



PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN ESTONIA

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>According to our contributors there have not been classical PPPs in Estonia, based on our case study assumptions, the applicable law is the the Public Procurement Act (hereinafter 'PPA') of 2007 which regulates tender procedure for public contracts. The latter are defined as contracts establishing mutual material obligations, which have been awarded to one or multiple persons by one contracting authority or multiple contracting authorities as a result of public procurement and the objects of which are supplies, services or public works (Article 4, PPA). The Ministry of Finance provides that works concession procurement projects share have similar features of an infrastructure PPP project (Article 6 of PPA).</p>
and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:	<p>https://www.riigiteataja.ee/en/eli/ee/Riigikogu/act/501112016003/consolide</p>
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?	No
Please describe:	n/a
2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?	Yes
Please describe:	<p>The European Union public procurement directives: 2014/23/EL, 2014/24/EL and 2014/25/EL will be transposed into Estonian law on September 1, 2017. New Public Procurement Act will transpose the directive on the award of concession contracts, therefore, the concession regulation will be amended.</p>
3.1 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the	No

following sectors?: Transportation.	
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	n/a

legal/regulatory provision (if any):	
5. Please identify the PPP procuring authorities in Estonia and provide their website(s) (if available):	<p>In Estonia, the Law does not include an exhaustive list of procuring authorities by their names that are authorized to enter into PPP contracts. Therefore, all public authorities may enter into PPP contracts as far as there are no restrictions in the Law which prohibit certain types of PPP contracts (e.g. a private body cannot impose punishment for offences). But such restrictions are defined by function, not by types or names of public authorities. Article 10 of PPA provides the list of Contracting Authority types (same definition as provided in directives 2004/18/EC and 2004/17/EC.):</p> <ol style="list-style-type: none"> 1) the state or state authorities; 2) local authorities, local authority agencies and associations of local authorities; 3) other legal persons governed by public law and agencies of legal persons governed by public law; 4) foundations where the state is one of the founders or where more than half of the founders are persons specified in clauses 2) or 3) of this subsection or where more than half of the members of the supervisory board are appointed by the persons specified in clauses 1) to 3) of this subsection; 5) non-profit associations where more than half of the members are the persons specified in clauses 1) to 3) of this subsection; 6) other legal persons governed by private law and having the characteristics specified in subsection (2) of this section. <p>An authority that is qualified as a procuring authority under Article 10 of the PPA can in principle be identified as a PPP procuring authority as it can organize construction works concessions or services concessions (a contract qualified as PPP, according to the provided definition in this survey). During the past 5 years, most local governments have utilized the option to hold procurements for concessions.</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>No</p>
If yes, please indicate its name, and its website (if available):	<p>n/a</p>
6.1 If yes, what are the main responsibilities of the PPP Unit (check all that apply): PPP regulation and policy guidance.	<p>n/a</p>
6.2 PPP capacity building for other public authorities.	<p>n/a</p>
6.3 PPP promotion among the public and/or private sectors	<p>n/a</p>

in national and international forums.	
6.4 Technical support in implementing PPP projects.	n/a
6.5 Identification and selection of PPP projects from the pipeline.	n/a
6.6 Revision of fiscal risks born by the Government.	n/a
6.7 Consultation with affected communities on potential impact of PPP projects.	n/a
6.8 Approval of PPP projects.	n/a
6.9 Undertaking the procurement of PPPs.	n/a
6.10 Oversight of PPP implementation.	n/a
6.11 Other	n/a
6.11 please specify:	n/a
Please provide the relevant legal/regulatory provisions:	n/a
PPP Preparation	
8. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
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.	Yes

If yes, please provide the relevant legal/regulatory provisions (if any):	Approval of Public and Private Partnership Projects RTJ 17 Accounting Standards Board ('RTJ 17) regulation (adopted on January 28, 2005) outlines a specific accounting system for PPPs. According to Article 4 of RTJ 17, it should be implemented in the classification and reflection of public-private partnership projects in the bookkeeping reports prepared by private companies and public sector bookkeepers according to Estonia's good accounting practices. In addition, PPP treatment by the European System of Accounts (ESA 2010) applies.
Reporting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
8.3. If yes to question 8.2, which of the following alternatives best describes the regulation?: Accounting and reporting according to International Public Sector Accounting Standards (IPSAS).	No
Accounting and reporting according to other international standard (e.g. European System of Accounts).	Yes
Please specify:	PPP treatment by the European System of Accounts (ESA 2010)
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.)?	No
If yes, please specify the relevant authority	n/a
and provide the relevant legal/regulatory provisions (if any):	n/a
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

<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>10. Does the procuring authority use transaction advisors during the PPP project cycle?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>No regulatory basis</p>
<p>11. In a case comparable to the case study assumptions, please select the option that best describes the way your government integrates the prioritization of PPP projects with other public investment project prioritization? (e.g. in the context of a national public investment system, multi-year perspective plans, medium-term budgetary framework): The regulatory framework provides for the inclusion of PPPs in the national public investment system/medium term budgetary framework and details a specific procedure to ensure the consistency of PPPs with other public investment priorities.</p>	<p>No</p>
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</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</p>	<p>Yes</p>

other government investment priorities in practice.	
If yes, please elaborate:	According to our contributors, procuring authorities evaluate the consistency of investments/PPPs with the government investment priorities every year, when a State Budget Act is adopted. The State Budget underlines the income and expenditure of the State for the following year. Procuring authorities make investment decisions based on the financial funds available (allocated) and pursuant to respective necessity and political decisions.
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:	In Estonia, a State Budget Act is adopted every year, which underlines the income and expenditure of the State for the following year. Procuring authorities make investment decisions based on the financial funds available (allocated) and pursuant to respective necessity and political decisions. In that regard, procuring authorities evaluate the consistency of investments/PPPs with the government investment priorities. The example provided under case study assumption would qualify as one of the biggest (if not the biggest) road infrastructure project in Estonia (currently a key section of one of the main highways is being procured - not as a PPP - with an estimated value of 50 MEUR). Such expenditure could be made by a procuring authority only in accordance with government investment priorities, for that matter, priorities regard key highways connecting major transport routes.
If no, please elaborate:	n/a
12.1 Which of the following assessments are conducted when identifying and preparing a PPP in order to inform the decision to proceed with it? (check all that apply): Socio-economic analysis (cost-benefit analysis of the socio-economic impact of the PPP project)	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
Is there a specific methodology for the assessment?	No

If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	The majority of contributors indicate that a socio-economic study is done in practice when identifying and preparing a PPP project in Estonia
12.2. Affordability assessment, including the identification of the required long term public commitments (explicit and implicit, direct and contingent liabilities)	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	The majority of contributors indicate that affordability assessment is done in practice.
12.3. Risk identification, allocation and assessment (risk matrix)	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
12.4. 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)	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
12.5. Financial viability or bankability 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
12.6. 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	Yes
Relevant legal/regulatory provision (if any)	A project with the features of the case study assumption will be subject to the Environmental Impact Assessment and Environmental Management System Act (as of February 22, 2005), according to its § 3(1) and § 6 sections 13-16. The assessments are performed in the cases when infrastructure projects may be deemed to have significant environmental impact, including projects of: 13) construction of express roads, construction of lines for airports with a basic runway length of 2100 meters or more and construction of a new road of four or more lanes, or realignment and/or widening of an existing road of two lanes or less so as to provide four or more lanes, where such new road, or realigned and/or widened section of road would be over 10 kilometers in a continuous length.
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Environmental Impact Assessment and Environmental Management System Act provide methodology for conducting environmental assessment and publishing the report. In particular, Article 40 outlines the obligatory components of the report.
Is the assessment done in practice?	Yes
Details:	Assessment is conducted in practice when a development of a construction project has the potential to have significant environmental impact.

12.8. Consultation process with affected communities on potential impact of the PPP project	Yes
Relevant legal/regulatory provision (if any)	In the course of environmental impact assessment procedure, consultation with affected parties is conducted as well (§ 12 of the Environmental Impact Assessment and Environmental Management System Act). Regarding consultation with affected communities regardless of environmental assessment, the situation depends on whether the planning procedure has been completed or not – if the planning procedure is completed and only construction permit is issued, then the local government might, but does not have to include affected parties (§ 42 of the Construction Act). If planning procedure is ongoing, then planning information is available publicly and respective public discussions are held. However, it is important to point out that in both cases, the consultation with affected communities is not done by the procuring entity itself, but by the respective authorities vested with the right to conduct environmental impact assessment or issue construction permits or approve planning.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	The public is invited to participate in every spatial planning process.
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):	Pursuant to Article 31 of PPA "Contract documents", (1) the contracting authority draws up contract documents before commencing the procurement procedure in writing or electronically. Except for construction works concessions in utilities sector, which follow a simplified procedure, where procuring authorities may choose not to include draft contract in the procurement documentation (Article 18 of PPA).
If no, please elaborate	n/a
14.1. Are the tender documents published online?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 72 (1) of the PPA, the contracting authority must submit tender notice to electronic procurement registry in case of construction concessions. In case of services concession, contract notice must be published regardless whether the procuring authority chooses to use open procedure or negotiated procedure, but in the latter case it is not obligatory to publish all procurement documents in the electronic registry although in practice it is done most of the time.
and please specify the website:	https://riigihanked.riik.ee/register/Home.html
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)	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:	There is no legal requirement for the existence or composition of an evaluation committee. However, any decision of the procuring authority must be duly reasoned irrespective of the composition or existence of a committee and decisions cannot be justified only by a voting result. Therefore, in practice, experts are engaged in the evaluation process rather often.
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):	Pursuant to Article 29 of PPA "Opening and termination of procurement procedure", (1) In order to start an open procedure, restricted procedure or negotiated procedure with prior publication of a contract notice or a competitive dialogue, the contracting authority will submit a contract notice to the register through the website of registry. (2) A procurement procedure, except for a negotiated procedure without prior publication of a contract notice, will start with publishing a contract notice in the register. A negotiated procedure without prior publication of a contract notice will start with the submission of contract documents by the contracting authority to one or more interested persons selected by the contracting authority.
19.1. If yes, is the public procurement notice published online?	Yes
If yes, please specify the website:	https://riigihanked.riik.ee/register/Home.html

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):	Article 35 of PPA: (2) In the event of an open procedure, the time limit for submission of tenders must not be shorter than 52 days from publishing the contract notice in the register. Article 73(1) of PPA: the contracting authority will set a time limit for submission of concession applications, which must not be less than 52 days from the publication of the notice of the public works.
and the time in calendar days:	52
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 25 of the PPA, "Open procedure and restricted procedure", Estonia has (1) an open procedure of public procurement defined as a procurement procedure which includes a public tender. (3) The contracting authority is required to organize a procurement procedure as an open procedure or a restricted procedure, unless otherwise provided in the PPA.
22.2. Restricted tendering (with pre-qualification stage):	Yes
Available	
Default	No
Relevant legal/regulatory provision (if any)	Pursuant to Article 25 of the PPA, (2) Restricted procedure is a procurement procedure whereby any interested person may submit a request to participate in the procurement procedure, but a tender may be submitted only by candidates selected by the contracting authority on the basis of objective and non-discriminatory criteria, to whom the contracting authority submits an invitation to tender. (3) The contracting authority is required to organize a procurement procedure as an open procedure or a restricted procedure, unless otherwise provided in this Act.
22.3 Multi-stage tendering (with shortlisting of final candidate(s)):	Yes
Available	
Default	No
Relevant legal/regulatory provision (if any)	No regulatory basis

22.4. Competitive dialogue: Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	Pursuant to Article 62 of the PPA “Candidates in competitive dialogue”, (1) In a competitive dialogue each interested person may submit a request to participate in the procurement procedure along with the documents certifying the suitability of the candidate as required in the contract notice. A request to participate in a procurement procedure must be submitted in writing or electronically in accordance with the requirements provided for in this Act and in the legislation established on the basis thereof. The contracting authority will immediately submit a confirmation of receipt of the request to the candidate at the candidate’s request. (2) The contracting authority may limit the number of candidates participating in the procurement procedure with whom to have a dialogue by establishing a numerical minimum limit that may be a minimum of three and, if desired, an upper limit and the objective and non-discriminatory criteria for the selection of those candidates.
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):	Article 3 of the PPA stipulates the principle of equal treatment of all bidders that has to be observed in construction concessions. Article 31 of the PPA: Contract documents (1) The contracting authority will, in the event of an open procedure or a negotiated procedure without prior publication of a contract notice, draw up contract documents before commencing the procurement procedure and, in the event of a restricted procedure or a negotiated procedure with prior publication of a contract notice, draw up contract documents not later than by the closing date of submission of requests to participate in the procurement procedure. The contract documents will be drawn up in writing or, in accordance with the

	requirements provided in this Act and in the legislation established on the basis thereof, electronically, provided that the contracting authority has notified of using the electronic form in the contract notice.
If no, please elaborate:	n/a
22.9. Do the tender documents specify the prequalification/shortlisting criteria (when applicable) in order to make them available to all the bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Article 31(4) of the PPA specifies: If the contracting authority awards a public contract on the basis of the most economically advantageous tender, the contracting authority will also specify the award criteria enabling objective evaluation relating to the object of the public contract, including above all, quality, price, technical value, aesthetical and functional properties, properties influencing the environment, operating expenses, feasibility, post-sales maintenance and technical assistance and the cost thereof, specific proven skills or experience of the persons directly responsible for the provision of services or performance of public works, on which the quality of the works performed or services provided directly depends, and the term of performance of the public contract. For the purpose of evaluation of the economical advantageousness of tenders, the contracting authority will specify the objectively founded relative weight to be attributed to each selected award criterion.</p> <p>Article 31(5) of the PPA further provides: If the contracting authority awards a public contract on the basis of the most economically advantageous tender and the contracting authority has stipulated the possibility to also submit variants in the tender in addition to the solution compliant with all the terms specified in the contract notice and contract documents, the contracting authority will specify in the contract documents the requirements that the variants should comply with and the terms of submission of variants.</p>
22.10. Based on your experience, is it always the case that the specified criteria are respected in practice?	Yes
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	Contributors confirm that tender documents specify the prequalification criteria and they are available to all the bidders in practice.
If no, please elaborate:	n/a
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):	Article 56 “Explanations” of the PPA provides: (1) Each person participating in a procurement procedure and each interested person, who at the respective moment has the possibility to participate in the procurement procedure, has the right to receive explanations or additional information regarding the contract notice, contract documents and the invitation to tender.
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):	Section (2) of the Article 56 of the PPA provides: the contracting authority will submit the explanations regarding the contract notice, contract documents, invitation to tender or other additional information the publication of which is considered possible by the contracting authority to the person asking simultaneously for explanations or additional information, to all tenderers and candidates who have received the contract documents or invitation to tender or to the interested persons who have received contract documents, who at the respective moment have the possibility to participate in the procurement procedure and discloses these with the contract documents. The contracting authority will submit the specified information within three working days from receiving the respective request.
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:	Questions and answers are published in E-Procurement portal https://riigihanked.riik.ee/lr1/web/guest/korduma-kippuvad-kusimused .
If no, please elaborate:	n/a
24. Besides questions and clarifications, can the procuring authority conduct pre-bidding conference?	Yes
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	No regulatory basis
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?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis

24.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	Yes
If yes, please specify:	All contributors confirm that procuring authority discloses the content and the results of the pre-bid conference to all bidders in practice.
If no, please elaborate:	n/a
25. In a case comparable to the case study assumptions, does the procuring authority require the bidders to prepare and present a financial model with their proposals?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
If no, please elaborate:	The law does not provide that the procuring authority needs to require the bidders to prepare and present a financial model with their proposal. Bidders are required to submit the model only on a case-by-case basis.
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 50 of the PPA "Evaluation of tenders and declaration of tender successful": (1) The contracting authority will evaluate the tenders that have been declared admissible. Upon evaluation of tenders, the contracting authority will take into account the award criteria specified only in the contract notice, contract documents or invitation to tender
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	Yes

as long as they meet the conditions outlined in the tender documents.	
Please provide the relevant legal/regulatory provisions (if any):	No regulatory framework
The procuring authority does not award a PPP contract if only one proposal is submitted.	No
Please provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework does not include any provisions.	No
28. Does the procuring authority publish the award notice?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 54(1) of the PPA, the contracting authority will submit to tenderers or candidates immediately, no later than three working days, a written notice on the decision to exclude a tenderer or candidate from the procurement procedure, qualify a tenderer or candidate, disqualify the tenderer or candidate, reject a tender, reject all tenders (...)
28.1. If yes, is the public procurement award notice published online?	Yes
If yes, please specify the website:	A notice about the results is published in the procurement register: https://riigihanked.riik.ee/register/Home.html
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 54 of the PPA, the contracting authority will submit to tenderers or candidates immediately, no later than three working days, a written notice on the decision to exclude a tenderer or candidate from the procurement procedure, qualify a tenderer or candidate, disqualify the tenderer or candidate, reject a tender, reject all tenders, specified in subsection (4) of § 65 of this Act, declare a tender admissible, and declare a tender successful, indicating the names of the tenderers or candidates with regard to whom or whose tender the decision was made as well as the reasons why it was decided not to award the public contract or framework agreement or why it was decided to restart the procurement procedure.
If no, please elaborate:	n/a
29.1. If yes, does the notification of the result of the PPP procurement process include the grounds for the selection of the winning bid?	Yes

<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Article 54(2) of the PPA: At the request of a tenderer or candidate, the contracting authority will, within three working days from the receipt of such request, submit in writing:</p> <p>1) the reasons for disqualification of the tenderer or candidate; 2) the reasons for rejection of the tenderer's tender, including in events where the decision stated that the tender is not equal for the purposes of subsection (2) § 33 of this Act or does not comply with the performance or functional requirements established for the purposes of subsection (3); 3) to tenderer who submitted a tender that was declared admissible, the details describing the successful tender and the advantages thereof in comparison with the tenderer's tender, and the names of the successful tenderer or tenderers.</p>
<p>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?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Article 69(1) of the PPA stipulates a standstill period of 14 days. The standstill period does not need to be applied in the event of awarding a public contract based on a framework agreement or dynamic purchasing system, in the event of a negotiated procedure without the publication of a contract notice or if the tender was submitted by only one tenderer in another type of procurement procedure.</p>
<p>and the time in calendar days:</p>	<p>14</p>
<p>30.1. Is the standstill period set out in the notice of intention to award?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Article 46 of the European Concessions Directive referring to the Directive 89/665/EEC that regulates review procedures for public contracts, expressly applicable by the Concessions directive, the award notice will include reference to the standstill period (Article 2a of the mentioned Directive 89/665/EEC).</p>
<p>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?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Article 64(3) of the PPA: After submitting an invitation to tender, the contracting authority will not hold negotiations in the course of the procurement procedure.</p> <p>Article 111 of PPA: Holding negotiations and awarding contract on different terms is prohibited.</p>
<p>31.1. Based on your experience, is it always the</p>	<p>Yes</p>

case that this restriction is respected in practice?	
If yes, please specify:	In some cases, adjustments are made in the contract before signing but in general the procedure will be appealed if negotiations take place.
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):	Article 73(4) of the PPA: The contracting authority will submit a public procurement report to the register within ten days after the award of the concession contract.
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	No
Publication of a summary of the PPP contract without publishing the full PPP contract	Yes
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:	Electronical Procurement Register: https://riigihanked.riik.ee/register/Home.html
32.3. If yes, does the procuring authority also publish any subsequent amendment made to the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	As a general rule, the procurement contract can not be changed. Pursuant to Public Procurement Act, Article 37, the procuring authority must submit within 20 days after the termination of a services concession contract an annex to the public procurement report, indicating the followings: 1) amendments made to the services concession contract along with the reasons for the amendments and the major differences of performance of the contract compared to the provisions of the contract, above all, a breach or early

	<p>termination of the contract, or 2) the values of the contracts awarded on the basis of the framework agreement or the descriptions of the performances made on the basis of the latter. In case of construction concessions, the respective report must be submitted to the electronic registry within 10 days of conclusion of the agreement but the content of such report is not regulated in the law. In practice, the electronic form of the report is the same for construction concessions as well as services concessions.</p>
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)?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
41.1. If yes, which of the following tools does it include (check all that apply)?: Establishment of a PPP contract management team	n/a
Relevant legal/regulatory provisions (if any):	n/a
Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa	n/a
Relevant legal/regulatory provisions (if any):	n/a
Elaboration of a PPP implementation manual or an equivalent document	n/a
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)	n/a
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,	n/a

specific processes, insurance regime, etc.)	
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?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
42.1. If yes, is the PPP contract construction performance information made available to the public?	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	n/a

made publicly available online?	
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?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
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	n/a
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	n/a
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	n/a
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	n/a
Relevant legal/regulatory provisions (if any)	n/a
The PPP contract performance information must be available to the public	n/a
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 standard contractual clauses) expressly regulate changes in the ownership structure (i.e. stakeholder composition) of the private partner and/or assignment of the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>Pursuant to Article 69 of the PPA, which applies only to such PPP projects that extend at least 20 years, a bidder or a concessionaire cannot assign to third parties the obligations or rights arising from the public contract for construction works or provision of services without the consent of procuring authority. Such assignment is allowed only when the following cumulative criteria are met:</p> <ol style="list-style-type: none"> 1) assigner has manifestly breached its obligations arising from the public contract and the procuring authority has obtained the right to withdraw or cancel the contract extraordinarily; 2) assignee does not have conditions which would constitute ground for exclusion of a bidder, pursuant to Public Procurement Act § 38; 3) the financial and economic standing as well as technical and professional ability of the assignee meets the qualification criteria in the procurement notice to the extent which is adequate for proving the ability of the assignee to properly perform the unexecuted part of the contract and appropriate and proportional to the nature, amount and purpose of the services or constructions works of the unexecuted part of the contract. <p>In case of services concessions that do not extend for 20 years, the general rules regarding modification of procurement contracts as set out in Articles 69(3) and (4) of the Public Procurement Act apply, changes in ownership are not regulated.</p> <p>In case of construction concessions that do not extend over 20 years, § 69 is not strictly applicable and thus there is legal void regarding modification of such contracts.</p>
45.1. If yes, which of the following circumstances are	No

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).	
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 69 (3) of the PPA: the financial and economic standing as well as technical and professional ability of the assignee meets the qualification criteria in the procurement notice to the extent which is adequate for proving the ability of the assignee to properly perform the unexecuted part of the contract and appropriate and proportional to the nature, amount and purpose of the services or constructions works of the unexecuted part of the contract.
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):	No regulatory basis
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):	Article 69(1(3 and 4)) of PPA provides that (3) the contracting authority may agree on the amendment of an awarded public contract only if the amendment is caused by objective circumstances that the contracting authority could not foresee during the award of the public contract and if, in the event of leaving the public contract unamended, the achievement of the purpose sought with the public contract would be fully or to a material extent in jeopardy. (4) The contracting authority may not agree on the amendment of a public contract, if the purpose sought with amendment can be achieved with the award of a new public contract. Also, European Directives apply and regulate this (article 43 of the European Directive on Concessions)

46.1. If yes, is an approval from a government authority, other than the procuring authority, required?	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
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):	Article 43 of the European Directive on Concessions considers a change on scope of more than 50 % to be substantial.
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 contractual provisions (if any):	Article 43 of the European Directive on Concessions considers changes in the economic balance a material change of the contract subject to its regulations.
A change in the duration of the contract.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the agreed price or tariff.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	The revision of values to the tariff/payments is expressly mention in Article 43 of the European Directive on Concessions.
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 .	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Change in the Law.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	No regulatory basis
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 74 of the PPA "Subcontracting": (1) The contracting authority may request that: 1) the concessionaire award, based on the concession, to subcontractors public contracts that include at least 30 percent of the total estimated value of the public works to be performed based on the public works concession, giving the concession candidate the possibility to increase this rate, or 2) the concession candidate indicates in the concession application to how large an extent of the estimated total value of the public contracts to be awarded, based on the public works concession, the concession candidate intends to award subcontracts.
48. Does the regulatory framework (including	Yes

standard contractual clauses) allow for administrative and/or contractual complaint review mechanisms to address disputes arising from the implementation of PPP contracts?	
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	No regulatory basis
48.1. If yes, please specify which of the following options are available (check all that apply): Local administrative review body	No
If yes, please specify:	n/a
Local courts	Yes
Domestic arbitration	Yes
International arbitration	Yes
Investor-State Dispute Settlement (ISDS)	Yes
Mediation	Yes
Please provide the relevant legal/ regulatory/standard contractual provisions (if any)	No regulatory basis
48.2. If applicable, are arbitration awards enforceable by the local courts?: Domestic Arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	Article 753 of the Code of Civil Procedure regulates Recognition and enforcement of decision of arbitral tribunal made in Estonia
International arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	Estonia ratified New York Convention on August 30, 1993 and is a member of ICSID as well.
Investor-State arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	Estonia ratified New York Convention on August 30, 1993 and is a member of ICSID as well.
49. Does the regulatory framework (including	Yes

standard contractual clauses) allow for the restructuring of a PPP private partner (SPV) in financial difficulty prior to insolvency?	
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	Articles 21 (1) and 22 of the Reorganization Act expressly states that reorganization plan includes transforming creditors' claims.
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-in right? (Please select only one): The regulatory framework expressly regulates the lender step-in rights.	n/a
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):	No regulatory basis
51.1. If yes, does the regulatory framework (including standard contractual clauses) establish the consequences for the termination of the PPP contract?	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Unsolicited Proposals	
34. Are unsolicited proposals in Estonia: (choose only one): Explicitly prohibited by the legal framework? (If prohibited, skip to section F)	No
Explicitly allowed by the legal framework?	No
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)	Yes
If the legal framework explicitly prohibits or allows unsolicited proposals, please provide the relevant legal/regulatory provisions	n/a

35. Does the procuring authority conduct an assessment to evaluate unsolicited proposals? (if not, skip to question 37)	n/a
If yes, please specify and provide the relevant legal/regulatory provisions (if any)	n/a
35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
36. Which of the following options best describe how the procuring authority ensures that unsolicited proposals are consistent with existing government priorities? (Please select only one): The procuring authority follows a specific procedure to ensure the consistency of PPPs with other government investment priorities.	n/a
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority does not evaluate unsolicited proposals against existing government priorities.	n/a
Please elaborate and provide examples:	n/a
37. Does the procuring authority initiate a competitive PPP procurement	n/a

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