

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

<b>NOTE</b>	
Please note that France has a dual regime of PPPs and Concessions. Both regimes are evaluated and scored separately in order to ensure the accuracy of the analysis. This document contains the data for <b>both</b> regimes. For your convenience, we have specified the page numbers for when the analysis for each regime begins and ends.	
<b>PPP</b>	<b>Concession</b>
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**PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN FRANCE (PPP)**

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>	<p>In France, two categories of contracts are considered as PPPs according to the definition of the World Bank: concessions and partnership contracts. Each type of contract falls within its own legal regime, which has evolved substantially in 2015 and 2016 with the introduction of the Public Procurement and Concession Directives (2014/23, 2014/24 and 2014/25 relating to Public Concessions and Public Procurement).</p> <p>The partnership contracts fall within the scope of Ordinance No. 2015-899 of 23 July 2015 (“MP Ordinance”) and its implementing decree, Decree No. 2016-360 of 25 March 2016 (“MP Decree”). Article 67 of the MP Ordinance defines the partnership contract as a contract which allows an economic operator to be entrusted with a mission for the design, construction, renovation, financing and maintenance of a structure or of equipment, with, where appropriate, real estate valuation missions.</p> <p>The concession contracts are governed by Ordinance No. 2016-65 of January 29, 2016 (“Concession Ordinance”) and Decree No. 2016-86 of February 1, 2016 (“Concession Decree”). The concession contracts are “contracts in writing, by which one or more licensing authorities subject to this Ordinance entrust the performance of works or the management of a service to one or more economic operators, to whom is transferred a risk linked to the operation of the structure or service, in return for either the right to exploit the work or service which is the subject of the contract or of that right with a price.</p> <p>The share of risk transferred to the concessionaire implies a real exposure to the risks of the market, so that any potential loss incurred by the concessionaire must not be purely nominal or negligible. The concessionaire assumes the operating risk when, under normal operating conditions, it is not assured that it will amortize the investments or costs it incurred in connection with the operation of the structure or service.</p> <p>The legal framework for PPPs has finally been reformed on the “institutional” aspect, with the redefinition of the missions of the organization in charge of PPPs, which has seen its evaluation missions on PPPs extended to local and regional authorities and its field of intervention also (advice and expertise on voluntary referral of public persons for concessions) (Decree No. 2016-522 of the 27 April 2016).</p>
<b>and provide a link to a government-supported website where the mentioned regulatory framework is</b>	<a href="https://www.legifrance.gouv.fr">https://www.legifrance.gouv.fr</a>

available or provide an electronic copy of it:	
<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>	Yes
<b>Please describe:</b>	(1) Decree No. 2016-360 of 25 March 2016 on public procurement; (2) Decree No. 2016-522 of 27 April 2016 on the mission to support the financing of infrastructures; (3) Ordinance No. 2015-899 dated 23th July 2015 has been updated by Law No. 2016-1691 dated December 9, 2016 called “Loi Sapin II” on transparency, the fight against corruption and the modernization of economic life; (4) Decree No. 2017-516 of 10 April 2017 laid down various provisions on public procurement; and finally, (5) Decree No. 2017-842 of 5 May 2017 adapted the tasks of prime contractor to global public procurement
<b>2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?</b>	No
<b>Please describe:</b>	n/a
<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>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	Article 151 of the MP Decree 216-360 puts a threshold of recourse of € 5 million for network infrastructures such as transport, energy, sanitation and urban development.
<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>	Article 151(2) of the MP Decree 2016-360 puts a threshold of 5 million euros excluding tax when the main object of the partnership contract relates to: (a) Network infrastructure works, in particular in the field of energy, transport, urban planning and sanitation.
<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>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<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>	Yes
<b>If yes, specify and provide the relevant legal/regulatory provisions:</b>	Article 151(2) of the MP Decree 2016-360 puts a threshold of 5 million euros excluding tax when the main object of the partnership contract relates to: (a) ... urban planning and sanitation; (b) Building works where the mission entrusted to the holder does not include any of the elements mentioned in paragraphs 2 and 3 of Section II of Article 67 of the aforementioned Ordinance of 23 July 2015;
<b>4. Does the regulatory framework provide for a specific tax regime for PPP transactions (i.e. tax incentives, special tax depreciation treatment, etc.)?</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory provision (if any):</b>	<p>Article 212a (v) of the General Tax Code exempts PPPs (concessions and partnership contracts) from the partial reinstatement of the net financial costs of the sums left or made available to an undertaking.</p> <p>Beyond this, the general principle is fiscal neutrality between public works contracts and partnership contracts.</p> <p>In the light of the applicable VAT rules, the situation of the private co-contractor is that a service provider who renders to the public person various services through a global service. Consequently, the royalty paid by the public contracting party in return for the supply of the overall benefit is subject to normal rate, except that a specific provision authorizes the application of the reduced rate to the whole of the benefit. For example, the whole of the service can be considered as accommodation, heat supply from renewable energies or as a collection of household waste (Article 279 of the General Tax Code).</p> <p>However, the partnership agreements allow a portion of the debt held on the public entity to be transferred, within an 80% ceiling.</p> <p>To the extent that it is considered as remuneration within the meaning of</p>

	<p>Article L. 313-29-1 of the Monetary and Financial Code, the share of public financing must be taken into account on the basis of the remuneration serving to the calculation of the maximum 80% of assignment of receivables accepted.</p> <p>Moreover, the tax regime of the overseas departments has several specific advantages, such as to benefit the private contracting partner from a partnership contract. These benefits relate mainly to corporate tax and VAT. They benefit companies operating in the DOM (corporate taxes) or carrying out transactions in these departments (VAT).</p>
<b>5. Please identify the PPP procuring authorities in France and provide their website(s) (if available):</b>	<p>Article 71 of the MP Ordinance authorizes any public buyer to procure MP except for those excluded by Article 12 of Law dated 28 December 2010 (list of central administrations). For those who are excluded, the relevant Ministry will be the procuring entity (Article 155 MP Decree).</p> <p>The procuring authorities are therefore: the State, its operators and local authorities and their operators can pass PPPs (partnership contracts and concessions).</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>	Yes
<b>If yes, please indicate its name, and its website (if available):</b>	<p>Mission d'appui aux partenariats public-privés (MAPPP)</p> <p><a href="http://www.economie.gouv.fr/ppp/english-version">http://www.economie.gouv.fr/ppp/english-version</a></p>
<b>6.1 If yes, what are the main responsibilities of the PPP Unit (check all that apply): PPP regulation and policy guidance.</b>	Yes
<b>6.2 PPP capacity building for other public authorities.</b>	Yes
<b>6.3 PPP promotion among the public and/or private sectors in national and international forums.</b>	Yes
<b>6.4 Technical support in implementing PPP projects.</b>	Yes
<b>6.5 Identification and selection of PPP projects from the pipeline.</b>	No
<b>6.6 Revision of fiscal risks born by the Government.</b>	No
<b>6.7 Consultation with affected communities on potential impact of PPP projects.</b>	No
<b>6.8 Approval of PPP projects.</b>	No
<b>6.9 Undertaking the procurement of PPPs.</b>	No

<b>6.10 Oversight of PPP implementation.</b>	Yes
<b>6.11 Other</b>	No
<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>	<p>According to Article 155 of the MP Decree, for the State's projects, Ministry of budget and Ministry of Economy authorize the launching of the bidding process. Their agreement is considered acquired in the absence of a reply within one month.</p> <p>The public procurement procedure is subject to an "evaluation of the project's implementation" and to a "budgetary sustainability study" (Article 74 of the Procurement Ordinance). The preliminary assessment of the implementation of the project is subject to FININFRA's opinion (item 6 / Article 153 of the "Decree on contracts") and the budgetary sustainability study to the opinion of the ministry responsible for the budget (Article 154 of the "MP Decree "). For the State and the ODAC (cf. point 5), the approval of the procedure is subject to authorization by the ministers responsible for the budget and the economy. For public establishments of the State, local authorities and their associations and public institutions, the undertaking is subject to the authorization of the decision-making body in the light of the opinions expressed on the evaluation of the project's implementation and the Budget Sustainability Study.</p>
<b>8.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before signing the PPP contract?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	According to Article 156 of the MP Decree, Ministries in charge of budget and economy shall approve the contract before signing in case of State's projects.
<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>	0
<b>Accounting liabilities (explicit and implicit, direct and contingent) arising from PPPs.</b>	Yes

<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	All European countries follow the European System of Accounts (ESA 2010)
<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 Accounting Standards (IPSAS).</b>	No
<b>Accounting and reporting according to other international standard (e.g. European System of Accounts).</b>	No
<b>Please specify:</b>	n/a
<b>Other.</b>	No
<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>	Yes
<b>If yes, please specify the relevant authority</b>	<p>The assessment of the project's implementation is submitted for opinion to an expert body created by regulation (Article 76 of the Ordinance). This body, placed with the Minister responsible for the regulation of public procurement, gives an opinion on the evaluation of the project's implementation within six weeks of its referral. Failing this, the opinion shall be deemed to be favorable (Articles 153 and 156 of the Decree).</p> <p>Once the contract has been signed, the partnership contract and its annexes are sent to the expert body for the purposes of economic census and analysis (Article 79 of the Ordinance).</p> <p>The MAPP provides advice prior to the launch of tender. this advice is mandatory for the State owned public bodies. The MAPP may also provide advice for the local authorities that wish to benefit from its expertise. It is not mandatory for the tendering authority to comply with the MAPP advice. Therefore, the MAPP advice should not be construed as a "prior</p>

	authorisation”, although in practice the MAPP advice is always complied with. moreover, the MAPP provides its advice on draft contracts for certain complex or innovative projects.
<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>	No regulatory basis
<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 consistency of PPPs with other public investment priorities.</b>	No
<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</b>	n/a



<b>to be consistent with all other investment priorities without establishing a specific procedure to achieve that goal.</b>	
<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>	n/a
<b>If yes, please elaborate:</b>	n/a
<b>The procuring authority does not evaluate PPPs against existing government priorities.</b>	Yes
<b>Please elaborate and provide examples:</b>	According to our contributors, and after confirmation obtained from our follow up, the procuring authority does not seem to evaluate PPPs against existing government priorities in France.
<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>	According to our contributors, the procuring authority in France does not evaluate PPPs against existing government priorities in practice. Our contributors explained that there is no General Project Pipeline at the State level where the prioritization of all government investments is included. In practice, each ministry manages its own commitment authorizations, the prioritization being carried out within each ministry and not globally at the level of the State.
<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>	Article 2 of Decree 2013-1211 dated 23 December 2013 states that all projects of investment in the sense of the 1st article of the present decree is the object of a preliminary socioeconomic evaluation which has the objective to

	determine the costs and profits expected from the project of envisaged investment.
<b>Is there a specific methodology for the assessment?</b>	Yes
<b>If yes, please elaborate</b>	Report "Quinet" 2013 regarding socioeconomic evaluation of large public investment projects.
<b>Is the assessment done in practice?</b>	Yes
<b>Details:</b>	In France, a socio-economic analysis is systematically done in practice as soon as the project exceeds 100 million euros threshold of compulsory counterfeit.
<b>12.2. Affordability assessment, including the identification of the required long term public commitments (explicit and implicit, direct and contingent liabilities)</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	Pursuant to Article 148 of the MP Decree, the study includes in particular, the estimated overall cost of the contract on an annual average.
<b>Is there a specific methodology for the assessment?</b>	Yes
<b>If yes, please elaborate</b>	Pursuant to Article 148 of the MP Decree, the indication from this cost is compared to the annual cash flow of the buyer and its effect on financial position, the impact of the contract on changes in mandatory spending of the Buyer, consequences on debt and off-balance sheet and an analysis of costs resulting from early termination of the contract.
<b>Is the assessment done in practice?</b>	Yes
<b>Details:</b>	The affordability assessment, including the identification of the required long term public commitments, has been made compulsory in France and it is always done in practice.
<b>12.3. Risk identification, allocation and assessment (risk matrix)</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	Pursuant to article 152 of the MP Decree: To demonstrate that the PPP balance is more favorable than other possible embodiments of this project, the procuring entity makes an overall assessment of the advantages and disadvantages of using a partnership contract, especially given the risk-sharing arrangements between the buyer and holder.
<b>Is there a specific methodology for the assessment?</b>	Yes
<b>If yes, please elaborate</b>	The PPP Unit's guidelines, which should be renovated to take into account the recent changes in the Law, identify specific risks to be assessed, depending on the contract's sector, in 4 categories: Conception, Operation, Maintenance, Finance.
<b>Is the assessment done in practice?</b>	Yes

<b>Details:</b>	The risk identification, allocation and assessment is always done in practice in France.
<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
<b>Relevant legal/regulatory provision (if any)</b>	Article 74 of the MP Ordinance indicates that the buyer realizes, before the launch of the procurement procedure, an assessment designed to compare the various possible embodiments of the project. This assessment includes an analysis in the full cost and any element that informs the buyer in choosing the embodiment of this project.
<b>Is there a specific methodology for the assessment?</b>	Yes
<b>If yes, please elaborate</b>	The PPP Unit Guidelines (Plan type du rapport d'évaluation préalable) gives methodological indications that include comparative elements of scope and schedule of the selected patterns; Costs and any revenue enhancement ; comparative analysis of the net present value of costs without currency risk ; comparative analysis of the net present value of costs with currency risk.
<b>Is the assessment done in practice?</b>	Yes
<b>Details:</b>	A comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives is always done in practice in France .
<b>12.5. Financial viability or bankability assessment</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>	Yes
<b>Details:</b>	In France, the financial viability or bankability assessment is always done in practice. Generally, it is the role of Fin Infra (example on CDG Express) but only on voluntary referral.
<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>	According to Article 4 of the MP Decree, in order to prepare for the award of a public contract, the buyer may consult or carry out market surveys, solicit opinions or inform economic operators of its project and requirements. The results of these studies and preliminary exchanges may be used by the buyer, provided that they do not distort competition and do not lead to a

	breach of the principles of freedom of access to public order, equal treatment of candidates and transparency of procedures.
<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>	Yes
<b>Details:</b>	A market sounding and assessment is often done in practice in France when identifying and preparing a PPP project in order to show evidence of investors' interest in the market for the project.
<b>12.7. Environmental impact assessment</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	The provisions and the methodology are provided mainly by Articles R.122-1 to R.122-27 of the Environmental Code.
<b>Is there a specific methodology for the assessment?</b>	Yes
<b>If yes, please elaborate</b>	The provisions and the methodology are provided mainly by Articles R.122-1 to R.122-27 of the Environmental Code. Furthermore, the methodology is provided in directive 2011/92 and followed by all European countries.
<b>Is the assessment done in practice?</b>	Yes
<b>Details:</b>	The environmental impact assessment is always done in practice in France when identifying and preparing a PPP project.
<b>12.8. Consultation process with affected communities on potential impact of the PPP project</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	Environmental Authorization and Planning Code provides for a Public Inquiry in order to consult with affected communities on potential impact of the PPP project.
<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>	Yes
<b>Details:</b>	Although the consultation process with affected communities on potential impact of the PPP project is not required by legal/regulatory provisions regulating PPPs, it is nevertheless done in practice in France.
<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</b>	No

<b>Information Memorandum to the bidders)?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>and specify which of the assessments are included in the request for proposals and/or tender documents:</b>	n/a
<b>13.1. Are the assessments published online?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	No regulatory basis
<b>specify the website</b>	<a href="https://www.economie.gouv.fr/ppp/accueil">https://www.economie.gouv.fr/ppp/accueil</a>
<b>please specify which of the assessments are published online:</b>	Only the preliminary assessment of the implementation methods for the partnership contracts are published on the FIN Infra website, 6 months after the signature of the contract. Public inquiries into DUPs and environmental assessments and authorizations are also made public.
<b>14. Does the procuring authority include a draft PPP contract in the request for proposals?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	No regulatory basis
<b>If no, please elaborate</b>	n/a
<b>14.1. Are the tender documents published online?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	According to Article 39 of the MP Decree, the documents of the consultation are provided free of charge to economic operators on a buyer profile as from the publication of the notice of invitation to tender. This Article shall apply to all public procurement contracts where a consultation is initiated or a notice of invitation to tender sent for publication after 1 April 2017, for central purchasing authorities and after 1 October 2018 for other purchasers.
<b>and please specify the website:</b>	<a href="http://www.boamp.fr/recherche/avancee">http://www.boamp.fr/recherche/avancee</a>
<b>15. In a case comparable to the case study assumptions, have standardized PPP model contracts and/or transaction documents been developed?</b>	Yes
<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>	Fin Infra Tresor, Direction Generale: <a href="http://www.economie.gouv.fr/ppp/outils-0">http://www.economie.gouv.fr/ppp/outils-0</a> That website provides standards for financial model and standard provisions.
<b>16.1 In a case comparable to the case study assumptions, who is the responsible party</b>	No

<b>for each of the following requirements? Obtaining the required urban permits: Procuring authority (or other Government entity)</b>	
<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>16.2. Obtaining the required environmental 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>16.3. 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>	Yes
<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>	No

Relevant legal/regulatory provision (if any)	No regulatory basis
16.5. Obtaining the required right of way: Procuring authority (or other Government entity)	Yes
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	No
Relevant legal/regulatory provision (if any)	No regulatory basis
<b>PPP Procurement</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.	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:	According to Art. L1411-5 of the general code of local public authorities: Bid evaluation committees of local authorities are composed of members of the deliberative assembly (the members are elected in the field of political elections).
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	Pursuant to Article 33 of the MP Decree, the call for tender notice shall be published in the Official Journal of European Union and in the official bulletin of public procurement (Bulletin officiel des annonces des marchés publics).

<b>legal/regulatory provisions (if any):</b>	
<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.boamp.fr/">http://www.boamp.fr/</a> and <a href="http://eur-lex.europa.eu/oj/direct-access.html?locale=fr">http://eur-lex.europa.eu/oj/direct-access.html?locale=fr</a>
<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>	Article 72 II of the MP Decree requires a period of thirty days from the date of dispatch of the invitation to tender. However, if the contracting authority has published a prior information notice which is not used as a notice of appeal to the competition, this minimum period may be reduced to ten days, when the prior information notice satisfies the following conditions (...)
<b>and the time in calendar days:</b>	30
<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>	Yes
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	<p>According to Article 42 of the MP Ordinance: The public contract is passed, under the conditions and in the manner laid down by regulation:</p> <p>1. Where the estimated value excluding tax of the requirement is equal to or greater than the European thresholds published in the Official Journal of the French Republic, according to one of the following formalized procedures:</p> <p>(a) The open or restricted tender procedure whereby the purchaser chooses the most economically advantageous tender without negotiation on the basis of objective criteria previously communicated to the candidates;</p> <p>(b) A competitive negotiated procedure, whereby a contracting authority negotiates the terms of the procurement contract with one or more economic operators;</p> <p>(c) The negotiated procedure with a prior call for competition, whereby a contracting entity negotiates the terms of the procurement with one or more economic operators;</p> <p>(d) The competitive dialogue procedure in which the buyer interacts with the candidates admitted to participate in the procedure with a view to defining or developing the solutions likely to meet his needs and on the basis of which</p>



	<p>these candidates are invited to submit an offer ;</p> <p>2. In accordance with an appropriate procedure, the terms of which shall be determined by the purchaser in accordance with the principles referred to in Article 1, where the estimated value excluding tax of the requirement is less than the thresholds referred to in the subject-matter of that contract;</p> <p>3. Based on a negotiated procedure without prior publicity or competition.</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>According to Article 42 of the MP Ordinance: The public contract is passed, under the conditions and in the manner laid down by regulation:</p> <p>1. Where the estimated value excluding tax of the requirement is equal to or greater than the European thresholds published in the Official Journal of the French Republic, according to one of the following formalized procedures:</p> <p>(a) The open or restricted tender procedure whereby the purchaser chooses the most economically advantageous tender without negotiation on the basis of objective criteria previously communicated to the candidates;</p> <p>...</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>According to Article 42 of the MP Ordinance: The public contract is passed, under the conditions and in the manner laid down by regulation:</p> <p>1. Where the estimated value excluding tax of the requirement is equal to or greater than the European thresholds published in the Official Journal of the French Republic, according to one of the following formalized procedures:</p> <p>...</p> <p>(d) The competitive dialogue procedure in which the buyer interacts with the candidates admitted to participate in the procedure with a view to defining or developing the solutions likely to meet his needs and on the basis of which these candidates are invited to submit an offer ;</p> <p>...</p>
<b>22.4. Competitive dialogue: Available</b>	Yes
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	<p>According to Article 42 of the MP Ordinance: The public contract is passed, under the conditions and in the manner laid down by regulation:</p> <p>1. Where the estimated value excluding tax of the requirement is equal to or greater than the European thresholds published in the Official Journal of the French Republic, according to one of the following formalized procedures:</p> <p>...</p> <p>(d) The competitive dialogue procedure in which the buyer interacts with the candidates admitted to participate in the procedure with a view to defining or developing the solutions likely to meet his needs and on the basis of which these candidates are invited to submit an offer ;</p> <p>...</p>

<b>22.5. Direct negotiation with more than one candidate: Available</b>	No
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>22.6. Direct negotiation with only one candidate: Available</b>	No
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>22.7 Other. Specify:</b>	No
<b>Available</b>	No
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<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>	Resulting from the practice and compliance with the EU transparency and equality of treatment principles. According to Article 37.4 and 37.5 of the EU Concession Directive: 4. The contracting authority or contracting entity shall communicate the description of the envisaged organization of the procedure and an indicative completion deadline to all participants. Any modification shall be communicated to all participants and, to the extent of all concerned elements, disclosed in the concession notice, advertised to all economic operators.; and 5. The contracting authority or contracting entity shall provide appropriate recording of the stages of the procedure using the means it assumes appropriate, subject to compliance with Article 28(1).
<b>If no, please elaborate:</b>	n/a
<b>22.9. Do the tender documents specify the prequalification/shortlisting 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>	According to Article 56 of the MP Decree, the invitation to tender should include at least: 5. The ranking of criteria for awarding the public contract if such information is not included in the tender documents;
<b>22.10. Based on your experience, is it always the case that the specified criteria are respected in practice?</b>	Yes
<b>If yes, please specify and provide the relevant</b>	The prequalification criteria specified in the tender documents are always respected in practice, following the provision in Article 62 of the Decree, the

<b>legal/regulatory provisions (if any):</b>	contract is awarded to the tenderer who has submitted the most economically advantageous tender on the basis of the single criterion or the plurality of criteria that the contracting authority has put in place.
<b>If no, please elaborate:</b>	n/a
<b>23. Can interested parties/potential bidders submit questions to clarify the public procurement notice and/or the request for proposals?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 39 III. of the MP Decree, the additional information on the tender documents are sent to parties six days after the deadline for receipt of tenders, provided that they have made the request in time. When the deadline for receipt of tenders is reduced due to emergency, this period is four days. Article 43 II and III (1) further indicates that tenders can be lodged only after a visit to places of execution of the public contract or after on-site additional documents, deadlines for receipt of tenders are adapted to allow all economic operators to learn all the necessary information for preparing their tenders. The deadline for receipt of offers is extended in the following case: When more information, necessary for the development of the offer, requested in good time by the economic operator is not provided on time in III of Article 39.
<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>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Transparency and equality of treatment principles. It is a general principle of law in France to ensure fairness of the procurement procedures. Confidentiality rules can be exempted from publication.
<b>23.2. Based on your experience, is it always the case that this disclosure of information is done in practice?</b>	Yes
<b>If yes, please specify:</b>	Notwithstanding confidential information pertaining to the bidders, the procuring authority always discloses the questions submitted by the interested bidders to clarify the public procurement notice to all potential bidders in practice.
<b>If no, please elaborate:</b>	n/a
<b>24. Besides questions and clarifications, can the procuring authority conduct pre-bidding conference?</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	No regulatory basis

<b>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?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>No regulatory basis</p>
<b>24.2. Based on your experience, is it always the case that this disclosure of information is done in practice?</b>	<p>Yes</p>
<b>If yes, please specify:</b>	<p>When the contracting authority organizes a conference related to the project prior to the call for tenders, and if the elements of this conference are important for the candidates to analyze the consultation file, the contracting authority communicates the relevant information to the candidates in practice, in order to respect the principle of equal treatment.</p>
<b>If no, please elaborate:</b>	<p>n/a</p>
<b>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?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>No regulatory basis</p>
<b>If no, please elaborate:</b>	<p>n/a</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>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Article 37.1 of the European Concession Directive provides: Concessions shall be awarded on the basis of the award criteria set out by the contracting authority or contracting entity in accordance with Article 41, when all of the following conditions are fulfilled:</p> <ul style="list-style-type: none"> <li>(a) the tender complies with the minimum requirements set, where applicable, by the contracting authority or contracting entity;</li> <li>(b) the tenderer complies with the conditions for participation as referred to in Article 38(1); and</li> <li>(c) the tenderer is not excluded from participating in the award procedure in accordance with Article 38(4) to (7), and subject to Article 38(9).</li> </ul> <p>The minimum requirements referred to in point (a) shall contain conditions and characteristics (particularly technical, physical, functional and legal) that</p>

	<p>any tender should meet or possess.</p> <p>Additionally, According to Article 40 : The contracting authority or contracting entity shall, as soon as possible, inform each candidate and tenderer of decisions taken concerning the award of a concession, including the name of the successful tenderer, the grounds for any decision to reject his application or tender and the grounds for any decision not to award a contract for which there has been publication of a concession notice or to recommence the procedure.</p> <p>Moreover, on request of the party concerned, the contracting authority or contracting entity shall, as quickly as possible, and in any case within 15 days from receipt of a written request, inform any tenderers that have made an admissible tender of the characteristics and relative advantages of the tender selected.</p> <p>Finally, General principle of Law, Courts ensure its applicability. For example, Conseil d'Etat n 287198 dated 20 October 2006 - Communauté d'agglomération Salon-Étang de Berre-Durance and CE, 18 June 2010, No. 337377, Commune de Saint Pal de Mons. Section II of Article 53 of the Public Procurement Code requires the contracting authority to inform applicants for contracts awarded under a formalized procedure other than the competition of the selection criteria of offers and their weight or their prioritization. Where the contracting authority decides to implement these criteria, to make use of weighted or prioritized sub-criteria, it is required to bring to the attention of candidates weighting or prioritization of these sub-criteria when considering to their nature and importance of this weighting or ranking, they are likely to influence tenders submitted by the candidates and their selection, and must therefore themselves be regarded as selection criteria.</p>
<b>Evaluation criteria is not set in the tender documents</b>	No
<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 proposal is submitted.</b>	No
<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>	According to Article 47 of the MP Decree, in the case of contracting authorities, in a restricted invitation to tender, the minimum number shall be five; in competitive procedure with negotiation and in competitive dialogue, there are three. Where the number of candidates meeting the selection criteria is less than the minimum number, the contracting authority may continue the procedure with the candidates with required qualifications.
<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>	Article 104 of the MP Decree requires the procuring authority to publish the award notice on Official bulletin of public procurement (Bulletin officiel des annonces des marchés publics) and Official Journal of European Union.
<b>28.1. If yes, is the public procurement award notice published online?</b>	Yes
<b>If yes, please specify the website:</b>	<a href="http://www.boamp.fr/">http://www.boamp.fr/</a> <a href="http://eur-lex.europa.eu/oj/direct-access.html?locale=fr;">http://eur-lex.europa.eu/oj/direct-access.html?locale=fr;</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>	Article 99 of the MP Decree indicates that, as soon as the procuring authority decides to reject a bid or offer, it notifies each candidate or tenderer concerned with the rejection of its candidacy or tender, indicating the reasons for the rejection.
<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>	Article 99 of the MP Decree indicates that, as soon as the procuring authority decides to reject a bid or offer, it notifies each candidate or tenderer concerned with the rejection of its candidacy or tender, indicating the reasons for the rejection.
<b>30. Is there a standstill (or pause) period after the contract award and before</b>	Yes

<b>the signing of the contract in order to allow unsuccessful bidders to challenge the award decision?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>According to Article 101 of the MP Decree, “for public contracts awarded under a formalized procedure, a minimum period of eleven days shall be observed between the date of dispatch of the notification provided for in the second subparagraph of II of Article 99 and the date of signature of the public contract by the contracting authority and buyer. This minimum period shall be extended to 16 days when this notification has not been transmitted electronically.</p> <p>II. -Compliance with the time limit mentioned in I is not required:</p> <p>1) Where the public contract is awarded to the sole operator who participated in the consultation;</p> <p>2) For the award of subsequent contracts, based on a framework agreement, or specific contracts based on a dynamic purchasing system.</p>
<b>and the time in calendar days:</b>	16
<b>30.1. Is the standstill period set out in the notice of intention to award?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 46 of the European Concession Directive referring to the Directive 89/665/EEC that regulates review procedures for public contracts, the award notice will include reference to the standstill period (Article 2.a of the mentioned Directive 89/665/EEC).
<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 64 of the MP Decree states that it is possible, in agreement with the successful bidder to conduct a development component of the public contract before signing. However, this development can not modify substantial features of the offer or the public contract, distort competition or have a discriminatory effect.
<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>	In practice, the negotiations with the selected bidder between the award and the signature of the PPP contract are restricted to modifications which do not alter substantial features of the offer or the public contract, distort competition or have a discriminatory effect.
<b>If no, please elaborate:</b>	n/a
<b>32. Does the procuring authority publish the PPP contract?</b>	Yes

<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	<p>According to Article 56 of the MP Ordinance, essential data have to be published. Article 107 of the MP Decree further indicates that the procuring authority provides, on its buyer profile, unrestricted, direct and full access to the essential data of the concession agreement, including the following data [...]. These provisions are binding starting October 1, 2018. However, they are already applied by some procuring entities.</p>
<p><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></p>	<p>No</p>
<p><b>Publication of the full PPP contract without including all its annexes and appendixes</b></p>	<p>No</p>
<p><b>Publication of a summary of the PPP contract without publishing the full PPP contract</b></p>	<p>Yes</p>
<p><b>Publication of a summary of the PPP contract along with the full PPP contract including all its annexes and appendixes</b></p>	<p>No</p>
<p><b>Publication of a summary of the PPP contract along with the full PPP contract without including all its annexes and appendixes</b></p>	<p>No</p>
<p><b>32.2. If yes, is it published online?</b></p>	<p>Yes</p>
<p><b>If yes, please specify the website:</b></p>	<p>According to Article 107 of the MP Decree, the essential information of the contract shall be published on the buyer profile of the contracting authority.</p>
<p><b>32.3. If yes, does the procuring authority also publish any subsequent amendment made to the PPP contract?</b></p>	<p>Yes</p>
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	<p>According to Article 107 of the MP Decree, 2. No later than two months from the date of notification of each amendment to the public contract, the following data shall be published on the buyer profile of the contracting authority: (a) The purpose of the amendment; (b) The impact of the amendment on the duration or amount of the procurement; (c) The date of notification by the buyer of the change in the procurement.</p>
<p><b>PPP Contract Management</b></p>	
<p><b>41. Has the procuring or contract management authority established a</b></p>	<p>Yes</p>



system to manage the implementation of the PPP contract (e.g. attributing responsibilities or establishing specific management tools)?	
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 88 II of the MP Ordinance, the buyer has control over execution of the contract. This control occurs at least during and at the end of each execution phases.
41.1. If yes, which of the following tools does it include (check all that apply)?: Establishment of a PPP contract management team	No
Relevant legal/regulatory provisions (if any):	n/a
Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa	No
Relevant legal/regulatory provisions (if any):	n/a
Elaboration of a PPP implementation manual or an equivalent document	No
Relevant legal/regulatory provisions (if any):	n/a
Establishment of personnel training programs (i.e. initial training and continued training throughout the course of the project)	No
Relevant legal/regulatory provisions (if any):	n/a
Establishment of a risk mitigation mechanism which considers the evolving nature of risks throughout the project lifecycle (guidelines, specific processes, insurance regime, etc.)	No
Relevant legal/regulatory provisions (if any):	n/a
41.2. Which of the following options best describes the required qualifications of the PPP contract management team members? (Please select only one): The membership of the PPP contract management team is	n/a

specified and/or its members are required to meet detailed qualifications.	
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The PPP contract management team members are required to meet sufficient qualification without specific details.	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
<b>42. Does the procuring or contract management authority establish a system for tracking progress and completion of construction works under a PPP contract?</b>	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 88 II of the MP Ordinance, the buyer has control over execution of the contract. This control occurs at least during and at the end of each execution phases. Article 166 of MP Decree provides that the buyer controls the execution, especially during the building period.
<b>42.1. If yes, is the PPP contract construction performance information made available to the public?</b>	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
<b>42.2. If yes, is the PPP contract construction performance information made publicly available online?</b>	n/a
If yes, please specify the website:	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>	Article 88 of the MP Ordinance: I. - To enable the monitoring of the implementation of the partnership contract, an annual report is prepared by the owner. It is sent each year to the purchaser within forty-five days after the anniversary of the signing of the contract. II. - The buyer has control over the execution of the contract. This check occurs at least during and at the end of each mission execution phases under the contract and results in a report.
<b>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</b>	No
<b>Relevant legal/regulatory provisions (if any)</b>	n/a
<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>	Yes
<b>Relevant legal/regulatory provisions (if any)</b>	According to Article 165 I of the MP Decree, the report mentioned is established by the holder and must allow comparison between years it retraces and earlier. It includes, in particular: 1. The following economic and accounting data: (...)2. Monitoring of corresponding indicators: (...)
<b>The procuring or contract management authority must periodically gather information on the performance of the PPP contract</b>	Yes
<b>Relevant legal/regulatory provisions (if any)</b>	Pursuant to Article 88 II. Of the MP Ordinance, the buyer has control over the execution of the contract. This check occurs during each mission execution phases (or at least at the end of them), and results in a report.
<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

If yes, please specify the website:	n/a
<b>44. Are foreign companies prohibited from repatriating the income resulting from the operation of a PPP project?</b>	No
If yes, please provide the relevant legal/regulatory provisions (if any):	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>	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to Article 139 4. of the MP Decree, change of economic operator is possible in the following cases: a) Pursuant to a review clause or an option set to 1; b) In the case of an assignment of the procurement, after an original owner of the restructuring transaction, provided that such assignment does not entail other substantial modifications and is not performed in order to avoid the procurement obligations of advertising and competitive bidding. The new owner must meet the conditions that were set by the buyer for participation in the initial public procurement procedure;
<b>45.1. If yes, which of the following circumstances are specifically regulated? (check all that apply): Any change in the private partner during an initial period (e.g. construction and first five years of operation).</b>	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
<b>Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.</b>	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to Article 139 4. b. of the MP Decree, the new owner must meet the conditions that were set by the buyer for participation in the initial public procurement procedure;

In other cases, flexibility to change the ownership structure and/or assign the contract.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	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):	Pursuant to Article 139 of the MP Decree, modifications are possible in the following cases:- Changes initially planned; - More services have become necessary; -Changes that a diligent buyer could not anticipate; -Replacement of initial owner of the contract; -Non substantial modifications; - Modification < 10% of the contract price.
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):	Pursuant to Article 139 of the MP Decree, an important modification of object is forbidden (5. c.).
A change in the risk allocation of the contract.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to Article 139 5. b. of the MP Decree, a modification is substantial and, as a consequence, forbidden, if it changes economic balance of the concession in favor of the private party.
A change in the financial and/or economic balance of the contract.	No

<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>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	According to Article 140 of the MP Decree: Where the public contract is concluded by a contracting authority, the amount of the amendments provided in Article 139 (2) and (3) may not exceed 50% of the amount of the initial public contract. When several successive modifications are made, this limit applies to the amount of each modification.
<b>46.3. Can the procuring authority unilaterally modify a PPP contract?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	According to the general principle of the public contract law in France, since concession contracts are administrative contracts, the contracting authority may amend these contracts unilaterally. The counterpart of the contracting authority must compensate the contractor for the damage suffered as a result of these unilateral changes. In fact, this principle is repeated in a myriad of decisions such as the administrative decision: CE of February 2, 1983, Union des transports publics urbains et régionaux, req. No. 34027 providing that: unilateral power of amendment is one of the "General rules applicable to administrative contracts".
<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>	No specific provisions under the relevant legal framework, but there are several decisions in administrative case law (CE 29 January 1909, Compagnie des messageries maritimes, case No. 17614; CE 9 December 1932, Compagnie des tramways de Cherbourg, case No. 89655 : In case of a final upheaval of the contract's economy that is not a consequence of the contractors' will, it is a case of force majeure and in default of agreement, termination of the contract may be applied to the parties by the judge).
<b>Material Adverse government action.</b>	Yes
<b>If yes, please provide the relevant</b>	No specific provisions under the relevant legal framework, but there are several decisions in administrative case law: "fait du prince" theory: CE, 20 mai

<b>legal/regulatory/standard contractual provisions (if any):</b>	1904, Compagnie marseillaise de navigation. If the court recognizes the fact of the prince, it will grant the other party compensation fully repairing the damages suffered, provided however that the victim suffered harm specifically affecting the result or at least of interference with an essential element of administrative contract in question (i.e. the theory does not allow for compensation for loss resulting from normal hazards of the contract).
<b>Change in the Law.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	No specific provisions under the relevant legal framework, but there are several decisions in administrative case law: "fait du prince" theory: CE, 20 mai 1904, Compagnie marseillaise de navigation. If the court recognizes the fact of the prince, it will grant the other party compensation fully repairing the damages suffered, provided however that the victim suffered harm specifically affecting the result or at least of interference with an essential element of administrative contract in question (i.e. the theory does not allow for compensation for loss resulting from normal hazards of the contract).
<b>Refinancing.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Article 46 of the Standard Clauses regulates refinancing requiring the private partner to inform and provide all necessary information to the procuring authority. The procuring authority will also have the right to oppose the refinancing to protect the public interest and the contract may establish a sharing of the benefits derived of the refinancing.
<b>Subcontracting and replacement of the subcontractors.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	<p>According to Article 62 of the MP Decree, I. The holder of a public contract may, under his responsibility, subcontract the execution of this public contract under the conditions laid down by the law of 31 December 1975 referred above. In the case of public works or service contracts and public supply contracts involving services or installation or installation work in connection with a public supply contract, purchasers may require that certain essential tasks be carried out directly by the holder.</p> <p>II. - Where the amount of subcontracted services appears to be abnormally low, the buyer shall require the trader to provide him with details and justifications concerning the amount of these services.</p> <p>If, after verification of the justifications provided by the economic operator, the buyer establishes that the amount of subcontracted services is abnormally low, he or she rejects the offer when subcontracting takes place at the time of submission of the tender or does not accept the proposed subcontractor when the subcontract application is submitted after the tender has been submitted, under conditions laid down by regulation.</p>
<b>48. Does the regulatory framework (including standard contractual clauses) allow for administrative and/or contractual complaint review mechanisms to address disputes arising from the implementation of PPP contracts?</b>	Yes

<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Administrative judges are always an option for parties of a public contract. Most of the time, private holders will have to turn to the procuring authority first, then the public administration. Furthermore, according to Article 90 of the MP Ordinance, procuring authorities can use arbitration but the State needs to be authorized to use arbitration.
<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>	No
<b>Domestic arbitration</b>	Yes
<b>International arbitration</b>	No
<b>Investor-State Dispute Settlement (ISDS)</b>	No
<b>Mediation</b>	Yes
<b>Please provide the relevant legal/ regulatory/standard contractual provisions (if any)</b>	<p>According to Article 142 of Decree N2016-360: In the event of a dispute concerning the execution of public contracts, purchasers and holders may use the business mediator or consultative committees for amicable settlement of disputes or litigation relating to public procurement under conditions laid down by decree.</p> <p>According to Article 90 of Ordinance No.2015-899, Buyers may resort to arbitration as regulated by Book IV of the Code of Civil Procedure for the settlement of disputes relating to the performance of partnership contracts, with application of French law.</p> <p>For the State, recourse to arbitration is authorized by decree taken from the report of the competent Minister and the Minister of the Economy.</p>
<b>48.2. If applicable, are arbitration awards enforceable by the local courts?: Domestic Arbitration</b>	Yes
<b>If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):</b>	<p>According to Article 1479 of the French Code of Civil Procedure (Decree No.81-500 of 12 May 1981, Official Journal of 14 May 1981, amendment JORF of 21 May 1981)</p> <p>Rules governing interim enforcement of judgments apply to arbitral awards. On appeal or review action to vacate, the first president (of the court of appeal) or the judge having the management of the matter as soon as the matter is referred to him or her, may grant the exequatur to the arbitral award supported with a certificate of interim enforcement. He or she may also order the interim enforcement in the manner prescribed under Articles 525 and 526; his or her decision amounts to exequatur.</p>
<b>International arbitration</b>	No
<b>If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):</b>	n/a



<b>Investor-State arbitration</b>	No
<b>If yes, please provide the relevant legal/ regulatory provisions/standard 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/standard contractual provisions (if any):</b>	n/a
<b>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?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	No regulatory basis
<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>	No
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>The regulatory framework prescribes that a direct agreement should be signed with the lenders.</b>	No

<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>Other.</b>	Yes
<b>Please Specify:</b>	Contract and financial practice
<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>	According to the Standard clauses, the Agreement terminates :- at the expiration of the normal term provided for in Article 4.2;- in case of judicial cancellation or termination as a result of a jurisdictional decision;- in case of termination for misconduct Partner , as provided in Article 60;- in case of termination on grounds of general interest, as provided in Article 61;- in case of termination for prolonged Force Majeure, as provided in Article 62;- in case of termination by agreement , as provided in Article 63. Those standard clauses are to be modified as a consequence of the new regulatory framework. However, since the grounds for termination are based on the jurisprudence, they should not substantially evolve.
<b>51.1. If yes, does the regulatory framework (including standard contractual clauses) establish the consequences for the termination of the PPP contract?</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Article 89 MP Ordinance: In case of termination by a judge, the Partnership Contractor is entitled to compensation for expenses incurred pursuant to the contract, which may include financial expenses related to the financing put in place as part of the overall mission entrusted to the holder, provided that they have been useful to the buyer. This recognition of financial expenses is subject to the mention in the annexes of the partnership contract, clauses linking the holder to banks.
<b>Unsolicited Proposals</b>	
<b>34. Are unsolicited proposals in France: (choose only one): Explicitly prohibited by the</b>	No

<b>legal framework? (if prohibited, skip to section F)</b>	
<b>Explicitly allowed by the legal framework?</b>	No
<b>Not regulated by the legal framework, but do happen in practice?</b>	No
<b>Not regulated by the legal framework, and do not happen in practice? (if not done in practice, skip to section F)</b>	Yes
<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>	n/a
<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</b>	n/a

to be among the existing government priorities without establishing specific procedures to achieve that goal.	
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
<b>37. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?</b>	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
<b>38. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?</b>	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and the time in calendar days:	n/a
<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>	n/a
<b>39.2 Developer's fee (reimbursing the original proponent for the project development cost).</b>	n/a
<b>39.3 Bid Bonus.</b>	n/a
<b>39.4 Swiss challenge (If unsuccessful, the original proponent has the option to</b>	n/a

<b>match the winning bid and win the contract).</b>	
<b>39.5 Other.</b>	n/a
<b>Please specify:</b>	n/a
<b>Please provide the relevant legal/regulatory provisions (if any):</b>	n/a

**PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN FRANCE  
(CONCESSIONS)**

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>	<p>In France, 2 categories of contracts are considered as PPP according to the World Bank definition: Concessions et Marchés de partenariat. Each of them has its own rules, deeply modified in 2015 and 2016, as a consequence of European union Directive (2014/23, 2014/24 and 2014/25 relating to Concessions and Marches publics). Concessions are regulated by the Ordinance No. 2016-65 dated 29 January 2016 (“Concessions Ordinance”) and its regulations: Decree 2016-86 date 1st February 2016 (“Concessions Decree”).</p> <p>According to Article 5 of the ordinance “Concessions”, a concession is a contract for pecuniary interest concluded in writing by means of which one or more procuring authorities (autorités concédantes) entrust the execution of works or the management of a service to one or more economic operators, to whom is transferred an operating risk in exploiting those works or services, the consideration for which consists either solely in the right to exploit the works or the service that are the subject of the contract or in that right together with payment. The portion of the risk transferred to the economic operator shall involve real exposure to market fluctuations. If not, the agreement could be cancelled by courts (example: CE, 24 mai 2017, société Régal des Iles, No. 407213, T.Rec)</p> <p>The following analysis will be focused on those concessions, while Marchés de partenariat are studied separately.</p>
<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="https://www.legifrance.gouv.fr">https://www.legifrance.gouv.fr</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>	Yes
<b>Please describe:</b>	<p>Ordinance No. 2016-65 of January 29, 2016 on concession contracts            Decree No. 2016-86 of February 1, 2016 on concession contracts            Decree No. 2017-516 of April 10, 2017 laying down various provisions on public procurement</p>

<b>2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?</b>	No
<b>Please describe:</b>	n/a
<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>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<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>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<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>	Yes
<b>If yes, specify and provide the relevant legal/regulatory provisions:</b>	As a general principle under French public law, police activities cannot be delegated (CE Ass. 17 June 1932, Ville de Castelnaudary, case No. 2045, rec. p. 595). In addition, the tasks that are performed by local authorities in the name

	and for the account of the State cannot be delegated to third parties (civil status, organization of elections, issuance of building permits and other urban planning authorizations, etc.).
<b>4. Does the regulatory framework provide for a specific tax regime for PPP transactions (i.e. tax incentives, special tax depreciation treatment, etc.)?</b>	No
<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 France and provide their website(s) (if available):</b>	Articles 8, 9 and 10 of the Ordinance "Concessions" give a broad definition of procuring authorities which encompasses the State, local authorities, other public bodies and entities, certain public-owned companies as well as private companies which are under the control/influence of public entities. Procuring entities can be groups of procuring and private entities (Article 26 Concessions Ordinance)
<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>	No
<b>6.2 PPP capacity building for other public authorities.</b>	No
<b>6.3 PPP promotion among the public and/or private sectors in national and international forums.</b>	No
<b>6.4 Technical support in implementing PPP projects.</b>	No
<b>6.5 Identification and selection of PPP projects from the pipeline.</b>	No
<b>6.6 Revision of fiscal risks born by the Government.</b>	No
<b>6.7 Consultation with affected communities on potential impact of PPP projects.</b>	No
<b>6.8 Approval of PPP projects.</b>	No



<b>6.9 Undertaking the procurement of PPPs.</b>	No
<b>6.10 Oversight of PPP implementation.</b>	No
<b>6.11 Other</b>	No
<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>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>8.1. Does the Ministry of Finance or Central Budgetary Authority 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>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>	0
<b>Accounting liabilities (explicit and implicit, direct and contingent) arising from PPPs.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	All European countries follow the European System of Accounts (ESA 2010)
<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</b>	No

<b>International Public Sector Accounting Standards (IPSAS).</b>	
<b>Accounting and reporting according to other international standard (e.g. European System of Accounts).</b>	No
<b>Please specify:</b>	n/a
<b>Other.</b>	No
<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>	No regulatory basis
<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</b>	No

<p><b>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.</b></p>	
<p><b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b></p>	n/a
<p><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></p>	No
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	n/a
<p><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></p>	No
<p><b>If yes, please elaborate:</b></p>	n/a
<p><b>The procuring authority does not evaluate PPPs against existing government priorities.</b></p>	Yes
<p><b>Please elaborate and provide examples:</b></p>	According to our contributors, the concession contracts are not evaluated against existing government priorities.
<p><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></p>	No
<p><b>If yes, please specify:</b></p>	n/a

<b>If no, please elaborate:</b>	In France, concession contracts are not required to be evaluated against existing government priorities, and such prioritization does not happen 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>	Pursuant to Article 27 of the Concessions Ordinance, the nature and extent of needs to be met are determined before the launch of the consultation taking into account the objectives of sustainable development into their economic, social and environmental. Article 2 of Decree 2013-1211 dated 23 December 2013 states that all projects of investment in the sense of the 1st Article of the present decree is the object of a preliminary socioeconomic evaluation which has for objective to determine the costs and profits expected from the project of envisaged investment.
<b>Is there a specific methodology for the assessment?</b>	Yes
<b>If yes, please elaborate</b>	Report Quinet 2013 regarding socioeconomic evaluation of large public investment projects <a href="http://www.strategie.gouv.fr/publications/levaluation-socioeconomique-investissements-publics-tome1">http://www.strategie.gouv.fr/publications/levaluation-socioeconomique-investissements-publics-tome1</a>
<b>Is the assessment done in practice?</b>	Yes
<b>Details:</b>	The socio-economic analysis is conducted in practice when identifying and preparing a Concession Contrat in France.
<b>12.2. Affordability assessment, including the identification of the required long term public commitments (explicit and implicit, direct and contingent liabilities)</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>12.3. Risk identification, allocation and assessment (risk matrix)</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	The analysis of risks is implicitly imposed by the fact that the distribution of risks is included in the definition of the concession. The absence of operational risk would lead to requalification in the public market (eg CJUE, 10 Nov. 2011, C-348/10). This risk analysis must be carried out by the contracting authorities in the light of the case-law which analyzes the financial risk not only from a theoretical point of view, in terms of the terms of the contract, but also from a practical point of view in regard to the conditions of attendance service and the captive character of the clientele (CJUE, 10 March 2011, C-348/10, TA Lyon, 24 March 2011, Ain Departmental Transport Authority, 085377).
<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>	Yes
<b>Details:</b>	According to our contributors, the risk identification, allocation and assessment is done in practice when identifying and preparing a PPP.
<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
<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>	Yes
<b>Details:</b>	In practice, the procuring authority conducts a comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives.
<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>	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>12.7. Environmental impact assessment</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	The provisions and the methodology are provided mainly by Articles R.122-1 to R.122-27 of the environmental code.
<b>Is there a specific methodology for the assessment?</b>	Yes
<b>If yes, please elaborate</b>	The methodology is provided in directive 2011/92 and followed by all European countries.
<b>Is the assessment done in practice?</b>	Yes
<b>Details:</b>	The environmental impact assessment is done in practice when identifying and preparing a Concession contract in France.
<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
<b>and specify which of the assessments are included in the request for proposals and/or tender documents:</b>	n/a
<b>13.1. Are the assessments published online?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>specify the website</b>	n/a
<b>please specify which of the assessments are published online:</b>	n/a
<b>14. Does the procuring authority include a draft PPP contract in the request for proposals?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 4 of the Decree “Concessions” sets out that the tender documentation must include the terms and conditions (cahier des charges) of the concession.
<b>If no, please elaborate</b>	n/a
<b>14.1. Are the tender documents published online?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Pursuant to Article 5 of the Concession Decree, the licensing authority shall offer free, direct, full and free access to the consultation documents on a buyer profile by electronic means, from the date of publication a notice of concession or the date of dispatch of the invitation to tender. The text of the concession notice or the invitation specifies the Internet address at which it can be consultation.  The buyer profile is the dematerialization platform enabling the granting authorities to make the documents of the consultation available to economic operators electronically and to receive electronically the documents sent by candidates and tenderers. An order of the Minister of Economy determines the functionality and minimum requirements for buyer profiles. “
<b>and please specify the website:</b>	<a href="http://www.boamp.fr/">http://www.boamp.fr/</a> and <a href="http://eur-lex.europa.eu/oj/direct-access.html?locale=fr">http://eur-lex.europa.eu/oj/direct-access.html?locale=fr</a>
<b>15. In a case comparable to the case study assumptions, have standardized PPP model contracts and/or transaction documents been developed?</b>	Yes
<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>	Procuring authorities generally have their own standard contracts documentation (see, for example, in the electricity distribution sector: <a href="http://www.erdf.fr/concessions">http://www.erdf.fr/concessions</a> ). In addition, standard term and conditions have been issued for certain concession contracts (see, for example, decree No. 2016-530 of 27 April 2016 in relation to hydroelectric concessions and approving the standard terms and conditions applicable to those concessions).

	As regards, tendering process, certain documents of the tender documentation other than the terms and conditions of the concession are also standardized (see EU regulation 2015/1986) of 11 November 2015 establishing standard forms for the publication of notices in the field of public procurement and repealing Implementing Regulation (EU) No 842/2011; see also order of 21 March 2016 establishing the standard tender notice for the award of concession contracts).
<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>	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>16.2. Obtaining the required environmental 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>16.3. 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 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>16.5. 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 members require sufficient qualification without specific details.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The bid evaluation committee members are not required to have any specific qualifications.</b>	Yes

<b>Please elaborate and provide examples:</b>	According to Art. L1411-5 of the general code of local public authorities, the bid evaluation committees of local authorities are composed of members of the deliberative assembly (the members are elected in the field of political elections).
<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 Ordinance "Concessions" sets out that the procuring authorities must issue a publicity depending on the subject matter of the concession contract or its estimated value. Article 15 of the Decree "Concessions" specifies that the procuring authority shall issue a concession notice (avis de concession) which is published, as the case may be, in the Official Journal of the European Union, in the Official Bulletin of Public Procurement Contracts Announcements or in a legal gazette, and in a specialized publication in relevant economic sector.
<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.boamp.fr/">http://www.boamp.fr/</a> and <a href="http://eur-lex.europa.eu/oj/direct-access.html?locale=fr">http://eur-lex.europa.eu/oj/direct-access.html?locale=fr</a>
<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>	Article 18 of the Decree "Concessions" sets out that for major concession contracts (i.e. those whose estimated value exceeds EUR 5,225,000 excl. taxes), the following periods of time must be complied with: 1. The time period for the submission of applications (and, where appropriate, bids) cannot be less than thirty days starting from the date on which the concession notice has been sent to publication; 2. The time period for the submission of bids cannot be less than twenty -two days starting from the date on which the invitation to tender has been sent. These time periods may be reduced by five days in the case where the procuring authority accepts the electronic submission of applications or bids.
<b>and the time in calendar days:</b>	30
<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</b>	Yes

<b>projects? Open tendering: Available</b>	
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	According to Article 36 of the Concession Ordinance, the procuring authority shall freely organize the procedure leading to the choice of the concessionaire, in accordance with the principles set out in Article 1 of this Ordinance, the provisions of this Chapter and the rules of procedure laid down by regulation. These rules, relating in particular to the procedures for the presentation and examination of applications and tenders, may be common to all concession contracts or specific to certain of them, depending on the subject of the contract or the estimated value excluding tax of the requirement, according to whether it is lower or not, to the European threshold published in the Official Journal of the French Republic. They specify the hypotheses under which a concession contract may be awarded without prior publicity or call for competition, because of the failure of a first procedure or when the contract can only be entrusted to a specific economic operator.
<b>22.2. Restricted tendering (with pre-qualification stage): Available</b>	Yes
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	According to Article 36 of the Concession Ordinance, the procuring authority shall freely organize the procedure leading to the choice of the concessionaire, in accordance with the principles set out in Article 1 of this Ordinance, the provisions of this Chapter and the rules of procedure laid down by regulation. These rules, relating in particular to the procedures for the presentation and examination of applications and tenders, may be common to all concession contracts or specific to certain of them, depending on the subject of the contract or the estimated value excluding tax of the requirement, according to whether it is lower or not to the European threshold published in the Official Journal of the French Republic. They specify the hypotheses under which a concession contract may be awarded without prior publicity or call for competition, because of the failure of a first procedure or when the contract can only be entrusted to a specific economic operator.
<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>	According to Article 36 of the Concession Ordinance, the procuring authority shall freely organize the procedure leading to the choice of the concessionaire, in accordance with the principles set out in Article 1 of this Ordinance, the provisions of this Chapter and the rules of procedure laid down by regulation. These rules, relating in particular to the procedures for the presentation and examination of applications and tenders, may be common to all concession contracts or specific to certain of them, depending on the subject of the contract or the estimated value excluding tax of the requirement, according to whether it is lower or not to the European threshold published in the Official Journal of the French Republic. They specify the hypotheses under which a concession contract may be awarded without prior publicity or call for

	competition, because of the failure of a first procedure or when the contract can only be entrusted to a specific economic operator.
<b>22.4. Competitive dialogue: Available</b>	Yes
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	According to Article 36 of the Concession Ordinance, the procuring authority shall freely organize the procedure leading to the choice of the concessionaire, in accordance with the principles set out in Article 1 of this Ordinance, the provisions of this Chapter and the rules of procedure laid down by regulation. These rules, relating in particular to the procedures for the presentation and examination of applications and tenders, may be common to all concession contracts or specific to certain of them, depending on the subject of the contract or the estimated value excluding tax of the requirement, according to whether it is lower or not to the European threshold published in the Official Journal of the French Republic. They specify the hypotheses under which a concession contract may be awarded without prior publicity or call for competition, because of the failure of a first procedure or when the contract can only be entrusted to a specific economic operator.
<b>22.5. Direct negotiation with more than one candidate: Available</b>	No
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>22.6. Direct negotiation with only one candidate: Available</b>	No
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>22.7 Other. Specify:</b>	No
<b>Available</b>	n/a
<b>Default</b>	n/a
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<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>	Article 4 of the Decree "Concessions" sets out that the terms and conditions for the award of the concession contract shall be included in the tender documentation. Article 14 of said Decree adds that the concession notice shall include a description of the concession and the requirements to participate in the tendering procedure .
<b>If no, please elaborate:</b>	n/a
<b>22.9. Do the tender documents specify the</b>	Yes

<b>prequalification/shortlisting criteria (when applicable) in order to make them available to all the bidders?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 22 of the Decree “Concessions” provides that the procuring authority selects the candidates in light of non-discriminatory selection criteria linked to the subject matter of the concession contract and relating to their capabilities. These criteria shall be indicated in the tender documents.
<b>22.10. Based on your experience, is it always the case that the specified criteria are respected in practice?</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	The prequalification criteria specified in the tender documents are respected in practice in order to make such criteria available to all the bidders
<b>If no, please elaborate:</b>	n/a
<b>23. Can interested parties/potential bidders submit questions to clarify the public procurement notice and/or the request for proposals?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Article 4 of the Concession Decree provides that: “The concession authority shall communicate, no later than six days before the closing date for the receipt of applications or tenders, the additional information on the consultation documents requested in due course by the candidates or tenderers “.</p> <p>To ensure equality of treatment for candidates, responses to requests for clarification must be communicated to all applicants. We could transpose the provision on the modification of the consultation document to the answers to the candidates’ questions: “Any modification of the consultation documents shall be communicated to all economic operators, candidates admitted to tender or all tenderers, in conditions for guaranteeing their equality and to allow them sufficient time to submit their applications or tenders”</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>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Transparency and equality of treatment principles. It is a general principle of law in France to ensure fairness of the procurement procedures. Article 4 of the Concessions Decree furthermore indicates that all modifications of the tender documents are sent to every bidder or potential bidders, in conditions for guarantying equality and to allow them enough time to present their bids.
<b>23.2. Based on your experience, is it always the</b>	Yes

<b>case that this disclosure of information is done in practice?</b>	
<b>If yes, please specify:</b>	Notwithstanding confidential information pertaining to the bidders, the procuring authority in France discloses those questions and clarifications to all potential bidders.
<b>If no, please elaborate:</b>	n/a
<b>24. Besides questions and clarifications, can the procuring authority conduct pre-bidding conference?</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	No regulatory basis
<b>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?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	No regulatory basis
<b>24.2. Based on your experience, is it always the case that this disclosure of information is done in practice?</b>	Yes
<b>If yes, please specify:</b>	According to our contributors, the procuring authority always discloses the content and the results of the pre-bid conference to all bidders in practice.
<b>If no, please elaborate:</b>	n/a
<b>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?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	No regulatory basis
<b>If no, please elaborate:</b>	n/a
<b>26. Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?</b>	Yes

<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	<p>Article 27 of the Decree “Concessions” sets out that the procuring authority shall award the concession contract on the basis of several non-discriminatory criteria, which may include environmental, social and innovation criteria. In the case where the management of a public service is delegated, the procuring authority shall also take into account a criterion based on the quality of the service provided to users. The award criteria shall be indicated in the concession notice, the invitation to tender or in any other tendering 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 proposal is submitted.</b></p>	<p>No</p>
<p><b>Please specify and provide the relevant legal/regulatory provisions (if any):</b></p>	<p>n/a</p>
<p><b>The procuring authority considers sole proposals valid as long as they meet the conditions outlined in the tender documents.</b></p>	<p>Yes</p>
<p><b>Please provide the relevant legal/regulatory provisions (if any):</b></p>	<p>According to Article 22 of the Concession Decree, where the number of candidates meeting the criteria for selection of candidates is less than the minimum number, the procuring authority may continue the procedure solely with the selected candidate or candidates.</p>
<p><b>The procuring authority does not award a PPP contract if only one proposal is submitted.</b></p>	<p>No</p>
<p><b>Please provide the relevant legal/regulatory provisions (if any):</b></p>	<p>n/a</p>
<p><b>The regulatory framework does not include any provisions.</b></p>	<p>No</p>
<p><b>28. Does the procuring authority publish the award notice?</b></p>	<p>Yes</p>
<p><b>If yes, please specify the means of publication and provide the relevant</b></p>	<p>Article 48 of the ordinance “Concessions” sets out that the procuring authority shall disclose the choice of the successful tender. Article 32 of the Decree “Concessions” adds that the award notice is published in the Official Journal of</p>

<b>legal/regulatory provisions (if any):</b>	the European Union. The standard award notice is set by the EU regulation 2015/1986 of 11 November 2015.
<b>28.1. If yes, is the public procurement award notice published online?</b>	Yes
<b>If yes, please specify the website:</b>	<a href="http://www.boamp.fr/">http://www.boamp.fr/</a> <a href="http://eur-lex.europa.eu/oj/direct-access.html?locale=fr;">http://eur-lex.europa.eu/oj/direct-access.html?locale=fr;</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>	Article 48 of the Ordinance “Concessions” and Article 29 of the Decree “Concessions” set out that the choice made by the procuring authority at the end of the tendering procedure is communicated to candidates and tenderers whose application or tenders have been rejected. Such notification shall specify the reasons for rejection, the name of the successful bidder(s) and the reasons that led to the award of the concession contract to the latter.
<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>	According to Article 29 of the Concessions Decree, such notification shall specify the reasons for the rejection and, for bidders, the name of the beneficiaries and the reasons that led to the choice of the offer.
<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 29 of the Concession Decree provides that: A period of at least sixteen days shall be observed between the date of dispatch of the notification and the date of conclusion of the concession contract. This period shall be reduced to at least eleven days in the case of electronic transmission of this notification to all interested candidates and tenderers.
<b>and the time in calendar days:</b>	16
<b>30.1. Is the standstill period set out in the notice of intention to award?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	According to Article 29 of the Concession Decree: The notification of the award of the concession contract shall include an indication of the length of the standstill period granted by the procuring authority, as well as the method of transmission adopted.
<b>31. Does the regulatory framework restrict</b>	Yes



<b>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>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Only simple changes, precisions or complements can be made to the content of the draft contract (Administrative court of Appeal Bordeaux, 17 February 2009, No. 08BX00018).
<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>	Restriction of negotiations with the selected bidder between the award and the signature of the concession contract is respected in practice in France.
<b>If no, please elaborate:</b>	n/a
<b>32. Does the procuring authority publish the PPP contract?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Articles 53 of the Ordinance “Concessions” and Article 34 of the Decree “Concessions” set out that the procuring authority shall give free, direct and comprehensive access to the key data of the concession contract at the latest as from 1 October 2018 (excluding confidential information [such as those protected by industrial and commercial secrets and those whose disclosure could lead to unfair competition] and information whose disclosure would contravene public order). An indicative list of these key data is provided in Article 34 of the Decree “Concessions”.
<b>32.1. If yes, which of the following options best describes this publication (choose only one)?:</b> <b>Publication of the full PPP contract including all its annexes and appendixes</b>	No
<b>Publication of the full PPP contract without including all its annexes and appendixes</b>	No
<b>Publication of a summary of the PPP contract without publishing the full PPP contract</b>	Yes
<b>Publication of a summary of the PPP contract along with the full PPP contract including all its annexes and appendixes</b>	No
<b>Publication of a summary of the PPP contract along with the full PPP contract without</b>	No

including all its annexes and appendixes	
32.2. If yes, is it published online?	No
If yes, please specify the website:	n/a
32.3. If yes, does the procuring authority also publish any subsequent amendment made to the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 34 of the Concession Decree provides that: The procuring authority shall, on its buyer profile and by 1 October 2018, have free, direct and complete access to the essential data of the concession contract, in particular to the following data: Data relating to each amendment to the concession contract: (a) The purpose of the amendment; (b) the impact of the change on the duration or value of the contract and on the rates charged to users; (c) The date of modification of the contract.
<b>PPP Contract Management</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)?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Articles 33 and 34 of the Concession Ordinance provide the information of the procuring authority for transparency purposes during the execution phase of the contract.
41.1. If yes, which of the following tools does it include (check all that apply)? Establishment of a PPP contract management team	No
Relevant legal/regulatory provisions (if any):	n/a
Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa	No
Relevant legal/regulatory provisions (if any):	n/a
Elaboration of a PPP implementation manual or an equivalent document	No
Relevant legal/regulatory provisions (if any):	n/a

Establishment of personnel training programs (i.e. initial training and continued training throughout the course of the project)	No
Relevant legal/regulatory provisions (if any):	n/a
Establishment of a risk mitigation mechanism which considers the evolving nature of risks throughout the project lifecycle (guidelines, specific processes, insurance regime, etc.)	No
Relevant legal/regulatory provisions (if any):	n/a
41.2. Which of the following options best describes the required qualifications of the PPP contract management team members? (Please select only one): The membership of the PPP contract management team is specified and/or its members are required to meet detailed qualifications.	n/a
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The PPP contract management team members are required to meet sufficient qualification without specific details.	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The PPP contract management team members are not required to meet any specific qualifications.	n/a
Please elaborate and provide examples:	n/a
42. Does the procuring or contract management authority establish a system for tracking progress and completion of construction works under a PPP contract?	Yes

<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	No regulatory basis
<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>	Article 52 of the Ordinance “Concessions” and Article 33 of the Decree “Concessions” set out that the concessionaire shall issue an annual report including in particular the accounts of the concession and an analysis of the quality of the works or services performed. In the case where the management of a public service has been delegated to the concessionaire, the report shall also allow the procuring authority to evaluate the conditions, pursuant to which the public service is performed.
<b>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</b>	No
<b>Relevant legal/regulatory provisions (if any)</b>	n/a
<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</b>	Yes

<b>authority with periodic operational and financial data</b>	
<b>Relevant legal/regulatory provisions (if any)</b>	Article 52 of the Ordinance “Concessions” and Article 33 of the Decree “Concessions” set out that the concessionaire shall issue an annual report including in particular the accounts of the concession and an analysis of the quality of the works or services performed. In the case where the management of a public service has been delegated to the concessionaire, the report shall also allow the procuring authority to evaluate the conditions, pursuant to which the public service is performed.
<b>The procuring or contract management authority must periodically gather information on the performance of the PPP contract</b>	Yes
<b>Relevant legal/regulatory provisions (if any)</b>	No regulatory basis
<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>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Article 36 of the Decree “Concessions” sets out that a change of concessionaire is possible in the case where a new concessionaire replaces the one to which the procuring authority had initially awarded the concession contract as a consequence of either: (i) a review clause or an option specifically provided in the concession contract, provided that this clause or option is clear, precise and unequivocal; and (ii) in the case of assignment of

	the concession contract after the restructuring of the initial concessionaire. The new concessionaire must have the economic, financial, technical and professional capabilities initially set by the procuring authority. This transfer cannot be made in order to circumvent the advertisement and competition obligations relating to the award of concession contracts.
<b>45.1. If yes, which of the following circumstances are specifically regulated? (check all that apply): Any change in the private partner during an initial period (e.g. construction and first five years of operation).</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Article 36 of the Decree “Concessions” sets out that the new concessionaire must have the economic, financial, technical and professional capabilities initially set by the procuring authority.
<b>In other cases, flexibility to change the ownership structure and/or assign the contract.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	No regulatory basis
<b>46. Does the regulatory framework (including standard contractual clauses) expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Pursuant to Article 55 of the Concessions Ordinance, the conditions under which a concession contract can be changed without running new procedure for competition are set by regulatio . These changes can not change the overall nature of the concession contract Article 36 of the Concessions Decree indicates precise conditions to ensure modifications do not affect the nature

	of the concession contract. Furthermore, Article 37 indicates that, when the concession contract concluded by a contracting authority, the amount of planned changes to 2 and 3 of Article 36 may not exceed 50 % of the original concession contract.
<b>46.1. If yes, is an approval from a government authority, other than the procuring authority, required?</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<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>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Article 55 of the Ordinance “Concessions” sets out that modifications cannot change the overall nature of the concession contract. In addition, Article 36 of the Decree “Concessions” provides an exhaustive list of modification triggering events and the conditions in relation thereto.
<b>A change in the risk allocation of the contract.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Article 36 of the Decree “Concessions” sets out that a modification is material and therefore forbidden in the case where it changes economic balance of the concession contract in favor of the private party, when that change was not expected under the initial terms and conditions of the concession contract.
<b>A change in the financial and/or economic balance 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 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>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard</b>	According to Article 37 of Concession Decree, where the concession contract is concluded by a contracting authority, the amount of the modifications provided in paragraphs 2 and 3 of Article 36 may not exceed 50% of the

<b>contractual provisions (if any):</b>	<p>amount of the initial concession contract. Where several successive amendments are made in compliance with the provisions of this Article, this limit shall apply to the amount of each modification.</p> <p>These consequential amendments must not be intended to circumvent the disclosure and competitive bidding requirements.</p>
<b>46.3. Can the procuring authority unilaterally modify a PPP contract?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	<p>According to the general principle of the public contract law in France, since concession contracts are administrative contracts, the contracting authority may amend these contracts unilaterally. The counterpart of which the contracting authority must compensate the contractor for the damage suffered as a result of these unilateral changes. In fact, this principle is repeated in a myriad of decisions such as the administrative decision: CE of February 2, 1983, Union des transports publics urbains et régionaux, req. No. 34027 providing that: unilateral power of amendment is one of the “General rules applicable to administrative contracts”.</p>
<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>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	<p>There is no specific provisions under the relevant legal framework, but several decisions in administrative case law (CE 29 January 1909, Compagnie des messageries maritimes, case No. 17614 ; CE 9 December 1932, Compagnie des tramways de Cherbourg, case No. 89655: In case of a final upheaval of the contract’s economy that is not a consequence of the contractors’ will, it is a case of force majeure and in default of agreement, termination of the contract may be applied to the parties by the judge).</p>
<b>Material Adverse government action .</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	<p>There is no specific provisions under the relevant legal framework but several decisions in administrative case law: “fait du prince” theory: CE, 20 mai 1904, Compagnie marseillaise de navigation. If the court recognizes the fact of the prince, it will grant the other party compensation fully repairing the damages suffered, provided, however that the victim suffered harm specifically affecting the result or at least of interference with an essential element of administrative contract in question (i.e. the theory does not allow for compensation for loss resulting from normal hazards of the contract).</p>
<b>Change in the Law.</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	<p>There is no specific provisions under the relevant legal framework but several decisions in administrative case law: “fait du prince” theory : CE, 20 mai 1904, Compagnie marseillaise de navigation. If the court recognizes the fact of the prince, it will grant the other party compensation fully repairing the damages suffered, provided, however that the victim suffered harm specifically</p>



	affecting the result or at least of interference with an essential element of administrative contract in question (i.e. the theory does not allow for compensation for loss resulting from normal hazards of the contract).
<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>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Article 42 of the European Concession Directive regulates subcontracting under rules on performance of concessions, and it is binding for all European economies.
<b>48. Does the regulatory framework (including standard contractual clauses) allow for administrative and/or contractual complaint review mechanisms to address disputes arising from the implementation of PPP contracts?</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Disputes are in principle lodged before French administrative courts. Arbitration is generally forbidden for public authorities but certain exceptions exists.
<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>	No
<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>	n/a
<b>48.2. If applicable, are arbitration awards enforceable by the local courts?: Domestic Arbitration</b>	No

<b>If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):</b>	n/a
<b>International arbitration</b>	No
<b>If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):</b>	n/a
<b>Investor-State arbitration</b>	No
<b>If yes, please provide the relevant legal/ regulatory provisions/standard 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>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	No regulatory basis
<b>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?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	No regulatory basis
<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</b>	No

regulates the lender step-in rights.	
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
The regulatory framework prescribes that a direct agreement should be signed with the lenders.	No
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.	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Other.	Yes
Please Specify:	Contract and financial practice
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):	Expiration of its duration, general interest purpose, breach, amicable termination, material modification, etc. (CE 2 May 1958, Distillerie de Magnac-Laval, case No. 32401) , for the right of the public authorities to unilaterally terminate public contracts. Article 55 of the Ordinance “Concessions” makes provision for termination resulting from material modification of the concession contract.
51.1. If yes, does the regulatory framework (including standard contractual clauses) establish the consequences for the termination of the PPP contract?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	There is no general provision under the relevant framework. However, Article 56 I. of the Concessions Ordinance states that, if canceled, resolution or termination of the concession agreement by the judge, following the challenge of a third party, the dealer can claim compensation for expenses incurred pursuant to the contract soon when they have been helpful to the

	contracting authority, which shall include, where appropriate, the costs related to financing under the contract including , if applicable, costs relating to instruments and financing resulting from the early termination of the contract.
<b>Unsolicited Proposals</b>	
<b>34. Are unsolicited proposals in France: (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>	No
<b>Not regulated by the legal framework, and do not happen in practice? (if not done in practice, skip to section F)</b>	Yes
<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>	n/a
<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</b>	n/a

<b>other government investment priorities.</b>	
<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>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>38. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?</b>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>and the time in calendar days:</b>	n/a
<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>	n/a

<b>39.2 Developer's fee (reimbursing the original proponent for the project development cost).</b>	n/a
<b>39.3 Bid Bonus.</b>	n/a
<b>39.4 Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).</b>	n/a
<b>39.5 Other.</b>	n/a
<b>Please specify:</b>	n/a
<b>Please provide the relevant legal/regulatory provisions (if any):</b>	n/a