



PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN ECUADOR

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>PPPs in Ecuador are regulated by: (1) Ecuadorian Republic Constitution , Constitución de la Republica del Ecuador, (2) The Organic Law of Incentives for Public-Private Partnerships and Foreign Investment- Ley Orgánica de Incentivos tributarios para Asociaciones Público Privadas y la Inversión Extranjera-, published on the Official Gazette Supplement N 652 of December 18, 2015 (the “PPP Law”), (3) The General Regulations for the Organic Law of Incentives for Public-Private Partnerships and Foreign Investment, enacted by Executive Decree N 1040 - Reglamento General de Aplicación de la Ley Orgánica de Incentivos para Asociaciones Público-Privadas y la Inversión Extranjera-, published on the Official Gazette N 786 of June 29, 2016 (the “PPP Regulations”), (4) Reforma al Reglamento No. 1040, enacted by Executive Decree No 1372, published of the Official Gazette No. 1005 of 16 May, 2017; finally (5) The Regulations of the Regime of Public Private Collaboration enacted by Executive Decree N 582 - Reglamento del Régimen de Colaboración Público Privada-, published on the Official Gazette N 453 of March 6, 2015 (the Executive Decree N 582) and, (6) the General Resolution for the Presentation and Approval of Public-Private Partnertship Projects - Resolución General para la Presetnación y Aprobación de Proyectos bajo la Modalidad de Asociación Público-Privada, enacted by the Interinstitutional Committee for PPPs, published on the Official Gazette Special Edition 11 of June 7, 2017. (Resolution No. CIAPP -R-009-April 2017, published on the Official Gazette No. 11 of 7 June,2017). In addition, the following laws form part of the regulatory framework previously regulating PPPs: i) Organic Code of Production, Trade, and Investment -Código Orgánico de la Producción, Comercio e Inversiones-, published on the Official Gazette Supplement N 351 of December 29, 2010 ii) Law for the Modernization of the State, Privatization and Provision of Public Services by the Private Initiative -Ley de Modernización del Estado, Privatizaciones y Prestación de Servicios Públicos por Parte de la Iniciativa Privada, published in the Official Gazette Supplement No. 349, December 31, 1993. Moreover, sector specific regulation includes, for instance (i) the Electric Energy Public Service Act (“Ley Orgánica del Servicio Público de Energía Eléctrica”), enacted on January 14th, 2015; (ii) The Telecommunication Act (“Ley Orgánica de Telecomunicaciones”), enacted on February 10th, 2015. The main focus of the present analysis will be the new regime as established by the new PPP Law.</p>
and provide a link to a government-supported website where the mentioned regulatory framework is available or	http://www.asambleanacional.gob.ec/es/leyes-aprobadas

provide an electronic copy of it:	
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:	a) On May 20th of 2016 de Presidency of the Republic issued the Regulation for the application of Ley Orgánica de Incentivos para Asociaciones Público Privadas y la Inversión Extranjera (Official Gazette No. 786 on 29th of June 2016. b) The Technical Secretariat of the Interinstitutional Committee for PPP was eliminated by the Executive Decree 1121, published on Official Gazette Supplement 835, of September 07; c) Also an amendment to the Regulation of the PPP Law was issued by Executive Decree 1372, published on Official Gazette 1005, of May 16th 2017, that created a fast track procedure to approve the PPP projects, established that the Private Partner that will subscribe the PPP contract, its shareholders must be the same that were awarded at the public bid; d) Resolution No. CIAPP - R-009-April 2017, published on the Official Gazette No. 11 of 7 June,2017. including two annexes: 1) General Resolution for the Presentation and Approval of Public Private Partnership Projects and 2) Methodological Guide for the Presentation and Approval of Public Private Partnership Projects.
2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?	Yes
Please describe:	Updates to the “General Resolution for Presentation and Approval of PPP Projects and its Methodological Guide”. There is also a bill to reform the Electric Energy Public Service Act, dated February 27th, 2014.
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	Yes

<p>If yes, please provide the relevant legal/regulatory provisions:</p>	<p>Article 318 of the 2008 Constitution: Water is a strategic national patrimony for public use, it is an inalienable and imprescriptible property of the State, [water] constitutes a vital element for nature and for the existence of human beings. All forms of privatization of water is forbidden; Article 6 of the 2014 Organic law for water resources, uses and exploitation of water - Ley Orgánica de Recursos Hídricos, Usos y Aprovechamiento del Agua-: It is prohibited: a) Any delegation to the private sector the management of water or any of the powers granted to the State by the constitution or statutes through the Water Central Authority or to the Autonomous Decentralized Governments; b) Indirect management, delegation or outsourcing of the provision of public services related with the water integral cycle by the private initiative; c) Any commercial agreement which imposes an economic regime based on profits for the management of water; d) All forms of mercantilization of the environmental water services for profits; e) Any form of contract or cooperation agreement that includes clauses that harms the conservation, sustainable management of water, biodiversity, human health, the human right to water, food sovereignty, human and nature rights; and, f) The granting of perpetual or indefinite licenses for the use or exploitation of water.” In general, article 313 of the Ecuadorean Constitution specifically excludes strategic sectors (such as water) from PPP projects (Art. 13 PPP Law).</p>
<p>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.</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	<p>Article 25 of the 2015 Organic law for the public service of electricity (Ley Orgánica del Servicio Público de Energía Eléctrica) states: The State, through the Ministry of Electricity and Renewable Energy, may delegate, in exceptional form, to enterprises of private capital, as well as enterprises of popular and solidarity economies, the participation in the electrical sector, in any of the following cases: 1. When it is necessary to satisfy the public, collective or general interest; 2. When public or mixed enterprises cannot meet the demand of the service; or, 3. When the projects at stake are based upon no-conventional renewable energies, and are enlisted in the Master Plan of Electricity.</p>
<p>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</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	<p>Art 14 of the 2015 Organic Law of Telecommunications (Ley Orgánica de Telecomunicaciones) provides: Forms of Operations. In accordance to the Constitution of the Republic, the public services of telecommunications are rendered by the State directly, through public enterprises of telecommunications, or indirectly through delegation to GPC in which the State holds the majority of</p>

	<p>the stock, or to the private initiative (...).Art. 15. Delegation. In order to grant authorization by delegation, The Agency for the Regulation and Control of Telecommunications, shall take into account the following: (...) c) For the private initiative (...) (the Agency) will grant authorization for the provision of public services of telecommunications and the use of the radioelectric spectrum associated with such services, in the following cases: 1. When it is necessary and suitable for meeting the public, collective and general interest; 2. When the demand for the service cannot be covered by public and GPC in which the State holds the majority of the stock; 3. When the State lacks the technical or economic capability; 4. When the services of telecommunications are being provided within a regimen of competition by public and private enterprises; 5. When it is necessary in order to encourage competition in a specific market; and, 6. In order to guarantee the right of consumers to have public services of telecommunications of high quality with fair prices and tariffs.</p>
<p>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</p>	<p>Yes</p>
<p>If yes, specify and provide the relevant legal/regulatory provisions:</p>	<p>According to Article 13 of the PPP Law PPPs cannot be used to delegate oversight, regulatory and control functions of the State or management services of general interest that had constitutionally or legally excluded private participation. Also, the PPP regime is not applicable to the strategic sectors (those that are established in the article 313 of the Constitution, such as: energy in all its forms, telecoms, non renewable natural resources, oil transport and refining, the water and others established in the law)</p>
<p>4. Does the regulatory framework provide for a specific tax regime for PPP transactions (i.e. tax incentives, special tax depreciation treatment, etc.)?</p>	<p>Yes</p>
<p>If yes, please specify and provide the relevant legal/regulatory provision (if any):</p>	<p>Through reforms to tax laws, the PPP Law created several tax incentives for PPP projects. Article 9.3 of the Organic Law of Internal Taxation Regime gives a 10 year income tax exemption to private partners in PPPs and its shareholders since the start of the PPP's operation phase. Article 16 of the PPP Law establishes conditions that should be fulfilled so that the private partner could benefit from the incentives, and Article 17 determines the incentives term of validity. Conditions include the acknowledgement of the tax incentives in the public bidding process, their inclusion in the successful bidder's economic and financial plan, their approval by the Interinstitutional Committee for PPPs and its registration in the Committee's Secretariat. Article 17, on the other hand, states that except from the 10 year limit in article 9.3, PPP incentives are to be kept in force for the duration of the PPP. Further, Article 24 #4 of the Production Code recognizes the following tax benefits: (i) Exemption of income tax for 10 years from the first fiscal year in which operational income are generated for the</p>

	<p>entities incorporated in Ecuador for the development of public projects in public - private associations;</p> <p>(ii) Exemption of income tax for 10 years from the first fiscal year in which operational income are generated on the dividends or profits paid by the Ecuadorian companies to their shareholders or beneficiaries, disregarding where they are domiciled; (iii) Companies created for the development of public projects under the public-private association will be Value Added Tax withholding agent in the same terms and with the same percentages applicable to the public companies.</p> <p>(iv) Exemption of the overseas remittance tax applies to import payments; services payments; financing; and, dividends or profit payments abroad. (v) Exemption of foreign trade tax and those other benefits listed in the Tax Regime Law for the public projects by the public-private associations, and the requirements stated in chapters II and III of the PPP Law.</p> <p>In addition, the Organic Production, Commerce and Investments Code sets forth tax stability for the term of effectiveness of the investment agreement, and the Organic Internal Revenue Law states that income deriving from securities representing obligations at 360 calendar days or more, as well as the transactions conducted in connection with such securities, are exempted. In addition to that, Article 159.1 of the Reformatory Law for Tax Fairness exempts private parties in PPPs from the currency outflow tax charged for payments and transfers they perform to a foreign country, in operations related to the PPP project execution.</p>
<p>5. Please identify the PPP procuring authorities in Ecuador and provide their website(s) (if available):</p>	<p>Every public entity manage their own PPP portfolio. This include any Ministry or Agency of the central government, Municipalities, Provincial Governments and other public institutions that have the sufficient authority to delegate to the private sector the provision of public services, or construction of large infrastructures. For example, in the case of a PPP for a highway construction the procuring authority itself would be the “Minister Transportation and Public Works” (http://www.obraspublicas.gob.ec/asociacion-publico-privada-2013-2017). In the case of the Municipality of Quito, the PPP projects are listed in the following website http://quitoinvest.com/home-en/</p> <p>For the projects that are managed by the central government, the list of PPP projects are listed in the following website: http://www.proecuador.gob.ec/ecuadorinvestmentsummit/english/investment.html</p>
<p>6. In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?</p>	<p>Yes</p>
<p>If yes, please indicate its name, and its website (if available):</p>	<p>Interinstitutional Committee for PPPs / Comité Interinstitucional de Asociaciones Público-Privadas</p>
<p>6.1 If yes, what are the main responsibilities of the PPP Unit (check all that apply): PPP regulation and policy guidance.</p>	<p>Yes</p>

6.2 PPP capacity building for other public authorities.	No
6.3 PPP promotion among the public and/or private sectors in national and international forums.	Yes
6.4 Technical support in implementing PPP projects.	Yes
6.5 Identification and selection of PPP projects from the pipeline.	No
6.6 Revision of fiscal risks born by the Government.	No
6.7 Consultation with affected communities on potential impact of PPP projects.	No
6.8 Approval of PPP projects.	Yes
6.9 Undertaking the procurement of PPPs.	No
6.10 Oversight of PPP implementation.	No
6.11 Other	No
6.11 please specify:	n/a
Please provide the relevant legal/regulatory provisions:	<p>Article 6 of the PPP Law states the responsibilities of the PPP Unit in Ecuador and includes:</p> <p>6.1. Define sectors in which the use of the PPPs will be promoted for the execution of public projects.</p> <p>6.2. Verify compliance with the provisions of numeral 3.6 of article 3 of this Law, in regarding the use of the national component, technology transfer and contracting of national human talent, to be incorporated by each project, under the PPP model</p> <p>6.3. Approve, at the proposal of the delegating entity, the projects that will be developed under the PPP model and the incentives regime foreseen in this Law.</p> <p>6.4. Determine the policies and guidelines for the application of the benefits foreseen in this Law.</p> <p>6.5. Issue general guidelines and technical notes for the application of the PPP model in the field of their competences.</p> <p>6.6. Determine the policies and guidelines for the management of deferred payments established for the execution of a public project under the PPP model.</p> <p>6.7. Have the registration of public projects that will be executed under the PPP model, in the register in charge of the Technical Secretariat.</p> <p>6.8. Conform technical teams for the evaluation of public projects that will be executed under</p>

	<p>the PPP model, when circumstances require it.</p> <p>6.9. Issue the necessary regulations for its operation and that of the Technical Secretariat.</p> <p>6.10. The other powers attributed to it in the Law or its regulations.</p>
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>Article 5 of the General Resolution for the Presentation and Approval of Public-Private Partnership Projects states that the procuring authority has to do an affordability assessment that needs to be presented to the finance authority. This approval has to be obtained prior to the final approval of the Interinstitutional Committee. However, this approval is only required when fiscal resources or tributary incentives are to be used for the project, but not an approval of the project itself. For example the transportation projects that have been developed by the Ministry of Transportation during the last two years like Manta Port, Posorja Port and Bolivar Port didn't have any approval of the Ministry of Finance as they didn't imply any fiscal resources. On the other hand, for the road Rio Siete-Huaquillas there was an approval of the Ministry of Finance because the project includes an availability payment with fiscal resources.</p>
8.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before signing the PPP contract?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
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,	No

direct and contingent) arising from PPPs.	
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.	No
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	The Interinstitutional Committee for PPP
and provide the relevant legal/regulatory provisions (if any):	According to Article 6.3 of the PPP Law, the Committee has to approve the proposals submitted by the procuring authorities to develop projects under the PPP regime regulated by the mentioned law.
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?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
10. Does the procuring authority use transaction	Yes

advisors during the PPP project cycle?	
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
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.	No
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.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
The regulatory framework does not include any provisions but the procuring authority evaluates the consistency of PPPs with other	No

government investment priorities in practice.	
If yes, please elaborate:	n/a
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:	The prioritization of PPP projects is done according to the specific necessities that were identified by the procuring authority. Investment prioritization is an exclusive attribution of the National Secretariat for Development and Planning (SENPLADES), under the Organic Code of Planning and Public Finance.
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)	According to article 3.6 of the PPP Law, the profitability of the public project must be calculated in aggregate contemplating the possible subsidies, ensure coverage and social inclusion of vulnerable population. In addition, Article 3 of the General Resolution for the Presentation and Approval of PPP Projects specifically recognizes requires the public entity to evaluate the socio-economic feasibility of the PPP project.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	According to the dispositions of the resolution, the assessment must be done for every project.
12.2. Affordability assessment, including the identification of the	Yes

required long term public commitments (explicit and implicit, direct and contingent liabilities)	
Relevant legal/regulatory provision (if any)	According to article 3.1 of the PPP Law during the structuring and evaluation of the PPP alternative the relevant authorities must take into consideration the ability of the Government to pay for the financial commitments, direct or contingent, arising from the execution of PPP contracts and ensure that PPPs do not compromise the sustainability of public finances or the regular provision of services.
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Article 5 of the General Resolution for the Presentation and Approval of Public-Private Partnership Projects states that the procuring authority has to do an affordability assessment including public commitments, certain and uncertain, as well as the assumption of risks derived from the PPP project. More in general, the referred General Resolution for the Presentation and Approval of PPP Projects contains a Guide which includes an eligibility index to determine the affordability of the PPP, with a specific methodology to be followed by the public entity when assessing the project.
Is the assessment done in practice?	No
Details:	A majority of the contributors answering this question could not confirm that this study is actually done in practice.
12.3. Risk identification, allocation and assessment (risk matrix)	Yes
Relevant legal/regulatory provision (if any)	According to article 3.2 all PPP must undertake an identification and assessment of the risks and benefits of the project, which will be assumed, transferred or shared by the delegating public entity and the private partner, in accordance with the provisions of the contract.
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	The General Resolution for the Presentation and Approval of PPP Projects includes a Risk Management Manual on appendix 2 with a specific methodology for public entities to identify, allocate and assess risk through a risk matrix. The methodology can be found in section 2 of the appendix.
Is the assessment done in practice?	Yes
Details:	The contributors who answered this question did so affirmatively
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)	According to article 3.3 of the PPP Law projects procured as PPP should get the best result of the price-quality relationship (“value for money”) and obtain the most economically advantageous conditions for end users of the work, goods or services that the case.
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	The General Resolution for the Presentation and Approval of PPP Projects contains a Guide. Article 6.1.2 of the guide includes a public-private comparative model (public sector comparator) with a specific methodology to be followed by the public entity when assessing the project.
Is the assessment done in practice?	Yes
Details:	The projects developed since the General Resolution for the Presentation and Approval of PPP Projects was passed have used the aforementioned methodology.
12.5. Financial viability or bankability assessment	Yes
Relevant legal/regulatory provision (if any)	According to article 11 of the PPP Law the procuring authority will evaluate the decision and the economic and financial viability of procuring a PPP (along with its legal and technical viability).
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	The General Resolution for the Presentation and Approval of PPP Projects contains a Guide. Article 8.1 of the guide includes financial models for PPPs which aim to help the public entity to determine if the project is bankable.
Is the assessment done in practice?	Yes
Details:	The contributors who answered this question did so affirmatively
12.6. Market sounding and/or assessment (showing evidence of investors’ interest in the market for the project)	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology for the assessment?	n/a
If yes, please elaborate	n/a
Is the assessment done in practice?	n/a
Details:	n/a
12.7. Environmental impact assessment	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
12.8. Consultation process with affected communities on potential impact of the PPP project	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology for the assessment?	n/a
If yes, please elaborate	n/a
Is the assessment done in practice?	n/a
Details:	n/a
13. Does the procuring authority include the assessments (indicated in Question 12 above) in the request for proposals and/or tender documents (for example, as part of an Information Memorandum to the bidders)?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and specify which of the assessments are included in the request for proposals and/or tender documents:	n/a
13.1. Are the assessments published online?	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	At this moment, there is no a legal or regulatory provision on including a draft PPP contract in the RFP. However, based on our contributors experience on previous procedures a draft agreement could be provided and had been included for some of the already procured projects
14.1. Are the tender documents published online?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
and please specify the website:	Every entity has its own web page, and depending on the PPP projects they will publish them on their pages. For example The Ministry of Public Works, has its PPP projects in the following link: http://www.obraspublicas.gob.ec/asociacion-publico-privada-2013-2017 ; http://www.obraspublicas.gob.ec/wp-content/uploads/downloads/2015/06/2.Pliegos-y-Anexos.pdf
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:	According to some of our contributors a model contract was developed for the Rio Siete - Huaquillas project and was followed for all the traportation PPP projects: https://mega.nz/#F!rl9TCaza!dRyIrlYfduQcL_dxunQoNg
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.	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:	The current legal framework does not provide any parameters required for the bid evaluation committee members. In the example of state own company, the Directory that awards the PPP contract is integrated by the representative of each Ministry or institutions involved. In other cases, a bid evaluation committee was composed of delegates of the legal, technical and administrative departments.
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):	No regulatory basis
19.1. If yes, is the public procurement notice published online?	Yes

If yes, please specify the website:	Contributors indicate that the webpage where the public procurement notice will be published varies, depending on the procuring authority. For example www.mtop.gob.ec
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):	No regulatory basis
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: Available	No
Default	Yes
Relevant legal/regulatory provision (if any)	Article 12 of the PPP Law states that the selection of the private partner will be made through public tendering.
22.2. Restricted tendering (with pre-qualification stage): Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
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	No
Default	No
Relevant legal/regulatory provision (if any)	n/a

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):	According to article 12 of the PPP Law, the procuring authority must prepare tender documents including administrative, technical and economic-financial basis, the contractual rules and, the procedure of the procurement process.
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?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
22.10. Based on your experience, is it always the case that the specified criteria are respected in practice?	n/a
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
If no, please elaborate:	n/a
23. Can interested parties/potential bidders	Yes

submit questions to clarify the public procurement notice and/or the request for proposals?	
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:	According to the majority of contributors questions and answers are published online
If no, please elaborate:	n/a
24. Besides questions and clarifications, can the procuring authority conduct pre-bidding conference?	No
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	n/a

information is done in practice?	
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:	There's not a specific regulation because it depends on the specifications of the call and the offer of each project.
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):	No regulatory basis
Evaluation criteria is not set in the tender documents	No
27. In the case where only one proposal is submitted (sole proposals), which of the following options best describes the way the procuring authority deals with them? (Please select only one?): The procuring authority follows a specific procedure before awarding a PPP contract where only one proposal is submitted.	No
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	No

the conditions outlined in the tender documents.	
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?	Yes
If yes, please specify the website:	The website will depend on the procuring authority for each project, for example www.mtop.gob.ec
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):	No regulatory basis
If no, please elaborate:	n/a
29.1. If yes, does the notification of the result of the PPP procurement process include the grounds for the selection of the winning bid?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
30. Is there a standstill (or pause) period after the contract award and before the signing of the contract in order to allow unsuccessful bidders to	No

challenge the award decision?	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and the time in calendar days:	n/a
30.1. Is the standstill period set out in the notice of intention to award?	n/a
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?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
31.1. Based on your experience, is it always the case that this restriction is respected in practice?	n/a
If yes, please specify:	n/a
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):	No regulatory basis
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	No
Publication of the full PPP contract without including all its annexes and appendixes	Yes

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:	The website will vary depending on the procuring authority in charge of that PPP project. For instance, the Ministry of Transport published the PPP contracts of Río 7 - Huaquillas highway and the Port of Manta development through its webpage: http://www.obraspublicas.gob.ec/asociacion-publico-privada-2013-2017-eng/
32.3. If yes, does the procuring authority also publish any subsequent amendment made to the PPP contract?	No
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):	Article 9 of the PPP Law establishes in general that the procuring authority is the responsible agency to monitor the development of the projects.
41.1. If yes, which of the following tools does it include (check all that apply)?: Establishment of a PPP contract management team	No
Relevant legal/regulatory provisions (if any):	n/a
Participation of the members of the PPP	No

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

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.	n/a
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?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
42.1. If yes, is the PPP contract construction performance information made available to the public?	n/a
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):	No regulatory basis
43.1. If yes, which of the following tools does it include (check all that apply)?: Performance is assessed against evaluation criteria set in	No

the tender documents and the PPP contract	
Relevant legal/regulatory provisions (if any)	n/a
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?	No
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	Yes

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?	
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	According to Article 13, of the Regulation of PPP Law, any change in the ownership structure equal or over the 20%, requires explicit prior authorization of the procuring authority.
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.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
In other cases, flexibility to change the ownership structure and/or assign the contract.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	According to Article 13, of the Regulation of PPP Law, any change in the ownership structure equal or over the 20%, requires explicit prior authorization of the procuring authority. The article does not establish any other limit, so seems to be very flexible in terms of assignment contracts.
46. Does the regulatory framework (including standard contractual clauses) expressly regulate	Yes

the modification or renegotiation of the PPP contract (once the contract is signed)?	
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 8 of the PPP Regulations states that the procuring authority along with the private partner can modify the features of the works and services agreed on, when the main goal is to improve the levels of service and technical standards established in the PPP contract. The limits of these modifications will be established in regulation passed by the Interinstitutional Committee on PPPs.
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):	Last paragraph of Article 8 of the PPP Regulations states that all the modifications have to be stated in a resolution passed by the Interinstitutional Committee.
46.2. If yes to question 46, which of the following circumstances are specifically regulated? (check all that apply): A change in the scope and/or object of the contract.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	No regulatory basis
A change in the risk allocation of the contract.	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.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the duration of the contract.	No
If yes, please provide the relevant legal/regulatory/standard	n/a

contractual provisions (if any):	
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):	No regulatory basis
Material Adverse government action .	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 15 of the PPP Law, in accordance with article 10 of its Regulations, establishes the legal security of the PPP contracts and expressly mandates to regulate this aspect in the PPP contract. However, consequences are not specifically regulated.
Change in the Law.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 15 of the PPP Law establish the legal security of the PPP contracts and expressly mandates to regulate this aspect in the PPP contract. However, consequences are not specifically regulated.
Refinancing.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a

Subcontracting and replacement of the subcontractors.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
48. Does the regulatory framework (including standard contractual clauses) allow for administrative and/or contractual complaint review mechanisms to address disputes arising from the implementation of PPP contracts?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	According to article 19 of the PPP Law: In the event of international arbitration, it shall be conducted by a Latin-American arbitral forum. The parties of the contract shall designate the competent arbitration forum in the Latin-American region". Article 20 on the other hand establishes a specific procedure to resolve controversies among the parties. Articles 19 to 22 regulate further these mechanisms, specially administrative complaint review mechanisms and domestic and international arbitration.
48.1. If yes, please specify which of the following options are available (check all that apply): Local administrative review body	Yes
If yes, please specify:	Article 20 of the PPP Law states the possibility of going through a local administrative review body.
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)	Article 20 of the PPP Law establishes: (i) The possibility of submitting the controversies to administrative local courts when (a) there is no arbitration clause in the PPP contract and (b) when the deadline to start arbitration proceedings has passed; (ii) 20.2.a. Local arbitration is a possibility to solve disputes arising from PPP contracts; (iii) 20.2.a. International arbitration is a possibility to solve disputes arising from PPP contracts; (iv) 20.2 Mediation is a possibility to solve disputes arising from PPP contracts.
48.2. If applicable, are arbitration awards enforceable by the local	Yes

courts?: Domestic Arbitration	
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	Article 363 of the Code of Procedure (Codigo Orgánico General de Procesos) states that judges will intervene directly in the enforcement of arbitration awards and mediation minutes. In addition, they will enforce preventive measures ordered by national or international arbitration tribunals.
International arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	Ecuador has signed the NY Convention on the Recognition and Enforcement of Foreign Arbitral Awards.
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?	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
50.1. If yes, which of the following options best describes the lender step-	n/a

in right? (Please select only 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.	n/a
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.	n/a
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Other.	n/a
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 15 of The Public Private Partnership Act, PPP contracts must include clauses dealing with caducity, early termination and any others established in the law. Article 9 of the General Regulations for the PPP Law recognizes the existence of compensation mechanisms for anticipated termination of PPP contracts. Finally, Article 21 of the General Resolution for the Presentation and Approval of Public-Private Partnership Projects states that events of termination of the PPP contract shall be established in the bidding form terms and conditions and in the PPP contract. However, if unilateral termination of the PPP contract occurs for reasons attributable to the private partner, the termination shall be done through a properly grounded decision issued by the public entity's highest authority and notified to the private partner and lenders (the latter if agreed in the PPP contract).
51.1. If yes, does the regulatory framework	No

<p>(including standard contractual clauses) establish the consequences for the termination of the PPP contract?</p>	
<p>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	n/a
Unsolicited Proposals	
<p>34. Are unsolicited proposals in Ecuador: (choose only one): Explicitly prohibited by the legal framework? (If prohibited, skip to section F)</p>	No
<p>Explicitly allowed by the legal framework?</p>	Yes
<p>Not regulated by the legal framework, but do happen in practice?</p>	No
<p>Not regulated by the legal framework, and do not happen in practice? (if not done in practice, skip to section F)</p>	No
<p>If the legal framework explicitly prohibits or allows unsolicited proposals, please provide the relevant legal/regulatory provisions</p>	<p>According to article 11 of the PPP Law, the PPP project can be proposed by a private entity interested in becoming the private operator. In this case, the procuring authority is not obliged to accept this private initiative. In this sense, the PPP Law expressly (First transitory provision) affirms the validity regarding unsolicited proposals of the provisions contained in the Executive Decree 582. In addition, unsolicited proposals are regulated by the General Regulations for the Organic Law of Incentives for Public-Private Partnerships and Foreign Investment and the General Resolution for the Presentation and Approval of Public-Private Partnership Projects.</p>
<p>35. Does the procuring authority conduct an assessment to evaluate unsolicited proposals? (if not, skip to question 37)</p>	Yes
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any</p>	<p>Article 8th of the Executive Decree 582 regulates the evaluation of the unsolicited proposals (iniciativa privada): Within six months, from the receipt of a satisfactory unsolicited proposal, the procuring authority will assess whether the proposal is of sufficient public interest, which is determined by the following criteria: 1. Degree of contribution to meet the planning instruments of the procuring authority. 2. Extent of participation and role of the state in providing the service in question and management model. To evaluate the public interest in the</p>

	proposal, the procuring authority may consult on its content with any other public body.
35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
36. Which of the following options best describe how the procuring authority ensures that unsolicited proposals are consistent with existing government priorities? (Please select only one): The procuring authority follows a specific procedure to ensure the consistency of PPPs with other government investment priorities.	Yes
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	Article 11 of the Executive Decree 582 mandates to include the unsolicited proposal (in case it is considered of public interest to conduct it) among the projects to be prioritized by the procuring authority, before launching the corresponding procurement process.
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?	Yes

If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Article 4 of the Executive Decree 582 indicates that the selection of the private partner will be subject to a public procurement process. Article 11 of the Executive Decree 582 expressly provide that any unsolicited proposal considered of public interest, will be prioritize by the public authority in order to conduct the corresponding public procurement process to select the private partner. The information of the unsolicited proposal will be used to prepare the tender documents. The procuring authority has no obligation of launching such procurement process. The proponent of the unsolicited proposal will be able to participate in the procurement process as long as it meets all the established requirements.</p>
38. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>No regulatory basis</p>
and the time in calendar days:	<p>n/a</p>
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.	<p>No</p>
39.2 Developer's fee (reimbursing the original proponent for the project development cost).	<p>Yes</p>
39.3 Bid Bonus.	<p>No</p>
39.4 Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).	<p>Yes</p>
39.5 Other.	<p>Yes</p>
Please specify:	<p>Article 4 of the Executive Decree 582 indicates that the tender documents can establish benefits for the original proponent but no other provision specify any of this benefits. Further, Article 7 of Decree 104 (PPP Law Regulations).</p>
Please provide the relevant legal/regulatory provisions (if any):	<p>Article 7 of Executive Decree 1040 states that in PPP projects that are unsolicited proposals, it can be established: (a) A minimum reimbursement to the original proponent that cannot be less than the cost of creating the unsolicited proposal.</p>

	<p>In those cases in which the original proponent is awarded the PPP contract this reimbursement cannot be requested. (c) Recognition of the right of the original proponent to improve his bid when other bidders present their offers.</p>
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