

PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN THE CZECH REPUBLIC

SURVEY QUESTION	ANALYSIS
PPP Regulatory Framework	
2. Does the regulatory framework in your country allow procuring PPPs?	Yes
If yes, please specify the relevant regulatory framework and the year of adoption:	<p>The former general legal Act on Public Procurement was superseded by Act No. 134/2016 Coll., as amended (the Public Procurement Act), which came into effect on October 1st 2016. The PPA transposes the EU Directives on Public Procurement 2014/23/EU; 2014/24/EU; 2014/25/EU into the Czech law. More specifically, upon the implementation of this law Act No. 137/2006 Coll., on Public Contracts and Act 139/2006 “Coll., on Concession Award Procedure and Concession Contract (the Concession Act)” was repealed.</p> <p>Furthermore, several documents, including a model contract, a PPP Manual, and a PPP Risk methodology were developed in 2006 based on the, now obsolete regulatory framework (Act No. 137/2006 and Act No. 139/2006). According to our contributors, those documents have not yet been repealed and theoretically could be employed (at this point in time) while preparing PPP projects. As such, our analysis is based on Act. 134/2016 (as amended) and the currently available documents (PPP Manual, PPP Draft Contract and PPP Risk Methodology).</p>
and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:	Public Procurement Act: https://www.portal-vz.cz/cs/Jak-na-zadavani-verejnych-zakazek/Legislativa-a-Judikatura/Legislativa/Zakon-o-zadavani-verejnych-zakazek-a-jeho-provadeci-predpisy/Uplne-aktualni-zneni-zakona-o-zadavani-verejnych-zakazek
2.1. Are you aware of any reforms (in the regulatory frameworks – laws, regulations, policies, etc.- or in generally followed practices) related to PPPs that: Took place in 2016, are ongoing and/or are planned to be adopted BEFORE June 1, 2017?	Yes
Please describe:	The former general legal Act on Public Procurement was superseded by the PPA, which came into effect on October 1st 2016. The PPA transposes the EU Directives on Public Procurement 2014/23/EU; 2014/24/EU; 2014/25/EU into the Czech law. Furthermore, the adoption of the Act 89/2012 Coll., Civil Code, (hereinafter the “Civil Code”), which came into effect on January 1st 2014, replaced the previously applicable Civil Code of 1964 and it also provides a general framework applicable to procurement contracts.

2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?	No
Please describe:	n/a
3.1 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Transportation.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.2 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Water and Irrigation	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.3 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Energy generation and distribution.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.4 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Telecom	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.5 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Other	No
If yes, specify and provide the relevant legal/regulatory provisions:	n/a

4. Does the regulatory framework provide for a specific tax regime for PPP transactions (i.e. tax incentives, special tax depreciation treatment, etc.)?	No
If yes, please specify and provide the relevant legal/regulatory provision (if any):	n/a
5. Please identify the PPP procuring authorities in The Czech Republic and provide their website(s) (if available):	<p>There are no special PPP procuring authorities. Thus, the standard procuring authorities (state, municipalities, and their organisational units etc.) can be regarded as PPP procuring authorities.</p> <p>http://www.isvz.cz/ISVZ/Podpora/ISVZ.aspx (Information System on Public Contracts)The Information System on Public Contracts contains profiles (webpages) of procuring authorities.</p>
6. In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?	No
If yes, please indicate its name, and its website (if available):	n/a
6.1 If yes, what are the main responsibilities of the PPP Unit (check all that apply): PPP regulation and policy guidance.	n/a
6.2 PPP capacity building for other public authorities.	n/a
6.3 PPP promotion among the public and/or private sectors in national and international forums.	n/a
6.4 Technical support in implementing PPP projects.	n/a
6.5 Identification and selection of PPP projects from the pipeline.	n/a
6.6 Revision of fiscal risks born by the Government.	n/a
6.7 Consultation with affected communities on potential impact of PPP projects.	n/a
6.8 Approval of PPP projects.	n/a
6.9 Undertaking the procurement of PPPs.	n/a
6.10 Oversight of PPP implementation.	n/a

6.11 Other	n/a
6.11 please specify:	n/a
Please provide the relevant legal/regulatory provisions:	n/a
PPP Preparation	
8. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Pursuant to Section 186 of the Public Procurement Act:</p> <p>(1) In the case of concessions, the contracting authority referred to in Section 4 (1) d) or e) shall apply for a prior opinion of the Ministry of Finance to conclude a contract with the legal person where a territorial self-government unit founded or established such legal person or the legal person is funded mainly thereby or the self-government unit exercises decisive influence over the legal person, appoints or elects more than half of the members of its governing or controlling body, or to supplement any of those contracts. Where suggested supplements involve the amount of applicant's financial obligations, it shall be applied for an opinion on supplements to the contract.</p> <p>(2) Application for the opinion referred to in subsection (1) shall contain general elements of a filing pursuant to the Code of Administrative Procedure, selected data from the contract or their modification, justification pursuant to Section 179 (3), economic analysis of impacts of conclusion of the contract or supplement to the contract on the economic standing of the contracting authority, including data on the state of indebtedness of the contracting authority, which are necessary to assess its ability to perform obligations arising from the contract; elements of an application's content shall be laid down by the regulation of the Ministry of Finance. When assessing the application, the Ministry of Finance shall not consider any other facts than those which are pursuant to subsection (5) decisive factors for assessment of the application.</p> <p>(3) The application for opinion on conclusion of the contract or its supplement shall be filed by a territorial self-government unit on behalf of both itself and other contracting authorities referred to in subsection (1).</p> <p>(4) Where the application is not complete the Ministry of Finance shall request its completion and shall set a reasonable time limit for such completion.</p> <p>(5) The Ministry of Finance shall assess the application with regard to possible impacts of acceptance of obligations arising from the contract and their influence on the economic standing of the contracting authority referred to in subsection (1) or on international obligations of the Czech Republic.</p> <p>(6) Where the Ministry of Finance does not give its opinion within two months from the receipt of the complete application, it shall be conclusively presumed, that it does not have any objections against conclusion of the contract or supplement to the contract.</p>

8.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before signing the PPP contract?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Pursuant to Section 186 of the Public Procurement Act:</p> <p>(1) In the case of concessions, the contracting authority referred to in Section 4 (1) d) or e) shall apply for a prior opinion of the Ministry of Finance to conclude a contract with the legal person where a territorial self-government unit founded or established such legal person or the legal person is funded mainly thereby or the self-government unit exercises decisive influence over the legal person, appoints or elects more than half of the members of its governing or controlling body, or to supplement any of those contracts. Where suggested supplements involve the amount of applicant's financial obligations, it shall be applied for an opinion on supplements to the contract.</p> <p>(2) Application for the opinion referred to in subsection (1) shall contain general elements of a filing pursuant to the Code of Administrative Procedure, selected data from the contract or their modification, justification pursuant to Section 179 (3), economic analysis of impacts of conclusion of the contract or supplement to the contract on the economic standing of the contracting authority, including data on the state of indebtedness of the contracting authority, which are necessary to assess its ability to perform obligations arising from the contract; elements of an application's content shall be laid down by the regulation of the Ministry of Finance. When assessing the application, the Ministry of Finance shall not consider any other facts than those which are pursuant to subsection (5) decisive factors for assessment of the application.</p> <p>(3) The application for opinion on conclusion of the contract or its supplement shall be filed by a territorial self-government unit on behalf of both itself and other contracting authorities referred to in subsection (1).</p> <p>(4) Where the application is not complete the Ministry of Finance shall request its completion and shall set a reasonable time limit for such completion.</p> <p>(5) The Ministry of Finance shall assess the application with regard to possible impacts of acceptance of obligations arising from the contract and their influence on the economic standing of the contracting authority referred to in subsection (1) or on international obligations of the Czech Republic.</p> <p>(6) Where the Ministry of Finance does not give its opinion within two months from the receipt of the complete application, it shall be conclusively presumed, that it does not have any objections against conclusion of the contract or supplement to the contract.</p>
8.2. Does the Ministry of Finance (or government more broadly) have a specific system of: Budgeting for PPP projects.	<p>Yes</p>

If yes, please provide the relevant legal/regulatory provisions (if any):	<p>The PPP Manual states the following: 4.3 Classification of liabilities from concession contracts (public debt) Public debt, Maastricht criteria The Czech Republic is obliged to fulfill the Maastricht convergence criteria. I.e., among other things, that the total public debt must not exceed 60% of GDP and the total deficit public budgets in individual years may not exceed 3% of GDP. Public debt and deficit while public budgets are measured jointly for state and local governments. Liabilities authorities of concession agreements may be reflected in public debt and deficit in public budgets in two ways: ● regardless of whether the total liabilities of concession contracts qualify as public debt or not (see below), the payment of ministerial authority in each year of the budget expenditure, and can thus increase any such deficit budget; ● although the acquisition of infrastructure in PPP transactions financed by own capital and concessionary loans drawn by the concessionaire (i.e. not sponsor formally borrower on the loan for the financing of infrastructure), the structure zadavatelových obligations under the concession contract is very similar to a situation in which authority have been if the acquisition of the infrastructure itself has drawn credit; therefore, if risk transfer to the concessionaire implemented concession contract does not justify different classification zadavatelových commitments (see below), it is necessary for the future the authority's obligations under the concession contract to be seen as debt repayments and total 6 enters at the beginning of the concession contract to the Czech public debt Republic.</p>
Accounting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Implementary Regulation to the Accounting Law and ESA2010
Reporting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
8.3. If yes to question 8.2, which of the following alternatives best describes the regulation?: Accounting and reporting according to International Public Sector Accounting Standards (IPSAS).	No
Accounting and reporting according to other international standard (e.g. European System of Accounts).	Yes
Please specify:	ESA 2010
Other.	No
Please specify:	n/a

<p>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.)?</p>	<p>No</p>
<p>If yes, please specify the relevant authority</p>	<p>n/a</p>
<p>and provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</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>Pursuant to Article 18a of the Act No. 13/1997 Coll., on Terrestrial Roads, as amended (the Roads Act), before a PPP contract is entered into, it must be approved by the government and the lower chamber of the parliament needs to approve the financial obligations of the procuring authority under the PPP contract.</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>No regulatory basis</p>
<p>11. In a case comparable to the case study assumptions, please select the option that best describes the way your government integrates the prioritization of PPP projects with other public investment project prioritization? (e.g. in the context of a national public investment system, multi-year perspective plans, medium-term budgetary framework): The regulatory framework provides for the inclusion of PPPs in the national public investment system/medium term budgetary framework and</p>	<p>No</p>

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

Relevant legal/regulatory provision (if any)	No regulatory basis
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	Majority of our contributors stated that this generally happens 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)	No regulatory basis
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	Majority of our contributors stated that this generally happens in practice
12.3. Risk identification, allocation and assessment (risk matrix)	Yes
Relevant legal/regulatory provision (if any)	The PPP Risk Methodology, which can be found at " http://www.mfcr.cz/cs/legislativa/metodiky/2011/metodika--rizeni-rizik-v-projektech-ppp-9542 ", contains detailed steps for assesing the risk of the project.
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	The PPP Risk Methodology document contains steps for adequately calculating and assigning the risk, as well as managing the risk, throughtout the implementation of the PPP project.
Is the assessment done in practice?	Yes
Details:	Majority of our contributors stated that this generally happens in practice
12.4. Comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives (i.e. value for money analysis, public sector comparator)	Yes

Relevant legal/regulatory provision (if any)	PPP Value for Money Methodology
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	The PPP Value for Money Methodology contains concrete and detailed steps for performing this assessment
Is the assessment done in practice?	Yes
Details:	Generally conducted in practice
12.5. Financial viability or bankability assessment	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No
Details:	n/a
12.6. Market sounding and/or assessment (showing evidence of investors' interest in the market for the project)	Yes
Relevant legal/regulatory provision (if any)	Pursuant to Section 33 of the Public Procurement Act, The contracting authority may conduct market consultations with experts or economic operators with a view to preparing procurement documents and informing economic operators of its plans and requirements, provided that it does not distort competition; provisions of Section 211 (1) apply by analogy.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	Sometimes done in practice
12.7. Environmental impact assessment	Yes
Relevant legal/regulatory provision (if any)	EU Directive 2011/92 on Environmental Impact Assessment
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	EU Directive 2011/92 on Environmental Impact Assessment
Is the assessment done in practice?	Yes
Details:	Generally 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)?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
and specify which of the assessments are included in the request for proposals and/or tender documents:	Socio economic assessment, affordability assessment, risk assessment, and environmental impact assessment
13.1. Are the assessments published online?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
specify the website	n/a
please specify which of the assessments are published online:	n/a
14. Does the procuring authority include a draft PPP contract in the request for proposals?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
If no, please elaborate	The procuring authority is not obliged to include a draft PPP contract in the request for proposals.
14.1. Are the tender documents published online?	Yes

If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Section 96 (1) of the Public Procurement Act The contracting authority shall publish the procurement documents, with the exception of forms pursuant to Section 212 and invitations specified in Annex No. 6 to this Act, on the contracting authority profile from the date of publication of the contract notice or from the sending of the invitation to submit requests to participate pursuant to Section 58 (5) at least until the expiry of the time limit for the submission of tenders; this does not apply to negotiated procedure without prior publication.
and please specify the website:	https://www.vestnikverejnychzakazek.cz/ and http://ted.europa.eu/TED/misc/chooseLanguage.do
15. In a case comparable to the case study assumptions, have standardized PPP model contracts and/or transaction documents been developed?	Yes
If yes, please specify and provide a government-supported website where the mentioned standards are available or provide an electronic copy of them:	The model PPP contract (hereinafter “the PPP Model Contract”) was prepared by the PPP Centrum (see also the answer to the question 7.) under the now obsolete legal framework for PPPs/previous Civil Code in 2006. https://www.portal-vz.cz/getmedia/192ab250-e373-4f0f-a6cf-f5118f7ca348/zorova_koncesni_smlouva
16.1 In a case comparable to the case study assumptions, who is the responsible party for each of the following requirements? Obtaining the required urban permits: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
16.2. Obtaining the required environmental permits: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis

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

If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The bid evaluation committee members require sufficient qualification without specific details.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Section 42 (2) of Public Procurement Act, In respect of public contracts with an estimated value exceeding CZK 300,000,000, the procuring authority shall ensure that the evaluation of tenders is carried out by a committee having at least 5 members, with a majority of them possessing relevant professional qualifications related to the subject-matter of the public contract.
The bid evaluation committee members are not required to have any specific qualifications.	No
Please elaborate and provide examples:	n/a
19. Does the procuring authority issue a public procurement notice of the PPP project?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	<p>Pursuant to section 96 of the Public Procurement Act:</p> <p>(1) The contracting authority shall publish the procurement documents, with the exception of forms pursuant to Section 212 and invitations specified in Annex No. 6 to this Act, on the contracting authority profile from the date of publication of the contract notice or from the sending of the invitation to submit requests to participate pursuant to Section 58 (5) at least until the expiry of the time limit for the submission of tenders; this does not apply to negotiated procedure without prior publication.</p> <p>(2) Where some part of the procurement documents cannot be made available pursuant to subsection (1), on grounds defined in Section 211 (8) a), b), c) and d) or in the case of procedure pursuant to Section 36 (8), the contracting authority may make the relevant part of the procurement documents available by other appropriate means. In that case, the contracting authority shall send or transmit the relevant part of the procurement documents not later than three working days from the receipt of the economic operator's request for its provision. The provision of the relevant part of procurement documents may only be conditioned by reimbursement of costs pursuant to subsection (4) or, in the case of procedure pursuant to Section 36 (8), by an adoption of appropriate measures to protect the confidential nature of information.</p> <p>(3) In the contract notice or invitation specified in Annex No. 6 to this Act, the contracting authority shall indicate the internet address of the contracting authority profile on which the procurement documents are available. Where any part of the procurement documents is provided under subsection (2), the contract notice or the invitation specified in Annex No. 6 to this Act shall include information on the means and conditions of providing the relevant part of procurement</p>

	documents. (4) A reimbursement of the costs of provision of the relevant part of the procurement documents may only be required up to the amount of usual costs of its reproduction and postage and packaging charges.
19.1. If yes, is the public procurement notice published online?	Yes
If yes, please specify the website:	https://www.vestnikverejnychzakazek.cz/ and http://ted.europa.eu/TED/main/HomePage.do
20. Are foreign companies prohibited from participating in the bidding process?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
21. In a case comparable to the case study assumptions, does the procuring authority grant the potential bidders a minimum period of time to submit their bids?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Book 8 (on Concessions), Section 181 (1) of the Public Procurement Act, The time limit for the submission of tenders, indicative tenders or requests to participate, where they are requested in the contract notice, shall not be less than 25 days from the commencement of the concession award procedure.
and the time in calendar days:	25
22.1. In a case comparable to the case study assumptions, which are the procurement procedures available and/or set as default for PPP projects? Open tendering:	Yes
Available	
Default	No
Relevant legal/regulatory provision (if any)	Pursuant to Section 55 of the Public Procurement Act: Where awarding a public contract in the above-threshold regime, the contracting authority may apply an open procedure or a restricted procedure as well as, provided that the conditions stipulated below are fulfilled, a negotiated procedure with prior publication, a negotiated procedure without prior publication, a competitive dialogue procedure or an innovative partnership procedure.
22.2. Restricted tendering (with pre-qualification stage):	Yes
Available	
Default	No
Relevant legal/regulatory provision (if any)	Section 58 of the Public Procurement Act: (1) The contracting authority shall commence the restricted procedure by sending a contract notice for publication in the manner specified in Section 212, by means of which it invites an unlimited number of economic operators

	<p>to submit requests to participate.</p> <p>(2) The contracting authority defined in Section 4 (1) c) d) e) may also commence the restricted procedure by sending a prior information notice under Section 34 for publication in the manner specified in Section 212 provided that it invites economic operators to express preliminary interest. In this case, by sending the prior information notice the contracting authority fulfils the duties for which this Act otherwise requires sending a contract notice.</p> <p>(3) After the expiry of the time limit for the submission of requests to participate, the contracting authority shall assess the qualifications of participants, exclude from the procurement procedure those participants who have not demonstrated that they meet the qualification requirements, and invite the non-excluded participants to submit tenders. The invitation to tender shall contain the elements defined in Annex No. 6 to this Act.</p> <p>(4) A tender may only be submitted by a participant who has been invited to submit a tender. The invited participants may not submit a joint tender. The contracting authority shall not negotiate the submitted tenders with the participants.</p> <p>(5) If the restricted procedure is commenced by the sending of a prior information notice, economic operators may express their preliminary interest in any form. The contracting authority shall invite in writing all participants who have expressed preliminary interest to submit requests to participate. The invitation to submit requests to participate shall contain the elements defined in Annex No. 6 to this Act. The contracting authority shall send the invitation to submit requests to participate not sooner than 35 days from sending the prior information notice for publication and not later than 12 months after sending the prior information notice for publication.</p>
22.3 Multi-stage tendering (with shortlisting of final candidate(s)): Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.4. Competitive dialogue: Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	Pursuant to Section 68(1) of the Public Procurement Act: The contracting authority is entitled to apply a competitive dialogue procedure provided that conditions stipulated in Section 60 are met.
22.5. Direct negotiation with more than one candidate: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a

22.6. Direct negotiation with only one candidate: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.7 Other. Specify:	No
Available	n/a
Default	n/a
Relevant legal/regulatory provision (if any)	n/a
22.8. Do the tender documents detail the procedure of the procurement process providing the same information to all the bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Section 36 (2) of the Public Procurement Act, the contracting authority shall specify the award criteria in the procurement documents or communicate them to participants during the negotiations.
If no, please elaborate:	n/a
22.9. Do the tender documents specify the prequalification/shortlisting criteria (when applicable) in order to make them available to all the bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Pursuant to Article 165 of the Public Procurement Act:</p> <p>(1) For the purposes of the award of utilities public contracts, the contracting authority may establish a qualification system, into which the contracting authority admits qualified economic operators. The contracting authority may divide the qualification system into categories that are objectively defined on the basis of the subject-matter of public contracts or on the basis of their territorial scope. The contracting authority shall keep a list of economic operators admitted to the qualification system.</p> <p>(2) The contracting authority shall send a notice on the existence of a qualification system for publication pursuant to Section 212. In the notice on the existence of a qualification system, the contracting authority shall indicate its purpose, how to have access to the rules concerning its operation and the period of validity of this system. Where the period of validity of the qualification system is changed or the system is terminated the contracting authority shall send a notification in the manner specified in Section 212.</p> <p>(3) Contracting authority which establishes or operates a qualification system shall ensure that economic operators are at all times able to request qualification.</p> <p>(4) The qualification system may involve different qualification stages.</p> <p>(5) The contracting authority is entitled to use another contracting authority's qualification system, with its consent.</p> <p>(6) The contracting authority is entitled to send an invitation to tender in a</p>

	<p>restricted procedure or indicative tenders in a negotiated procedure with prior publication to all economic operators admitted to the qualification system by means of the qualification system.</p> <p>Furthermore Pursuant to Section 58 of the Public Procurement Act:</p> <p>(1) The contracting authority shall commence the restricted procedure by sending a contract notice for publication in the manner specified in Section 212, by means of which it invites an unlimited number of economic operators to submit requests to participate.</p> <p>(2) The contracting authority defined in Section 4 (1) c) d) e) may also commence the restricted procedure by sending a prior information notice under Section 34 for publication in the manner specified in Section 212 provided that it invites economic operators to express preliminary interest. In this case, by sending the prior information notice the contracting authority fulfils the duties for which this Act otherwise requires sending a contract notice.</p> <p>(3) After the expiry of the time limit for the submission of requests to participate, the contracting authority shall assess the qualifications of participants, exclude from the procurement procedure those participants who have not demonstrated that they meet the qualification requirements, and invite the non-excluded participants to submit tenders. The invitation to tender shall contain the elements defined in Annex No. 6 to this Act.</p> <p>(4) A tender may only be submitted by a participant who has been invited to submit a tender. The invited participants may not submit a joint tender. The contracting authority shall not negotiate the submitted tenders with the participants.</p> <p>(5) If the restricted procedure is commenced by the sending of a prior information notice, economic operators may express their preliminary interest in any form. The contracting authority shall invite in writing all participants who have expressed preliminary interest to submit requests to participate. The invitation to submit requests to participate shall contain the elements defined in Annex No. 6 to this Act. The contracting authority shall send the invitation to submit requests to participate not sooner than 35 days from sending the prior information notice for publication and not later than 12 months after sending the prior information notice for publication.</p>
22.10. Based on your experience, is it always the case that the specified criteria are respected in practice?	<p>Yes</p>
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	<p>Most contributors specified that this happens in practice</p>
If no, please elaborate:	<p>n/a</p>
23. Can interested parties/potential bidders submit questions to clarify	<p>Yes</p>

the public procurement notice and/or the request for proposals?	
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Section 98 (1) of the Public Procurement Act: (1) The contracting authority may explain the procurement documents provided that it publishes such explanation or, where applicable, related documents on the contracting authority profile a) not less than five working days before the expiry of the time limit for the submission of requests to participate, indicative tenders or tenders, or b) not less than four working days before the expiry of the time limit for the submission of requests to participate, indicative tenders or tenders in cases where the time limit for the submission of tenders is shortened pursuant to Section 57 (2) b) or Section 59 (5) .
23.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose those questions and clarifications to all potential bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Section 98 (3) of the Public Procurement Act, If an explanation of the procurement documents is requested in writing by the economic operator, the contracting authority shall publish, send or transmit the explanation including the accurate wording of the request without identifying the respective economic operator. The contracting authority is not obliged to provide an explanation if the request for explanation is not delivered in time, which means not less than three working days before the expiry of the time limits defined in subsection (1). If the contracting authority provides an explanation upon a request that has not been delivered in time, it is not obliged to observe the time limits under subsection (1).
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:	Procuring authorities comply with the rules contained in the section 98 of the PPA.
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 Section 33 of the Public Procurement Act The contracting authority may conduct market consultations with experts or economic operators with a view to preparing procurement documents and informing economic operators of its plans and requirements, provided that it does not distort competition; provisions of Section 211 (1) apply by analogy.
24.1. If yes, notwithstanding confidential information pertaining to the bidders,	Yes

does the procuring authority disclose the content and the results of the pre-bid conference to all bidders?	
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 36 (4) of the Public Procurement Act: (4) Where any part of the procurement documents has been drafted by a person other than the contracting authority, with the exception of an attorney-at-law or a tax adviser, the contracting authority shall mark this part, along with identifying the person who drafted it. Provided that the procurement documents contain information that has resulted from a preliminary market consultation, the contracting authority shall mark such information in the procurement documents, identify the persons who have taken part in the preliminary market consultation and provide all essential information that was the subject of the preliminary market consultation.
24.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	No
If yes, please specify:	n/a
If no, please elaborate:	This is expressly allowed by the new legal framework (since 2016) and authorities are just beginning to exercise the option. Hence, there is a little experience with this procedure.
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:	There is the obligation to procure a financial proposal, not a financial model.
26. Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Section 119 (1) of the Public Procurement Act, the procuring authority shall evaluate the tenders on the basis of the tender evaluation rules defined in the procurement 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	No

procuring authority deals with them? (Please select only one)?: The procuring authority follows a specific procedure before awarding a PPP contract where only one proposal is submitted.	
Please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority considers sole proposals valid as long as they meet the conditions outlined in the tender documents.	Yes
Please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 122 (2) of the Public Procurement Act: where there is only one participant in the procurement procedure, it may be selected by the contracting authority without evaluation.
The procuring authority does not award a PPP contract if only one proposal is submitted.	No
Please provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework does not include any provisions.	No
28. Does the procuring authority publish the award notice?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	Pursuant to Section 185 of the Public Procurement Act, The contracting authority shall send the concession award notice for publication in the manner described in Section 212 within 48 days from the conclusion of the contract.
28.1. If yes, is the public procurement award notice published online?	Yes
If yes, please specify the website:	https://www.vestnikverejnychzakazek.cz/ and usually on the website of the procuring authority
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 123 of the Public Procurement Act: The contracting authority shall send a notice of the selection of the economic operator to all participants without undue delay after making the decision on the selection of the economic operator. With the exception of a negotiated procedure with prior publication and a procurement procedure in which only one participant is taking part, such notice shall include

	<p>a) a report on the evaluation of tenders where tenders have been evaluated,</p> <p>b) the outcome of the assessment of fulfilment of the conditions for participation in respect of the selected economic operator, which shall include</p> <ol style="list-style-type: none"> 1. a list of documents that the selected economic operator used to prove its qualification, and 2. the data decisive to prove the fulfilment of respective qualification criteria with regard to the requested professional qualification under Section 77 (2), economic qualification and technical qualification, 3. a list of documents or samples the submission of which is a condition for the conclusion of the contract where the contracting authority has reserved the right to do so pursuant to Section 104 (1) a), 4. the outcome of tests of the samples provided that the contracting authority has reserved the right to do so pursuant to Section 104 (1) b).
If no, please elaborate:	n/a
29.1. If yes, does the notification of the result of the PPP procurement process include the grounds for the selection of the winning bid?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Pursuant to Article 123 of the Public Procurement Act:</p> <p>The contracting authority shall send a notice of the selection of the economic operator to all participants without undue delay after making the decision on the selection of the economic operator. With the exception of a negotiated procedure with prior publication and a procurement procedure in which only one participant is taking part, such notice shall include</p> <ol style="list-style-type: none"> a) a report on the evaluation of tenders where tenders have been evaluated, b) the outcome of the assessment of fulfilment of the conditions for participation in respect of the selected economic operator, which shall include 1. a list of documents that the selected economic operator used to prove its qualification, and 2. the data decisive to prove the fulfilment of respective qualification criteria with regard to the requested professional qualification under Section 77 (2), economic qualification and technical qualification, 3. a list of documents or samples the submission of which is a condition for the conclusion of the contract where the contracting authority has reserved the right to do so pursuant to Section 104 (1) a), 4. the outcome of tests of the samples provided that the contracting authority has reserved the right to do so pursuant to Section 104 (1) b).
30. Is there a standstill (or pause) period after the contract award and before the signing of the contract in order to allow unsuccessful bidders to challenge the award decision?	Yes

If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Section 242 of the Public Procurement Act: (1) Unless otherwise stipulated below, objections shall be delivered to the contracting authority within 15 days from the date on which the complainant learned of the alleged infringement of this Act by the contracting authority; the objections shall not be submitted after the conclusion of a contract or after a design contest is considered to be terminated following the selection of a design.
and the time in calendar days:	15
30.1. Is the standstill period set out in the notice of intention to award?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 46 of the Directive referring to the Directive 89/665/EEC that regulates review procedures for public contracts and that is made expressly applicable by the Concessions directive. Based on this Directive the award notice will include reference to the standstill period (article 2.a of the mentioned Directive 89/665/EEC).
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):	Pursuant to Section 124 (4) of the Public Procurement Act (conclusion of contract for above threshold): The contracting authority shall conclude the contract in accordance with the tender submitted by the selected economic operator or, where applicable, with a tender modified in compliance with Section 69 (8). Where section 69 (8) of the Public Procurement Act states that the procuring authority may conduct negotiations with a selected economic operator with the aim to have its tender confirmed and contractual conditions specified provided that this will not lead to a change of the basic parameters of the tender or of the award criteria and that these changes would not endanger competition or have discriminatory effects.
31.1. Based on your experience, is it always the case that this restriction is respected in practice?	Yes
If yes, please specify:	Majority of contributors indicated this is done 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 219 (1) of the Public Procurement Act, the contracting authority shall publish, on the contracting authority profile, the public contract including all supplements and amendments thereto within 15 days from their conclusion or from the end of each quarter with regard to public contracts

	awarded on the basis of a framework agreement or under a dynamic purchasing system.
32.1. If yes, which of the following options best describes this publication (choose only one)?: Publication of the full PPP contract including all its annexes and appendixes	Yes
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:	https://www.vestnikverejnychzakazek.cz/
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 219 (1) of the Public Procurement Act, the contracting authority shall publish, on the contracting authority profile, the public contract including all supplements and amendments thereto within 15 days from their conclusion or from the end of each quarter with regard to public contracts awarded on the basis of a framework agreement or under a dynamic purchasing system.
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>According to Section 15.3 of the PPP Manual: PPP principle is that the licensee itself monitors the provision of services. The contracting authority is, however, also the right to monitor the provision of services, at their own expense. Given the potential for abuse monitoring authority model concession agreement contains a provision according to which licensee who intentionally conceal shortcomings identified by monitoring, particularly penalized and increase the monitoring requirements at the expense of the concessionaire. Again note that the PPP Manual was created based on the previous procurement and concession laws (which have now been repealed)</p>
41.1. If yes, which of the following tools does it include (check all that apply)?: Establishment of a PPP contract management team	<p>Yes</p>
Relevant legal/regulatory provisions (if any):	<p>No regulatory basis</p>
Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa	<p>No</p>
Relevant legal/regulatory provisions (if any):	<p>n/a</p>
Elaboration of a PPP implementation manual or an equivalent document	<p>No</p>
Relevant legal/regulatory provisions (if any):	<p>n/a</p>
Establishment of personnel training programs (i.e. initial training and continued training throughout the course of the project)	<p>No</p>
Relevant legal/regulatory provisions (if any):	<p>n/a</p>
Establishment of a risk mitigation mechanism which considers the evolving nature of risks throughout the project lifecycle (guidelines, specific processes, insurance regime, etc.)	<p>No</p>
Relevant legal/regulatory provisions (if any):	<p>n/a</p>
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	<p>No</p>

contract management team is specified and/or its members are required to meet detailed qualifications.	
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The PPP contract management team members are required to meet sufficient qualification without specific details.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The PPP contract management team members are not required to meet any specific qualifications.	Yes
Please elaborate and provide examples:	n/a
42. Does the procuring or contract management authority establish a system for tracking progress and completion of construction works under a PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
42.1. If yes, is the PPP contract construction performance information made available to the public?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Section 219 (3) of the Public Procurement Act, the contracting authority shall publish, on the contracting authority profile, not later than within three months from the completion of the contract, the actually paid price for the performance of the contract, which is subject to the duty of publication as specified in subsection (1). With respect to a contract whose term exceeds one year, the contracting authority shall publish the price for its performance in the previous calendar year not later than on 31 March of the following calendar year.
42.2. If yes, is the PPP contract construction performance information made publicly available online?	Yes
If yes, please specify the website:	http://www.isvz.cz/ISVZ/Podpora/ISVZ.aspx (Information System on Public Contracts)The Information System on Public Contracts contains profiles of procuring authorities.

43. Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract implementation after construction?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>According to Section 15.3 of the PPP Manual: PPP principle is that the licensee itself monitors the provision of services. The contracting authority is, however, also the right to monitor the provision of services, at their own expense. Given the potential for abuse monitoring authority model concession agreement contains a provision according to which licensee who intentionally conceal shortcomings identified by monitoring, particularly penalized and increase the monitoring requirements at the expense of the concessionaire. Again, note that the PPP Manual was created based on the previous procurement and concession laws (which have now been repealed)</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	<p>No</p>
Relevant legal/regulatory provisions (if any)	<p>n/a</p>
The procuring or contract management authority can abate (reduce) payments for non-performance of operating obligations under the PPP contract	<p>Yes</p>
Relevant legal/regulatory provisions (if any)	<p>According to Section 15.3 of the PPP Manual: PPP principle is that the licensee itself monitors the provision of services. The contracting authority is, however, also the right to monitor the provision of services, at their own expense. Given the potential for abuse monitoring authority model concession agreement contains a provision according to which licensee who intentionally conceal shortcomings identified by monitoring, particularly penalized and increase the monitoring requirements at the expense of the concessionaire. Again, note that the PPP Manual was created based on the previous procurement and concession laws (which have now been repealed)</p>
The private partner must provide the procuring or contract management authority with periodic operational and financial data	<p>No</p>
Relevant legal/regulatory provisions (if any)	<p>n/a</p>
The procuring or contract management authority must periodically gather information on the	<p>No</p>

performance of the PPP contract	
Relevant legal/regulatory provisions (if any)	n/a
The PPP contract performance information must be available to the public	No
Relevant legal/regulatory provisions (if any)	n/a
43.2. Is PPP contract performance information made publicly available online?	Yes
If yes, please specify the website:	http://www.isvz.cz/ISVZ/Podpora/ISVZ.aspx
44. Are foreign companies prohibited from repatriating the income resulting from the operation of a PPP project?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
45. Does the regulatory framework (including standard contractual clauses) expressly regulate changes in the ownership structure (i.e. stakeholder composition) of the private partner and/or assignment of the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>Pursuant to Section 222 of the Public Procurement Act</p> <p>(1) Unless otherwise stipulated below, the contracting authority shall not allow a substantial modification of the obligation arising from a public contract throughout its duration without conducting a new procurement procedure in accordance with this Act.</p> <p>(2) The application of reserved modifications of the obligation stipulated in the public contract on the basis of award criteria pursuant to Section 100 (1) shall not be considered a substantial modification.</p> <p>(10) A replacement of the economic operator by another economic operator shall also constitute a substantial modification of the obligation arising from a public contract. It shall, however, be possible to replace the economic operator by another economic operator</p> <p>a) in the case of application of reserved modifications of the obligation stipulated in the public contract on the basis of award criteria pursuant to Section 100 (2), or</p> <p>b) where a change in the person of the economic operator is a consequence of legal succession related to a transformation of the economic operator, a death of the economic operator or a transfer of the economic operator's enterprise, or, where applicable, part of the enterprise, and the new economic operator</p>

	meets the qualification criteria set out in the procurement documents of the original procurement procedure.
45.1. If yes, which of the following circumstances are specifically regulated? (check all that apply): Any change in the private partner during an initial period (e.g. construction and first five years of operation).	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to Section 222 of the Public Procurement Act (10) A replacement of the economic operator by another economic operator shall also constitute a substantial modification of the obligation arising from a public contract. It shall, however, be possible to replace the economic operator by another economic operator a) in the case of application of reserved modifications of the obligation stipulated in the public contract on the basis of award criteria pursuant to Section 100 (2), or b) where a change in the person of the economic operator is a consequence of legal succession related to a transformation of the economic operator, a death of the economic operator or a transfer of the economic operator's enterprise, or, where applicable, part of the enterprise, and the new economic operator meets the qualification criteria set out in the procurement documents of the original procurement procedure.
In other cases, flexibility to change the ownership structure and/or assign the contract.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to Section 222 of the Public Procurement Act (10) A replacement of the economic operator by another economic operator shall also constitute a substantial modification of the obligation arising from a public contract. It shall, however, be possible to replace the economic operator by another economic operator a) in the case of application of reserved modifications of the obligation stipulated in the public contract on the basis of award criteria pursuant to Section 100 (2), or b) where a change in the person of the economic operator is a consequence of

	<p>legal succession related to a transformation of the economic operator, a death of the economic operator or a transfer of the economic operator's enterprise, or, where applicable, part of the enterprise, and the new economic operator meets the qualification criteria set out in the procurement documents of the original procurement procedure.</p>
<p>46. Does the regulatory framework (including standard contractual clauses) expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>Pursuant to Section 222 of the Public Procurement Act</p> <p>(1) Unless otherwise stipulated below, the contracting authority shall not allow a substantial modification of the obligation arising from a public contract throughout its duration without conducting a new procurement procedure in accordance with this Act.</p> <p>(2) The application of reserved modifications of the obligation stipulated in the public contract on the basis of award criteria pursuant to Section 100 (1) shall not be considered a substantial modification.</p> <p>(10) A replacement of the economic operator by another economic operator shall also constitute a substantial modification of the obligation arising from a public contract. It shall, however, be possible to replace the economic operator by another economic operator</p> <p>a) in the case of application of reserved modifications of the obligation stipulated in the public contract on the basis of award criteria pursuant to Section 100 (2), or</p> <p>b) where a change in the person of the economic operator is a consequence of legal succession related to a transformation of the economic operator, a death of the economic operator or a transfer of the economic operator's enterprise, or, where applicable, part of the enterprise, and the new economic operator meets the qualification criteria set out in the procurement documents of the original procurement procedure.</p> <p>Furthermore Pursuant to Article 100 of the Public Procurement Act:</p> <p>(1) The contracting authority may reserve, in the procurement documents, a change in the obligation arising from the public contract or framework agreement provided that conditions for such a change and its content are defined clearly and that the change will not alter the overall character of the public contract. Such a change may concern the scope of supplies, services or works, the price and other business conditions or technical specifications.</p> <p>(2) The contracting authority may reserve, in the procurement documents, a change of the economic operator in the course of performance of the public contract provided that conditions for such a change and the manner of determining a new economic operator are defined clearly.</p> <p>(3) The contracting authority may reserve, in the procurement documents, the possibility of applying a negotiated procedure without prior publication for the provision of new services or new works by a selected economic operator</p>

	<p>provided that</p> <p>a) the conditions for the new services or new works are in accordance with the conditions for the application of a negotiated procedure without prior publication pursuant to Section 66,</p> <p>b) the estimated value of the new services or new works does not exceed 30 % of the estimated value of the public contract, and</p> <p>c) it indicates in the procurement documents the estimated length and scope of the new services or new works</p>
<p>46.1. If yes, is an approval from a government authority, other than the procuring authority, required?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>Pursuant to Section 186 (1) of the Public Procurement Act: In the case of concessions, the contracting authority referred to in Section 4 (1) d) or e) shall apply for a prior opinion of the Ministry of Finance to conclude a contract with the legal person where a territorial self-government unit founded or established such legal person or the legal person is funded mainly thereby or the self-government unit exercises decisive influence over the legal person, appoints or elects more than half of the members of its governing or controlling body, or to supplement any of those contracts. Where suggested supplements involve the amount of applicant's financial obligations, it shall be applied for an opinion on supplements to the contract.</p>
<p>46.2. If yes to question 46, which of the following circumstances are specifically regulated? (check all that apply): A change in the scope and/or object of the contract.</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>Pursuant to Article 43 of the EU Directive:</p> <p>1. Concessions may be modified without a new concession award procedure in accordance with this Directive in any of the following cases:</p> <p>(a) where the modifications, irrespective of their monetary value, have been provided for in the initial concession documents in clear, precise and unequivocal review clauses, which may include value revision clauses, or options. Such clauses shall state the scope and nature of possible modifications or options as well as the conditions under which they may be used. They shall not provide for modifications or options that would alter the overall nature of the concession;</p> <p>(b) for additional works or services by the original concessionaire that have become necessary and that were not included in the initial concession where a change of concessionaire:</p> <p>(i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, services or installations procured under the initial concession; and</p> <p>(ii) would cause significant inconvenience or substantial duplication of costs for the contracting authority or contracting entity.</p> <p>However, in the case of concessions awarded by a contracting authority, for the purposes of pursuing an activity other than those referred to in Annex II, any increase in value shall not exceed 50 % of the value of the original</p>

concession. Where several successive modifications are made, that limitation shall apply to the value of each modification. Such consecutive modifications shall not be aimed at circumventing this Directive;

(c) where all of the following conditions are fulfilled:

(i) the need for modification has been brought about by circumstances which a diligent contracting authority or contracting entity could not foresee;

(ii) the modification does not alter the overall nature of the concession;

(iii) in the case of concessions awarded by contracting authority, for the purposes of pursuing an activity other than those referred to in Annex II, any increase in value is not higher than 50 % of the value of the initial concession.

Where several successive modifications are made, this limitation shall apply to the value of each modification. Such consecutive modifications shall not be aimed at circumventing this Directive;

(d) where a new concessionaire replaces the one to which the contracting authority or the contracting entity had initially awarded the concession as a consequence of either:

(i) an unequivocal review clause or option in conformity with point (a);

(ii) universal or partial succession into the position of the initial concessionaire, following corporate restructuring, including takeover, merger, acquisition or insolvency, of another economic operator that fulfils the criteria for qualitative selection initially established provided that this does not entail other substantial modifications to the contract and is not aimed at circumventing the application of this Directive; or

(iii) in the event that the contracting authority or contracting entity itself assumes the main concessionaire's obligations towards its subcontractors where this possibility is provided for under national legislation;

(e) where the modifications, irrespective of their value, are not substantial within the meaning of paragraph 4.

Contracting authorities or contracting entities having modified a concession in the cases set out under points (b) and (c) of this paragraph shall publish a notice to that effect in the Official Journal of the European Union. Such notice shall contain the information set out in Annex XI and shall be published in accordance with Article 33.

2. Furthermore, and without any need to verify whether the conditions set out under points (a) to (d) of paragraph 4 are met, concessions may equally be modified without a new concession award procedure in accordance with this Directive being necessary where the value of the modification is below both of the following values:

(i) the threshold set out in Article 8; and (ii) 10 % of the value of the initial concession.

However, the modification may not alter the overall nature of the concession. Where several successive modifications are made, the value shall be assessed on the basis of the net cumulative value of the successive modifications.

3. For the purpose of the calculation of the value referred to in paragraph 2 and points (b) and (c) of paragraph 1, the updated value shall be the reference value when the concession includes an indexation clause. If the concession does not include an indexation clause, the updated value shall be calculated taking into account the average inflation in the Member State of the contracting authority or of the contracting entity.

	<p>4. A modification of a concession during its term shall be considered to be substantial within the meaning of point (e) of paragraph 1, where it renders the concession materially different in character from the one initially concluded. In any event, without prejudice to paragraphs 1 and 2, a modification shall be considered to be substantial where one or more of the following conditions is met:</p> <p>(a) the modification introduces conditions which, had they been part of the initial concession award procedure, would have allowed for the admission of applicants other than those initially selected or for the acceptance of a tender other than that originally accepted or would have attracted additional participants in the concession award procedure;</p> <p>(b) the modification changes the economic balance of the concession in favour of the concessionaire in a manner which was not provided for in the initial concession;</p> <p>(c) the modification extends the scope of the concession considerably;</p> <p>(d) where a new concessionaire replaces the one to which the contracting authority or contracting entity had initially awarded the concession in other cases than those provided for under point (d) of paragraph 1.</p> <p>5. A new concession award procedure in accordance with this Directive shall be required for other modifications of the provisions of a concession during its term than those provided for under paragraphs 1 and 2.</p>
A change in the risk allocation of the contract.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	No regulatory basis
A change in the financial and/or economic balance of the contract.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>Pursuant to Section 186 of the Public Procurement Act:</p> <p>1) In the case of concessions, the contracting authority referred to in Section 4 (1) d) or e) shall apply for a prior opinion of the Ministry of Finance to conclude a contract with the legal person where a territorial self-government unit founded or established such legal person or the legal person is funded mainly thereby or the self-government unit exercises decisive influence over the legal person, appoints or elects more than half of the members of its governing or controlling body, or to supplement any of those contracts. Where suggested supplements involve the amount of applicant's financial obligations, it shall be applied for an opinion on supplements to the contract.</p> <p>5) The Ministry of Finance shall assess the application with regard to possible impacts of acceptance of obligations arising from the contract and their influence on the economic standing of the contracting authority referred to in subsection (1) or on international obligations of the Czech Republic.</p>
A change in the duration of the contract.	Yes
If yes, please provide the relevant	No regulatory basis

legal/regulatory/standard contractual provisions (if any):	
A change in the agreed price or tariff.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to Article 186 (1) of the Public Procurement Act: In the case of concessions, the contracting authority referred to in Section 4 (1) d) or e) shall apply for a prior opinion of the Ministry of Finance to conclude a contract with the legal person where a territorial self-government unit founded or established such legal person or the legal person is funded mainly thereby or the self-government unit exercises decisive influence over the legal person, appoints or elects more than half of the members of its governing or controlling body, or to supplement any of those contracts. Where suggested supplements involve the amount of applicant's financial obligations, it shall be applied for an opinion on supplements to the contract.
46.3. Can the procuring authority unilaterally modify a PPP contract?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to Section 100 (1) of the Public Procurement Act, The contracting authority may reserve, in the procurement documents, a change in the obligation arising from the public contract or framework agreement provided that conditions for such a change and its content are defined clearly and that the change will not alter the overall character of the public contract. Such a change may concern the scope of supplies, services or works, the price and other business conditions or technical specifications.
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):	Pursuant to Section 2913 (2) of the Civil Code, obligations to reimburse the pest relieved, if he proves that he fulfill the obligations under the contract temporarily or permanently prevented emergency unpredictable and insurmountable obstacle arising beyond its control. The obstacle arising from pest or personal circumstances created until the time the pest with the fulfillment of agreed obligations is late or obstacle which was required under the contract pest to overcome, but it relieves them of the obligation to compensate.
Material Adverse government action .	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to Section 1765 of the Civil Code: 1) If a change in circumstances so substantial that the amendment establishes the rights and obligations gross disparity disadvantage either one of them a disproportionate increase in cost of performance or disproportionate reduction in the value of the transaction, the party has the right to pursue recovery against another party contract negotiation, if he proves that the

	<p>change could not reasonably foresee or control and that the fact occurred after the conclusion of the contract, or the party concerned to become familiar conclusion. The application of this right does not entitle the party to postpone implementation.</p> <p>(2) The right referred to in paragraph 1 arises the question, took on himself the risk of changes in circumstances.</p> <p>Furthermore, Section 1764 of the Civil Code states that a change in circumstances after the contract to the extent that the supply of contract happens to any of the parties more difficult, nevertheless fulfill its obligation debt. This does not apply in cases specified in § 1765 and the 1766th.</p>
Change in the Law.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>Pursuant to Section 1765 of the Civil Code:</p> <p>1) If a change in circumstances so substantial that the amendment establishes the rights and obligations gross disparity disadvantage either one of them a disproportionate increase in cost of performance or disproportionate reduction in the value of the transaction, the party has the right to pursue recovery against another party contract negotiation, if he proves that the change could not reasonably foresee or control and that the fact occurred after the conclusion of the contract, or the party concerned to become familiar conclusion. The application of this right does not entitle the party to postpone implementation.</p> <p>(2) The right referred to in paragraph 1 arises the question, took on himself the risk of changes in circumstances.</p> <p>Furthermore, Section 1764 of the Civil Code states that a change in circumstances after the contract to the extent that the supply of contract happens to any of the parties more difficult, nevertheless fulfill its obligation debt. This does not apply in cases specified in § 1765 and the 1766th.</p>
Refinancing.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Subcontracting and replacement of the subcontractors.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>Pursuant to Section 105 of the Public Procurement Act:</p> <p>(1) In the procurement documents, the contracting authority may request that the participant in its tender</p> <p>a) indicates any share of the contract that it intends to subcontract, or</p> <p>b) includes a list of subcontractors, where they are known to the participant, and indicates which share of the public contract will be subcontracted to each of these subcontractors.</p> <p>(2) In the case of a public service contract, a public works contract or a public supply contract involving a siting or installation, the contracting authority may request in the procurement documents that significant activities within the public contract, as determined by the contracting authority, be performed</p>

	<p>directly by the selected economic operator.</p> <p>(3) With regard to public works contracts and public service contracts to be provided at a facility under the direct oversight of the contracting authority, the selected economic operator is obliged to provide the contracting authority with identification data of the subcontractors involved in such works or services, where they are known to it, not later than within 10 working days from the receipt of the notice of the selection of the economic operator.</p> <p>Subcontractors who have not been identified under the first sentence and who will become involved in the performance of the public contract later, shall be identified before they commence the performance of the public contract.</p> <p>(4) In the procurement documents, the contracting authorities may also lay down the obligation pursuant to subsection (3) with regard to</p> <p>a) public supply contracts or public services contracts that are not referred to in subsection (3), or</p> <p>b) subcontractors at further levels of the supply chain.</p> <p>(5) The duty under subsection (3) or subsection (4) shall be considered to be fulfilled where these data are recorded in the construction daily log pursuant to another legal regulation</p>
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?	<p>Yes</p>
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>No regulatory basis</p>
48.1. If yes, please specify which of the following options are available (check all that apply): Local administrative review body	<p>No</p>
If yes, please specify:	<p>n/a</p>
Local courts	<p>Yes</p>
Domestic arbitration	<p>Yes</p>
International arbitration	<p>Yes</p>
Investor-State Dispute Settlement (ISDS)	<p>Yes</p>
Mediation	<p>Yes</p>
Please provide the relevant legal/ regulatory/standard contractual provisions (if any)	<p>The Czech Republic is a member of the New York Convention and ICSID</p>

48.2. If applicable, are arbitration awards enforceable by the local courts?: Domestic Arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	Section 40 (1) (c) of the Act 120/2001 Coll, Execution Procedural Code (hereinafter “Execution Procedural Code”)
International arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	The Czech Republic is a member of the New York Convention
Investor-State arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	The Czech Republic is a member of ICSID
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?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>Pursuant to Section 100 of the Public Procurement Act:</p> <p>(1) The contracting authority may reserve, in the procurement documents, a change in the obligation arising from the public contract or framework agreement provided that conditions for such a change and its content are defined clearly and that the change will not alter the overall character of the public contract. Such a change may concern the scope of supplies, services or works, the price and other business conditions or technical specifications.</p> <p>(2) The contracting authority may reserve, in the procurement documents, a change of the economic operator in the course of performance of the public contract provided that conditions for such a change and the manner of determining a new economic operator are defined clearly.</p> <p>Furthermore, Pursuant to Section 222 of the Public Procurement Act</p> <p>(1) Unless otherwise stipulated below, the contracting authority shall not allow a substantial modification of the obligation arising from a public contract throughout its duration without conducting a new procurement procedure in accordance with this Act.</p> <p>(2) The application of reserved modifications of the obligation stipulated in the public contract on the basis of award criteria pursuant to Section 100 (1) shall not be considered a substantial modification.</p> <p>(10) A replacement of the economic operator by another economic operator</p>

	<p>shall also constitute a substantial modification of the obligation arising from a public contract. It shall, however, be possible to replace the economic operator by another economic operator</p> <p>a) in the case of application of reserved modifications of the obligation stipulated in the public contract on the basis of award criteria pursuant to Section 100 (2), or</p> <p>b) where a change in the person of the economic operator is a consequence of legal succession related to a transformation of the economic operator, a death of the economic operator or a transfer of the economic operator's enterprise, or, where applicable, part of the enterprise, and the new economic operator meets the qualification criteria set out in the procurement documents of the original procurement procedure.</p>
<p>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?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>Pursuant to Section 100 of the Public Procurement Act:</p> <p>(1) The contracting authority may reserve, in the procurement documents, a change in the obligation arising from the public contract or framework agreement provided that conditions for such a change and its content are defined clearly and that the change will not alter the overall character of the public contract. Such a change may concern the scope of supplies, services or works, the price and other business conditions or technical specifications.</p> <p>(2) The contracting authority may reserve, in the procurement documents, a change of the economic operator in the course of performance of the public contract provided that conditions for such a change and the manner of determining a new economic operator are defined clearly.</p> <p>Furthermore, Pursuant to Section 222 of the Public Procurement Act</p> <p>(1) Unless otherwise stipulated below, the contracting authority shall not allow a substantial modification of the obligation arising from a public contract throughout its duration without conducting a new procurement procedure in accordance with this Act.</p> <p>(2) The application of reserved modifications of the obligation stipulated in the public contract on the basis of award criteria pursuant to Section 100 (1) shall not be considered a substantial modification.</p> <p>(10) A replacement of the economic operator by another economic operator shall also constitute a substantial modification of the obligation arising from a public contract. It shall, however, be possible to replace the economic operator by another economic operator</p> <p>a) in the case of application of reserved modifications of the obligation</p>

	<p>stipulated in the public contract on the basis of award criteria pursuant to Section 100 (2), or</p> <p>b) where a change in the person of the economic operator is a consequence of legal succession related to a transformation of the economic operator, a death of the economic operator or a transfer of the economic operator's enterprise, or, where applicable, part of the enterprise, and the new economic operator meets the qualification criteria set out in the procurement documents of the original procurement procedure.</p>
<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.</p>	No
<p>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	n/a
<p>The regulatory framework prescribes that a direct agreement should be signed with the lenders.</p>	No
<p>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	n/a
<p>The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.</p>	No
<p>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	n/a
<p>Other.</p>	No
<p>Please Specify:</p>	n/a
<p>51. Does the regulatory framework (including standard contractual clauses) expressly establish the grounds for termination of a PPP contract?</p>	Yes
<p>If yes, please specify and provide the relevant legal/regulatory/standard</p>	<p>Pursuant to Section 223 of the Public Procurement Act:</p> <p>(1) The procuring authority may terminate the obligation arising from a public contract or withdraw from the contract provided that its performance cannot be continued without violating the provisions of Section 222.(2) The procuring</p>

contractual provisions (if any):	<p>authority may terminate the obligation arising from a public contract or withdraw from the contract, without undue delay, after it finds out that the contract should not have been concluded because) the selected economic operator should have been excluded from the procurement procedure, b) the selected economic operator submitted, before the award of the public contract, such data, documents, samples or models that did not correspond to reality and affected or could have affected the selection of the economic operator, orc) the selection of the economic operator is connected with a serious infringement of the duty of the Member State within the meaning of Article 258 of the Treaty on the Functioning of the European Union.(3) The right of the procuring authority to terminate the obligation arising from the public contract pursuant to other legal regulations shall not be prejudiced by this provision.(4) Covenants diverting from subsections (1) to (3) are disregarded.</p>
51.1. If yes, does the regulatory framework (including standard contractual clauses) establish the consequences for the termination of the PPP contract?	<p>No</p>
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>n/a</p>
Unsolicited Proposals	
34. Are unsolicited proposals in The Czech Republic: (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>No</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>Yes</p>
If the legal framework explicitly prohibits or allows unsolicited proposals, please provide the relevant legal/regulatory provisions	<p>No regulatory framework</p>
35. Does the procuring authority conduct an assessment to evaluate	<p>n/a</p>

unsolicited proposals? (if not, skip to question 37)	
If yes, please specify and provide the relevant legal/regulatory provisions (if any)	n/a
35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?	n/a
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.	n/a
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 procedures to achieve that goal.	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority does not evaluate unsolicited proposals against existing government priorities.	n/a
Please elaborate and provide examples:	n/a
37. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?	n/a

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