

PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN GABON

SURVEY QUESTION	ANALYSIS
PPP Regulatory Framework	
2. Does the regulatory framework in your country allow procuring PPPs?	Yes
If yes, please specify the relevant regulatory framework and the year of adoption:	The regulatory framework for PPPs in Gabon is made of Ordinance No. 009/PR/2015 dated 11 February 2016 regulating Public-Private Partnerships, which was ratified by Law No. 20/2016 dated September 5th 2016 and shall be precised by regulations.
and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:	http://www.droit-afrique.com/uploads/Gabon-Ordonnance-2015-22-PPP.pdf
2.1. Are you aware of any reforms (in the regulatory frameworks – laws, regulations, policies, etc.- or in generally followed practices) related to PPPs that: Took place in 2016, are ongoing and/or are planned to be adopted BEFORE June 1, 2017?	Yes
Please describe:	Law No. 20/2016 dated 5 September 2016 ratified Ordinance No. 009/PR/2015 dated 11 February 2016.
2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?	Yes
Please describe:	Implementation decree of the PPP law and decree organizing the PPP Unit are in preparation.
3.1 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Transportation.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.2 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the	No

following sectors?: Water and Irrigation	
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.3 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Energy generation and distribution.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.4 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Telecom	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.5 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Other	No
If yes, specify and provide the relevant legal/regulatory provisions:	n/a
4. Does the regulatory framework provide for a specific tax regime for PPP transactions (i.e. tax incentives, special tax depreciation treatment, etc.)?	Yes
If yes, please specify and provide the relevant legal/regulatory provision (if any):	There is no specific tax regime provided by the PPP Ordinance. The procuring entity and the holder may negotiate a specific regime in the PPP contract. Pursuant to Article 66 of the Ordinance: The tax and customs regime of PPPs is negotiated according to the nature of the project, the amount of the considered investments and commitments of the cocontracting party, in particular regarding employment of the local workforce and subcontracting with local SMEs.
5. Please identify the PPP procuring authorities in Gabon and provide their website(s) (if available):	According to Article 5 of the PPP Ordinance, procuring entities are the State, local authorities, State companies and public organizations are empowered to conclude PPP agreements.

6. In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?	Yes
If yes, please indicate its name, and its website (if available):	The National Agency for Promotion of Investment (ANPI-Gabon) is in charge of setting out, implementing and following PPPs. This Agency is currently working as the PPP Unit (decree under preparation). Moreover, Article 6 of the PPP Ordinance provides an institutional framework that has not been created yet and that includes a PPP Unit.
6.1 If yes, what are the main responsibilities of the PPP Unit (check all that apply): PPP regulation and policy guidance.	No
6.2 PPP capacity building for other public authorities.	No
6.3 PPP promotion among the public and/or private sectors in national and international forums.	No
6.4 Technical support in implementing PPP projects.	No
6.5 Identification and selection of PPP projects from the pipeline.	No
6.6 Revision of fiscal risks born by the Government.	No
6.7 Consultation with affected communities on potential impact of PPP projects.	No
6.8 Approval of PPP projects.	No
6.9 Undertaking the procurement of PPPs.	No
6.10 Oversight of PPP implementation.	No
6.11 Other	No
6.11 please specify:	n/a
Please provide the relevant legal/regulatory provisions:	n/a
PPP Preparation	
8. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis

8.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before signing the PPP contract?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
8.2. Does the Ministry of Finance (or government more broadly) have a specific system of: Budgeting for PPP projects.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Accounting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Reporting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
8.3. If yes to question 8.2, which of the following alternatives best describes the regulation?: Accounting and reporting according to International Public Sector Accounting Standards (IPSAS).	n/a
Accounting and reporting according to other international standard (e.g. European System of Accounts).	n/a
Please specify:	n/a
Other.	n/a
Please specify:	n/a
9. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before launching the procurement process (e.g. Cabinet, Cabinet Committee,	No

Parliament, Supreme Audit Office, etc.)?	
If yes, please specify the relevant authority	n/a
and provide the relevant legal/regulatory provisions (if any):	n/a
9.1. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before signing the PPP contract?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
10. Does the procuring authority use transaction advisors during the PPP project cycle?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
11. In a case comparable to the case study assumptions, please select the option that best describes the way your government integrates the prioritization of PPP projects with other public investment project prioritization? (e.g. in the context of a national public investment system, multi-year perspective plans, medium-term budgetary framework): The regulatory framework provides for the inclusion of PPPs in the national public investment system/medium term budgetary framework and details a specific procedure to ensure the consistency of PPPs with other public investment priorities.	No
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework prescribes the need for PPPs	No

to be consistent with all other investment priorities without establishing a specific procedure to achieve that goal.	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework does not include any provisions but the procuring authority evaluates the consistency of PPPs with other government investment priorities in practice.	Yes
If yes, please elaborate:	<p>As indicated in Article 36 of the strategic plan for emerging Gabon of 2012, this plan bases its implementation on private investment and public-private partnership, including the implementation of major infrastructure projects to profitable operation and management of investment by the private, so as to devote more public resources to finance social programs. This document does not require prioritization. However, all contributors indicated that prioritization is realized in practice.</p> <p>The project "Emerging Gabon" is based on 3 pillars :</p> <ul style="list-style-type: none"> - The "Industrial Gabon" local processing of raw materials and export of high value added products ; - The "Green Gabon" position in pioneering one of the major challenges of the XXI century: the global effort to preserve the environment and the fight against global warming ; - The "Gabon services" become a regional reference in areas such as financial services, new information technology, business services related to the green economy or specialized areas of higher education or health.
The procuring authority does not evaluate PPPs against existing government priorities.	No
Please elaborate and provide examples:	n/a
11.1. Based on your experience, is it always the case that this prioritization is done in practice in accordance with the provisions of the regulatory framework described above?	Yes
If yes, please specify:	Priority for PPP are given to projects defined in the Strategic plan for emerging Gabon.
If no, please elaborate:	n/a
12.1 Which of the following assessments are conducted when identifying and	Yes

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)	
Relevant legal/regulatory provision (if any)	No regulatory basis
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	In practice, the procuring authority prepares socio-economic analysis.
12.2. Affordability assessment, including the identification of the required long term public commitments (explicit and implicit, direct and contingent liabilities)	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology for the assessment?	n/a
If yes, please elaborate	n/a
Is the assessment done in practice?	n/a
Details:	n/a
12.3. Risk identification, allocation and assessment (risk matrix)	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology for the assessment?	n/a
If yes, please elaborate	n/a
Is the assessment done in practice?	n/a
Details:	n/a
12.4. Comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives (i.e. value for	No

money analysis, public sector comparator)	
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology for the assessment?	n/a
If yes, please elaborate	n/a
Is the assessment done in practice?	n/a
Details:	n/a
12.5. Financial viability or bankability assessment	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	Financial viability or bankability assessment is done in practice.
12.6. Market sounding and/or assessment (showing evidence of investors' interest in the market for the project)	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology for the assessment?	n/a
If yes, please elaborate	n/a
Is the assessment done in practice?	n/a
Details:	n/a
12.7. Environmental impact assessment	Yes
Relevant legal/regulatory provision (if any)	Article 30 of Law No. 007/2014 related to the protection of environment: The works (...) undertaken by the public authorities or the public or private enterprises, which is risk, because of their large dimension or their ecological incidences, to damage the environment, shall be submitted to an environmental preliminary study subjected to the examination of the Ministry of the Environment, according to the legislation in force.
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Article 32 of Law No. 007/2014 related to the protection of environment: The environmental study, instrument of analysis and forecast, has to, from the initial state of the site, where necessary, be supported by scientific and

	epidemiologic analyses, identify, estimate and implement the measures to avoid the incidences or negative, direct and indirect effects, on short, medium and long terms of the projects on health, quality of the environment, natural resources, ecological balances or on the climate. The environmental study also has to contain and develop the considered measures to eliminate, reduce or compensate for the negative impacts of the activity as well as for the cost of it before, during and after the realization of the project. The contents of the environmental study are determined by decree taken in Council of Ministries after proposal of the Ministry in charge of the Environment.
Is the assessment done in practice?	Yes
Details:	Environmental impact assessment is done in practice.
12.8. Consultation process with affected communities on potential impact of the PPP project	Yes
Relevant legal/regulatory provision (if any)	Article 38 of Law No. 007/2014 related to the protection of environment requires a public investigation to be made. That investigation is defined in Article 6 as an operation or procedure to collect points of view and opinions of populations, especially those likely to be affected somehow by a project.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	Consultation process with affected communities on potential impact of the PPP project is done in practice.
13. Does the procuring authority include the assessments (indicated in Question 12 above) in the request for proposals and/or tender documents (for example, as part of an Information Memorandum to the bidders)?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and specify which of the assessments are included in the request for proposals and/or tender documents:	n/a
13.1. Are the assessments published online?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
specify the website	n/a

please specify which of the assessments are published online:	n/a
14. Does the procuring authority include a draft PPP contract in the request for proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
If no, please elaborate	n/a
14.1. Are the tender documents published online?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and please specify the website:	n/a
15. In a case comparable to the case study assumptions, have standardized PPP model contracts and/or transaction documents been developed?	No
If yes, please specify and provide a government-supported website where the mentioned standards are available or provide an electronic copy of them:	n/a
16.1 In a case comparable to the case study assumptions, who is the responsible party for each of the following requirements? Obtaining the required urban permits:	No
Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
16.2. Obtaining the required environmental permits:	No
Procuring authority (or other Government entity)	No
Private Partner	No

Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
16.3. Obtaining the required operational permits: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
16.4. Obtaining the required land: Procuring authority (or other Government entity)	Yes
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	No
Relevant legal/regulatory provision (if any)	According to Article 67 of the PPP Ordinance, when a contract requires an occupation of the public Land, it implies an authorization to occupy the land for its duration.
16.5. Obtaining the required right of way: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
PPP Procurement	
18. Which of the following options best describes the required qualifications of the	No

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.	
If yes, please provide the relevant legal/regulatory provisions (if any):	No
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:	No provision regulates the qualifications of the bid evaluation committee members. The implementation decree will however encompass that question.
19. Does the procuring authority issue a public procurement notice of the PPP project?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 18 of the PPP Ordinance, procurement is made by a tender call allowing presentation of several offers. Furthermore, according to Article 21, the procurement notice is published in one or several national or international publications.
19.1. If yes, is the public procurement notice published online?	No
If yes, please specify the website:	n/a
20. Are foreign companies prohibited from participating in the bidding process?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
21. In a case comparable to the case study assumptions, does the procuring authority grant the potential bidders a minimum period of time to submit their bids?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a

and the time in calendar days:	n/a
22.1. In a case comparable to the case study assumptions, which are the procurement procedures available and/or set as default for PPP projects? Open tendering: Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	Article 20 of the Ordinance: procurement procedures for PPPs include: call for proposals, competitive dialogue, negotiated procedure and unsolicited proposal.
22.2. Restricted tendering (with pre-qualification stage): Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.3 Multi-stage tendering (with shortlisting of final candidate(s)): Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.4. Competitive dialogue: Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	Article 20 of the Ordinance: procurement procedures for PPPs include: call for proposals, competitive dialogue, negotiated procedure and unsolicited proposal.
22.5. Direct negotiation with more than one candidate: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.6. Direct negotiation with only one candidate: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.7 Other. Specify:	No
Available	n/a
Default	n/a
Relevant legal/regulatory provision (if any)	n/a
22.8. Do the tender documents detail the procedure of the	Yes

procurement process providing the same information to all the bidders?	
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 18 of the PPP Ordinance, the tender notice shall indicate the chosen process.
If no, please elaborate:	n/a
22.9. Do the tender documents specify the prequalification/shortlisting criteria (when applicable) in order to make them available to all the bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 22 of the Ordinance requires the tender notice and tender documents to include selection criteria, among other elements.
22.10. Based on your experience, is it always the case that the specified criteria are respected in practice?	Yes
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	Practice is to use the criteria included in the tender documents to evaluate offers.
If no, please elaborate:	n/a
23. Can interested parties/potential bidders submit questions to clarify the public procurement notice and/or the request for proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
23.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose those questions and clarifications to all potential bidders?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
23.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	n/a
If yes, please specify:	n/a

If no, please elaborate:	There are no regulatory provision requiring disclosure and no established practice appears. However, that information could be provided on demand.
24. Besides questions and clarifications, can the procuring authority conduct pre-bidding conference?	No
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
24.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose the content and the results of the pre-bid conference to all bidders?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
24.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	n/a
If yes, please specify:	n/a
If no, please elaborate:	n/a
25. In a case comparable to the case study assumptions, does the procuring authority require the bidders to prepare and present a financial model with their proposals?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
If no, please elaborate:	Nothing in the law mandates the procuring authority to require the bidders to prepare and present a financial model with their proposals. However, in practice, the procuring authority can take such financial models in consideration when provided by the bidders.
26. Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Article 42 of the Ordinance, the contract shall be attributed to the economically most advantageous offer according to the criteria stated in the tender documents.

Evaluation criteria is not set in the tender documents	n/a
27. In the case where only one proposal is submitted (sole proposals), which of the following options best describes the way the procuring authority deals with them? (Please select only one)?: The procuring authority follows a specific procedure before awarding a PPP contract where only one proposal is submitted.	No
Please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority considers sole proposals valid as long as they meet the conditions outlined in the tender documents.	No
Please provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority does not award a PPP contract if only one proposal is submitted.	No
Please provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework does not include any provisions.	Yes
28. Does the procuring authority publish the award notice?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 47 of the PPP Ordinance, an award notice is published in the official journal or a legal announcement journal within 30 days after notifying the winning bidder.
28.1. If yes, is the public procurement award notice published online?	No
If yes, please specify the website:	n/a
29. Does the procuring authority provide all the bidders with the result of the PPP procurement process?	Yes

If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 45 of the PPP Ordinance, as soon as the procuring authority chooses the winning bidder, it informs all the candidates.
If no, please elaborate:	n/a
29.1. If yes, does the notification of the result of the PPP procurement process include the grounds for the selection of the winning bid?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
30. Is there a standstill (or pause) period after the contract award and before the signing of the contract in order to allow unsuccessful bidders to challenge the award decision?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Any claim shall be submitted within 15 calendar days following the notification of the decision of the procuring authority. In case of claim, the regulation committee has 30 days to treat the claim. During this period, the PPP contract cannot be signed, failing which it is null and void (Art. 45, 70 and 71 of the PPP Ordinance)
and the time in calendar days:	15
30.1. Is the standstill period set out in the notice of intention to award?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
31. Does the regulatory framework restrict negotiations with the selected bidder between the award and the signature of the PPP contract in order to prevent an unfair disadvantage to the other bidders?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
31.1. Based on your experience, is it always the case that this restriction is respected in practice?	n/a
If yes, please specify:	n/a
If no, please elaborate:	n/a

32. Does the procuring authority publish the PPP contract?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
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	n/a
Publication of the full PPP contract without including all its annexes and appendixes	n/a
Publication of a summary of the PPP contract without publishing the full PPP contract	n/a
Publication of a summary of the PPP contract along with the full PPP contract including all its annexes and appendixes	n/a
Publication of a summary of the PPP contract along with the full PPP contract without including all its annexes and appendixes	n/a
32.2. If yes, is it published online?	n/a
If yes, please specify the website:	n/a
32.3. If yes, does the procuring authority also publish any subsequent amendment made to the PPP contract?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
PPP Contract Management	
41. Has the procuring or contract management authority established a system to manage the implementation of the PPP contract (e.g. attributing responsibilities or establishing specific management tools)?	No

If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
41.1. If yes, which of the following tools does it include (check all that apply)? Establishment of a PPP contract management team	n/a
Relevant legal/regulatory provisions (if any):	n/a
Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa	n/a
Relevant legal/regulatory provisions (if any):	n/a
Elaboration of a PPP implementation manual or an equivalent document	n/a
Relevant legal/regulatory provisions (if any):	n/a
Establishment of personnel training programs (i.e. initial training and continued training throughout the course of the project)	n/a
Relevant legal/regulatory provisions (if any):	n/a
Establishment of a risk mitigation mechanism which considers the evolving nature of risks throughout the project lifecycle (guidelines, specific processes, insurance regime, etc.)	n/a
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	n/a

legal/regulatory provisions (if any):	
The PPP contract management team members are required to meet sufficient qualification without specific details.	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The PPP contract management team members are not required to meet any specific qualifications.	n/a
Please elaborate and provide examples:	n/a
42. Does the procuring or contract management authority establish a system for tracking progress and completion of construction works under a PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 55 of the Ordinance: The contracting party issues a report every year that the competent authority presents to the public authority responsible for the project. This report contains in particular: - During the phase of conception - construction, the essential points of the realization.
42.1. If yes, is the PPP contract construction performance information made available to the public?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
42.2. If yes, is the PPP contract construction performance information made publicly available online?	n/a
If yes, please specify the website:	n/a
43. Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract implementation after construction?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	The contracting party issues a report every year that the competent authority presents to the public authority responsible for the project. This report contains in particular: (...) - During the exploitation phase, the essential

	elements of the service provided during the past year and, in particular, the values obtained for performance indicators.
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	No
Relevant legal/regulatory provisions (if any)	n/a
The procuring or contract management authority can abate (reduce) payments for non-performance of operating obligations under the PPP contract	No
Relevant legal/regulatory provisions (if any)	n/a
The private partner must provide the procuring or contract management authority with periodic operational and financial data	Yes
Relevant legal/regulatory provisions (if any)	Pursuant to Article 55 of the PPP Ordinance, the private operator prepares a report to the procuring authority annually.
The procuring or contract management authority must periodically gather information on the performance of the PPP contract	Yes
Relevant legal/regulatory provisions (if any)	Pursuant to Article 56 of the PPP Ordinance, a follow-up of the holder's obligations must be realized regularly.
The PPP contract performance information must be available to the public	No
Relevant legal/regulatory provisions (if any)	n/a
43.2. Is PPP contract performance information made publicly available online?	No
If yes, please specify the website:	n/a
44. Are foreign companies prohibited from repatriating the income resulting from the operation of a PPP project?	No

If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
45. Does the regulatory framework (including standard contractual clauses) expressly regulate changes in the ownership structure (i.e. stakeholder composition) of the private partner and/or assignment of the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 59 of the PPP Ordinance requires a written consent of the procuring authority before transferring any right or obligation from the contract. The contract can contain conditions, including acceptance by the new holder of all obligations and proof of technical capacity. Article 60 requires an agreement from the procuring entity for transferring the contract, including to financing institutions or holder of institutions offer. The new holder must present financial guarantees and be able to continue providing the service and equality of users. Pursuant to Article 61, a majority share can not be transferred without the procuring entity's approval.
45.1. If yes, which of the following circumstances are specifically regulated? (check all that apply): Any change in the private partner during an initial period (e.g. construction and first five years of operation).	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 59 of the PPP Ordinance requires a written consent of the procuring authority before transferring any right or obligation from the contract. The contract can contain conditions, including acceptance by the new holder of all obligations and proof of technical capacity. Article 60 requires an agreement from the procuring entity for transferring the contract, including to financing institutions or holders of institutions offer. The new holder must present financial guarantees and be able to continue providing the service and equality of users. Pursuant to Article 61, a majority share can not be transferred without the procuring entity's approval.

In other cases, flexibility to change the ownership structure and/or assign the contract.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
46. Does the regulatory framework (including standard contractual clauses) expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
46.1. If yes, is an approval from a government authority, other than the procuring authority, required?	n/a
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.	n/a
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the risk allocation of the contract.	n/a
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the financial and/or economic balance of the contract.	n/a

If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the duration of the contract.	n/a
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the agreed price or tariff.	n/a
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
46.3. Can the procuring authority unilaterally modify a PPP contract?	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
47. Does the regulatory framework (including standard contractual clauses) expressly regulate the following circumstances that may occur during the life of the PPP contract? (check all that apply): Force Majeure	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to Article 63 of the Ordinance, Force majeure can cause for termination.
Material Adverse government action .	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 63 of the PPP Ordinance establishes termination in case of default or change in the financial balance due to the procuring entity.
Change in the Law.	No
If yes, please provide the relevant legal/regulatory/standard	n/a

contractual provisions (if any):	
Refinancing.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Subcontracting and replacement of the subcontractors.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to Article 54 of the PPP Ordinance, the operator is solely responsible for the execution of the contract. It can, at its own risks, use sub-contractors under its responsibility.
48. Does the regulatory framework (including standard contractual clauses) allow for administrative and/or contractual complaint review mechanisms to address disputes arising from the implementation of PPP contracts?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	Articles 69-73 of the PPP Ordinance are related to dispute resolution. More specifically, pursuant to Article 69, without prejudice to the exercise of remedies provided by the legislation in force, the parties may agree in the contract to resort to the arbitration procedure to settle any dispute that may arise during the conclusion of the contract, its execution or its termination. The contract shall in this case specify the arbitration court of competent jurisdiction. The contract may provide a procedure of amicable settlement, conciliation or mediation, beforehand has any arbitral or judicial.
48.1. If yes, please specify which of the following options are available (check all that apply): Local administrative review body	No
If yes, please specify:	n/a
Local courts	Yes
Domestic arbitration	Yes
International arbitration	Yes
Investor-State Dispute Settlement (ISDS)	Yes
Mediation	Yes
Please provide the relevant legal/ regulatory/standard contractual provisions (if any)	Article 69 of the Ordinance: without prejudice to the exercise of remedies provided for by the legislation in force, the parties may agree in the contract to resort to the arbitration procedure to settle any dispute that may arise during the conclusion of the contract, its execution or its termination. The contract shall in this case specify the arbitration court of competent

	jurisdiction. The contract may provide a procedure of amicable settlement, conciliation or mediation, beforehand has any arbitral or judicial.
48.2. If applicable, are arbitration awards enforceable by the local courts?: Domestic Arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	Article 30 of the OHADA Uniform Act on Arbitration dated March 11, 1999: The arbitration judgment is subject to forced execution only by virtue of a decision of exequatur by the competent judge in the State.
International arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	Article 30 of the OHADA Uniform Act on Arbitration dated March 11, 1999: The arbitration judgment is subject to forced execution only by virtue of a decision of exequatur by the competent judge in the State. Article 71 of the civil code provides the necessity of an exequatur by the county court of the capital for foreign decisions. Article 3 of the New York Convention on Recognition and Enforcement of Foreign Arbitral Awards dated June 10, 1958 (in force in Gabon since 15 December 2006): Each Contracting State shall recognize arbitral awards as binding and enforce them in accordance with the rules of procedure of the territory where the award is relied upon, under the conditions laid down in the following articles. There shall not be imposed substantially more onerous conditions or higher fees or charges on the recognition or enforcement of arbitral awards to which this Convention applies than are imposed on the recognition or enforcement of domestic arbitral awards.
Investor-State arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	Article 54 of the International Center for the Settlement of International Disputes (ICSID) Convention (in force in Gabon since October 14, 1966): (1) Each Contracting State shall recognize an award rendered pursuant to this Convention as binding and enforce the pecuniary obligations imposed by that award within its territories as if it were a final judgment of a court in that State. A Contracting State with a federal constitution may enforce such an award in or through its federal courts and may provide that such courts shall treat the award as if it were a final judgment of the courts of a constituent state. (2) A party seeking recognition or enforcement in the territories of a Contracting State shall furnish to a competent court or other authority which such State shall have designated for this purpose a copy of the award certified by the Secretary-General. Each Contracting State shall notify the Secretary-General of the designation of the competent court or other authority for this purpose and of any subsequent change in such designation. (3) Execution of the award shall be governed by the laws concerning the execution of judgments in force in the State in whose territories such execution is sought.
49. Does the regulatory framework (including standard contractual clauses) allow for the restructuring of	No

<p>a PPP private partner (SPV) in financial difficulty prior to insolvency?</p>	
<p>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	n/a
<p>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?</p>	Yes
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	Pursuant to Article 62 of the PPP Ordinance, the procuring authority can agree with the financing entities or the holder on the substitution of a new entity to implement the contract in case of a major breach or other events that could result in termination.
<p>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.</p>	No
<p>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	n/a
<p>The regulatory framework prescribes that a direct agreement should be signed with the lenders.</p>	Yes
<p>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	Pursuant to Article 62 of the PPP Ordinance, the procuring authority can agree with the financing entities or the holder on the substitution of a new entity to implement the contract in case of a major breach or other events that could result in termination.
<p>The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.</p>	No
<p>If yes, please specify and provide the relevant</p>	n/a

legal/regulatory/standard contractual provisions (if any):	
Other.	No
Please Specify:	n/a
51. Does the regulatory framework (including standard contractual clauses) expressly establish the grounds for termination of a PPP contract?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	Default of the procuring entity; financial unbalance due to the procuring authority or force majeure; default of the holder ; public interest ; force majeure (Article 63 of the PPP Ordinance)
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):	Articles 64 of the PPP Ordinance requires the procuring entity to pay damages or financial compensations for the expenses exposed by the holder.
Unsolicited Proposals	
34. Are unsolicited proposals in Gabon: (choose only one): Explicitly prohibited by the legal framework? (If prohibited, skip to section F)	No
Explicitly allowed by the legal framework?	Yes
Not regulated by the legal framework, but do happen in practice?	No
Not regulated by the legal framework, and do not happen in practice? (if not done in practice, skip to section F)	No
If the legal framework explicitly prohibits or allows unsolicited proposals, please provide the relevant legal/regulatory provisions	Articles 37-41 of the PPP Ordinance establish a regulatory framework for unsolicited proposals.
35. Does the procuring authority conduct an	Yes

assessment to evaluate unsolicited proposals? (if not, skip to question 37)	
If yes, please specify and provide the relevant legal/regulatory provisions (if any)	Article 40 of the PPP Ordinance requires the procuring entity to conduct an evaluation of unsolicited proposals.
35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	An unsolicited proposal is only valid if the project is not in any program of the government (Article 39 of the Ordinance).
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.	No
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority does not evaluate unsolicited proposals against existing government priorities.	Yes
Please elaborate and provide examples:	An unsolicited proposal is only valid if the project is not in any program of the government (Article 39 of the Ordinance). As a result, unsolicited proposals will, by definition, be outside of the government priorities.
37. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding	Yes

with the unsolicited proposal?	
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 40 of the PPP Ordinance states that the author of the proposal can participate in the bidding process.
38. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and the time in calendar days:	n/a
39.1 Does the procuring authority use any of the following incentive 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.	No
39.2 Developer's fee (reimbursing the original proponent for the project development cost).	No
39.3 Bid Bonus.	No
39.4 Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).	No
39.5 Other.	Yes
Please specify:	In case the private initiator is not selected, the public authority may pay a premium, according conditions which are fixed in the tender documents.
Please provide the relevant legal/regulatory provisions (if any):	Article 40 of the PPP Ordinance.