



**PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN ETHIOPIA**

SURVEY QUESTION	ANALYSIS
<b>PPP Regulatory Framework</b>	
<b>2. Does the regulatory framework in your country allow procuring PPPs?</b>	Yes
<b>If yes, please specify the relevant regulatory framework and the year of adoption:</b>	Ethiopian Federal Government Procurement and Property Administration Proclamation No. 649/2009 [hereinafter “Procurement Proclamation”] defines PPPs in Article 2(27) and in Article 34, it provides, “the Minister of Finance and Economic Development may issue directive prescribing rules governing the formation of Public Private Partnership and the modes of implementation of such partnership.” The Proclamation is implemented through the 2010 Federal Pubic Procurement Directive [hereinafter “Procurement Directive”]; Public Procurement Manual [hereinafter Procurement Manual”], and Investment Proclamation 769/2012, which shall form the regulatory framework governing PPPs in Ethiopia for purposes of this analysis.
<b>and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:</b>	<a href="http://www.pppds.gov.et/images/proclamation649.pdf">http://www.pppds.gov.et/images/proclamation649.pdf</a> ; <a href="http://www.pppds.gov.et/images/Public%20Procurement%20Manual%20English%20version.pdf">http://www.pppds.gov.et/images/Public%20Procurement%20Manual%20English%20version.pdf</a> ; file:///C:/Users/WB493773/Downloads/FEDERAL%20PUBLIC%20PROCUREMENT%20PROC LAMATION%206492001.pdf file:///C:/Users/WB493773/Downloads/Public%20Procurement%20Directive%20English.p df file:///C:/Users/WB493773/Downloads/PUBLIC%20PROCUREMENT%20MANUAL%20Amh aric.pdf <a href="http://mau.addischamber.com/sites/default/files/proclamation-no-769-2012-investment-proclamation.pdf">http://mau.addischamber.com/sites/default/files/proclamation-no-769-2012-investment-proclamation.pdf</a>
<b>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?</b>	No
<b>Please describe:</b>	n/a
<b>2.2 Are ongoing and/or are planned to be</b>	Yes

<b>adopted AFTER June 1, 2017?</b>	
<b>Please describe:</b>	There is a draft PPP legislation expected to be adopted by the government in 2017, according to contributors.
<b>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.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>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</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>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.</b>	Yes

<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>According to Article 6 of the Investment Proclamation, the following areas of investment shall exclusively be reserved for the government:</p> <p>a) transmission and distribution of electrical energy through the integrated national grid system;</p> <p>b) postal services with the exception of courier services;</p> <p>c) air transport services using aircraft with a seating capacity of more than fifty passengers.”</p>
<b>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</b>	<p>No</p>
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>n/a</p>
<b>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</b>	<p>Yes</p>
<b>If yes, specify and provide the relevant legal/regulatory provisions:</b>	<p>According to Article 6 of the Investment Proclamation, the following areas of investment shall exclusively be reserved for the government:</p> <p>a) transmission and distribution of electrical energy through the integrated national grid system;</p> <p>b) postal services with the exception of courier services;</p> <p>c) air transport services using aircraft with a seating capacity of more than fifty passengers.”</p>
<b>4. Does the regulatory framework provide for a specific tax regime for PPP transactions (i.e. tax incentives,</b>	<p>No</p>

<b>special tax depreciation treatment, etc.)?</b>	
<b>If yes, please specify and provide the relevant legal/regulatory provision (if any):</b>	n/a
<b>5. Please identify the PPP procuring authorities in Ethiopia and provide their website(s) (if available):</b>	<p>Public bodies shall act as procuring authorities in accordance with Articles 8 &amp; 9 of the Procurement Proclamation. Article 2 of the Procurement Proclamation defines such bodies as “Public Body”, means any public body, which is partly or wholly financed by the Federal Government budget, higher education institutions and public institutions of like nature.</p> <p>For purposes of the case study assumption, the following authorities shall be the relevant procuring authorities: Ethiopian Public Procurement and Property Administration Agency <a href="http://www.ppa.gov.et/">http://www.ppa.gov.et/</a>  Ethiopian Roads Authority <a href="http://www.era.gov.et/">http://www.era.gov.et/</a></p>
<b>6. In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?</b>	No
<b>If yes, please indicate its name, and its website (if available):</b>	n/a
<b>6.1 If yes, what are the main responsibilities of the PPP Unit (check all that apply): PPP regulation and policy guidance.</b>	n/a
<b>6.2 PPP capacity building for other public authorities.</b>	n/a
<b>6.3 PPP promotion among the public and/or private sectors in national and international forums.</b>	n/a

<b>6.4 Technical support in implementing PPP projects.</b>	n/a
<b>6.5 Identification and selection of PPP projects from the pipeline.</b>	n/a
<b>6.6 Revision of fiscal risks born by the Government.</b>	n/a
<b>6.7 Consultation with affected communities on potential impact of PPP projects.</b>	n/a
<b>6.8 Approval of PPP projects.</b>	n/a
<b>6.9 Undertaking the procurement of PPPs.</b>	n/a
<b>6.10 Oversight of PPP implementation.</b>	n/a
<b>6.11 Other</b>	n/a
<b>6.11 please specify:</b>	n/a
<b>Please provide the relevant legal/regulatory provisions:</b>	n/a
<b>PPP Preparation</b>	
<b>8. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	No regulatory basis
<b>8.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project</b>	No

<b>before signing the PPP contract?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>8.2. Does the Ministry of Finance (or government more broadly) have a specific system of: Budgeting for PPP projects.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Accounting liabilities (explicit and implicit, direct and contingent) arising from PPPs.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Reporting liabilities (explicit and implicit, direct and contingent) arising from PPPs.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>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</b>	n/a

<b>Accounting Standards (IPSAS).</b>	
<b>Accounting and reporting according to other international standard (e.g. European System of Accounts).</b>	n/a
<b>Please specify:</b>	n/a
<b>Other.</b>	n/a
<b>Please specify:</b>	n/a
<b>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.)?</b>	No
<b>If yes, please specify the relevant authority</b>	n/a
<b>and provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>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?</b>	No

<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>10. Does the procuring authority use transaction advisors during the PPP project cycle?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Section 16.5 of the Procurement Directive specifies that, for the procurement of high cost and/or complex goods or services, public bodies may seek the advice and assistance from experts outside the Public Body.</p> <p>Additionally, Article 8(f) of the Procurement Proclamation provides that the competencies of public entities are, “where necessary, enter into a contract with third parties which support the public body in the process of procurement.”</p>
<b>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</b>	No



<b>consistency of PPPs with other public investment priorities.</b>	
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>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.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The regulatory framework does not include any provisions but the procuring authority evaluates the consistency of PPPs with other government investment priorities in practice.</b>	Yes
<b>If yes, please elaborate:</b>	Contributors provide that the government has policies and plans with priorities. For example, the National Energy Policy prioritizes the participation of the private sector in energy development, which may take the form of PPPs.
<b>The procuring authority does not evaluate PPPs against existing government priorities.</b>	No
<b>Please elaborate and provide examples:</b>	n/a

<b>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?</b>	No
<b>If yes, please specify:</b>	n/a
<b>If no, please elaborate:</b>	No sufficient examples exist to provide evidence that such prioritization takes place in practice.
<b>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)</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	No regulatory basis
<b>Is there a specific methodology for the assessment?</b>	No
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	No
<b>Details:</b>	Contributors provide that this is not actually implemented in practice.
<b>12.2. Affordability assessment, including the identification of the required long term public commitments (explicit and implicit, direct and</b>	No

contingent liabilities)	
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
<b>12.3. Risk identification, allocation and assessment (risk matrix)</b>	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
<b>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)</b>	Yes
Relevant legal/regulatory provision (if any)	The Procurement Directive 7(1)b provides that Procurement Endorsing Committee must ensure that there is no other better alternative to procurement to satisfy each need.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No

<b>Details:</b>	Contributors provide that this is not actually implemented in practice.
<b>12.5. Financial viability or bankability assessment</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>Is there a specific methodology for the assessment?</b>	n/a
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	n/a
<b>Details:</b>	n/a
<b>12.6. Market sounding and/or assessment (showing evidence of investors' interest in the market for the project)</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	Procurement Directive Section 9(1) requires the public body to consider the procurement needs which can be met by products or service available in the market.
<b>Is there a specific methodology for the assessment?</b>	No
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	No
<b>Details:</b>	Contributors provide that this is not actually implemented in practice.
<b>12.7. Environmental impact assessment</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	Section 9(1) of the Procurement Directive provides, "In identifying its procurement needs, any Public Body has to take the following point into consideration:- f) " The procurement need is environmentally friendly." Moreover, the Environmental Impact Assessment Proclamation (No. 299 of 2002) provides in Article 2(3), "Environmental Impact Assessment" means the methodology of identifying and evaluating in advance any effect, be it positive or negative, which results from the implementation of a proposed project or public instrument." Article 5 of the Environmental Impact Assessment Proclamation provides, "1) Every project which falls in any category listed in any directive issued pursuant to this Proclamation shall be subject to environmental impact assessment. 2) Any directive provided under sub-Article 1 of this Article shall, among other things, determine categories of:

	(a) Projects not likely to have negative impacts do not require environmental impact assessment; (b) Projects likely to have negative impacts thus require environmental impact assessment.”
<b>Is there a specific methodology for the assessment?</b>	No
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	No
<b>Details:</b>	Contributors provide that this is not actually implemented in practice.
<b>12.8. Consultation process with affected communities on potential impact of the PPP project</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>Is there a specific methodology for the assessment?</b>	n/a
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	n/a
<b>Details:</b>	n/a
<b>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)?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	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	No regulations provide the requirement from public authorities to include draft PPP contract in the request for proposal document.
14.1. Are the tender documents published online?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and please specify the website:	n/a
15. In a case comparable to the case study assumptions, have standardized PPP model contracts and/or transaction documents been developed?	Yes

<p><b>If yes, please specify and provide a government-supported website where the mentioned standards are available or provide an electronic copy of them:</b></p>	<p>Transaction documents available at:  <a href="http://www.ppa.gov.et/index.php?option=com_joomdoc&amp;view=documents&amp;path=documents%5Cprocurement%5Csbid&amp;Itemid=162">http://www.ppa.gov.et/index.php?option=com_joomdoc&amp;view=documents&amp;path=documents%5Cprocurement%5Csbid&amp;Itemid=162</a></p>
<p><b>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)</b></p>	<p>No</p>
<p><b>Private Partner</b></p>	<p>No</p>
<p><b>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</b></p>	<p>No</p>
<p><b>To be established in the contract</b></p>	<p>Yes</p>
<p><b>Relevant legal/regulatory provision (if any)</b></p>	<p>No regulatory basis</p>
<p><b>16.2. Obtaining the required environmental permits: Procuring authority (or other Government entity)</b></p>	<p>Yes</p>
<p><b>Private Partner</b></p>	<p>No</p>
<p><b>Private partner with facilitation role assigned to the procuring authority (or other</b></p>	<p>No</p>

<b>Government entity)</b>	
<b>To be established in the contract</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	<p>Environmental Impact Assessment Proclamation (No. 299 of 2002) provides in Article 2(5) that “Licensing Agency” means any organ of government empowered by law to issue an investment permit or a trade or operating license or a work permit or to register a business organization, as the case may be.</p> <p>Article 3(3) of this Proclamation provides, “Any licensing agency shall, prior to issuing an investment permit or a trade or an operating license for any project, ensure that the Authority or the relevant regional environmental agency has authorized its implementation.”</p> <p>Article 2(5) defines “Licensing Agency” as “any organ of government empowered by law to issue an investment permit or a trade or operating license or a work permit or to register a business organization, as the case may be.”</p> <p>And Article 2(9) defines “Proponent” as “any organ of government if in the public sector or any person if in the private sector that initiates a project.”</p>
<b>16.3. Obtaining the required operational permits: Procuring authority (or other Government entity)</b>	No
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</b>	No
<b>To be established in the contract</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	No regulatory basis
<b>16.4. Obtaining the required land: Procuring authority (or other Government entity)</b>	No
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring authority (or other</b>	No



<b>Government entity)</b>	
<b>To be established in the contract</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	No regulatory basis
<b>16.5. Obtaining the required right of way: Procuring authority (or other Government entity)</b>	No
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</b>	No
<b>To be established in the contract</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	No regulatory basis
<b>PPP Procurement</b>	
<b>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.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The bid evaluation committee</b>	Yes

<b>members require sufficient qualification without specific details.</b>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Section 5(4) of the Procurement Directive sets out the criteria where the procuring authority must, "Establish a Procurement Endorsing Committee to approve procurements of high value in the Public Body, consisting of members no less than 3 persons which serves for a maximum period of 3 years in accordance with the following criteria:- a) Officials, who are in high position of responsibility in the Public Body. b) Need to have a better knowledge and experience, and should comprise from various professions as far as possible."
<b>The bid evaluation committee members are not required to have any specific qualifications.</b>	No
<b>Please elaborate and provide examples:</b>	n/a
<b>19. Does the procuring authority issue a public procurement notice of the PPP project?</b>	Yes
<b>If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):</b>	Article 35 of the Procurement Proclamation provides, "1) Invitation to bid shall be advertised in at least one time in a national news paper of general circulation which is published in the language the bidding document is prepared. 2) Where the public body finds it necessary, it may, in addition to the medium mentioned in sub article (1) of this Article, advertise the bid on a national radio and television." Procurement Directive Section 17(4)(b) provides, "The bid advertisement shall be published in a news paper that has wide circulation and is accessible to foreign bidders, the bid advertisement shall be posted on the Agency's website if the value of the procurement is above the threshold stated in article 6(5) of this Directive. In order to attract a large number of bidders, the bid advertisement may also be posted on the website of the procuring Public Body and embassies of various countries which may be notified of the bid. Section 6(5) of the Directive provides, "5. Subject to the provision of article 35 of the Proclamation, disclosure to the public by posting it on the Agency's website at the same time of publication of its bid advertisement in a news paper, any procurement the value of which corresponds to or is greater than that stated in this subarticle, including procurements to be made by means of International Competitive Bidding."
<b>19.1. If yes, is the public procurement notice published online?</b>	Yes

<b>If yes, please specify the website:</b>	<a href="http://www.ppa.gov.et/">http://www.ppa.gov.et/</a> . Additionally, the notice is usually published in the website of the specific government body.
<b>20. Are foreign companies prohibited from participating in the bidding process?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>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?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Procurement Proclamation Article 35 provides, “ 3) The time allowed for preparation of bids shall not be less than the minimum number of days stated in the procurement directives. “</p> <p>Section 16.2 of the Procurement Directive further provides that publication of an invitation to bid shall contain at least, the following information:-, “16.2.3.7 The place and deadline of submission of bids, and the place, date and hour of the bid opening.”</p> <p>Section 17.4 of these Directives further provides, in regard to international competitive tendering, “c) Bidders must be given adequate time to prepare bid documents in response to the invitation to bid in accordance with article 16/9 of this Directive.”</p> <p>Annex 3 of the Directives provides a table and identifies that the minimum period to submit bids is 45 days in complex works procurements in international competitive bidding.</p>
<b>and the time in calendar days:</b>	45
<b>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</b>	No

<b>Default</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	<p>Article 33 of the Procurement Proclamation provides,  “1) The following methods shall be used in public procurement:  a) Open Bidding;  b) Request for Proposals;  c) Two stage Tendering;  d) Restricted Tendering;  e) Request for Quotation;  f) Direct Procurement.  2) Except as otherwise provided in this Proclamation, public bodies shall use open bidding as the preferred procedure of procurement.”  Article 15 of the Procurement Directive reiterates the same.</p>
<b>22.2. Restricted tendering (with pre-qualification stage): Available</b>	Yes
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	<p>Article 33 of the Procurement Proclamation provides,  “1) The following methods shall be used in public procurement:  a) Open Bidding;  b) Request for Proposals;  c) Two stage Tendering;  d) Restricted Tendering;  e) Request for Quotation;  Article 33(3) of the Proclamation provides, “Public bodies may use a method other than open bidding only where conditions for use of such other method stipulated under this Proclamation are satisfied.”  Article 15 of the Procurement Directive reiterates the same.  Furthermore, Section 20 of the Procurement Directive provides,  “20.1 Where, in view of the particular nature of the procurement, the Public Body finds it necessary to prequalify bidders, it may invite national or International prequalification bids as the case may be.  20.2 Procurements requiring prequalification bids should satisfy at least one of the following criteria:-  a) Where the procurement pertains to a work of design, manufacturing or installation of a very high value or complex nature, or  b) Where the procurement pertains to a turnkey contract of works, or the acquisition of machinery or Information technology, or  c) Where the procurement pertains to supply of goods or equipments of considerable importance and includes installation, or  d) Where the cost of drawing up bidding documents is so high that only pre-qualified bidders should participate in the bid.”</p>
<b>22.3 Multi-stage tendering (with shortlisting of final candidate(s)): Available</b>	Yes
<b>Default</b>	No

<b>Relevant legal/regulatory provision (if any)</b>	<p>After listing the tender methods in Article 33 of the Procurement Proclamation as previously displayed, Article 53 of this Proclamation further provides, “Public bodies may engage in procurement by means of two-stage bidding:</p> <ol style="list-style-type: none"> <li>1) when it is not feasible for the public body to formulate detailed specifications for the goods or works and in the case of services, to identify their characteristics and, in order to obtain the most satisfactory solution to its procurement needs;</li> <li>2) when the public body seeks to enter into a contract for the purpose of research, experiment, study or development, except where the contract includes the production of goods in quantities sufficient to establish their commercial viability or to recover research and development costs;</li> <li>3) where bid proceedings are initiated but no bids are submitted as a result of the nature of the object of procurement not being clearly described or where all bids are rejected due to failure on the part of the public body concerned to draw up a clear and complete specification;</li> <li>4) because of the technical character of the required goods or works, or because of the nature of the consultancy or other services it is necessary for the public body to negotiate with the suppliers.”</li> </ol> <p>Article 15 of the Procurement Directive reiterates the same.</p>
<b>22.4. Competitive dialogue: Available</b>	<p>No</p>
<b>Default</b>	<p>No</p>
<b>Relevant legal/regulatory provision (if any)</b>	<p>n/a</p>
<b>22.5. Direct negotiation with more than one candidate: Available</b>	<p>Yes</p>
<b>Default</b>	<p>No</p>
<b>Relevant legal/regulatory provision (if any)</b>	<p>Article 33 of the Procurement Proclamation provides,</p> <p>“1) The following methods shall be used in public procurement:</p> <ol style="list-style-type: none"> <li>a) Open Bidding;</li> <li>b) Request for Proposals;</li> <li>c) Two stage Tendering;</li> <li>d) Restricted Tendering;</li> <li>e) Request for Quotation;</li> <li>f) Direct Procurement.</li> </ol> <p>Article 49 of this Proclamation provides, “Public bodies may use restricted tendering as a method of procurement only when the following conditions are satisfied:</p> <ol style="list-style-type: none"> <li>1) it is ascertained that the required object of procurement is available only with limited suppliers;</li> <li>2) the cost of procurement does not exceed the threshold specified in respect of restricted tendering in the directive to be issued by the Minister; or</li> <li>3) where a repeated advertisement of the invitation to bid fails to attract bidders in respect of a procurement subject to the directive to be issued by the Minister.</li> </ol> <p>Article 50 of the Proclamation also provides, “Restricted tendering procedures are the same as those applied in open tendering, except that:</p>

	1) where the object of procurement is available only with limited suppliers in accordance with Article 49(1) of this Proclamation, the invitation to bid shall be sent to all such suppliers.”
<b>22.6. Direct negotiation with only one candidate: Available</b>	Yes
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	<p>Article 33 of the Procurement Proclamation lists, “ Direct Procurement” as one of the procurement methods.</p> <p>Article 51 of this Proclamation further provides, “Public bodies may use direct procurement only when the following conditions are satisfied:</p> <p>a) when in absence of competitions for technical reasons, the goods, works consultancy or other required services can be supplied or provided only by one candidate.”</p> <p>Section 25 of the Procurement Directive provides “The use of single source as a method of procurement shall be subject to the following rules:</p> <p>25.1 Public bodies may carry out single source procurement provided that the conditions set forth in articles 51 and 52 of the proclamation are satisfied.”</p>
<b>22.7 Other. Specify:</b>	Special large procurement
<b>Available</b>	Yes
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	<p>Section 26 of the Procurement Directive provides under “special large procurement”, an additional broad term,</p> <p>“a) The Minister may authorize the execution of special procurement by a central body where it is dictated by the need for efficiency on the part of the government in carrying out its duty, or in respect of the acquisition of objects of national strategic significance.</p> <p>b) The central body to be established by the government to handle special procurements shall comply with the provisions of the proclamation and this directive in carrying out procurements of objects of national strategic importance unless it is instructed by the government to apply special procedure in acquiring such objects.”</p>
<b>22.8. Do the tender documents detail the procedure of the procurement process providing the same information to all the bidders?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Article 36 of the Procurement Proclamation provides,</p> <p>“Apart from containing the following particulars, the invitation to bid shall be prepared in accordance with the standard bidding document to be developed by the Agency:</p> <p>a) the name and address of the public body;</p> <p>b) a brief description of the goods, works or services to be procured;</p>

	<p>c) the means and conditions for obtaining the bidding documents and the place from which they may be obtained;</p> <p>d) the place and deadline for the submission of bids; and</p> <p>e) the place and time for opening of bids, along with an announcement that bidders or their representatives are allowed to attend at the opening of bids.”</p> <p>Article 37 of the Procurement Proclamation provides,          “The bidding documents shall contain sufficient information to enable competition among the bidders to take place on the basis of complete, neutral and objective terms. In particular, bidding documents must include:</p> <p>a) instructions for the preparation and submission of bids;</p> <p>b) information about the final date for receipt of bids, the address to which bids must be sent, the date, hour and place of opening, as well as an announcement that bidders or their representatives are allowed to attend the opening ceremony;</p> <p>c) bid submission forms and, where applicable, forms of bid security to be provided;</p> <p>d) the number of copies to be submitted with the original bid;</p> <p>e) the general and specific conditions of the contract;</p> <p>f) specification of requirements, including time limit for delivery or completion of the task, as appropriate;</p> <p>g) evidence to be provided by the bidder to demonstrate its qualifications as well as its fiscal and legal standing;</p> <p>h) the period during which the bid remains in force;</p> <p>(i) the criteria and the points given to each criterion for evaluation of bids and award of the contract;</p> <p>(j) a reservation to the effect that the public body may reject all bids at any time prior to the notification of award.”</p> <p>The Procurement Directive provides further details in Section 16.4 and in Section 16.4.1, particularly requires that every Public Body makes sure to get instructions to bidders which is an integral part of the standard bidding document, and the bid data sheet which is an extension of the instruction to bidders, as parts of the standard bidding document.</p>
<b>If no, please elaborate:</b>	n/a
<b>22.9. Do the tender documents specify the prequalification/s hortlisting criteria (when applicable) in order to make them available to all the bidders?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Section 16.8.1 of the Procurement Directive provides, “The Public Body has to indicate clearly the bid evaluation criteria in the evaluation and qualification criteria section of the standard bidding document.”
<b>22.10. Based on your experience, is it always the case</b>	Yes

<b>that the specified criteria are respected in practice?</b>	
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	<p>This is one of the fundamentals and principles of the Procurement Proclamation and Directive that public entities must uphold, and is ensured by the availability of complaint procedure in case of any irregularity.</p>
<b>If no, please elaborate:</b>	<p>n/a</p>
<b>23. Can interested parties/potential bidders submit questions to clarify the public procurement notice and/or the request for proposals?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Section 16.12.1. of the Procurement Directive provides, "As provided in article 39 of the Proclamation, a Public Body has to entertain requests from candidates on clarification or modification to a bidding document prepared by it."          Article 39(1) of the Procurement Proclamation provides, "At any time prior to the deadline for submission of bids, the public body may, on its own initiative or in response to an inquiry by a candidate having purchased the bidding documents, modify the bidding documents by issuing an addendum, which becomes an integral part of the bidding documents."</p>
<b>23.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose those questions and clarifications to all potential bidders?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Article 39(2) of the Procurement Proclamation provides, "Any addendum shall be communicated promptly to all candidates having purchased the bid documents at the same time."</p>
<b>23.2. Based on your experience, is</b>	<p>Yes</p>



it always the case that this disclosure of information is done in practice?	
If yes, please specify:	These upholds principles of the Procurement Proclamation and Directive and the procuring authority disclose such information in practice according to contributors.
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):	Procurement Directive Section 16.12.6. provides, "Where a Public Body deems it to be appropriate, it may convene a meeting of bidders who purchased a bidding document for clarification and discussion on the bidding document or modification thereto, and such discussion shall be minuted."
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?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
24.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	n/a
If yes, please specify:	n/a
If no, please elaborate:	n/a
25. In a case comparable to the case study assumptions, does	Yes

<p><b>the procuring authority require the bidders to prepare and present a financial model with their proposals?</b></p>	
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	<p>No regulatory basis</p>
<p><b>If no, please elaborate:</b></p>	<p>n/a</p>
<p><b>26. Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?</b></p>	<p>Yes</p>
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	<p>Article 43 of the Procurement Proclamation provides, "6) In the process of selecting the successful bidder, the public body shall only consider substantially responsive bids for further evaluation and comparison, as defined in sub-Article (8) of this Article, in accordance with the criteria set forth in the bidding documents. No criterion shall be used that has not been set forth in the bidding documents."</p>
<p><b>Evaluation criteria is not set in the tender documents</b></p>	<p>No</p>
<p><b>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</b></p>	<p>No</p>

<b>proposal is submitted.</b>	
<b>Please specify and provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The procuring authority considers sole proposals valid as long as they meet the conditions outlined in the tender documents.</b>	Yes
<b>Please provide the relevant legal/regulatory provisions (if any):</b>	Procurement Directive Section 16.19.2.9 provides, “Where an invitation to bid attracts only one bidder, the Public Body may sign contract with that bidder if the proposal submitted by such bidder is satisfactory to the Public Body and the price offered by the bidder is comparable to or less than the market price of the required object of procurement; it being necessary to make sure that the failure of the bid to attract bidders is not due to the fact that the content of the bidding document is restrictive of open competition. “
<b>The procuring authority does not award a PPP contract if only one proposal is submitted.</b>	No
<b>Please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The regulatory framework does not include any provisions.</b>	No
<b>28. Does the procuring authority publish the award notice?</b>	Yes
<b>If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):</b>	Section 6(6) of the Procurement Directive refers to the award notice, and provides, “In respect of procurements the value of which corresponds to or is greater than that specified in sub-Article 5 of this Article, disclose the information to the public by filling it in the form provided for this purpose and posting it on the Agency’s website within 5 days of signing the contract after award.” Moreover, Section 16.24.1 of the Procurement Directive provides, “Public Bodies shall announce the result of a bid evaluation to all bidders alike at the same time. The information to be disclosed to the unsuccessful bidders shall be the reason why they did not succeed in their bid and the identity of the successful bidder.”
<b>28.1. If yes, is the public</b>	Yes

<b>procurement award notice published online?</b>	
<b>If yes, please specify the website:</b>	<a href="http://www.ppa.gov.et">http://www.ppa.gov.et</a>
<b>29. Does the procuring authority provide all the bidders with the result of the PPP procurement process?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Section 16.24.1 of the Procurement Directive provides, “Public Bodies shall announce the result of a bid evaluation to all bidders alike at the same time. The information to be disclosed to the unsuccessful bidders shall be the reason why they did not succeed in their bid and the identity of the successful bidder.”
<b>If no, please elaborate:</b>	n/a
<b>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?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Section 16.24.1 of the Procurement Directive provides, “Public Bodies shall announce the result of a bid evaluation to all bidders alike at the same time. The information to be disclosed to the unsuccessful bidders shall be the reason why they did not succeed in their bid and the identity of the successful bidder.” Contributors provide that disclosing the identity of the successful bidder shall encompass the grounds for such selection.
<b>30. Is there a standstill (or pause) period after the contract award and before the signing of the contract in order to allow unsuccessful bidders to challenge the award decision?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 45(1)(a) of the Procurement Directive provides, “the Public Body conducting bid proceedings shall wait for seven working days after disclosing the result of the bid evaluation or after responding to a complaint, to give bidders time to present complaint, if any, against the conduct of the bid proceeding or against the decision of the Public Body on such complaint.” Contributors confirm this is used as a basis for a standstill period.

<b>and the time in calendar days:</b>	7
<b>30.1. Is the standstill period set out in the notice of intention to award?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>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?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 45 of the Procurement Proclamation provides, 1) The public body may negotiate with the successful bidder on matters of contract performance not dealt within the bidding document. 2) Except in a single source procurement provided in Article 50 of this Proclamation the public body may not negotiate on the price offered by the successful bidder and on other issues related to price.
<b>31.1. Based on your experience, is it always the case that this restriction is respected in practice?</b>	Yes
<b>If yes, please specify:</b>	Contributors provide that this is respected in practice in application of the regulatory provisions to ensure a fair process, one of the procurement principles.
<b>If no, please elaborate:</b>	n/a
<b>32. Does the procuring authority publish the PPP contract?</b>	No
<b>If yes, please provide the relevant</b>	n/a

<b>legal/regulatory provisions (if any):</b>	
<b>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</b>	n/a
<b>Publication of the full PPP contract without including all its annexes and appendixes</b>	n/a
<b>Publication of a summary of the PPP contract without publishing the full PPP contract</b>	n/a
<b>Publication of a summary of the PPP contract along with the full PPP contract including all its annexes and appendixes</b>	n/a
<b>Publication of a summary of the PPP contract along with the full PPP contract without including all its annexes and appendixes</b>	n/a
<b>32.2. If yes, is it published online?</b>	n/a
<b>If yes, please specify the website:</b>	n/a
<b>32.3. If yes, does the procuring authority also publish any subsequent amendment made to the PPP contract?</b>	n/a

<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>PPP Contract Management</b>	
<b>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)?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Section 29 of the Procurement Directive provides, “29.1 Public bodies have to identify the party responsible for following up the performance of a contract or make sure that the parties involved in following up the performance of a contract are aware of their duties. (Where the task is carried out through coordination of more than one parties)</p> <p>29.2 The department within a Public Body responsible for monitoring performance of procurement contracts has to make sure that the supplier delivers the principle tasks under the contract in accordance with the agreed work schedule.”</p>
<b>41.1. If yes, which of the following tools does it include (check all that apply)?: Establishment of a PPP contract management team</b>	Yes
<b>Relevant legal/regulatory provisions (if any):</b>	<p>Section 29.2 of the Procurement Directive provides that the department within a Public Body responsible for monitoring performance of procurement contracts has to make sure that the supplier delivers the principle tasks under the contract in accordance with the agreed work schedule.”</p>
<b>Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa</b>	No

<b>Relevant legal/regulatory provisions (if any):</b>	n/a
<b>Elaboration of a PPP implementation manual or an equivalent document</b>	No
<b>Relevant legal/regulatory provisions (if any):</b>	n/a
<b>Establishment of personnel training programs (i.e. initial training and continued training throughout the course of the project)</b>	Yes
<b>Relevant legal/regulatory provisions (if any):</b>	Section 5(8) of the Procurement Directive discusses the competencies of the procuring authority generally, and provides, "Make sure that the procurement staff, head of the procurement unit and members of the Procurement Endorsing Committee have in their possession, copies of the procurement and property administration Proclamation, this Directive, the Standard Bidding Document and other necessary documents, and make training available to them in ordered to enable them acquire adequate knowledge of the public procurement system."
<b>Establishment of a risk mitigation mechanism which considers the evolving nature of risks throughout the project lifecycle (guidelines, specific processes, insurance regime, etc.)</b>	No
<b>Relevant legal/regulatory provisions (if any):</b>	n/a
<b>41.2. Which of the following options best describes the required qualifications of the PPP contract management team members? (Please select only one):</b>	No



<p>The membership of the PPP contract management team is specified and/or its members are required to meet detailed qualifications.</p>	
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p>	n/a
<p>The PPP contract management team members are required to meet sufficient qualification without specific details.</p>	Yes
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	Section 5 of the Procurement Directive provides, “Without prejudice to those provided in the Proclamation, a head of a Public Body shall have the following additional duties and responsibilities: Ensure that the procurement staff and head of the procurement unit of the Public Body have the required educational qualification and experience in the fields relevant to public procurement.”
<p>The PPP contract management team members are not required to meet any specific qualifications.</p>	No
<p>Please elaborate and provide examples:</p>	n/a
<p>42. Does the procuring or contract management authority establish a system for tracking progress and completion of construction works under a PPP contract?</p>	Yes
<p>If yes, please provide the relevant</p>	Section 29(2) of the Procurement Directive provides in principle that the department within a Public Body responsible for monitoring performance of procurement contracts has to make sure that the supplier delivers the principle tasks under the contract in accordance with the agreed work schedule.

<b>legal/regulatory provisions (if any):</b>	Section 29(5) of the Directive further provides, “In particular, public bodies shall carry out the following activities in connection with the following up of performance of contracts:- d) Follow up that works are completed on schedule agreed in the contract, or goods are supplied or services are rendered within the time stipulated in the contract.”
<b>42.1. If yes, is the PPP contract construction performance information made available to the public?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>42.2. If yes, is the PPP contract construction performance information made publicly available online?</b>	n/a
<b>If yes, please specify the website:</b>	n/a
<b>43. Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract implementation after construction?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Section 30.1 of the Procurement Directive provides, “Public bodies have to ensure that the performance of a procurement contract is completed with the terms and conditions of such contract being complied with and other transactions incidental to such contract being finalized.”
<b>43.1. If yes, which of the following tools does it include (check all that apply)?: Performance is assessed against</b>	Yes

<b>evaluation criteria set in the tender documents and the PPP contract</b>	
<b>Relevant legal/regulatory provisions (if any)</b>	Section 30.1 of the Procurement Directive provides, “Public bodies have to ensure that the performance of a procurement contract is completed with the terms and conditions of such contract being complied with and other transactions incidental to such contract being finalized.”
<b>The procuring or contract management authority can abate (reduce) payments for non-performance of operating obligations under the PPP contract</b>	No
<b>Relevant legal/regulatory provisions (if any)</b>	n/a
<b>The private partner must provide the procuring or contract management authority with periodic operational and financial data</b>	No
<b>Relevant legal/regulatory provisions (if any)</b>	n/a
<b>The procuring or contract management authority must periodically gather information on the performance of the PPP contract</b>	No
<b>Relevant legal/regulatory provisions (if any)</b>	n/a
<b>The PPP contract performance information must be available to the public</b>	No

<b>Relevant legal/regulatory provisions (if any)</b>	n/a
<b>43.2. Is PPP contract performance information made publicly available online?</b>	No
<b>If yes, please specify the website:</b>	n/a
<b>44. Are foreign companies prohibited from repatriating the income resulting from the operation of a PPP project?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>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?</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>45.1. If yes, which of the following circumstances are specifically regulated? (check</b>	n/a

<p><b>all that apply): Any change in the private partner during an initial period (e.g. construction and first five years of operation).</b></p>	
<p><b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b></p>	<p>n/a</p>
<p><b>Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.</b></p>	<p>n/a</p>
<p><b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b></p>	<p>n/a</p>
<p><b>In other cases, flexibility to change the ownership structure and/or assign the contract.</b></p>	<p>n/a</p>
<p><b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b></p>	<p>n/a</p>
<p><b>46. Does the regulatory framework (including standard contractual clauses) expressly regulate the modification or</b></p>	<p>Yes</p>

<b>renegotiation of the PPP contract (once the contract is signed)?</b>	
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Section 29.4 of the Procurement Directive provides, "Where it is called for, the contract may be amended in the course of its performance; it being understood that such amendment shall not be detrimental by the interest of the Public Body and not favor one supplier or certain suppliers to the prejudice of the other suppliers."
<b>46.1. If yes, is an approval from a government authority, other than the procuring authority, required?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	No regulatory basis
<b>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.</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>A change in the risk allocation of the contract.</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>A change in the financial and/or</b>	No

<b>economic balance of the contract.</b>	
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>A change in the duration of the contract.</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>A change in the agreed price or tariff.</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>46.3. Can the procuring authority unilaterally modify a PPP contract?</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>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</b>	Yes

<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	<p>Section 49 of the Procurement Directive provides,  49.1 force majeure results from an occurrence which the supplier could normally not foresee and which prevents him absolutely from performing his obligation.  49.2 The following occurrences may, according to the circumstances, constitute cases of force majeure.</p> <ul style="list-style-type: none"> <li>a) An official prohibition preventing the performance of a contract,</li> <li>b) A natural catastrophe such as earthquake, lightning or floods, or</li> <li>c) International or civil war, or</li> <li>d) The death or a serious accident or unexpected serious illness of the supplier</li> <li>e) Other instances of force majeure identified as such by the civil code.</li> </ul>
<b>Material Adverse government action</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Part of the definition of force majeure in Section 49.2(a) of the Procurement Directive includes “official prohibition preventing the performance of a contract”, which contributors confirm embodies material adverse government action.
<b>Change in the Law.</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>Refinancing.</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>Subcontracting and replacement of the subcontractors.</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>48. Does the regulatory framework (including standard contractual</b>	Yes



<b>clauses) allow for administrative and/or contractual complaint review mechanisms to address disputes arising from the implementation of PPP contracts?</b>	
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Contributors provide that this shall be regulated in the contract. Ethiopian Civil Procedures Code (Decree No. 52 OF 1965) ( <a href="http://www.ethioconstruction.net/sites/default/files/Law/Files/Civil%20Procedure%20Code%20%28English%29.pdf">http://www.ethioconstruction.net/sites/default/files/Law/Files/Civil%20Procedure%20Code%20%28English%29.pdf</a> ) Article 4 also provides under “Courts to try suits unless barred” that, “Without prejudice to the provisions of the following Articles, the courts shall have jurisdiction to try all civil suits other than those of which their cognizance is expressly or impliedly barred.” This is in regard to competency of local courts.
<b>48.1. If yes, please specify which of the following options are available (check all that apply): Local administrative review body</b>	No
<b>If yes, please specify:</b>	n/a
<b>Local courts</b>	Yes
<b>Domestic arbitration</b>	No
<b>International arbitration</b>	No
<b>Investor-State Dispute Settlement (ISDS)</b>	No
<b>Mediation</b>	No
<b>Please provide the relevant legal/regulatory/standard contractual provisions (if any)</b>	Contributors provide that this shall be regulated in the contract. Ethiopian Civil Procedures Code (Decree No. 52 OF 1965) ( <a href="http://www.ethioconstruction.net/sites/default/files/Law/Files/Civil%20Procedure%20Code%20%28English%29.pdf">http://www.ethioconstruction.net/sites/default/files/Law/Files/Civil%20Procedure%20Code%20%28English%29.pdf</a> ) Article 4 also provides under “Courts to try suits unless barred” that, “Without prejudice to the provisions of the following Articles, the courts shall have jurisdiction to try all civil suits other than those of which their cognizance is expressly or impliedly barred.” This is in regards to competency of local courts.
<b>48.2. If applicable, are arbitration awards enforceable by the</b>	No

<b>local courts?: Domestic Arbitration</b>	
<b>If yes, please provide the relevant legal/ regulatory provisions/standar d contractual provisions (if any):</b>	n/a
<b>International arbitration</b>	No
<b>If yes, please provide the relevant legal/ regulatory provisions/standar d contractual provisions (if any):</b>	n/a
<b>Investor-State arbitration</b>	No
<b>If yes, please provide the relevant legal/ regulatory provisions/standar d contractual provisions (if any):</b>	n/a
<b>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?</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory/st andard contractual provisions (if any):</b>	n/a
<b>50. Does the regulatory framework (including</b>	No

<p><b>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?</b></p>	
<p><b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b></p>	<p>n/a</p>
<p><b>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.</b></p>	<p>n/a</p>
<p><b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b></p>	<p>n/a</p>
<p><b>The regulatory framework prescribes that a direct agreement should be signed with the lenders.</b></p>	<p>n/a</p>
<p><b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b></p>	<p>n/a</p>

<b>Standard contractual provisions (if any):</b>	
<b>The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.</b>	n/a
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>Other.</b>	n/a
<b>Please Specify:</b>	n/a
<b>51. Does the regulatory framework (including standard contractual clauses) expressly establish the grounds for termination of a PPP contract?</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	No regulatory basis
<b>51.1. If yes, does the regulatory framework (including standard contractual clauses) establish the consequences for the termination of the PPP contract?</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a

Standard contractual provisions (if any):	
<b>Unsolicited Proposals</b>	
<b>34. Are unsolicited proposals in Ethiopia: (choose only one): Explicitly prohibited by the legal framework? (If prohibited, skip to section F)</b>	No
<b>Explicitly allowed by the legal framework?</b>	No
<b>Not regulated by the legal framework, but do happen in practice?</b>	Yes
<b>Not regulated by the legal framework, and do not happen in practice? (if not done in practice, skip to section F)</b>	No
<b>If the legal framework explicitly prohibits or allows unsolicited proposals, please provide the relevant legal/regulatory provisions</b>	n/a
<b>35. Does the procuring authority conduct an assessment to evaluate unsolicited proposals? (if not, skip to question 37)</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any)</b>	n/a

<b>35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?</b>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>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.</b>	n/a
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.</b>	n/a

<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The procuring authority does not evaluate unsolicited proposals against existing government priorities.</b>	n/a
<b>Please elaborate and provide examples:</b>	n/a
<b>37. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	No regulatory basis
<b>38. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>General Procurement Directive provisions apply, specifically Annex 3, 1.1(e), depending on the type of procurement and the conditions of the market, public bodies may allow bidders additional time to prepare and submit bids, if necessary, in addition to the minimum period.</p> <p>Procurement Proclamation Article 35 provides, “The time allowed for preparation of bids shall not be less than the minimum number of days stated in the procurement directives.</p> <p>“</p> <p>Section 16.2 of the Procurement Directive further provides that publication of an invitation to bid shall contain at least the following information:-, “16.2.3.7 The place and deadline of submission of bids, and the place, date and hour of the bid opening.”</p>

	<p>Section 17.4 of these Directives further provides in regard to international competitive tendering, “c) Bidders must be given adequate time to prepare bid documents in response to the invitation to bid in accordance with article 16/9 of this Directive.”</p> <p>Annex 3 Article 1.1 of the Directives provides a table and identifies that the minimum period to submit bids is 45 days in complex works procurements in international competitive bidding.</p>
<b>and the time in calendar days:</b>	45
<b>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.</b>	No
<b>39.2 Developer’s fee (reimbursing the original proponent for the project development cost).</b>	No
<b>39.3 Bid Bonus.</b>	No
<b>39.4 Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).</b>	No
<b>39.5 Other.</b>	No
<b>Please specify:</b>	n/a
<b>Please provide the relevant legal/regulatory provisions (if any):</b>	n/a