



PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN DJIBOUTI

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:	PPP in Djibouti are regulated through the Law no 2017-186 of May 29, 2017 on Public-Private Partnerships, which will be completed by implementation decrees in the following 6 months. Article 3.1. defines A Public Private Partnership (PPP) as a long term written agreement of administrative law between an economic operator and a Contracting Authority, for the realization of works, a building or an infrastructure or the supply of a service of general interest or which contributes to the public service, for which the private party bears a number of risks and responsibilities of management and operation as well as all or part of the financing.
and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:	http://www.presidence.dj/texte.php?ID=186&ID2=2017-05-29&ID3=Loi&ID4=10&ID5=2017-05-31&ID6=n
2.1. Are you aware of any reforms (in the regulatory frameworks – laws, regulations, policies, etc.- or in generally followed practices) related to PPPs that: Took place in 2016, are ongoing and/or are planned to be adopted BEFORE June 1, 2017?	Yes
Please describe:	Law no 2017-186 of May 29, 2017 related to PPP Contracts
2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?	Yes
Please describe:	Implementation decrees of the PPP Law
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 Djibouti and provide their website(s) (if available):	Pursuant to article 3.2. of the PPP Law, PPPs are entered into by the State, public agencies and companies and local entities.

6. In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?	Yes
If yes, please indicate its name, and its website (if available):	A PPP Unit is created by article 6 of the PPP Law, its set up is ongoing.
6.1 If yes, what are the main responsibilities of the PPP Unit (check all that apply): PPP regulation and policy guidance.	Yes
6.2 PPP capacity building for other public authorities.	Yes
6.3 PPP promotion among the public and/or private sectors in national and international forums.	Yes
6.4 Technical support in implementing PPP projects.	Yes
6.5 Identification and selection of PPP projects from the pipeline.	Yes
6.6 Revision of fiscal risks born by the Government.	No
6.7 Consultation with affected communities on potential impact of PPP projects.	No
6.8 Approval of PPP projects.	No
6.9 Undertaking the procurement of PPPs.	No
6.10 Oversight of PPP implementation.	Yes
6.11 Other	No
6.11 please specify:	n/a
Please provide the relevant legal/regulatory provisions:	PPP Unit's attributions are as follows pursuant to article 6 of the PPP Unit: <ul style="list-style-type: none"> - To watch the implementation, the evaluation, the supervision and the update of the national policy and the regulations regarding PPP; - To formulate to the Minister of the Economy and Finances legal and institutional proposals of adaptation of the framework necessary for the implementation of the national policy regarding PPP; - To assist the Government for the definition of the PPP policy and the regulations regarding PPP; - To centralize the requests of launch of PPP sent by the Authorities Contracting parties and to raise the list of the projects susceptible to be developed there PPP; - To assist the Contracting Authorities on the occasion of the definition, of the preparation, of the signing and of the follow-up of the execution of the

	<p>projects PPP;</p> <ul style="list-style-type: none"> - To promote the PPP on the territory of the Republic of Djibouti; - To work on the capacity building of the Contracting Authorities regarding PPP; - To establish models of contracts of PPP (PPP with public payment, concession of services, works contract, governed interested, contract of lease, etc.) drafted in French language and in English language.
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):	No regulatory basis
8.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before signing the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to article 8.2. of the PPP Law, the Ministry of Economy and Finance acknowledges the PPP contract with all notices required by the Law before transmission to the Council of Ministries by the contracting authority. Article 31.2 furthermore indicates that acknowledgment is granted after assuring conformity of the PPP with objectives of economical and social development of the country and after verifying the instruction process was abide by. The acknowledgment can be accompanied by caveats presented to the Council of Ministries during the PPP's examination. If the Ministry grants its acknowledgment, the contract is communicated to the Council of Ministers.
8.2. Does the Ministry of Finance (or government more broadly) have a specific system of: Budgeting for PPP projects.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Accounting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
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).	n/a
Accounting and reporting according to other international standard (e.g. European System of Accounts).	n/a
Please specify:	n/a
Other.	n/a
Please specify:	n/a
9. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before launching the procurement process (e.g. Cabinet, Cabinet Committee, Parliament, Supreme Audit Office, etc.)?	Yes
If yes, please specify the relevant authority	Council of Ministers
and provide the relevant legal/regulatory provisions (if any):	Article 8.1 of the PPP Law makes provision for an approval of the Council of Ministers through a Decree after receiving the prefeasibility analysis, notice of the PPP Unit and notice of budgetary sustainability.
9.1. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before signing the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 8.1 of the PPP Law makes provision for an approval of the Council of Ministers through a Decree of the contract signed between the procuring authority and the partner. Pursuant to article 11, the National Commission of public procurement gives an opinion on the respect of procurement procedure before the contract's signature.
10. Does the procuring authority use transaction advisors during the PPP project cycle?	Yes

<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 details a specific procedure to ensure the consistency of PPPs with other public investment priorities.</p>	<p>Yes</p>
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p>	<p>The PPP Unit prepares the list of projects which could be developed through PPP (article 6). The Council of Ministries is in charge of prioritizing, through decree, PPP projects according to objectives of economic and social development, based on a proposal of the Ministry of Economy and Finance after opinion of the Council of economic development (article 8.1). The ministry of Economy and Finance ensures the consistency of the list of projects likely to be developed as PPPs prepared by the PPP Unit in line with the policy of economic and social development. Within 30 days of the transmission by the PPP Unit, it validates after Consultation with the Economic Development Board this list; or Communicates to the PPP Unit its comments so that the final list is in line with the policy of economic and social development (article 8.2).</p> <p>More specifically, projects are included in the list by the PPP Unit based on the following criteria: i) The strategic and social interest of the project at the local, regional and national levels, ii) the interest of a procurement through PPP in this project, iii) the potential attractiveness of the project in the private sector, iv) the stage of progress of the project, v) the potential impact of the project on the employment and the Djiboutian private sector (Article 13).</p> <p>Finally, the priority character of the projects is determined by the Council of Ministers on proposal of Minister of the Economy and Finance. As such, the Council of Ministers can hold in particular the determining impact of the project on the national development or on the public finances. Only the projects considered as priority by the Council of Ministers can be the object of a preliminary evaluation (article 14).</p>

<p>The regulatory framework prescribes the need for PPPs to be consistent with all other investment priorities without establishing a specific procedure to achieve that goal.</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>The regulatory framework does not include any provisions but the procuring authority evaluates the consistency of PPPs with other government investment priorities in practice.</p>	<p>No</p>
<p>If yes, please elaborate:</p>	<p>n/a</p>
<p>The procuring authority does not evaluate PPPs against existing government priorities.</p>	<p>No</p>
<p>Please elaborate and provide examples:</p>	<p>n/a</p>
<p>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?</p>	<p>No Data</p>
<p>If yes, please specify:</p>	<p>n/a</p>
<p>If no, please elaborate:</p>	<p>The Law was passed in the last few months and created the prioritization procedure.</p>
<p>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)</p>	<p>Yes</p>
<p>Relevant legal/regulatory provision (if any)</p>	<p>Pursuant to article 4.1 of the PPP Law, a procuring authority can recourse to a PPP only if the project is economically and socially advantageous. Pursuant to article 15, the prefeasibility analysis concerns the respect of the established criteria to recourse to PPP. In particular, the study shall include: - An analysis of the economic, environmental and social impacts of the project.</p>

Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No Data
Details:	The PPP Law is very recent and the prefeasibility study was created by this Law. Therefore, there is no established 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)	Pursuant to article 4.1 of the PPP Law, a procuring authority can recourse to a PPP only if the project is budgetary sustainable. Pursuant to article 15, the prefeasibility analysis concerns the respect of the established criteria to recourse to PPP> In particular, the study shall include: - An analysis of the budgetary sustainability of the project.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No Data
Details:	The PPP Law is very recent and the prefeasibility study was created by this Law. Therefore, there is no established practice.
12.3. Risk identification, allocation and assessment (risk matrix)	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 Data
Details:	The PPP Law is very recent and the prefeasibility study was created by this Law. Therefore, there is no established 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)	<p>Pursuant to article 4.1 of the PPP Law, a procuring authority can recourse to a PPP only if the project is more beneficial than other public procurement contracts, in particular when it decreases immediately and later on the public finance burden, through a concessive PPP or through generation of additional revenues. Furthermore, the concessive PPP is privileged, and if not retains, the procuring authority shall demonstrate the reasons why.</p> <p>Pursuant to article 15, the prefeasibility analysis concerns the respect of the established criteria to recourse to PPP. In particular, the study shall include:</p> <ul style="list-style-type: none"> - A legal and financial comparative analysis, contracts susceptible to be implemented within the framework of the project to highlight the advantages of the recourse to a PPP compared with the other techniques of procurement as well as the sharing of the risks.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No Data
Details:	The PPP Law is very recent and the prefeasibility study was created by this Law. Therefore, there is no established 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 Data
Details:	The PPP Law is very recent and the prefeasibility study was created by this Law. Therefore, there is no established practice.
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)	<p>Pursuant to article 4.1 of the PPP Law, a procuring authority can recourse to a PPP only if a market study shows the PPP is likely to present a interest for economic operators. The investor's interest is also analyzed on the prioritization's stage; a PPP project will only be included in the list of projects likely to be developed as PPPs if there is (iii) a potential attractiveness to the private sector (article 13).</p>
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No Data

Details:	The PPP Law is very recent and the prefeasibility study was created by this Law. Therefore, there is no established practice.
12.7. Environmental impact assessment	Yes
Relevant legal/regulatory provision (if any)	Pursuant to article 15, the prefeasibility analysis concerns the respect of the established criteria to recourse to PPP. In particular, the study shall include: - An analysis of the economic, environmental and social impacts of the project. The Law n°51/AN/09/6 creating a Code of Environment includes a requirement of preparing an environmental impact assessment.
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Decree n°2011-029/PR/MHUEAT of February 24, 2011 provides the procedure of Environmental impact assessment, title III relates to its content, which includes at least: a. The description of the environment of the site and the region; b. the description of the project; c. the exploration and the analysis of the alternatives; d. a check of the conformity of the project with regard to the policies, the laws, the regulations and the existing standards, including the ratified international agreements; e. the inventory and the description of the impacts of the project on the environment; f. the envisaged measures of mitigation.
Is the assessment done in practice?	No Data
Details:	The PPP Law is very recent and the prefeasibility study was created by this Law. Therefore, there is no established practice.
12.8. Consultation process with affected communities on potential impact of the PPP project	Yes
Relevant legal/regulatory provision (if any)	Decree n°2011-029/PR/MHUEAT of February 24, 2011 provides the procedure of Environmental impact assessment and indicates the realization of the environmental study on the environment must be made with the cooperation of the populations and of the public concerned through consultations and public audiences, to collect and take into account the opinions of the populations on the project. In particular, every person susceptible to be affected by the activity is entitled to be informed and heard (article 15).
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Articles 16 and 17 Decree n°2011-029/PR/MHUEAT of February 24, 2011 provide details on public consultation, which is made through meetings and public audiences.
Is the assessment done in practice?	No Data
Details:	The PPP Law is very recent and the prefeasibility study was created by this Law. Therefore, there is no established practice.

13. Does the procuring authority include the assessments (indicated in Question 12 above) in the request for proposals and/or tender documents (for example, as part of an Information Memorandum to the bidders)?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and specify which of the assessments are included in the request for proposals and/or tender documents:	n/a
13.1. Are the assessments published online?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
specify the website	n/a
please specify which of the assessments are published online:	n/a
14. Does the procuring authority include a draft PPP contract in the request for proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
If no, please elaborate	n/a
14.1. Are the tender documents published online?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and please specify the website:	n/a
15. In a case comparable to the case study assumptions, have standardized PPP model contracts and/or transaction documents been developed?	No
If yes, please specify and provide a government-supported website where the mentioned standards are available or provide an electronic copy of them:	n/a

16.1 In a case comparable to the case study assumptions, who is the responsible party for each of the following requirements? Obtaining the required urban permits: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	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)	Yes
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No

To be established in the contract	No
Relevant legal/regulatory provision (if any)	Pursuant to article 52 of the PPP Law, when the contract implies occupation of the public domain, it constitutes an authorization of occupation of the domain until it expires or is terminated.
16.5. Obtaining the required right of way: Procuring authority (or other Government entity)	Yes
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	No
Relevant legal/regulatory provision (if any)	Pursuant to article 52 of the PPP Law, when the contract implies occupation of the public domain, it constitutes an authorization of occupation of the domain until it expires or is terminated.
PPP Procurement	
18. Which of the following options best describes the required qualifications of the bid evaluation committee members? (Please select only one): The membership of the bid evaluation committee is specified and/or its members are required to meet detailed qualifications.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The bid evaluation committee members require sufficient qualification without specific details.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The bid evaluation committee members are not required to have any specific qualifications.	Yes
Please elaborate and provide examples:	Details on the bid evaluation commission will be provided by implementation decrees.
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):	Article 22 of the PPP Law is related to a tender notice: except for a negotiated procedure, every procurement procedure leads to publication by the procuring authority of a notice of call for competition.
19.1. If yes, is the public procurement notice published online?	No
If yes, please specify the website:	n/a
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?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and the time in calendar days:	n/a
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 article 20.1 of the PPP Law, the tender procedure in one stage is the procedure through which the contracting authority chooses the most economically advantageous offer, without negotiation, bases on objective criteria of which the candidates are informed. Article 23 provides details.
22.2. Restricted tendering (with pre-qualification stage):	Yes
Available	
Default	No
Relevant legal/regulatory provision (if any)	Article 21 of the PPP Law is related to the prequalification procedure. It can be used regardless of the chosen type of procedure.
22.3 Multi-stage tendering (with shortlisting of final candidate(s)):	No
Available	
Default	Yes

Relevant legal/regulatory provision (if any)	Article 20.2 of the PPP indicates the tender process in 2 stages is the common procedure for PPPs. Article 24 provides details.
22.4. Competitive dialogue: Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	Pursuant to article 25.1, the procuring authority can exceptionally recourse to competitive dialogue if: <ul style="list-style-type: none"> - the procuring authority is not able to define alone and prior the technical means to meet its needs; - the procuring authority is not able to define alone and prior the juridical or financial construction of the project; - the project includes a degree of technical, juridical or financial complexity such as only some operators are able to realize the required service.
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	Yes
Default	No
Relevant legal/regulatory provision (if any)	Pursuant to article 26, the procuring authority can recourse the negotiated procedure with one candidate when at least one of the following conditions is met: <ul style="list-style-type: none"> - strategic interest for national defense or public security, or superior interest of the State requiring particular security measures. - urgency from unforeseeable events for the procuring authority - requires a pattern, license or exclude rights owned by one operator - unfructuosity of a tender or competitive dialogue procedure - unsolicited proposal. The use of negotiated procedure shall be authorized by the Council of Ministers while validating the prefeasibility study.
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 article 22.3 of the PPP Law, the call for tenders includes a minima: the scope and nature of the procedure; the essential characteristics of the project; conditions to participate (technical, financial capacities, human and material means, minimum/maximum of bidders...).

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):	Pursuant to article 21.4 of the PPP Law, when the number of candidates satisfying the selection criteria included in the pre-qualification notice is under the minimum, the procuring authority can carry on the procedure with solely the selected bidders.
22.10. Based on your experience, is it always the case that the specified criteria are respected in practice?	No
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
If no, please elaborate:	The PPP Law was adopted very recently, and included prequalification criteria in the tender documents was not a requirement before.
23. Can interested parties/potential bidders submit questions to clarify the public procurement notice and/or the request for proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
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):	No regulatory basis
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:	The regulatory framework does not provide for clarifications, however, in practice, it is possible to pose such questions and the answers are provided to all potential candidates.
If no, please elaborate:	n/a
24. Besides questions and clarifications, can the	No

procuring authority conduct pre-bidding conference?	
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
24.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose the content and the results of the pre-bid conference to all bidders?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
24.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	n/a
If yes, please specify:	n/a
If no, please elaborate:	n/a
25. In a case comparable to the case study assumptions, does the procuring authority require the bidders to prepare and present a financial model with their proposals?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
If no, please elaborate:	n/a
26. Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 23.5 pertaining to open tendering; article 24.6 for two-stage tendering indicate the procuring authority evaluates and ranks offers based on objective criteria prior disclosed to candidates in the tender documents.
Evaluation criteria is not set in the tender documents	No
27. In the case where only one proposal is submitted (sole proposals), which of the following options best describes the way the procuring authority deals	No

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.	No
Please provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority does not award a PPP contract if only one proposal is submitted.	No
Please provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework does not include any provisions.	Yes
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):	No regulatory basis
28.1. If yes, is the public procurement award notice published online?	No
If yes, please specify the website:	n/a
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 28 of the PPP Law, the procuring authority informs all bidders of the ranking.
If no, please elaborate:	n/a
29.1. If yes, does the notification of the result of the PPP procurement process	No

include the grounds for the selection of the winning bid?	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
30. Is there a standstill (or pause) period after the contract award and before the signing of the contract in order to allow unsuccessful bidders to challenge the award decision?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to article 55 of the PPP Law, bidders have to file their complaint within 15 days from the notification of reject. The PPP Commission shall reach a decision within 30 days. Such a complaint suspends the signature of a PPP until a decision is reached by the commission.
and the time in calendar days:	15
30.1. Is the standstill period set out in the notice of intention to award?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
31. Does the regulatory framework restrict negotiations with the selected bidder between the award and the signature of the PPP contract in order to prevent an unfair disadvantage to the other bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to article 29.1 of the PPP Law, the finalization shall not allow modification of the essential characteristics of the project or the offer of the tenderer having formulated the offer economically the most advantageous and should not lead to question the made ranking.
31.1. Based on your experience, is it always the case that this restriction is respected in practice?	No Data
If yes, please specify:	n/a
If no, please elaborate:	The Law was just adopted and created those restriction, there is consequently no practice.
32. Does the procuring authority publish the PPP contract?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
32.1. If yes, which of the following options best	n/a

describes this publication (choose only one)?: Publication of the full PPP contract including all its annexes and appendixes	
Publication of the full PPP contract without including all its annexes and appendixes	n/a
Publication of a summary of the PPP contract without publishing the full PPP contract	n/a
Publication of a summary of the PPP contract along with the full PPP contract including all its annexes and appendixes	n/a
Publication of a summary of the PPP contract along with the full PPP contract without including all its annexes and appendixes	n/a
32.2. If yes, is it published online?	n/a
If yes, please specify the website:	n/a
32.3. If yes, does the procuring authority also publish any subsequent amendment made to the PPP contract?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
PPP Contract Management	
41. Has the procuring or contract management authority established a system to manage the implementation of the PPP contract (e.g. attributing responsibilities or establishing specific management tools)?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to article 9 of the PPP Law, each procuring authority sets up a PPP project cell in charge of elaborating, procuring and executing the PPP.
41.1. If yes, which of the following tools does it include (check all that apply)?: Establishment of a PPP contract management team	Yes

Relevant legal/regulatory provisions (if any):	Pursuant to article 9 of the PPP Law, each procuring authority sets up a PPP project cell in charge of elaborating, procuring and executing the PPP.
Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa	Yes
Relevant legal/regulatory provisions (if any):	Pursuant to article 9 of the PPP Law, each procuring authority sets up a PPP project cell in charge of elaborating, procuring and executing the PPP. The Regulation Commission of PPP has competencies in monitoring PPPs (article 10.1),
Elaboration of a PPP implementation manual or an equivalent document	No
Relevant legal/regulatory provisions (if any):	n/a
Establishment of personnel training programs (i.e. initial training and continued training throughout the course of the project)	No
Relevant legal/regulatory provisions (if any):	n/a
Establishment of a risk mitigation mechanism which considers the evolving nature of risks throughout the project lifecycle (guidelines, specific processes, insurance regime, etc.)	No
Relevant legal/regulatory provisions (if any):	n/a
41.2. Which of the following options best describes the required qualifications of the PPP contract management team members? (Please select only one): The membership of the PPP contract management team is specified and/or its members are required to meet detailed qualifications.	No
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The PPP contract management team members are required to meet sufficient qualification without specific details.	No

If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The PPP contract management team members are not required to meet any specific qualifications.	Yes
Please elaborate and provide examples:	Such qualifications will be detailed in implementing decrees.
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):	Pursuant to article 38 of the PPP Law, the PPP contract sets the performance objectives the partner shall meet, the indicators to measure those objectives and the modalities of their control.
42.1. If yes, is the PPP contract construction performance information made available to the public?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
42.2. If yes, is the PPP contract construction performance information made publicly available online?	n/a
If yes, please specify the website:	n/a
43. Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract implementation after construction?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to article 42 of the PPP Law, contract shall include clauses related to control modalities of the procuring authority and reporting obligations of the partner.
43.1. If yes, which of the following tools does it include (check all that apply)?: Performance is assessed against evaluation criteria set in the tender documents and the PPP contract	Yes

Relevant legal/regulatory provisions (if any)	Pursuant to article 38 of the PPP Law, the PPP contract sets the performance objectives the partner shall meet, the indicators to measure those objectives and the modalities of their control.
The procuring or contract management authority can abate (reduce) payments for non-performance of operating obligations under the PPP contract	No
Relevant legal/regulatory provisions (if any)	n/a
The private partner must provide the procuring or contract management authority with periodic operational and financial data	No
Relevant legal/regulatory provisions (if any)	n/a
The procuring or contract management authority must periodically gather information on the performance of the PPP contract	No
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?	n/a
If yes, please specify the website:	n/a
44. Are foreign companies prohibited from repatriating the income resulting from the operation of a PPP project?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
45. Does the regulatory framework (including standard contractual clauses) expressly regulate changes in the ownership structure (i.e. stakeholder composition) of the private partner and/or	Yes

assignment of the PPP contract?	
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>Article 44 of the PPP Law relates to PPP cession, article 45 to cession of shares. The Partner can give in, totally or partially, the PPP to a third party in the conditions defined by this contract.</p> <p>The third party to which the PPP is given up has to present sufficient financial, technical and legal guarantees and, according to the contract in cause, be capable of assuring the continuity of the public service.</p> <p>Any transfer, total or partial, of the contract of PPP by the Partner to a third party has to be the object of a preliminary approval of the Contracting Authority and will also have to be submitted to the approval of the Council of Ministers after opinion of the PPP Unit for the same deadlines as those planned in article 16.</p> <p>The approval of this transfer by the Contracting Authority causes the subrogation of the transferee in the rights and duties of the assignor.</p> <p>Any transfer of the contract of PPP, if authorized, can, in any case, intervene only at the end of a deadline planned contractually. This deadline cannot be of less than two years from the signature of the contract</p>
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).	<p>Yes</p>
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>Any transfer of the contract of PPP, if authorized, can, in any case, intervene only at the end of a deadline planned contractually. This deadline cannot be of less than two years from the signature of the contract (article 44 of the PPP Law).</p>
Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.	<p>Yes</p>
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>The third party to which the PPP is given up has to present sufficient financial, technical and legal guarantees and, according to the contract in cause, be capable of assuring the continuity of the public service (article 44 of the PPP Law).</p>
In other cases, flexibility to change the ownership structure and/or assign the contract.	<p>Yes</p>
If yes, please provide the relevant legal/regulatory/standard	<p>Any transfer of the contract of PPP, if it is authorized, can, in any case, intervene only at the end of a deadline planned contractually. This deadline cannot be of less than two years from the signature of the contract (article 44 of the PPP Law).</p>

contractual provisions (if any):	
46. Does the regulatory framework (including standard contractual clauses) expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to article 43 of the PPP Law, the PPP specifies the conditions in which it can be proceeded to the modification of some of its clauses at the request of one or both parts. Any modification of the PPP will have to be the object of a preliminary approval by the Contracting Authority and will also have to be submitted for approval of the Council of Ministers after opinion of the PPP Unit. The modifications brought to the PPP cannot have the effect of modifying the nature of the project or of affecting substantially the essential characteristics of this project.
46.1. If yes, is an approval from a government authority, other than the procuring authority, required?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to article 43 of the PPP Law, any modification of the PPP will have to be the object of a preliminary approval by the Contracting Authority and will also have to be submitted for approval of the Council of Ministers after opinion of the PPP Unit.
46.2. If yes to question 46, which of the following circumstances are specifically regulated? (check all that apply): A change in the scope and/or object of the contract.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to article 43 of the PPP Law, the modifications brought to the PPP cannot have the effect of modifying the nature of the project or of affecting substantially the essential characteristics of this project.
A change in the risk allocation of the contract.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the financial and/or economic balance of the contract.	Yes
If yes, please provide the relevant legal/regulatory/standard	Pursuant to article 37 of the PPP Law, the PPP contract includes one or several clauses allowing to anticipate or organize the consequences of events likely to

contractual provisions (if any):	affect the financial balance of the PPP, introducing adjust mechanisms allowing some flexibility within the PPP during its implementation.
A change in the duration of the contract.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to article 40.2. of the PPP Law, only the additional works or services essential to the good execution of the service or been imperative by the Contracting Authority and not being able to be paid off during the remaining duration of the PPP justify the extension of the PPP.
A change in the agreed price or tariff.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
46.3. Can the procuring authority unilaterally modify a PPP contract?	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
47. Does the regulatory framework (including standard contractual clauses) expressly regulate the following circumstances that may occur during the life of the PPP contract? (check all that apply): Force Majeure	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to article 39 of the PPP Law, the PPP contracts set conditions within which the risks sharing is established between the contracting authority and the partner, including those resulting from force majeure. Article 46 furthermore indicates termination can happen due to force majeure.
Material Adverse government action .	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	No regulatory basis
Change in the Law.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
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):	Article 42 of the PPP Law requires the contract to include clauses related to subcontracting conditions.
48. Does the regulatory framework (including standard contractual clauses) allow for administrative and/or contractual complaint review mechanisms to address disputes arising from the implementation of PPP contracts?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	Title 8 of the PPP Law relates to dispute resolution. Article 56 is related to disputes during the contract's implementation: disputes are resolved according to the mechanisms agreed by the parties in the PPP. Disputes are preferably settled amicably. Otherwise, the PPP contract can stipulate recourse to arbitration in application of article 58. In the absence of such clause, the dispute will be settled by the administrative tribunal.
48.1. If yes, please specify which of the following options are available (check all that apply): Local administrative review body	No
If yes, please specify:	n/a
Local courts	Yes
Domestic arbitration	Yes
International arbitration	Yes
Investor-State Dispute Settlement (ISDS)	No
Mediation	Yes
Please provide the relevant legal/ regulatory/standard contractual provisions (if any)	Title 8 of the PPP Law relates to dispute resolution. Article 56 is related to disputes during the contract's implementation: disputes are resolved according to the mechanisms agreed by the parties in the PPP. Disputes are preferably settled amicably. Otherwise, the PPP contract can stipulate recourse to arbitration in application of article 58. In the absence of such clause, the dispute will be settled by the administrative tribunal. Article 58 indicates an arbitration clause can be included in the contract.
48.2. If applicable, are arbitration awards	Yes

enforceable by the local courts?: Domestic Arbitration	
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	Article 28 of the Law on international arbitration (no°79/AN/84/1) provides for exequatur ordinances. Moreover, contributors confirm that arbitral awards are accordingly enforced on the domestic level.
International arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	Article 28 of the Law on international arbitration (no°79/AN/84/1) provides for exequatur ordinances. Djibouti's succession to the New-York convention on 14 Jun 1983.
Investor-State arbitration	No
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	n/a
49. Does the regulatory framework (including standard contractual clauses) allow for the restructuring of a PPP private partner (SPV) in financial difficulty prior to insolvency?	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
50. Does the regulatory framework (including standard contractual clauses) allow for the lenders to take control of the PPP project (lender step-in rights) if either the private partner defaults or if the PPP contract is under threat of termination for failure to meet service obligations?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to article 47 of the PPP Law, The Contracting Authority may agree with entities providing funding for a Project, or with the Partner, of the substitution of a new entity for the execution of the PPP in force in the event of serious breaches by the Partner or the occurrence of other events that may justify the termination of this contract.
50.1. If yes, which of the following options best describes the lender step-in right? (Please select only	No

one): The regulatory framework expressly regulates the lender step-in rights.	
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
The regulatory framework prescribes that a direct agreement should be signed with the lenders.	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to article 47 of the PPP Law, the Contracting Authority may agree with entities providing funding for a Project, or with the Partner, of the substitution of a new entity for the execution of the PPP in force in the event of serious breaches by the Partner or the occurrence of other events that may justify the termination of this contract.
The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Other.	No
Please Specify:	n/a
51. Does the regulatory framework (including standard contractual clauses) expressly establish the grounds for termination of a PPP contract?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to article 46 of the PPP Law provides that The PPP may be terminated in case of force majeure, overriding reasons of public interest, serious breach of the Partner or the Contracting Authority to its contractual obligations under the conditions defined by the provisions of the PPP or in case of agreement of the parties.
51.1. If yes, does the regulatory framework (including standard contractual clauses) establish the consequences for the termination of the PPP contract?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard	Pursuant to article 46 of the PPP Law, The PPP determines the compensation received by each party in each of the cases of termination as well as the modalities of payment of this compensation.

contractual provisions (if any):	
Unsolicited Proposals	
34. Are unsolicited proposals in Djibouti: (choose only one): Explicitly prohibited by the legal framework? (If prohibited, skip to section F)	No
Explicitly allowed by the legal framework?	Yes
Not regulated by the legal framework, but do happen in practice?	No
Not regulated by the legal framework, and do not happen in practice? (if not done in practice, skip to section F)	No
If the legal framework explicitly prohibits or allows unsolicited proposals, please provide the relevant legal/regulatory provisions	Chapter 3 of the PPP Law is related to unsolicited proposals.
35. Does the procuring authority conduct an assessment to evaluate unsolicited proposals? (if not, skip to question 37)	Yes
If yes, please specify and provide the relevant legal/regulatory provisions (if any)	Pursuant to Art 33.1. of the PPP Law: An economic operator can send to a Contracting Authority a Spontaneous Offer presenting the following characteristics: - A strong and mainly private financing of the project above a threshold fixed by regulation; - A project innovating with commitments of performance of the operator; - A project which leads jobs and which plans a level of subcontracting of national operators beyond certain thresholds fixed by regulation.
35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to article 33.5. of the PPP Law, from the favorable decision of the Council of Ministers, the carrier of the project is in charge, at its expenses, of realizing studies more deepened to allow the Contracting Authority to lead the preliminary evaluation planned in the article 15.
36. Which of the following options best describe how the procuring authority ensures that unsolicited proposals are consistent with existing government priorities?	Yes

(Please select only one): The procuring authority follows a specific procedure to ensure the consistency of PPPs with other government investment priorities.	
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	<p>Pursuant to article 33.4. of the PPP Law, the decision of the Contracting Authority to pursue the discussions with the carrier of the project can be taken only after the decision of the Council of Ministers to register the Spontaneous Offer on the list of the priority projects according to provisions of the article 14.</p> <p>In the absence of registration of the Spontaneous Offer on this list, the project is considered refused.</p>
The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.	No
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.	No
Please elaborate and provide examples:	n/a
37. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?	No
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?	No
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	No

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.	
39.2 Developer's fee (reimbursing the original proponent for the project development cost).	No
39.3 Bid Bonus.	No
39.4 Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).	No
39.5 Other.	Yes
Please specify:	The implementation of such a procedure will give rise to compensation for the benefit of the project's author in case of signature of a PPP with a company other than the carrier of the project.
Please provide the relevant legal/regulatory provisions (if any):	Article 33.8 of the PPP Law