



PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN INDONESIA

SURVEY QUESTION	ANALYSIS
PPP Regulatory Framework	
2. Does the regulatory framework in your country allow procuring PPPs?	Yes
If yes, please specify the relevant regulatory framework and the year of adoption:	<p>Indonesia PPP framework consists of (i) the Presidential Regulation No. 38 of 2015 concerning Cooperation Between Government and Business Entities in Procurement of Infrastructure (“Regulation No. 38”); (ii) the Ministry of National Development Planning / National Development Planning Agency (BAPPENAS) Regulation No. 4 of 2015 concerning Procedure for Cooperation between Government and Business Entities in Procurement of Infrastructure (“BAPPENAS 4”), and (iii) the Government Goods and Services Procurement Policy (LKPP) Regulation No. 19 of 2015 concerning Procurement Procedure for Partnership between Government and Business Entities for Procurement of Infrastructure.</p> <p>In addition to the above said regulations, there are also several regulations governing the government support and guarantee for the PPP projects, namely: (i) Minister of Finance Regulation No. 223 of 2012 concerning the Granting of Viability Gap Fund for Partial Construction Cost of the Public Private Partnership Projects in the Procurement of Infrastructures (“MOF Reg 223”); (ii) Minister of Finance Regulation No. 260/PMK.08/2016 concerning the Procedures for the Payment of Availability Payment in the Public Private Partnership Projects in the Procurement of Infrastructures (“MOF Reg 260”) and (iii) Regulation of the President of the Republic of Indonesia 78/2010 Concerning Guarantee of Infrastructure in Government Cooperation Project with Business Entity Which Is Done Through Infrastructure Guarantee Agency (Presidential Regulation No. 78/2010)</p>
and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:	https://www.bappenas.go.id/index.php?cID=8962
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:	The following new regulatory measures have been adopted before June1, 2017:

	<p>i) Minister of Finance Regulation No. 260/PMK.08/2016 concerning the Procedures for the Payment of Availability Payment in the Public Private Partnership Projects in the Procurement of Infrastructures (“MOF Reg 260”);</p> <p>(ii) Ministry of Finance Regulation No 60/ PMK/2017 regarding Government Guarantee for National Strategic Projects;</p> <p>(iii) Ministry of Public Works and Housing No. 01/PRT/M/2017 concerning the Guidelines for the Implementation of the Procurement of the Toll Road Entity;</p> <p>(iv) Ministry of Internal Affairs Regulation No 96 of 2016 regarding Availability Payment Provision;</p> <p>(v) Ministry of Public Works and Housings Regulation No. 9 of 2016 regarding Procedures for Implementation of Government Public Cooperation and Business Agency in the Use of Water Resources Infrastructure for the Development of Electrical Power Plant/Mini hydro Power Plant/Micro phyro Power Generator Power.</p>
2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?	No
Please describe:	n/a
3.1 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Transportation.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.2 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Water and Irrigation	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.3 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Energy generation and distribution.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.4 Besides national defense and other matters of national	No

security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Telecom	
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):	<p>According to Article 16 of PR 38, tax incentive can be given as a form of Government support towards the Business Entity that carries out the PPP project.</p> <p>According to Article 28, 3b in BAPPENAS 4, the Minister of Finance may approve the provision of government support in the form of tax incentive. No. 18 of 2015 concerning Income Tax Facilities for Investment in Certain Business Fields and / or in Specific Areas as lastly amended by Government Regulation No. 9 of 2016, investor in certain business fields and/or specific areas (including infrastructure) may received a deduction on its Income Tax.</p>
5. Please identify the PPP procuring authorities in Indonesia and provide their website(s) (if available):	<p>Relevant line ministries: 1. Ministry of Transportation (airport & port): http://www.dephub.go.id/layanan/?kode=MTQwfHNIY3Rpb24tNjQ=; http://hubdat.dephub.go.id/; http://hubla.dephub.go.id/Default.aspx; http://hubud.dephub.go.id/; http://djka.dephub.go.id/</p> <p>2. Ministry of Public Works and Housing (toll road): http://bpjt.pu.go.id/ (toll road authority)</p> <p>3. Ministry of Energy and Mineral Resources/ PLN (electricity & oil and gas): http://www.pln.co.id/blog/keterbukaan-informasi-publik/ (PLN -electricity), MEMR http://migas.esdm.go.id/pengaduan/index</p> <p>4. PPP Procurement Procedure Regulator is Indonesia National Procurement Agency (LKPP) (www.lkpp.go.id/v3/)</p> <p>5. Ministry of Law and Human Rights http://www.kemenkumham.go.id/</p> <p>6. PT PLN (Persero) (as the state-owned Enterprise in the electricity generation and distribution): http://www.pln.co.id</p> <p>7. PT Pertamina (Persero) (as the state-owned Enterprise in the oil sector): http://www.pertamina.com</p> <p>8. Perum Jasa Tirta (as the state-owned Enterprise in the water sector): http://jasatirta1.co.id/id_ID/ http://www.jasatirta2.co.id/</p> <p>9. Indonesia Toll Road Authority (government agency that administers toll</p>

	<p>roads in Indonesia): http://bpjt.pu.go.id/</p> <p>10. PT Kereta Api Indonesia (as the state-owned enterprise in the railway transportation sector): https://kai.id/</p> <p>11. PT Angkasa Pura: (as the state owned enterprise in the airport services sector): https://www.ap1.co.id/id</p> <p>12. Heads of Local Governments.: http://bantenprov.go.id/; http://www.jakarta.go.id/; https://www.kaltimprov.go.id/; http://www.sumselprov.go.id</p> <p>13. Ministry of Communications and Informatics (www.kominfo.go.id)</p> <p>14. Ministry of Tourism: http://www.kemenpar.go.id/asp/index.asp</p> <p>15. Ministry of Health: http://www.depkes.go.id/</p>
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):	<p>(1) Directorate of Development for Public Private Partnership at the Ministry of National Development Planning (hereinafter “PPP BAPPENAS”) was established in accordance with Article 375 of the Regulation 4/2016 on the Organization and Working Procedure by the Ministry of National Development Planning (BAPPENAS). Its main tasks are coordinating, formulating and implementing policies, as well as monitoring, evaluating and controlling national development planning in the field of public and private cooperation. http://pkps.bappenas.go.id/</p> <p>In addition to BAPPENAS, institutional framework for PPPs in Indonesia includes (2) Directorate of Government Support Management and Infrastructure Financing, Ministry of Finance, http://www.djppr.kemenkeu.go.id/page/load/1223 (3) Indonesia Infrastructure Guarantee Fund (IIGF), http://www.iigf.co.id/, (4) Indonesia State Owned Infrastructure Financing Company, http://www.ptsmi.co.id/; (5) Government Goods/Services Procurement Policy Institution - www.lkpp.go.id/</p>
6.1 If yes, what are the main responsibilities of the PPP Unit (check all that apply): PPP regulation and policy guidance.	Yes
6.2 PPP capacity building for other public authorities.	Yes
6.3 PPP promotion among the public and/or private sectors in national and international forums.	Yes
6.4 Technical support in implementing PPP projects.	Yes
6.5 Identification and selection of PPP projects from the pipeline.	Yes
6.6 Revision of fiscal risks born by the Government.	No

6.7 Consultation with affected communities on potential impact of PPP projects.	No
6.8 Approval of PPP projects.	Yes
6.9 Undertaking the procurement of PPPs.	No
6.10 Oversight of PPP implementation.	Yes
6.11 Other	Yes
6.11 please specify:	(i) Provide support/ handholding to GCA for Project preparation; (ii) Approval for the Project Development Fund (PDF) for project Preparation; (iii) Identification and screening for the Non-Priority PPP projects (iv) Oversight for the fiscal support function to the PPP projects. Approve the Government Support and Government Guarantee; (v) Provide a coordination for the government support functions, by the instruments under MOF, eg. Guarantee, and VGF.
Please provide the relevant legal/regulatory provisions:	Pursuant to Article 376 of Regulation 4/2016, the main functions of the Directorate of Public Private Partnership and Design of Bangun are: <ul style="list-style-type: none"> - assessment, coordination and policy formulation in the field of national development planning, national development strategies, policy directions, and development of regulatory, institutional and financial frameworks in the field of private government cooperation and design; - coordinating and synchronizing the implementation of national development planning and budgeting policies in the field of private government cooperation and design; - preparation and stipulation of technical standards and costs required in planning in the field of facilities and infrastructure; - coordinating and synchronizing the preparation of the design in the field of facilities and infrastructure; - compilation of national integrated holistic development plans in the field of private government cooperation and design in the establishment of programs and activities of Ministries / Institutions / Regions; - coordinating and controlling the national development plan in the framework of synergy between the Government Work Plan and the Draft State Revenue and Expenditure Budget in the field of private government cooperation and design; - coordinating the launching and accelerating the implementation of development programs and activities in the field of private government cooperation and design; - monitoring and evaluation of the implementation of development programs and activities in the field of private government cooperation and design; implementation, evaluation, control and reporting of the implementation of tasks and functions of national development planning in the field of private government cooperation and design; and - coordinating the execution of the activities of the first and younger functional planner officials according to their assignment.
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):	Pursuant to BAPPENAS 4, PPP projects sponsored by central government funds require approval from the Ministry of Finance. Article 7 (8) of the Presidential Regulation No. 78/2015 further elaborates that the Minister of Finance approves or rejects the guarantee proposal based on a review of the proposal documents which it receives from Infrastructure Guarantee Agency.
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, Parliament, Supreme Audit Office, etc.)?	Yes
If yes, please specify the relevant authority	Indonesia Infrastructure Guarantee Fund (IIGF)
and provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 7 (1) of the Presidential Regulation No. 78/2010, in order to accept or reject the Guarantee Proposal, Infrastructure Guarantee Agency shall conduct an evaluation of the Guarantee Proposal.
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?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Article 28 of PR 38 provides that the preparation of a PPP project can be done by the government contracting agency with the assistance from the business entity or international institution/agency/organization that is specifically selected by the government contracting agency for the preparation stage of PPP project in accordance with the prevailing regulation. However, not in all cases the government contracting agency will use the assistance of the said business entity or international institution/agency/organization.</p> <p>Article 22(1) of BAPPENAS provides that the government contracting agency (procuring authority) may use Preparatory Agency, which is an agency/institution/national or international organization that advises and/or finances the procuring authority in the preparation stage or in the preparation stage until the transaction stage of a PPP project. The use of a Preparatory Agency is optional for the procuring authority.</p>
11. In a case comparable to the case study assumptions, please select the option that best describes the way your government integrates the prioritization of PPP projects	No

<p>with other public investment project prioritization? (e.g. in the context of a national public investment system, multi-year perspective plans, medium-term budgetary framework): The regulatory framework provides for the inclusion of PPPs in the national public investment system/medium term budgetary framework and details a specific procedure to ensure the consistency of PPPs with other public investment priorities.</p>	
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p>	n/a
<p>The regulatory framework prescribes the need for PPPs to be consistent with all other investment priorities without establishing a specific procedure to achieve that goal.</p>	Yes
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>(i) Pursuant to Article 21 section (2) Presidential Regulation No.38 of 2015, infrastructure planning (PPP) need to consider at least: a) Conformity with the National Medium Term Development Plan / Regional Medium Term Development Plan and strategic plan for infrastructure;</p> <p>(ii) Pursuant to Article 5 of Presidential Regulation No.75 of 2014 concerning Acceleration of Provision of Priority Infrastructure, Infrastructure is designated as Priority Infrastructure if it meets the following criteria, among others are: a) Conform with the national / regional medium-term development plans and strategic plan for infrastructure; b) Conform with the spatial and regional plans; c) Have inter-sectoral linkages between infrastructure and inter-region.</p>
<p>The regulatory framework does not include any provisions but the procuring authority evaluates the consistency of PPPs with other government investment priorities in practice.</p>	No
<p>If yes, please elaborate:</p>	n/a
<p>The procuring authority does not evaluate PPPs against existing government priorities.</p>	No
<p>Please elaborate and provide examples:</p>	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:	For solicited project, a conformity with the national / regional plan is a must. The government will follow the procedures as stipulated.
If no, please elaborate:	n/a
12.1 Which of the following assessments are conducted when identifying and preparing a PPP in order to inform the decision to proceed with it? (check all that apply): Socio-economic analysis (cost-benefit analysis of the socio-economic impact of the PPP project)	Yes
Relevant legal/regulatory provision (if any)	Pursuant to Article 23 (1) (a) of BAPPENAS 4, 1) Preparation KPBU assessment includes pre-feasibility study activities, consisting of: a. preparation of pre-feasibility study of initial study, consisting of: 1. The economic and commercial studies; 2. The social and environmental impact assessment
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	Assessment is required for conducting the prefeasibility study for PPP project and is done in practice.
12.2. Affordability assessment, including the identification of the required long term public commitments (explicit and implicit, direct and contingent liabilities)	Yes
Relevant legal/regulatory provision (if any)	Pursuant to Article 30 (2) (e) of PR 38, the prefeasibility study will provide conclusions to the following issue: a proposal for Government Support and Government Guarantee required. Furthermore, Pursuant to Article 23 (1) (a) (7) of Regulation No. 4/2015, the pre-feasibility study will include a study on government support needs assessment and / or the government guarantee.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a

Is the assessment done in practice?	Yes
Details:	Assessment is required for conducting the prefeasibility study for PPP project and is done in practice.
12.3. Risk identification, allocation and assessment (risk matrix)	Yes
Relevant legal/regulatory provision (if any)	<p>Pursuant to Article 30 (2) (e) of PR 38, the prefeasibility study will provide conclusions to the following issue: risk identification and mitigation recommendations, corresponding risk allocation. Pursuant to Article 23 (1) (a) (6) of Regulation No. 4/2015, the pre-feasibility study will include a risk assessment.</p> <p>Furthermore, under Chapter III (Part A, point 8(a)(1)(h)) of Attachment of BAPPENAS, one of the purposes of the pre-feasibility study for a PPP project is to allocate the risks and the required mitigation efforts. Chapter III, Part B, point 3 of Attachment of BAPPENAS also provides that one of the components of pre-feasibility study is the risks study which should be done through the following:</p> <p>a. identification of the risks; b. measurement/appraisal of the risks; c. determination of risks allocation; and d. preparing risks mitigation.</p>
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	Assessment is required for conducting the prefeasibility study for PPP project and is done in practice.
12.4. Comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives (i.e. value for money analysis, public sector comparator)	Yes
Relevant legal/regulatory provision (if any)	Value for money analysis is one of the criteria to be assessed in the feasibility study for a PPP project, as stated under Chapter II, Part C, point (3)(c) of Attachment of BAPPENAS.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	This assessment is required for conducting the prefeasibility study for PPP project and is done in practice.
12.5. Financial viability or bankability assessment	Yes

Relevant legal/regulatory provision (if any)	Chapter III, Part B, point 6(e) of Attachment of BAPPENAS provides that financial viability assessment is part of the PPP project assessment.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	This assessment is required for conducting the prefeasibility study for PPP project and is done in practice.
12.6. Market sounding and/or assessment (showing evidence of investors' interest in the market for the project)	Yes
Relevant legal/regulatory provision (if any)	Articles 13 and 15 of LKPP 9 state that the procuring committee will conduct preparation activities for the bidding, which include market interest confirmation. Pursuant to Article 15(2) of LKPP Regulation 19, this market interest confirmation can be in the form of market sounding or discussion in the forum of business entities. Pursuant to Article 27 (1) and 27 (2) of regulation BAPPENAS 4, during the preparation stage, the procuring authority conducts a study of the market interest. In addition, Article 10(5) of BAPPENAS provides: In carrying out the preparation of the COST as referred to in paragraph (1) letter b, a procuring authority (hereinafter "PJKP") conducts Public Consultation and can conduct Market Interest Assessment.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	This assessment is required for conducting the prefeasibility study for PPP project and is done in practice.
12.7. Environmental impact assessment	Yes
Relevant legal/regulatory provision (if any)	Environmental and social assessments are part of the pre-feasibility study, as required under Article 23(1)(a)(4) of BAPPENAS.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No
Details:	Environmental impact assessment is not always undertaken.
12.8. Consultation process with affected communities on potential impact of the PPP project	No

Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	n/a
Details:	n/a
13. Does the procuring authority include the assessments (indicated in Question 12 above) in the request for proposals and/or tender documents (for example, as part of an Information Memorandum to the bidders)?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 19 of LKPP Regulation 19 lists down the information to be included in the Request for Proposal (RFP), including at least background and brief description of the project, purpose, and material information relating to the project. The RFP will usually include study or other preparation works that have been completed by the Procuring Authority.
and specify which of the assessments are included in the request for proposals and/or tender documents:	Affordability assessment, risks allocation matrix, financial model, compliance with the legal, social, and environmental requirements
13.1. Are the assessments published online?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
specify the website	n/a
please specify which of the assessments are published online:	n/a
14. Does the procuring authority include a draft PPP contract in the request for proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 19 of LKPP, the proposal request shall contain, inter alia, a draft of agreement on the government cooperation with a business entity.
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?	Yes
If yes, please specify and provide a government-supported website where the mentioned standards are available or provide an electronic copy of them:	Ministry of Transportation and the toll road procurement authority (BPJT) have the standard form that can be used as a base for a PPP contract of a highway project such as in the case study. The Minister of Energy and Mineral Resources recently issued a new regulation No.10 of 2017 which provides certain requirements to be covered under Power Purchase Agreements. Power Generation procurement project has a standard draft PPA in the RFP. These documents are not available online.
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)	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)	Under Chapter II, Part C, point 5 of the Attachment of BAPPENAS 4, the government is the one to apply for an urban permit, assuming that the urban permits refer to ensuring the compliance of a location of a project with the applicable spatial layout.
16.2. Obtaining the required environmental permits: 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
16.3. Obtaining the required operational permits: 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)	Article 10(9) of BAPPENAS 4 provides that procuring authority conducts land procurement and assists the process granting of licenses to carry out the Government cooperation with a business entity in accordance with the Authority.
16.4. Obtaining the required land: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	Yes
To be established in the contract	No
Relevant legal/regulatory provision (if any)	Article 10(8A) of BAPPENAS 4 provides that procuring authority assists the private partner through planning and implementation of land acquisition and during implementation stage.
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
PPP Procurement	
18. Which of the following options best describes the required qualifications of the bid evaluation committee members? (Please select only one): The membership of the bid evaluation committee is specified and/or its members	Yes

are required to meet detailed qualifications.	
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 9 of the LKPP Regulation No. 19/2015 sets out the requirements for the bid evaluation committee members. It states that the procurement committee must be an odd number, and have no fewer than five members. The committee members should have knowledge of procurement, law, and have technical expertise in the relevant sector in which the project is being implemented. The Article also outlines further requirements for the committee members.
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.	No
Please elaborate and provide examples:	n/a
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 25 (3) of PR 38, the planning list will be published and disseminated to the public. Furthermore, Pursuant to Article 19 of BAPPENAS Reg 4, the PPP project is announced and disseminated to the public. Annually, the BAPPENAS issues a publication containing the list of PPP projects that are ready to be tendered and the PPP projects that are under preparation Moreover, Chapter II, Part A, point 1 of LKPP Reg 19 states that the bid committee shall announce the pre-qualification through at least 1 national newspaper and the website of the relevant government contracting agency. For the projects that are of interest for foreign participant, they will also be announced in the internationally circulated printed mass media and/or international website containing information of the infrastructure projects.
19.1. If yes, is the public procurement notice published online?	Yes
If yes, please specify the website:	www.pkps.bappenas.go.id
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	Yes

grant the potential bidders a minimum period of time to submit their bids?	
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 16 section (1) and Article 18 (f) of LKPP Regulation No. 19 of 2005, no specific schedule provided in the regulation, however the procuring committee authorized to determine the minimum period of time in every bidding process, provided that the period of bidding process shall include each steps of bidding process as stipulated in the regulation.
and the time in calendar days:	n/a
22.1. In a case comparable to the case study assumptions, which are the procurement procedures available and/or set as default for PPP projects? Open tendering: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.2. Restricted tendering (with pre-qualification stage): Available	No
Default	Yes
Relevant legal/regulatory provision (if any)	Article 21 of LKPP 19 provides (1) Implementation of the Implementing Enterprise Implementing Agency shall include the following activities: a. Prequalification; and b. Selection. (2) The selection of Executing Enterprise as referred to in paragraph (1) letter b shall be conducted through: a. Auction; or b. Direct appointment Article 23 provides details.
22.3 Multi-stage tendering (with shortlisting of final candidate(s)): Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.4. Competitive dialogue: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.5. Direct negotiation with more than one candidate: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.6. Direct negotiation with only one candidate: Available	No

Default	No
Relevant legal/regulatory provision (if any)	n/a
22.7 Other. Specify:	No
Available	n/a
Default	n/a
Relevant legal/regulatory provision (if any)	n/a
22.8. Do the tender documents detail the procedure of the procurement process providing the same information to all the bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 19 of LKPP Regulation No. 19/2015, the RFP should include the following: general project description, instruction to bidders, bid evaluation, specifications and technical services required; risk allocation matrix; payment mechanisms; financial models including sources of funding; fulfillment requirements related aspects of the legal, social, environment, guarantees and requirements guarantees.
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):	Pursuant to Article 23 of Regulation No. 19/2015, the stages of the prequalification are as follows: a. prequalification announcement; b. registration and obtaining the Prequalification Document; c. KPBU project description, scope (scope of work) activities Project implementers KPBU and Prequalification Document; d. entry qualification documents; e. evaluation of qualifications; f. determination and announcement of the results of qualification; and g. rebuttal qualification.
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):	Majority of our contributors confirm that prequalification/shortlisting criteria are specified in the tender documents and available to all bidders.
If no, please elaborate:	n/a
23. Can interested parties/potential bidders	Yes

submit questions to clarify the public procurement notice and/or the request for proposals?	
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 23(1) of LKPP 19 provides that one of the procedures during the pre-qualification process is the explanation concerning the PPP project, the scope of work, and pre-qualification documents. Chapter II, Part A and point 3 of the Attachment of LKPP 19 states that such explanation shall be conducted in an open, transparent and non-discriminative manners. The committee also allows the participants to submit their questions in written from the date when the participant takes the pre-qualification documents until the deadline to submit questions as stated in the pre-qualification documents. Similarly, the similar procedure also exists in the RFP stage.
23.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose those questions and clarifications to all potential bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Appendix II A. 3 of LKPP 19 provides that the minutes of the explanation will be circulated to all participants, and the answers to the participants' queries will be circulated to all participants.
23.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	Yes
If yes, please specify:	The tender committee will reply the question from the tender participant and the reply will be delivered to all tender participants. The disclosure of information in this respect is commonly done in any bidding process held by the government institution.
If no, please elaborate:	n/a
24. Besides questions and clarifications, can the procuring authority conduct pre-bidding conference?	Yes
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	No regulatory basis
24.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose the content and the results of the pre-bid conference to all bidders?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a

24.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	Yes
If yes, please specify:	The disclosure of information in this respect is commonly done in any bidding process held by the government institution.
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?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 19 of Regulation No. 19/2015, documents to be submitted in the RFP will include financial models including sources of funding.
If no, please elaborate:	n/a
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 Articles 17, 18 and 19 of Regulation No. 19/2015, which details the required documents and the evaluation procedure.
Evaluation criteria is not set in the tender documents	No
27. In the case where only one proposal is submitted (sole proposals), which of the following options best describes the way the procuring authority deals with them? (Please select only one): The procuring authority follows a specific procedure before awarding a PPP contract where only one proposal is submitted.	Yes
Please specify and provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 21 of LKPP, in cases where the pre-qualification stage brings out only one possible candidate, the direct appointment method applies. Article 29 (1) of Regulation No. 19/2015 also states that in cases where a prequalification stage culminates with a selection of only one participant direct appointment method applies. The article further outlines the documents, required approvals and steps of award of the bid through a direct appointment.
The procuring authority considers sole proposals valid	No

as long as they meet the conditions outlined in the tender documents.	
Please provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority does not award a PPP contract if only one proposal is submitted.	No
Please provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework does not include any provisions.	No
28. Does the procuring authority publish the award notice?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	Annex of Regulation No. 19/2015; the tender committee will send email to every bidder and publish the award notice through website and/or newspaper
28.1. If yes, is the public procurement award notice published online?	Yes
If yes, please specify the website:	www.pkps.bappenas.go.id
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):	Annex of Regulation No. 19/2015; the tender committee will send email to every bidder and publish the award notice through website and/or newspaper
If no, please elaborate:	n/a
29.1. If yes, does the notification of the result of the PPP procurement process include the grounds for the selection of the winning bid?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Chapter II, part B, point 2(n) of the attachment of LKPP 19, the procuring entity's notice of the winner of tender/bidding shall at least contain, among others, the combined score of technical and cost bids.
30. Is there a standstill (or pause) period after the contract award and before the signing of the contract in order to allow unsuccessful	Yes

bidders to challenge the award decision?	
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 27 and Article 28 of LKPP 19 provide the stages in conducting the tender. It starts from invitation to bidders until preparation for signing. After the winner is announced but before the signing, there is objection phase where the unsuccessful bidder can challenge the award.
and the time in calendar days:	7
30.1. Is the standstill period set out in the notice of intention to award?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
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?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
31.1. Based on your experience, is it always the case that this restriction is respected in practice?	Yes
If yes, please specify:	The negotiation restriction is respected in practice. No material changes are made to the PPP contract after the award, but only minor ones.
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	n/a

publishing the full PPP contract	
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)?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 44 of Regulation No. 38/2015: 1. The Minister/Head of Institution/Head of Region will appoint a working unit in the Ministry/Institution/Region as PPP Node. 2. The PPP Node referred to in paragraph (1) has the task to prepare the formulation of policies, synchronization, coordination, monitoring and evaluation of PPP development.
41.1. If yes, which of the following tools does it include (check all that apply)?: Establishment of a PPP contract management team	Yes
Relevant legal/regulatory provisions (if any):	Pursuant to Article 44 of Regulation No. 38/2015: 1. The Minister/Head of Institution/Head of Region will appoint a working unit in the Ministry/Institution/Region as PPP Node. 2. The PPP Node referred to in paragraph (1) has the task to prepare the formulation of policies, synchronization, coordination, monitoring and evaluation of PPP development.

Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa	Yes
Relevant legal/regulatory provisions (if any):	Provisions concerning the Implementing and Contracting Authority (PJK) in: (i) Regulation No. 38 of 2015 concerning Cooperation Between Government and Business Entities in Procurement of Infrastructure; (ii) the Ministry of National Development Planning Regulation No. 4 of 2015 concerning Procedure for Cooperation between Government and Business Entities in Procurement of Infrastructure, and (iii) the Government Goods and Services Procurement Policy (LKPP) Regulation No. 19 of 2015 concerning Procurement Procedure for Partnership between Government and Business Entities for Procurement of Infrastructure
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.	No
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.	No
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.	Yes
Please elaborate and provide examples:	Article 44 of Regulation No. 38/2015 does not provide for qualification of the management team.
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 32 of PR 38: PPP contract must include provisions, among others on the mechanisms for supervision of performance, works and/or services. Annex of Bappenas Regulation No. 4 of 2015 section IV letter E point 2f reserves the right of the procuring authority to track progress and to address issues related to failure and incompetence of the Executing Enterprise to fulfill the PPP agreement; delays or changes in construction schedules; variations of construction design, interalia.
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):	Pursuant to Article 44 of Regulation No. 38/2015: 1. The Minister/Head of Institution/Head of Region will appoint a working unit in the Ministry/Institution/Region as PPP Node. 2. The PPP Node referred to in

	paragraph (1) has the task to prepare the formulation of policies, synchronization, coordination, monitoring and evaluation of PPP development.
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	No
Relevant legal/regulatory provisions (if any)	n/a
The procuring or contract management authority must periodically gather information on the performance of the PPP contract	No
Relevant legal/regulatory provisions (if any)	n/a
The PPP contract performance information must be available to the public	No
Relevant legal/regulatory provisions (if any)	n/a
43.2. Is PPP contract performance information made publicly available online?	n/a
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):	Pursuant to Article 32 (4) and 32 (5) of Regulation No. 38/2015: 4. The transfer of shares of the implementing Business Entity before Infrastructure. Provision operates commercially referred to in paragraph (2) letter g, can be done only after approval and in accordance with the criteria established by the Minister/Head of Institution/Head of Region/State Owned Enterprise/Regional Owned Enterprise. 5. The transfer of shares referred to in paragraph (4), must not cause delay to the commencement of operation of the PPP.
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).	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to Article 32(4) of PR 38, the transfer of shares in the project company before the commercial operation date can only be done if it has obtained prior approval from and meets the criteria stipulated by the relevant Minister/Head of Agency/Head of Local Government/State Owned Enterprise/Regional Owned Enterprise. We also note that the PPP contract will further specify the restriction and procedures for the transfer of shares in a project company after the commercial operation date. Further, Article 32 (5) of PR 38 provides that the transfer of shares of the Business Entity before the PPP project is operated commercially must obtain approval from the procuring authority.
Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
In other cases, flexibility to change the ownership	No

structure and/or assign the contract.	
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)?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 32 (2) (m) of Regulation No. 38 states that the PPP agreement (contract) should contain mechanism for variations in the works and/or services;
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.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the risk allocation of the contract.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the financial and/or economic balance of the contract.	No
If yes, please provide the relevant legal/regulatory/standard	n/a

contractual provisions (if any):	
A change in the duration of the contract.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the agreed price or tariff.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
46.3. Can the procuring authority unilaterally modify a PPP contract?	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
47. Does the regulatory framework (including standard contractual clauses) expressly regulate the following circumstances that may occur during the life of the PPP contract? (check all that apply): Force Majeure	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 32 (2) (q) of Regulation No. 38/2015 states that the PPP agreement (contract) should contain determinations related to force majeure.
Material Adverse government action .	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Change in the Law.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Refinancing.	No

If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Subcontracting and replacement of the subcontractors.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
48. Does the regulatory framework (including standard contractual clauses) allow for administrative and/or contractual complaint review mechanisms to address disputes arising from the implementation of PPP contracts?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 32 (2) (k) of Regulation No. 38/2015 states that the PPP agreement (contract) should contain determinations on dispute resolution mechanism, which should be arranged in stages, namely deliberation and consensus, mediation, and arbitration/court.
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)	Pursuant to Article 32 section (2) (k) of Presidential Regulation No. 38 of 2015 states, the PPP agreement (contract) should contain determinations on dispute resolution mechanism, which should be arranged in stages, namely deliberation and consensus, mediation, and arbitration/court. Indonesia is a signatory of the New York Convention as of October 7, 1981, and an ICSID member as of October 28, 1968.
48.2. If applicable, are arbitration awards enforceable by the local courts?: Domestic Arbitration	Yes

<p>If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):</p>	<p>Article 59 of the Law No. 30/1999 concerning Alternative Dispute Resolution and Arbitration: (i) dispute resolution through Arbitration can be done through the National Arbitration or the International Arbitration based on each party's agreement. (ii) the original/copy of decision from national arbitration must be registered to the local court clerks no more than 30 days after the decision pronounced. Failure to comply with this provision resulted that the National Arbitration decision can not be executed.</p>
<p>International arbitration</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):</p>	<p>(i) Pursuant to Article 34 of Law No. 30 of 1999 concerning Arbitration, dispute resolution through Arbitration can be done through the National Arbitration or the International Arbitration based on each party's agreement. Indonesia ratified New York Convention on the 7th of October 1981. Indonesia is a signatory of the New York Convention as of October 7, 1981.</p>
<p>Investor-State arbitration</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):</p>	<p>Indonesia is an ICSID member as of October 28, 1968.</p>
<p>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?</p>	<p>No</p>
<p>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>n/a</p>
<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>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>Article 32 (2) (n) of Regulation No. 38/2015 states that the PPP agreement (contract) should contain determinations on step-in right mechanism by the government and lenders;</p>
<p>50.1. If yes, which of the following options best describes the lender step-in</p>	<p>No</p>

right? (Please select only one): The regulatory framework expressly regulates the lender step-in rights.	
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
The regulatory framework prescribes that a direct agreement should be signed with the lenders.	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.	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 32 section (2) (n) of PR 38 states that the PPP agreement (contract) should contain determinations on step-in right mechanism by the government and lenders.
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):	Article 32 (2) (i) of Regulation No. 38/2015 states that the PPP agreement (contract) should contain determinations on the termination of agreement. Article 32 (2) (i) of Regulation No. 38/2015
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	Article 32 (2) (h) of Regulation No. 38/2015 states that the PPP agreement (contract) should contain determinations on the sanctions in the event the parties fail to meet the terms of the agreement.

contractual provisions (if any):	
Unsolicited Proposals	
34. Are unsolicited proposals in Indonesia: (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	Pursuant to Article 14 (2) of Regulation No. 38/2015, a Business Entity may submit initiatives to the Minister/Head of Institution/Head of Region.
35. Does the procuring authority conduct an assessment to evaluate unsolicited proposals? (if not, skip to question 37)	Yes
If yes, please specify and provide the relevant legal/regulatory provisions (if any)	Pursuant to Article 14 (3) of Regulation No. 38/2015, infrastructure Provision that may be initiated by a Business Entity must meet the following criteria: a. technically integrated with the master plan of the sector concerned; b. economically and financially feasible; and c. the Business Entity that proposes the initiative has adequate financial capability to finance the implementation of the Infrastructure Provision.
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):	Pursuant to Article 14(4) of PR 38, the entity who submits the unsolicited proposal shall have its proposal to go through pre-feasibility analysis. Further, pursuant to Chapter V Part B of the Attachment to BAPPENAS, the unsolicited proposals must meet the pre-qualification criteria, which consists of: 1) technically integrated with the master plan of the sector concerned; 2) economically and financially feasible; and 3) the Business Entity that proposes the initiative has adequate financial capability to finance the implementation of the Infrastructure Provision.
36. Which of the following options best describe how the procuring authority ensures	No

<p>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.</p>	
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p>	n/a
<p>The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.</p>	Yes
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Pursuant to Article 14(3) of PR 38/2015, the unsolicited project must fulfill the following criteria:</p> <ul style="list-style-type: none"> - technically integrated with the master plan of the relevant sector; -economically and financially feasible; and -the project company has sufficient financial capability to fund the infrastructure project.
<p>The procuring authority does not evaluate unsolicited proposals against existing government priorities.</p>	No
<p>Please elaborate and provide examples:</p>	n/a
<p>37. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?</p>	Yes
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Pursuant to Article 14 (2) of Regulation No. 38/2015, a Business Entity may propose a KPBU initiative to the Minister/Head of Institution/Head of Region. Pursuant to Article 14 (3) of Regulation No. 38/2015, The Provision of Infrastructure which may be initiated by the Business Entity shall be those fulfilling the following criteria:</p> <ul style="list-style-type: none"> a. Technically integrated of the relevant sector to the master plan; b. Feasible economically and financially; and c. The Business Entity applying the initiative shall possess adequate financial capacity
<p>38. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides</p>	No

the proponent) to prepare their proposals?	
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.	Yes
39.4 Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).	Yes
39.5 Other.	Yes
Please specify:	The purchase of the PPP initiative, such as the corresponding Intellectual Property Rights by the Minister/Head of Institution/Head of Region or by the winning bidder.
Please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 14 (5) of Regulation No. 38/2015, the Business Entity that initiates a PPP may be given the following alternatives for compensation: a. additional value of 10% (ten per cent); b. the right to bid by the initiating Business Entity in relation with the best bidder (right to match), in accordance with the result of the evaluation of the tender process; or c. the purchase of the PPP initiative, such as the corresponding Intellectual Property Rights by the Minister/Head of Institution/Head of Region or by the winning bidder.