assessment experts shall include at least one finance expert and one legal expert. The representatives of the project implementation bodies shall not participate in the project assessment as the assessment experts. |
| The bid evaluation committee members require sufficient qualification without specific details. | No |
| If yes, please provide the relevant legal/regulatory provisions (if any): | n/a |
| The bid evaluation committee members are not required to | No |

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| have any specific qualifications. | |
| Please elaborate and provide examples: | n/a |
| 19. Does the procuring authority issue a public procurement notice of the PPP project? | Yes |
| If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any): | PPP guidelines Article 14, 17 : a procurement notice should be published on a special media designated by the government. "The MOF Notice on Regulating the Operation of PPP Information Platform", Article 5 : The PPP center shall publish laws and regulations, a projects database and bidding and procurement notices. |
| 19.1. If yes, is the public procurement notice published online? | Yes |
| If yes, please specify the website: | http://www.ccgp.gov.cn/ |
| 20. Are foreign companies prohibited from participating in the bidding process? | No |
| If yes, please provide the relevant legal/regulatory provisions (if any): | n/a |
| 21. In a case comparable to the case study assumptions, does the procuring authority grant the potential bidders a minimum period of time to submit their bids? | Yes |
| If yes, please provide the relevant legal/regulatory provisions (if any): | If the procurement of the PPP project is made by way of public call for bids, the minimum period of time is 20 days (see Article 35 of the Government Procurement Law and Article 24 of the Bidding Law of the PRC). Further, Article 6 of C2016/92: The time for submitting application documents for prequalification shall be not less than 15 working days as from the date of issue of the announcement. |
| and the time in calendar days: | 21 |
| 22.1. In a case comparable to the case study assumptions, which are the procurement procedures available and/or set as default for PPP projects? Open tendering: Available | No |
| Default | No |
| Relevant legal/regulatory provision (if any) | n/a |
| 22.2. Restricted tendering (with pre-qualification stage): Available | Yes |

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| Default | No |
| Relevant legal/regulatory provision (if any) | Article 5 of PPP Procurement 2014 and Article 13 of Notice 2014 provide that the procuring authority should prepare prequalification documents and send out a tender notice. Further, pursuant to the Bidding Regulation, open tender might include a pre-qualification stage (before bidding) (Article 15) or a post-qualification stage (after opening the bids) (Article 20). Article 15 provides that in case a bidding with a pre-qualification stage is used, the the procuring authority shall issue a pre-qualification announcement and prepare pre-qualification documents. Article 18 further provides that pre-qualification shall be conducted by an established committee and using the standards and methods outlined in the pre-qualification documents. |
| 22.3 Multi-stage tendering (with shortlisting of final candidate(s)): Available | Yes |
| Default | No |
| Relevant legal/regulatory provision (if any) | Pursuant to Article 4 of PPP Procurement 2014, the methods for Procurement under PPP Projects include open tendering, invited tendering, competitive negotiations, competitive consultations and single source procurement. Article 30 of the Bidding Regulation provides that at the second stage of the bidding process, the bidding can be done in two stages if a proposal has complicated technical details or technical specifications can not be precisely formulated. |
| 22.4. Competitive dialogue: Available | Yes |
| Default | No |
| Relevant legal/regulatory provision (if any) | <p>Pursuant to Article 4 of PPP Procurement 2014, the methods for procurement under PPP Projects include, inter alia, competitive negotiations (...)</p> <p>Measures of Managing Competitive Consultation in Public Procurement (trial implementation), dated Dec 31, 2014, provide that competitive negotiation is awarded according to a composite score based on both price and quality, with value for money being the main criteria.</p> <p>Further, Article 30 of the Government Procurement Law provides that this method applies in those cases when none of the bids satisfied a technical criteria, when the need for procurement is urgent or in cases when it is impossible to determine the detailed technical specifications or concrete requirements of a project.</p> <p>Article 38 provides that the negotiating group, representing procuring authority, shall request all the participating providers to make their final quotations within the prescribed time period. The purchaser shall select a provider to conclude transactions from the candidates on the principles of “conforming to the requirements of procurement, the quality matching the services, and the quotations being the lowest”, and inform all the participating providers that have failed of the result.</p> |
| 22.5. Direct negotiation with more than one candidate: Available | Yes |
| Default | No |

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| Relevant legal/regulatory provision (if any) | <p>Pursuant to Article 4 of PPP Procurement 2014, the methods for Procurement under PPP Projects include, inter alia, competitive consultations and single source procurement. Both competitive consultations and single source procurement are direct negotiations with multiple candidates:</p> <p>Article 38 of Government Procurement Law sets forth the procedures for competitive negotiations: (1) setting up a negotiation team; (2) preparing documents for negotiation; (3) deciding on the list of the suppliers to be invited to participate in the negotiation; (4) negotiating; and (5) deciding on the successful supplier.</p> <p>Article 40 of the Government Procurement Law sets forth the procedures for single source procurement: (1) setting up of a quotation inquiry team; (2) deciding on the list of the suppliers to be inquired of for quotes; (3) soliciting quotes; and (4) deciding on the successful supplier.</p> <p>Furthermore, according to Article 15 of the PPP Procurement 2014 and Article 20 of the Notice 2014, the procuring authority shall set up a special working group for the negotiation of the procurement results. In accordance with the ranking of candidate private operators, the procuring authority shall negotiate with the candidate social capital and the financial institutions that cooperate with the candidate for details of the contract. The first to reach an agreement is the successful candidate.</p> |
| 22.6. Direct negotiation with only one candidate: Available | Yes |
| Default | No |
| Relevant legal/regulatory provision (if any) | <p>Pursuant to Article 4 of PPP Procurement 2014, the methods for Procurement under PPP Projects include, inter alia, competitive consultations. Competitive consultations are direct negotiations with multiple candidates:</p> <p>Article 38 of Government Procurement Law sets forth the procedures for competitive negotiations: (1) setting up a negotiation team; (2) preparing documents for negotiation; (3) deciding on the list of the suppliers to be invited to participate in the negotiation; (4) negotiating; and (5) deciding on the successful supplier.</p> <p>Furthermore, according to Article 15 of the PPP Procurement 2014 and Article 20 of the Notice 2014, the procuring authority shall set up a special working group for the negotiation of the procurement results. In accordance with the ranking of candidate private operators, the procuring authority shall negotiate with the candidate social capital and the financial institutions that cooperate with the candidate for details of the contract. The first to reach an agreement is the successful candidate.</p> |
| 22.7 Other. Specify: | Invited Tendering |
| Available | Yes |
| Default | No |
| Relevant legal/regulatory provision (if any) | <p>Pursuant to Article 4 of PPP Procurement 2014, the methods for Procurement under PPP Projects include, inter alia, invited tendering. Invited tendering is a combination of a direct negotiation and a competitive bidding process.</p> <p>Pursuant to Article 10 of the Bidding Law, invited bidding implies that the bid inviter, in the form of written invitation, directly invites specific legal persons or organizations to bid. This type of bidding is used in those cases when a key</p> |

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| | <p>project is identified by (1) the development planning department under the State Council or by (2) the People's government of a province, an autonomous region or a municipality (Article 11 of the Bidding Law). Pursuant to Article 17 of the Bidding Law, where a procuring authority adopts invited bidding, it shall send written invitation to at least three specified legal persons or other organizations that are capable of undertaking the project for bidding and have a good reputation and qualification. Articles 8 to 48 of the Bidding Law and Articles 34 to 37 of the Government Procurement Law set forth the procedures for invited tendering. Invited tendering consists of five stages: invitation, tendering, bids opening, assessment and announcing results.</p> |
| <p>22.8. Do the tender documents detail the procedure of the procurement process providing the same information to all the bidders?</p> | <p>Yes</p> |
| <p>If yes, please provide the relevant legal/regulatory provisions (if any):</p> | <p>Article 9 of PPP Procurement 2014: contents of the procurement documents include the procurement methods and procedures.</p> |
| <p>If no, please elaborate:</p> | <p>n/a</p> |
| <p>22.9. Do the tender documents specify the prequalification/shortlisting criteria (when applicable) in order to make them available to all the bidders?</p> | <p>Yes</p> |
| <p>If yes, please provide the relevant legal/regulatory provisions (if any):</p> | <p>PPP Procurement 2014, Article 6 : prequalification shall be published on the special media. Prequalification notice shall include evaluation criteria. Article 14 of the Notice 2014 : the prequalification notice should include prequalification criteria.</p> |
| <p>22.10. Based on your experience, is it always the case that the specified criteria are respected in practice?</p> | <p>Yes</p> |
| <p>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p> | <p>All contributors confirm that prequalification/shortlisting criteria are specified in the tender documents and available to all bidders.</p> |
| <p>If no, please elaborate:</p> | <p>n/a</p> |
| <p>23. Can interested parties/potential bidders submit questions to clarify the public procurement notice and/or the request for proposals?</p> | <p>Yes</p> |
| <p>If yes, please provide the relevant legal/regulatory provisions (if any):</p> | <p>Government Procurement Law, Article 51 - Where any provider has doubt about anything concerning a government procurement, it may inquire the</p> |

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| | procuring entity, which shall reply within a reasonable time. Those replies shall not involve any business secrets. |
| 23.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose those questions and clarifications to all potential bidders? | Yes |
| If yes, please provide the relevant legal/regulatory provisions (if any): | <p>Article 20 of the Implementation Rules for Government Procurement Law provides that a procuring authority shall not provide different information regarding a project to different bidders.</p> <p>Article 31(2) of Regulation on the Implementation of the Government Procurement Law of the PRC provides that: “If necessary, a purchaser or procurement agency may clarify or modify bid documents that have already been issued. If such clarification or modification may affect the preparation of bids, the purchaser or procurement agency shall, at least 15 days before the deadline for submission of bids, notify all prospective bidders that have obtained the bidding documents in writing. If there are less than 15 days left, the purchaser or procurement agency shall postpone the deadline for submission of pre-qualification documents or bids accordingly. “</p> <p>Article 17 (3) of the “Notice 2014” also provides that clarifications by the procuring authority shall form part of the procuring document.</p> |
| 23.2. Based on your experience, is it always the case that this disclosure of information is done in practice? | Yes |
| If yes, please specify: | All of the contributors confirmed that answers to the questions and clarifications to all potential bidders is done in practice. |
| If no, please elaborate: | n/a |
| 24. Besides questions and clarifications, can the procuring authority conduct pre-bidding conference? | Yes |
| If yes, please specify and provide the relevant legal/regulatory provisions (if any): | Pursuant to Article 11 of the PPP Procurement 2014, a project implementing organization shall organize corporate partners to conduct on-site observations or hold a question answering meeting. However, it shall not organize on-site observations or a question answering meeting in which only one private partner participant is present. According to concrete conditions of a project, the project implementing organization may organize the investigation and review qualification conditions of the corporate partners meeting conditions. |
| 24.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose the content and the | Yes |

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| results of the pre-bid conference to all bidders? | |
| If yes, please provide the relevant legal/regulatory provisions (if any): | No regulatory basis |
| 24.2. Based on your experience, is it always the case that this disclosure of information is done in practice? | Yes |
| If yes, please specify: | All the contributors confirmed that the disclosure of information is done in practice. |
| If no, please elaborate: | n/a |
| 25. In a case comparable to the case study assumptions, does the procuring authority require the bidders to prepare and present a financial model with their proposals? | No |
| If yes, please provide the relevant legal/regulatory provisions (if any): | n/a |
| If no, please elaborate: | This issue is not regulated in the regulatory framework. However, a financial model may be required if a PPP project requires so. |
| 26. Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents? | Yes |
| If yes, please provide the relevant legal/regulatory provisions (if any): | PPP Procurement 2014, Article 12 - The evaluation group should conduct pre-qualification inquiries and independent evaluations according to the procedure, methodology and standards listed in the previous procurement documents. Chapter 4 of the Measures for the Administration of Invitations and Tenders in Government Procurement of Goods and Services indicates that evaluations should be carried out based on the criteria and methodology mentioned in the bidding documents. |
| Evaluation criteria is not set in the tender documents | No |
| 27. In the case where only one proposal is submitted (sole proposals), which of the following options best describes the way the procuring authority deals with them? (Please select only one)?: The procuring | Yes |

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| authority follows a specific procedure before awarding a PPP contract where only one proposal is submitted. | |
| Please specify and provide the relevant legal/regulatory provisions (if any): | <p>Notice 2014 , Article 13 - In the case where no more than 3 proposals are submitted, procurement methods can be adjusted according to laws and regulations.</p> <p>Measures for the Administration of Invitations and Tenders in Government Procurement of Goods and Services, Article 43 - Where there are less than three suppliers participating in the bidding till the end of the deadline for bidding, the bid-invitation procurement entity shall, unless the procurement task is cancelled, report to the finance department of the people's government at the level of a city divided into districts or at the level of an autonomous prefecture or above, and the said finance department shall handle the matter pursuant to the following principles: (1) If the bid-invitation documents contain no unreasonable clauses, and the time and procedures for announcing the invitation for bid conform to the provisions, it shall give consent to making the procurement in a way of competitive negotiations, price inquiries or single source; (2) If the bid-invitation documents contain any unreasonable clause, or the time and procedures for announcing the invitation for bid do not conform to the provisions, it shall invalidate the bid, and order the bid-invitation procurement entity to make a new invitation for bid in accordance with the law. If, in the course of the bid evaluation, there are less than three suppliers who fulfill the professional conditions, or less than three suppliers who make substantive response to the bid-invitation documents, the matter may be handled with reference to the preceding paragraph.</p> |
| The procuring authority considers sole proposals valid as long as they meet the conditions outlined in the tender documents. | No |
| Please provide the relevant legal/regulatory provisions (if any): | n/a |
| The procuring authority does not award a PPP contract if only one proposal is submitted. | No |
| Please provide the relevant legal/regulatory provisions (if any): | n/a |
| The regulatory framework does not include any provisions. | No |
| 28. Does the procuring authority publish the award notice? | Yes |
| If yes, please specify the means of publication and | Articles 17 and 18 of PPP Procurement 2014 and Article 21 of Notice 2014 require an award notice to be published via a media authorized by |

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| provide the relevant legal/regulatory provisions (if any): | government. Furthermore, the notification period should be no less than 5 working days. |
| 28.1. If yes, is the public procurement award notice published online? | Yes |
| If yes, please specify the website: | http://www.ccg.gov.cn/ |
| 29. Does the procuring authority provide all the bidders with the result of the PPP procurement process? | Yes |
| If yes, please provide the relevant legal/regulatory provisions (if any): | Pursuant to Article 45 of the Bidding Law, after the determination of the bid winner, the tenderee shall issue a bid winning notice to the winner, and at the same time inform all the other tenderers of the result. The bid-winning notice shall be of legal effect to the tenderee and bid winner. If the tenderee changes the result of bid winning or the bid winner rejects the bid project after the notice has been sent out, the tenderee or tenderer shall be held legally liable. Pursuant to Article 18 of PPP Procurement 2014, within two working days after the unanimous expiration of the publicity, the project implementation body shall publicize the bid-winning and transaction results through the government procurement information release media specified by the financial departments of the people's governments above the provincial level, and shall issue the notice of bid winning and transaction at the same time. |
| If no, please elaborate: | n/a |
| 29.1. If yes, does the notification of the result of the PPP procurement process include the grounds for the selection of the winning bid? | No |
| If yes, please provide the relevant legal/regulatory provisions (if any): | n/a |
| 30. Is there a standstill (or pause) period after the contract award and before the signing of the contract in order to allow unsuccessful bidders to challenge the award decision? | Yes |
| If yes, please provide the relevant legal/regulatory provisions (if any): | Articles 17 to 19 of the PPP Procurement 2014 provide that (i) within 10 business days of the award being determined, the result shall be notified publicly for a period of no less than 5 business days; (ii) within 2 business days of the expiry of the public notification period, if no challenge, the notice of the contract award shall be issued; and (iii) within 30 days of the issuance of the notice of the contract award, the PPP contract shall be signed. |
| and the time in calendar days: | 10 |
| 30.1. Is the standstill period set out in the notice of intention to award? | No |

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| If yes, please provide the relevant legal/regulatory provisions (if any): | n/a |
| 31. Does the regulatory framework restrict negotiations with the selected bidder between the award and the signature of the PPP contract in order to prevent an unfair disadvantage to the other bidders? | Yes |
| If yes, please provide the relevant legal/regulatory provisions (if any): | PPP Procurement 2014, Articles 14, 15 and 16; Articles 20 and 21 of the Notice 2014 - There is a round of confirmatory negotiation before contract award. The confirmatory negotiation is conducted by a team designated by the government and the potential bidders. Core provisions are nonnegotiable. Where a shortlisted bidder does not reach an agreement with the negotiation team, it will lose the bid; and the negotiation team will turn to the next bidder to negotiate. A memorandum for such confirmatory negotiation will then be signed if both parties reach an agreement, and a draft project contract (without contents involving state secrets or business secrets) based on that will be published for no more than 5 business days after signing of the memorandum. If no objection after such publication, the contract will be awarded. Within 30 days of the contract award, project executive unit will sign the formal project contract with the winner. |
| 31.1. Based on your experience, is it always the case that this restriction is respected in practice? | Yes |
| If yes, please specify: | Most of the contributors' experience shows that the restriction on the negotiations between the government and the selected bidder during the period between the award and the signature of the PPP contract is respected in practice. |
| If no, please elaborate: | n/a |
| 32. Does the procuring authority publish the PPP contract? | Yes |
| If yes, please provide the relevant legal/regulatory provisions (if any): | Pursuant to Article 20 of PPP Procurement 2014, the project implementation body shall publicize the PPP project contract on the government procurement information portal within two working days from the start date of the PPP contract. The contents of the contract shall be also publicized in the media specified by the financial departments of the People's Government, if a PPP project is above the provincial level. State secrets and commercial secrets shall be excluded. |
| 32.1. If yes, which of the following options best describes this publication (choose only one)?: Publication of the full PPP | Yes |

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| contract including all its annexes and appendixes | |
| Publication of the full PPP contract without including all its annexes and appendixes | No |
| Publication of a summary of the PPP contract without publishing the full PPP contract | No |
| Publication of a summary of the PPP contract along with the full PPP contract including all its annexes and appendixes | No |
| Publication of a summary of the PPP contract along with the full PPP contract without including all its annexes and appendixes | No |
| 32.2. If yes, is it published online? | Yes |
| If yes, please specify the website: | http://www.cpppc.org/ |
| 32.3. If yes, does the procuring authority also publish any subsequent amendment made to the PPP contract? | Yes |
| If yes, please provide the relevant legal/regulatory provisions (if any): | Pursuant to Article 8 of C2016/92, the PPP project information to be disclosed during the project implementation phase includes: 7. cost monitoring and review of the project company, alteration of PPP project contracts or signing of supplementary agreements. |
| PPP Contract Management | |
| 41. Has the procuring or contract management authority established a system to manage the implementation of the PPP contract (e.g. attributing responsibilities or establishing specific management tools)? | Yes |
| If yes, please provide the relevant legal/regulatory provisions (if any): | <p>Notice 2014</p> <p>Article 23 : the private operator can legally set up a project company and government can appoint related agencies to join the project company through equity participation. Procuring authority and PPP center should supervise and manage the implementation process.</p> <p>Article 24 : PPP center and procuring entity should supervise to make sure they don't transfer the company's debts to the government.</p> <p>Article 26 : The procuring entity should supervise and ensure the private operator is meeting the contract's obligations by creating indicators for</p> |

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| | projects performance and shall prepare seasonal and annual reports to the ministry of finance or the PPP center for records. |
| 41.1. If yes, which of the following tools does it include (check all that apply)?: Establishment of a PPP contract management team | No |
| Relevant legal/regulatory provisions (if any): | n/a |
| Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa | No |
| Relevant legal/regulatory provisions (if any): | n/a |
| Elaboration of a PPP implementation manual or an equivalent document | No |
| Relevant legal/regulatory provisions (if any): | n/a |
| Establishment of personnel training programs (i.e. initial training and continued training throughout the course of the project) | No |
| Relevant legal/regulatory provisions (if any): | n/a |
| Establishment of a risk mitigation mechanism which considers the evolving nature of risks throughout the project lifecycle (guidelines, specific processes, insurance regime, etc.) | No |
| Relevant legal/regulatory provisions (if any): | n/a |
| 41.2. Which of the following options best describes the required qualifications of the PPP contract management team members? (Please select only one): The membership of the PPP contract management team is specified and/or its members are required to meet detailed qualifications. | n/a |
| If yes, please specify and provide the relevant legal/regulatory provisions (if any): | n/a |

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| <p>The PPP contract management team members are required to meet sufficient qualification without specific details.</p> | <p>n/a</p> |
| <p>If yes, please provide the relevant legal/regulatory provisions (if any):</p> | <p>n/a</p> |
| <p>The PPP contract management team members are not required to meet any specific qualifications.</p> | <p>n/a</p> |
| <p>Please elaborate and provide examples:</p> | <p>n/a</p> |
| <p>42. Does the procuring or contract management authority establish a system for tracking progress and completion of construction works under a PPP contract?</p> | <p>Yes</p> |
| <p>If yes, please provide the relevant legal/regulatory provisions (if any):</p> | <p>Article 26 of Notice 2014 requires that a project implementing organization shall, according to a project contract, supervise the fulfillment of contractual obligations by private partner or a project company, regularly monitor project output performance indicators, prepare quarterly reports and annual reports, and submit them to relevant finance department (PPP center) for filing. Pursuant to Article 8(3) of C2017/1, the PPP project information to be disclosed during the project implementation phase includes, inter alia, review of the project construction permits, construction progress, quality and cost and others made based on the related agreements under the PPP project contracts.</p> |
| <p>42.1. If yes, is the PPP contract construction performance information made available to the public?</p> | <p>Yes</p> |
| <p>If yes, please provide the relevant legal/regulatory provisions (if any):</p> | <p>Article 31 of the Notice 2014 provides that government, private capital or project company shall publish relevant information of the project, protect public right to know and accept public monitoring. Private capital or project company shall publish the quantity and quality of project output, and the operational information. Notwithstanding government and business confidential information, government shall disclose the contract clauses of PPP projects, performance monitoring report, interim evaluation report, and the major change or termination of the project. Article 8 of Circular on Issuing the Interim Measures for Administration of Information Disclosure for Public-Private Partnership Integrated Information Platform is verified.</p> |
| <p>42.2. If yes, is the PPP contract construction performance information made publicly available online?</p> | <p>Yes</p> |

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| If yes, please specify the website: | www.cpppc.org |
| 43. Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract implementation after construction? | Yes |
| If yes, please provide the relevant legal/regulatory provisions (if any): | <p>PPP Guidelines, Articles 23 to 31. Notice 2014 , Articles 23, 24 and 26 - Procuring authority and PPP center should supervise and manage the implementation process. Private operators/project company will be in charge of the project's financing. The procuring agency should supervise private operators/the project company in fulfilling contract accountabilities. Seasonal reports and annual reports should also be prepared and reported to the Ministry of finance (PPP center).</p> |
| 43.1. If yes, which of the following tools does it include (check all that apply)?: Performance is assessed against evaluation criteria set in the tender documents and the PPP contract | Yes |
| Relevant legal/regulatory provisions (if any) | <p>Pursuant to Article 25 of Notice 2014, the finance departments at all levels shall, together with competent departments of industries, monitor the performance operation of the PPP projects, conduct tracking management of and regularly check the operation situation of performance objectives to ensure the matching of phased objectives with payment of funds, and perform medium-term performance evaluations to ultimately achieve the aforesaid objectives. If it is found out through monitoring that performance operation deviates from given performance objectives, measures shall be taken to make corrections.</p> <p>Pursuant to Article 26 of Notice 2014, payment is made according to project output and achievement indicators - if above agreed specification, additional payment as per PPP Contract; if below agreed specification, punishment or remedy. The project implementing agency shall, in accordance with the contract, supervise the social capital or the project company to fulfill its contractual obligations, regularly monitor the project output performance indicators, prepare the quarterly report and annual report, and report to the finance department (PPP center). If the government has the obligation to pay, the project implementing agency shall directly pay the social capital or the project company in full and on time or inform the finance department of the payment, according to the actual performance stipulated in the project contract. Where the excess benefit sharing mechanism is set up, the private capital or project company shall pay the government the full amount of excess income to the government in accordance with the project contract. If the actual performance of the project is better than the agreed standard, the project implementing agency shall carry out the incentive terms stipulated in</p> |

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| | the contract and use it as the basis for extension of the project contract. If the project does not meet the agreed standard, the project implementing agency shall implement the project contract of penalties or remedies. |
| The procuring or contract management authority can abate (reduce) payments for non-performance of operating obligations under the PPP contract | Yes |
| Relevant legal/regulatory provisions (if any) | Pursuant to Article 26 of the Notice 2014, payment is made according to project output and achievement indicators. Additional payments, punishment or remedies are made if stipulated by the PPP Contract. |
| The private partner must provide the procuring or contract management authority with periodic operational and financial data | Yes |
| Relevant legal/regulatory provisions (if any) | According to Notice 2014, Article 26, private operators must provide the procuring or contract management authority with seasonal reports and annual reports concerning project output and achievement indicators. |
| The procuring or contract management authority must periodically gather information on the performance of the PPP contract | Yes |
| Relevant legal/regulatory provisions (if any) | Article 26 of the Notice 2014 requires a project implementing authority to regularly monitor the project output performance index and to prepare quarterly and annual report and to submit the reports to the financial department for its reference and record. |
| The PPP contract performance information must be available to the public | Yes |
| Relevant legal/regulatory provisions (if any) | Pursuant to Article 8 of C2017/1, the PPP project information to be disclosed during the project implementation phase includes: 4. the operation of private capital partners or the project company (especially major business or financial risks that may seriously affect the normal operation of the private capital partners or the project company) and satisfaction of the operational performance; 5. the project company' s performance monitoring report |
| 43.2. Is PPP contract performance information made publicly available online? | Yes |
| If yes, please specify the website: | www.cpppc.org |
| 44. Are foreign companies prohibited from repatriating | No |

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| the income resulting from the operation of a PPP project? | |
| If yes, please provide the relevant legal/regulatory provisions (if any): | n/a |
| 45. Does the regulatory framework (including standard contractual clauses) expressly regulate changes in the ownership structure (i.e. stakeholder composition) of the private partner and/or assignment of the PPP contract? | No |
| If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any): | n/a |
| 45.1. If yes, which of the following circumstances are specifically regulated? (check all that apply): Any change in the private partner during an initial period (e.g. construction and first five years of operation). | n/a |
| If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any): | n/a |
| Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator. | n/a |
| If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any): | n/a |
| In other cases, flexibility to change the ownership structure and/or assign the contract. | n/a |
| If yes, please provide the relevant legal/regulatory/standard | n/a |

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| contractual provisions (if any): | |
| 46. Does the regulatory framework (including standard contractual clauses) expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)? | Yes |
| If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any): | Pursuant to Notice 2014, Article 28(1) on modification or renegotiation of the PPP contract (once the contract is signed), procuring/management agency or project company can follow rules and procedures listed in the project contract, and apply for revision of the contract based on the change in social economic environment, demand or structure change of the public goods and services. The Government reviews and approves those modifications. Further, Article 37 of Measures for the Administration of Concession for Infrastructure and Public Utilities regulates evolutions in the financing. It provides that, in case of a change of provisions, all stakeholders should sign the new contract. If the new contract would have significant consequences on the debts of the project, an agreement from the lenders is mandatory. If the change is directly related to the financing, information shall be public. |
| 46.1. If yes, is an approval from a government authority, other than the procuring authority, required? | Yes |
| If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any): | Pursuant to Article 28 in Notice 2014, according to conditions and procedures set out in the project contract, the project implementing organization and private partner or project company may make an application for revision of the project contract as per changes in conditions such as social and economic environment, and the quantity demands and structure of public products and services. The project contract shall be revised after the application is reviewed and approved by government. |
| 46.2. If yes to question 46, which of the following circumstances are specifically regulated? (check all that apply): A change in the scope and/or object of the contract. | Yes |
| If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any): | No regulatory basis |
| A change in the risk allocation of the contract. | Yes |
| If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any): | No regulatory basis |

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| A change in the financial and/or economic balance of the contract. | Yes |
| If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any): | No regulatory basis |
| A change in the duration of the contract. | Yes |
| If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any): | No regulatory basis |
| A change in the agreed price or tariff. | Yes |
| If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any): | No regulatory basis |
| 46.3. Can the procuring authority unilaterally modify a PPP contract? | No |
| If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any): | n/a |
| 47. Does the regulatory framework (including standard contractual clauses) expressly regulate the following circumstances that may occur during the life of the PPP contract? (check all that apply): Force Majeure | Yes |
| If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any): | Notice 2014, Article 24: In case of force majeure or systemic financial risks, the procuring entity or private operator/project company can negotiate amendments to the agreed terms of the contract. NDRC Guiding Opinions, Article 2(3) - Risks of natural disasters and other force majeure events shall be jointly assumed by both parties. |
| Material Adverse government action . | Yes |
| If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any): | Article 2(3) of NDRC Guiding Opinions and Article 3(1) of MOF Guiding Opinions: The government shall bear the risks in relation to policy, law and minimum demand and so on . Article 36 of the Measures for the Administration of Concession for Infrastructure and Public Utilities provides that, wherever the anticipated |

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| | profits of concessionaires are damaged due to amendments to laws and administrative regulations or policy adjustments, concessionaires are required to provide products or services other than those stipulated in the agreements according to the needs of public interests. Concessionaires shall be compensated therefor. |
| Change in the Law. | Yes |
| If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any): | <p>Article 36 of the “Measures for the Administration of Concession for Infrastructure and Public Utilities” - If adjustments or changes in laws or administrative regulations harm the private operator’s expected benefits, or when the public interest requires a private operator to provide additional products or services, private operators should be given appropriate compensation.</p> <p>NDRC Guiding Opinions, Article 2(3); MOF Guiding Opinions, Article 3(1) Legal and policy adjustment risks shall be assumed by the government.</p> |
| Refinancing. | Yes |
| If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any): | <p>Article 1 of the Circular on Regulating Matters relating to Asset Securitization of Public-private Partnership Projects provides that during the phase of project operation, project companies, as sponsors (originators), may issue asset securitization products by categories such as those with user pays, government payments and viability gap funding, with the right to earnings and contract creditor’s rights that can bring in cash flows for projects concerned as underlying assets. Project companies shall make overall planning of financing needs, project profit and other factors, rationally determine the size and maturity of asset securitization products issued, and strive to reduce the cost of integrated financing. It is imperative to actively explore the issue of asset securitization products by project companies by relying on the right to future earnings specified in PPP contracts in the project construction period, so as to further broaden project financing channels.</p> <p>Chapter 2, Section 5 (3), provides that in order to incentivize the private operator and to ensure financial flexibility, some PPP contracts also allow the project company under certain conditions to refinance the project. Refinancing should improve the project output without affecting the implementation and being approved by the government before signing a refinancing agreement. PPP contract may also provide that the government has the right to share the benefits generated by saving financial expenses because of refinancing by an agreed proportion (eg 50%).</p> <p>In Notice 2014, Article 24 doesn’t regulate refinancing specifically. It only provides that under certain conditions, i.e. Force Majeure, severe financial risk, operation risk, the government, private operator and project company can modify the financing clauses in accordance with the conditions of contractual change.</p> |
| Subcontracting and replacement of the subcontractors. | No |

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| If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any): | n/a |
| 48. Does the regulatory framework (including standard contractual clauses) allow for administrative and/or contractual complaint review mechanisms to address disputes arising from the implementation of PPP contracts? | Yes |
| If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any): | Notice 2014, Article 28.3: During project implementation, parties can apply for Arbitration or file a civil lawsuit. In Chapter 6 of Measures for the Administration of Concession for Infrastructure and Public Utilities, Article 49 requires negotiations to be used as a first step to settle disputes related to a concession. Article 50 indicates a third party can be designated to settle the dispute. Article 51 presents administrative proceedings. Article 52 requires the parties to keep meeting their obligations in case of a dispute. |
| 48.1. If yes, please specify which of the following options are available (check all that apply): Local administrative review body | No |
| If yes, please specify: | n/a |
| Local courts | Yes |
| Domestic arbitration | Yes |
| International arbitration | Yes |
| Investor-State Dispute Settlement (ISDS) | Yes |
| Mediation | Yes |
| Please provide the relevant legal/ regulatory/standard contractual provisions (if any) | Article 12 of The Administrative Litigation Law of the People’s Republic of China clearly state that the people’s courts shall accept the complaint claiming that an administrative agency has failed to perform according to the law or as agreed upon, or illegally modified or rescinded, an administrative agreement, such as a government concession agreement or a land and building expropriation compensation agreement. However, only the private party will have the right to start the administrative proceeding with the People’s Court against the public party. Further, Article 11 of the Interpretations by the Supreme People’s Court (SPC) on Several Issues Concerning the Application of the Administrative Litigation Law of the People’s Republic of China implemented in May 2015 provides that any administrative proceedings brought about by a citizen, legal entity or organization in relation to any of the following administrative agreements shall be heard by the people’s courts (administrative courts): (1) government concession agreement ... “ In addition, |

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| | China is a signatory of the ICSID Convention. |
| 48.2. If applicable, are arbitration awards enforceable by the local courts?: Domestic Arbitration | Yes |
| If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any): | Pursuant to Article 62 of Arbitration Law, the parties shall perform the arbitration award. If a party fails to perform the arbitration award, the other party may apply to the people's court for enforcement in accordance with the relevant provisions of the Civil Procedure Law. The people's court to which the application has been made shall enforce the award. |
| International arbitration | Yes |
| If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any): | China is a signing party to New York Convention. |
| Investor-State arbitration | Yes |
| If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any): | China is a signatory of the ICSID Convention. |
| 49. Does the regulatory framework (including standard contractual clauses) allow for the restructuring of a PPP private partner (SPV) in financial difficulty prior to insolvency? | No |
| If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any): | n/a |
| 50. Does the regulatory framework (including standard contractual clauses) allow for the lenders to take control of the PPP project (lender step-in rights) if either the private partner defaults or if the PPP contract is under threat of termination for failure to meet service obligations? | Yes |
| If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any): | Pursuant to Notice 2014, Article 24, project financing shall be in the charge of private partners or project companies. The private partners or project companies shall promptly conduct the work such as the design of a financing scheme, institutional contacts, conclusion of contract and closing of financing. Finance departments (PPP centers) and project implementing organizations |

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| | <p>shall conduct supervision and management well, and prevent the transfer of corporate debts to governments.</p> <p>The article further states that, If any private partner or project company fails to complete financing according to project contract, relevant government may withdraw the letter of guarantee on performance until the project contract is terminated; in case of any systematic financial risk or force majeure, the government, private partner or project company may negotiate about revising relevant financing terms in the contract according to the project contract.</p> <p>When a project has any material operation or financial risk, or threats or infringes upon interests of the creditor concerned, the creditor may require private partner or project company to improve management and so on, according to the direct intervention agreement or terms concluded with government, private partner or the project company. If the material risk has been eliminated in the period set out in the direct intervention agreement or terms, the creditor shall stop intervention.</p> |
| 50.1. If yes, which of the following options best describes the lender step-in right? (Please select only one): The regulatory framework expressly regulates the lender step-in rights. | No |
| If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any): | n/a |
| The regulatory framework prescribes that a direct agreement should be signed with the lenders. | Yes |
| If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any): | Article 24 of Notice 2014 provides that Lender and Government can agree on step-in rights under the direct agreement. |
| The regulatory framework prescribes that the lender step-in rights should be regulated in the contract. | No |
| If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any): | n/a |
| Other. | No |
| Please Specify: | n/a |
| 51. Does the regulatory framework (including | Yes |

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| standard contractual clauses) expressly establish the grounds for termination of a PPP contract? | |
| If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any): | <p>Material breach, force majeure, agreement and other reasons.</p> <p>Pursuant to Article 38 of the Measures for the Administration of Concession for Infrastructure and Public Utilities, where, within a term of concession, a concessionaire is unable to continuously perform the obligations as agreed upon due to serious breach of contract of one party to the concession agreement or force majeure, and other reasons, or any of the circumstances of termination of the concession agreement in advance as stipulated is present, the concessionaire may, after reaching consensus with the creditor, terminate the agreement in advance.</p> |
| 51.1. If yes, does the regulatory framework (including standard contractual clauses) establish the consequences for the termination of the PPP contract? | <p>Yes</p> |
| If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any): | <p>Articles 38, 39 and 40 of Measures for the Administration of Concession for Infrastructure and Public Utilities - in the concession period, due to serious breach by a party or force majeure, if the private operator can not continue to fulfill the obligations under the agreement, or there is an early termination of the agreement circumstances, the agreement can be terminated in advance after negotiation with lenders (Article 38); stakeholders shall go through the legal procedures based on the original contract for early termination (Article 39); Before the new private operator is chosen, the procuring authority and the former private operator should develop plans to ensure sustained public goods or public service delivery.</p> |
| Unsolicited Proposals | |
| 34. Are unsolicited proposals in China: (choose only one): Explicitly prohibited by the legal framework? (If prohibited, skip to section F) | <p>No</p> |
| Explicitly allowed by the legal framework? | <p>Yes</p> |
| Not regulated by the legal framework, but do happen in practice? | <p>No</p> |
| Not regulated by the legal framework, and do not happen in practice? (if not done in practice, skip to section F) | <p>No</p> |
| If the legal framework explicitly prohibits or allows unsolicited proposals, please | <p>Notice 2014, Article 6: The project can be either initiated by government or a private operator. The private operator can submit a project proposal to a government/treasury department to recommend potential PPP projects.</p> |

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| provide the relevant legal/regulatory provisions | |
| 35. Does the procuring authority conduct an assessment to evaluate unsolicited proposals? (if not, skip to question 37) | Yes |
| If yes, please specify and provide the relevant legal/regulatory provisions (if any) | <p>Notice 2014, Article 7 : The ministry of finance (PPP center) evaluates and selects potential PPP projects. They shall make an annual development plan based on their selection results. The project initiator has to submit related materials to the PPP center.</p> <p>In addition, Circular on Issuing the Interim Measures for the Administration of Finance for Public-private Partnership Projects (CaiJin [2016] No.92) provides with regard to a PPP project initiated by a corporate partner: the said corporate partner shall submit a project proposal to the competent department of the relevant industry. Upon review and approval by the said department, the corporate partner shall prepare a project implementation program, and the project implementing agency authorized by the people's government at the county level or above shall propose the finance department at the same level to perform the value-for-money evaluation and financial affordability assessment.</p> |
| 35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal? | No |
| If yes, please provide the relevant legal/regulatory provisions (if any): | n/a |
| 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. | No |
| If yes, please specify and provide the relevant legal/regulatory provisions (if any): | n/a |
| The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific | Yes |

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| procedures to achieve that goal. | |
| If yes, please provide the relevant legal/regulatory provisions (if any): | No regulatory basis |
| The procuring authority does not evaluate unsolicited proposals against existing government priorities. | No |
| Please elaborate and provide examples: | n/a |
| 37. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal? | Yes |
| If yes, please provide the relevant legal/regulatory provisions (if any): | The Guidelines for PPP Operations, Article 6 and 13 - All proposals submitted by the private capital or the government are evaluated by the government under the joint evaluation and review mechanism. Those that are approved will proceed to PPP procurement procedures as described in the previous sections. |
| 38. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals? | Yes |
| If yes, please provide the relevant legal/regulatory provisions (if any): | PPP Procurement 2014, Article 6: time between the notice and submitting bids shall not be less than 15 working days. |
| and the time in calendar days: | 21 |
| 39.1 Does the procuring authority use any of the following incentive mechanisms to reward/compensate the presentation of unsolicited proposals? (check all that apply): Access to the best and final offer (BAFO) process and/or automatic shortlisting. | No |
| 39.2 Developer's fee (reimbursing the original proponent for the project development cost). | No |
| 39.3 Bid Bonus. | No |
| 39.4 Swiss challenge (If unsuccessful, the original proponent has the option to | No |

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| match the winning bid and win the contract). | |
| 39.5 Other. | No |
| Please specify: | n/a |
| Please provide the relevant legal/regulatory provisions (if any): | n/a |