

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

SURVEY QUESTION	ANALYSIS
<b>PPP Regulatory Framework</b>	
<b>2. Does the regulatory framework in your country allow procuring PPPs?</b>	<p>Yes</p>
<b>If yes, please specify the relevant regulatory framework and the year of adoption:</b>	<p>PPPs in Italy are mainly regulated by the Legislative Decree no. 50/2016 of April 18, 2016 implementing Directives 2014/23/EU, 2014/24/EU and 2014/25/EC (hereinafter “Public Contracts Code”) and its subsequent amendments (inter alia, Legislative Decree no. 56/2017). The Public Contracts Code has repealed the previous regulations set by the Legislative Decree 12 April 2006 no. 163. The Public Contracts Code provides for implementation of its regulation through the adoption of Guidelines adopted by A.N.A.C, National Anti-Corruption Authority. The current framework in Italy is in a transitional phase, until the entry into force of some pieces of legislations such as the ANAC (National Anti-Corruption Authority), the articles of Presidential Decree no. 207/2010 on the implementation of the legislative decree 12 April 2006 n. 163, entitled “Code of Public Contracts for Works, Services, and Suppliers in Implementation of Directives 2004/17/EC and 2004/18 /EC” [hereinafter “Implementing Regulation”] still apply.</p> <p>PPPs are explicitly identified in Article 3 (paragraph 1, let. eee) of the Public Contracts Code as contracts for pecuniary interest concluded in writing by means of which one or more contracting authorities or contracting entities entrusted to one or more economic operators, for a period determined on the basis of the time required to recoup the investment or the conditions of the financing, the execution of a set of activities consisting in construction works or the transformation, operation and maintenance services of a facility, the consideration of which consists in the availability of the facility, or in the right to exploit it or consisting in the provision of a service connected to the use by the operator of the facility itself, together with a transfer to the latter of an operating risk as provided in the relevant contract.</p> <p>In particular, PPP is regulated in Part IV, Title I (Articles 179-191), that is primarily dedicated to the public private partnership and Part II (Public procurement) and III (Concession Contracts), which are applicable where compatible.</p>
<b>and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an</b>	<p><a href="http://www.gazzettaufficiale.it/atto/serie_generale/caricaDettaglioAtto/originario?atto.dataPubblicazioneGazzetta=2016-04-19&amp;atto.codiceRedazionale=16G00062">http://www.gazzettaufficiale.it/atto/serie_generale/caricaDettaglioAtto/originario?atto.dataPubblicazioneGazzetta=2016-04-19&amp;atto.codiceRedazionale=16G00062</a></p> <p><a href="http://www.gazzettaufficiale.it/eli/id/2017/05/5/17G00078/sg">http://www.gazzettaufficiale.it/eli/id/2017/05/5/17G00078/sg</a></p>

<b>electronic copy of it:</b>	
<b>2.1. Are you aware of any reforms (in the regulatory frameworks – laws, regulations, policies, etc.- or in generally followed practices) related to PPPs that: Took place in 2016, are ongoing and/or are planned to be adopted BEFORE June 1, 2017?</b>	<p>Yes</p>
<b>Please describe:</b>	<p>The new regulatory framework (Legislative Decree no. 50/2016), replacing the Legislative Decree no. 163/2006, came into force on April 19, 2016 (implementing Directives 2014/23/EU, 2014/24/EU and 2014/25/EU of the European Parliament and European Council of 26 February 2014), and its subsequent amendments (inter alia, Legislative Decree no. 56/2017) came into force on 20 May 2017.</p>
<b>2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?</b>	<p>Yes</p>
<b>Please describe:</b>	<p>According to Article 216 of the Public Contracts Code, a transitional phase is envisaged for the implementation of the new legal framework, which requires the adoption of several implementing decrees by the Ministry of Economy and Finance, the Ministry of Infrastructure and Transportation, as well as several binding and non-binding guidelines by ANAC (National Anti-Corruption Authority).</p> <p>The completion of the transitional phase will require, in the near future, the adoption of numerous implementing decrees. In particular, in February 2017, ANAC approved a first draft of the “Implementing guidelines” on the monitoring of the economic operator’s activity in a PPP contract (hereinafter the “Guidelines”), which after a favorable opinion by the Council of State (which requested to ANAC some little changes that need to be made) are still waiting to be published in the Official Gazette for the purpose of their entry into force.</p> <p><a href="http://www.anticorruzione.it/portal/public/classic/RegolazioneContratti/LineeGuida/_propost edilineeguida20170201">http://www.anticorruzione.it/portal/public/classic/RegolazioneContratti/LineeGuida/_propost edilineeguida20170201</a></p>
<b>3.1 Besides national defense and</b>	<p>No</p>

<p><b>other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Transportation.</b></p>	
<p><b>If yes, please provide the relevant legal/regulatory provisions:</b></p>	n/a
<p><b>3.2 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Water and Irrigation</b></p>	No
<p><b>If yes, please provide the relevant legal/regulatory provisions:</b></p>	n/a
<p><b>3.3 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following</b></p>	No

<b>sectors?: Energy generation and distribution.</b>	
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>3.4 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Telecom</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>3.5 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Other</b>	No
<b>If yes, specify and provide the relevant legal/regulatory provisions:</b>	n/a
<b>4. Does the regulatory</b>	Yes

<p><b>framework provide for a specific tax regime for PPP transactions (i.e. tax incentives, special tax depreciation treatment, etc.)?</b></p>	
<p><b>If yes, please specify and provide the relevant legal/regulatory provision (if any):</b></p>	<p>Article 18 of Legislative Decree no. 183/2011 (as modified by Articles 2 of Law Decree no. 83/2012 converted into Law no. 134/2012) regulates tax exemption measures that can be introduced in favor of PPP projects in order to reduce public non-repayable contribution quota. The measures concern both new projects and infrastructures already awarded in which the balance of the economic-financial plan shall be restored. The only limit is that the maximum quota of the public contribution, including the tax exemption measures, shall not exceed 50% of the total investment cost and be compliant with the national and EU legislation. Articles 33 of the Legislative Decree 179/2012 converted into Law 221/2012 provides that the private partner can benefit from the grant of an IRES (corporate tax) and IRAP tax credits for PPP definitive projects. This tax relief measure applies for works with a minimum value of €50 million, approved before the 31 December 2016, for which there is no public contribution and the non-sustainability of the economic-financial plan has been established.</p> <p>Article 14 of Law Decree no. 83/2012, converted into Law no. 134/2012, establishes a fund - funded by VAT revenues from port activities - for financing projects concerning the development of port infrastructures with a limit of 70 million euros per year.</p> <p>Under Article 1 of Law Decree No. 83 of 22 June 2012, interest from notes falling within the category of project bonds (obbligazioni di progetto), issued by Italian resident Project Companies pursuant to Article 185 of the Public Contracts Code ("Project Bonds"), is subject to the same tax regime provided for bonds issued by the Republic of Italy (titoli del debito pubblico), which implies a reduced withholding tax rate (12.50% instead of the ordinary 26%) and certain exemptions from the application of Italian withholding tax for foreign investors.</p>
<p><b>5. Please identify the PPP procuring authorities in Italy and provide their website(s) (if available):</b></p>	<p>Any public authority in Italy may be a PPP procuring authority. Article 38 of the New Public Contracts Code has innovated the legislation regarding procuring authorities, introducing a qualification system that will be managed by the National Anti-Corruption Authority (not yet in force). The system will be based on the possession of specific requirements indicated in a Decree to be issued by the President of the Council of the Ministers. The relevant public authority for the single PPP projects is identifiable with reference to the powers awarded to it by the legal framework (in particular on the basis of the competences set forth by art. 117 of the Italian Constitution). A list would include, but not be limited to, the central government and the regional and local administrations (provinces, municipalities); peripheral offices of the central government; national health service bodies, such as ANAS (motorways), and Rete Ferroviaria Italiana (RFI) (railways). For the case study assumption identified, the Ministry of Infrastructure and Transportation <a href="http://www.mit.gov.it/">http://www.mit.gov.it/</a> would be most relevant.</p>
<p><b>6. In addition to the PPP procuring</b></p>	<p>Yes</p>

<b>authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?</b>	
<b>If yes, please indicate its name, and its website (if available):</b>	<p>According to DPCM n. 2858/2015, the Presidency of the Council of Ministers - Department for Planning and Coordination of Economic Policy (DIPE) fulfills the mandate of facilitating PPP programs. This activity was previously carried out by the Unità Tecnica Finanza di Progetto (UTFP). DIPE's web site is available at the following link:  <a href="http://www.programmazioneeconomica.gov.it/">http://www.programmazioneeconomica.gov.it/</a></p> <p>In fact, Department for Planning and Coordination of Economic Policy (DIPE) of the Palace Chigi is renewed. With DPCM no. 2858/2015, DIPE incorporates the competences of the ex-Department of Territorial Economies (DIST) and redesign the office division by focusing on development of urban policies and monitoring of CIPE resolutions. The strengths of the new organization are more coordinated public investment policies infrastructural, environmental, intangible, territorial cohesion, and the strengthening of the functions of monitoring the implementation of public investment, in particular those decided by CIPE, through the optimization of DIPE databases. Finally, DIPE is advised to consult Public-private partnerships in public / private partnerships and project finance.  (reference:  <a href="http://www.regione.piemonte.it/programmazione/vetrina/media/files/Newsletter16_03.pdf">http://www.regione.piemonte.it/programmazione/vetrina/media/files/Newsletter16_03.pdf</a>)</p>
<b>6.1 If yes, what are the main responsibilities of the PPP Unit (check all that apply): PPP regulation and policy guidance.</b>	<p>No</p>
<b>6.2 PPP capacity building for other public authorities.</b>	<p>Yes</p>
<b>6.3 PPP promotion among the public and/or private sectors in national and international forums.</b>	<p>Yes</p>

<b>6.4 Technical support in implementing PPP projects.</b>	Yes
<b>6.5 Identification and selection of PPP projects from the pipeline.</b>	No
<b>6.6 Revision of fiscal risks born by the Government.</b>	No
<b>6.7 Consultation with affected communities on potential impact of PPP projects.</b>	No
<b>6.8 Approval of PPP projects.</b>	No
<b>6.9 Undertaking the procurement of PPPs.</b>	No
<b>6.10 Oversight of PPP implementation.</b>	No
<b>6.11 Other</b>	Yes
<b>6.11 please specify:</b>	<p>The DIPE's competences in this field are: i) promoting the PPP models; ii) assuring free counseling to Public Administrations through the provision of technical, legal and financial assistance services at all stages of the proceedings; iv) supporting to the MIT and CIPE decisions regarding PPP Contracts for Strategic Infrastructures; v) data collection and monitoring for the estimation of the impact on the public budget (deficit and debt) of PPP operations; vi) the activation of collaborative relations with institutions, including at international level, bodies, and associations active in the fields of interest on PPP.</p> <p>Additionally, DIPE advises on agreements and business plans for key infrastructures and tax relief measures (allocated under Article 18 of Law 183/2011); tax credits (pursuant to Article 33 of Law Decree no. 179/2012); approval of planning contracts and agreements between state and private concessionaires (in accordance with Article 36 of Law Decree no. 1/2012, converted into Law 27/2012).</p>
<b>Please provide the relevant</b>	<p>Article 1, paragraph 589, of Law 28 December 2015, No. 208.</p> <p>Article 18 of Law 183/2011 (Stability Act 2012)</p>

<b>legal/regulatory provisions:</b>	Article 33 of Decree-Law 179/2012 (Decreto Sviluppo Bis). (converted into Law no. 221/2012) Article 36 of Law Decree no. 1/2012, (converted into Law 27/2012)
<b>PPP Preparation</b>	
<b>8. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>8.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before signing the PPP contract?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>8.2. Does the Ministry of Finance (or government more broadly) have a specific system of: Budgeting for PPP projects.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a



<b>ry provisions (if any):</b>	
<b>Accounting liabilities (explicit and implicit, direct and contingent) arising from PPPs.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	All European countries follow the European System of Accounts (ESA 2010)
<b>Reporting liabilities (explicit and implicit, direct and contingent) arising from PPPs.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>8.3. If yes to question 8.2, which of the following alternatives best describes the regulation?: Accounting and reporting according to International Public Sector Accounting Standards (IPSAS).</b>	No
<b>Accounting and reporting according to other international standard (e.g.</b>	No

<b>European System of Accounts).</b>	
<b>Please specify:</b>	n/a
<b>Other.</b>	No
<b>Please specify:</b>	n/a
<b>9. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before launching the procurement process (e.g. Cabinet, Cabinet Committee, Parliament, Supreme Audit Office, etc.)?</b>	Yes
<b>If yes, please specify the relevant authority</b>	Pursuant to art. 200 and 201 of the Public Contract Code, for strategic infrastructure projects, the Ministry for Infrastructures and Transportation and the Interministerial Committee for Economic Planning (CIPE) (Comitato Interministeriale per la Programmazione Economica) approve the project.
<b>and provide the relevant legal/regulatory provisions (if any):</b>	Art. 200 and 201 of the Code, the identification of the priority infrastructures and settlements for the development of the country, which can be realized in the form of PPPs, is entrusted to the Transport and Logistics General Plan (hereinafter, "TLGP"), as well as to the Multiannual Planning Documents (hereinafter, "MDP") referred to in art. 2, para. 1 of the Legislative Decree 228/2011.
<b>9.1. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other</b>	No

<b>authority(s) approve the PPP project before signing the PPP contract?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>10. Does the procuring authority use transaction advisors during the PPP project cycle?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Pursuant to Article 66 of the Public Contracts Code, before starting the procedure, the procuring authority may consult experts and economic operators, even requesting them to provide documents that will be used in order to prepare the tender documentation. Additionally, Article 183 paragraph 2 of the Public Contracts Code provides that the tender feasibility project is drawn up by the staff of the procuring authorities. In case of shortage qualified staff, the procuring authorities may entrust the drafting of the feasibility study to third parties identified by the procedures set out in the Code.</p>
<b>11. In a case comparable to the case study assumptions, please select the option that best describes the way your government integrates the prioritization of PPP projects with other public investment project prioritization? (e.g. in the context of a national public investment system, multi-</b>	No

<p><b>year perspective plans, medium-term budgetary framework):</b> <b>The regulatory framework provides for the inclusion of PPPs in the national public investment system/medium term budgetary framework and details a specific procedure to ensure the consistency of PPPs with other public investment priorities.</b></p>	
<p><b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b></p>	n/a
<p><b>The regulatory framework prescribes the need for PPPs to be consistent with all other investment priorities without establishing a specific procedure to achieve that goal.</b></p>	Yes

<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>According to Article 200 of the Public Contracts Code, 1. Infrastructures and priority settlements for development of the country are evaluated and consequently placed in the planning and programming tools, referred to in the following articles, by the Ministry of Infrastructure and Transport.</p> <p>Furthermore, Article 201 provides that 2. The General Transport and Logistics Plan (PGTL) contains the strategic lines of mobility policies people and goods, as well as the infrastructural development of the country. The Plan is adopted every three years, on a proposal from the Minister of Infrastructure and transport, through a Presidential Decree, after deliberation of the CIPE, and after the opinion of the competent parliamentary committees.</p>
<b>The regulatory framework does not include any provisions but the procuring authority evaluates the consistency of PPPs with other government investment priorities in practice.</b>	<p>No</p>
<b>If yes, please elaborate:</b>	<p>n/a</p>
<b>The procuring authority does not evaluate PPPs against existing government priorities.</b>	<p>No</p>
<b>Please elaborate and provide examples:</b>	<p>n/a</p>
<b>11.1. Based on your experience, is it always the case that this prioritization is done in practice in accordance with the provisions of the regulatory</b>	<p>Yes</p>

<b>framework described above?</b>	
<b>If yes, please specify:</b>	In practice, prioritization of PPP projects among other government investment priorities is done in Italy
<b>If no, please elaborate:</b>	n/a
<b>12.1 Which of the following assessments are conducted when identifying and preparing a PPP in order to inform the decision to proceed with it? (check all that apply): Socio-economic analysis (cost-benefit analysis of the socio-economic impact of the PPP project)</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	According to Article 181 of the New Public Contracts Code, 3. The choice (of the procedure) is preceded by an appropriate inquiry with reference to the analysis of supply and demand, sustainability, socio-economic analysis, nature and intensity of the various risks involved in the operation, use of evaluation techniques, and comparative tools to verify the convenience of recourse to public private partnership as an alternative to normal procurement procedures.
<b>Is there a specific methodology for the assessment?</b>	Yes
<b>If yes, please elaborate</b>	According to Article 181 (3) of the New Public Contracts Code public entities, before launching the PPP procedure, shall perform a preliminary activity of analysis concerning the economic and social sustainability of the planned operation. D.P.C.M. 3/8/2012 on the Implementation of Article 8, Paragraph 3 of Legislative Decree no. 228/2011 Concerning Guidelines for the Assessment of Investments related to the Public and Multi-Annual Planning Document of Investments in Public Works, (published in the Official Gazette on November 22, 2012, n . 273) provides methodology on socio-economic assessments in Section I & II of (Allegato II).
<b>Is the assessment done in practice?</b>	Yes
<b>Details:</b>	The socio-economic analysis is always done in practice in Italy

<b>12.2. Affordability assessment, including the identification of the required long term public commitments (explicit and implicit, direct and contingent liabilities)</b>	<p>Yes</p>
<b>Relevant legal/regulatory provision (if any)</b>	<p>According to Article 181 of the New Public Contracts Code, 3. The choice (of the procedure) is preceded by an appropriate inquiry with reference to the analysis of supply and demand, sustainability, socio-economic analysis, nature and intensity of the various risks involved in the operation, use of evaluation techniques, and comparative tools to verify the convenience of recourse to public private partnership as an alternative to normal procurement procedures.</p>
<b>Is there a specific methodology for the assessment?</b>	<p>Yes</p>
<b>If yes, please elaborate</b>	<p>Article 167 of the Public Contracts Code deals with the method of calculating the estimated value of concessions.</p> <p>Furthermore, PPP Guidelines provides in Article 3.2, guidance on the “Value of the Contracts” and identifies key elements of its calculation over the period of implementing PPPs. These include:</p> <p>a) the value of any form of option and any extension of the duration of the concession; b) the proceeds from the payment, by the users of works and services, tariffs, and fines other than those levied on behalf of the contracting authority or entity contracting; c) payments or any financial benefit to the dealer in any form by the contracting authority or entity or by other administrations public, including compensation for the performance of a public service obligation and investment public subsidies; d) the amount of subsidy or any other financial benefit in any form conferred by a third party for the execution of the concession; e) revenue from the sale of assets belonging to the concession; f) the whole value of the goods and services made available to the dealer from contracting authorities or contracting entities, provided that they are necessary for the execution of works or the provision of services; g) any premium or payment to the candidates or tenderers.</p>
<b>Is the assessment done in practice?</b>	<p>Yes</p>
<b>Details:</b>	<p>The affordability assessment for the PPP projects are always done in practice in Italy</p>
<b>12.3. Risk identification, allocation and assessment (risk matrix)</b>	<p>Yes</p>

<b>Relevant legal/regulatory provision (if any)</b>	<p>According to Article 181 of the New Public Contracts Code, 3. The choice (of the procedure) is preceded by an appropriate inquiry with reference to the analysis of supply and demand, sustainability, socio-economic analysis, nature and intensity of the various risks involved in the operation, use of evaluation techniques and comparative tools to verify the convenience of recourse to public private partnership as an alternative to normal procurement procedures. . We understand that in the PPP contract, the transfer of risk to the private partner should entail, in addition to construction risk, the risk of availability of the works or services or demand or supply risk.</p> <p>Typically, such risks shall derive from factors which are outside the control of the operator since, for instance, a contractual default or mismanagement, and even force majeure, elements are inherent in every contract and not distinctive of a PPP/concession agreement. Article 181 (3) specifies that the public-private partnership contract also covers risks and accidents on fees, arising from facts not attributable to the private partner.</p> <p>Finally, we note that Article 3 (1) (zz) of the Public Contracts Code defines “operational risk” as the risk associated with the management of the work or services on the demand or on the supply side. The private partner assumes the operational risk if, under normal market conditions, no recovery of the investments made or costs incurred is guaranteed. In other words, the private partner must have a real exposure to the fluctuations of the market.</p>
<b>Is there a specific methodology for the assessment?</b>	<p>Yes</p>
<b>If yes, please elaborate</b>	<p>The PPP Guidelines detail in Article 3.1, the distinctive elements of the concession with respect to the contract and allocation risk. It identifies risks connected to construction, availability, and demand, in addition to others common to all project types that occur in long period, such as financial, legal, political, and authoritative. The Guidelines refer to Eurostat Decision of February 11, 2004, integrated and updated with the contents of the new European System of national and regional accounts published by Eurostat in May of 2013 (cd. “SEC2010”) and the Manual on government deficit and debt public (Manual on Government Deficit and Debt - MGDD), published for the first time by Eurostat in 1999, and most recently updated in August 2014, which devotes Chapter 4 of Part VI to Public Private Partnerships, <a href="http://www.programmazioneconomica.gov.it/unita-tecnica-finanza-di-progetto-utfp/documenti/">http://www.programmazioneconomica.gov.it/unita-tecnica-finanza-di-progetto-utfp/documenti/</a> serves as a guidance tool in terms of risk matrix.</p>
<b>Is the assessment done in practice?</b>	<p>Yes</p>
<b>Details:</b>	<p>The risk assessment of PPP projects is always done in practice in Italy</p>
<b>12.4. Comparative assessment to evaluate whether a PPP is the best option when compared to other</b>	<p>Yes</p>



<b>procurement alternatives (i.e. value for money analysis, public sector comparator)</b>	
<b>Relevant legal/regulatory provision (if any)</b>	Article 181 (3) of the Public Contracts Code provides for the use of comparative tools to verify the convenience of recourse to forms of public private partnership as an alternative to direct realization through normal procurement procedures. Furthermore, Article 14 of Presidential decree 207/2010 states that the feasibility study is made up of (B) the analysis of possible alternatives to the solution Realization identified and (C) of verification of the possibility of realization through Public private partnerships referred to in Article 3 Paragraph 15-ter of the Code
<b>Is there a specific methodology for the assessment?</b>	Yes
<b>If yes, please elaborate</b>	The PPP Guidelines Article 5.2 addresses the choice of intervention implementation model: public and private partnership or contract. It highlights main aspects of this analysis in: i. the presence of a legal and regulatory framework compatible with the intervention; ii. the existence of risks transferred to the private party; iii. the organizational capacity and the presence of the know-how of the public administration for undertake a PPP; iv. the opportunity to practice a tie payment system to preset quantitative levels and qualitative within the management; v. The tariffs on services to be delivered and the verification of collective consensus to pay such services.
<b>Is the assessment done in practice?</b>	Yes
<b>Details:</b>	A comparative assessment is done in practice when identifying and preparing a PPP project in Italy, in order to evaluate whether a PPP is the best option when compared to other procurement alternatives.
<b>12.5. Financial viability or bankability assessment</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	According to Article 165(3) of the New Public Contracts Code, 3. “The signing of the concession contract takes place after the submission of appropriate documentation concerning the funding work. The concession contract is solved by law [...] In order to facilitate getting the funding for the work, the tenders and the its annexes, including, where appropriate, the contract and the financial economic plan, defined in such a way to ensure adequate levels of bankability, meaning the availability of resources on the financial market, which are proportional to the needs, the sustainability ...” Additionally, according to Article 183 of the same code, “18. In order to ensure adequate levels of bankability and the involvement of the banking system in the operation, the provisions of Article 185 must be applied”.
<b>Is there a specific</b>	Yes

<b>methodology for the assessment?</b>	
<b>If yes, please elaborate</b>	The PPP Guidelines identify in Article 5.3(d) analysis on financial feasibility, which includes an analysis of the flows of expenditure and revenue for both the step of building for that management. It is to assess the cost elements (which support especially in the phase of construction of the work and for the corresponding maintenance) and revenue (which is realized when the construction phase is completed and begins the management of the work). The horizon reference period of time becomes a decisive factor in calculating the financial sustainability of a work, as well as the discount rate used to discount the cost flows and future revenue. In this phase, it must perform a risk analysis in time, considering design alternatives through the risk matrix. The risk matrix, as already mentioned, it should disclose the nature of the risk and assigning: grantor, private partner, or both. Please remember that a correct estimate of the costs and revenues, as well as representing an essential element for the proper allocation of risks, it is a fundamental element for the work bankability.
<b>Is the assessment done in practice?</b>	Yes
<b>Details:</b>	The financial viability assessment is always done in practice for the PPP contracts in Italy.
<b>12.6. Market sounding and/or assessment (showing evidence of investors' interest in the market for the project)</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	Para. 3.3, Section I, of the ANAC Guidelines Proposal concerns risks and is under a title: "risk matrix", but also provides for conducting consultations Market preliminaries
<b>Is there a specific methodology for the assessment?</b>	No
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	No
<b>Details:</b>	According to our contributors, the market assessment is not done in practice when identifying and preparing a PPP in Italy
<b>12.7. Environmental impact assessment</b>	Yes

<b>Relevant legal/regulatory provision (if any)</b>	<p>Article 23 (6) of the Public Contracts Code provides for preliminary studies on the environmental impact. In fact, it states that: “The feasibility conclusion is drawn on the basis of the survey’s results ... the preliminary studies on the environmental impact and highlights, with appropriate elaborated mapping of the areas involved, with the possible necessary safeguard measures; It also indicates the performance features, functional specifications, needs of compensations and of mitigation of the environmental impact, infrastructure spending limits ... as well as the compensatory works or mitigating environmental and social impact.</p> <p>Additionally, Article 14 of Presidential Decree N. 207 (of 2010) provides that (E) the description, for the purpose of the prior evaluation of Environmental sustainability and landscape compatibility, as well as the requirements of the work to be designed, of the features and connections to the context in which project is inserted, with particular reference to the verification of environmental, historical, archaeological, and landscape constraints ... identification of appropriate measures to safeguard the Environmental protection and cultural and landscaping values.</p>
<b>Is there a specific methodology for the assessment?</b>	<p>Yes</p>
<b>If yes, please elaborate</b>	<p>According to Article 14 of the Presidential Decree, if the feasibility study is based on a tender, the following need to be achieved: ... B) technical report containing:</p> <ol style="list-style-type: none"> <li>1. the functional and technical features to achieve;</li> <li>2. description, for the purposes of the preliminary assessment of Environmental sustainability and landscape compatibility, of the requirements of the work to be designed, of the features and connections to the context in which the contract is inserted, as well as the measures suitable to safeguard Environmental protection and cultural landscaping values; ...</li> </ol>
<b>Is the assessment done in practice?</b>	<p>Yes</p>
<b>Details:</b>	<p>An environmental impact assessment is always done in practice when identifying and preparing a PPP project in Italy</p>
<b>12.8. Consultation process with affected communities on potential impact of the PPP project</b>	<p>No</p>
<b>Relevant legal/regulatory provision (if any)</b>	<p>n/a</p>
<b>Is there a specific methodology</b>	<p>n/a</p>

<b>for the assessment?</b>	
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	n/a
<b>Details:</b>	n/a
<b>13. Does the procuring authority include the assessments (indicated in Question 12 above) in the request for proposals and/or tender documents (for example, as part of an Information Memorandum to the bidders)?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Articles 165 and 183 of the Public Contracts Code, as well as Article 14 of Presidential Decree 207 of October 5th, 2010 (that is still applicable, according to Article 216(4) of the Public Contracts Code, until the final approval of the new PPP guidelines proposal and design implementing rules), provide for the inclusion of the assessments in the procurement notice
<b>and specify which of the assessments are included in the request for proposals and/or tender documents:</b>	socio-economic analysis, affordability assessment, risk identification, comparative, environmental, and bankability assessments
<b>13.1. Are the assessments published online?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a

<b>specify the website</b>	n/a
<b>please specify which of the assessments are published online:</b>	n/a
<b>14. Does the procuring authority include a draft PPP contract in the request for proposals?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Article 181 of the Public Contracts Code provides the relative rules on PPP operations: "... calls for proposals and its annexes have to include as appropriate, the project, the draft contract, and the financial plan governing the risks allocation between the procuring authority and the private partner..."</p> <p>Additionally, Article 165 (3) provides that call for proposal and its annexes, including the draft contract and the economic-financial plan, is defined to ensure adequate levels of bankability to the project.</p>
<b>If no, please elaborate</b>	n/a
<b>14.1. Are the tender documents published online?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>The standard document publication of the EU apply: Publication in Tenders Electronic Daily (TED).</p> <p>Additionally, Article 183 Paragraph 2 of the Code, on "Project Finance," and Article 188 Paragraph 3 of the Code, on the "Contract of Availability," set forth that the tender notice shall be published in accordance with Article 72 or Article 36 Paragraph 9 of the Code, depending on the total contract price.</p> <p>In particular, Article 72 of the Code provides that notices and tender notices shall be drawn up and electronically transmitted to the EU Publications Office to be published.</p> <p>The format and the procedures established by the EU Commission for the electronic transmission of notices and tender notices are available online: &lt;<a href="https://simap.ted.europa.eu/web/simap/home">https://simap.ted.europa.eu/web/simap/home</a>&gt;.</p> <p>Additionally, according to Article 73 Paragraph 4 of the Code and Decree of the Ministry of Infrastructures and Transport of December 2nd, 2016: Notices and tender notices shall also be published on the procuring authority website as well as on the digital platform of tender notices of the ANAC - National Anti-Corruption Authority.</p> <p>Procuring authorities shall publish online the tender documents in their entirety.</p> <p>Article 74 of the Code sets forth that procuring authorities shall offer a free, unlimited, and direct electronic access to tender documents from the date of publication of a notice in accordance with Articles 70 and 72 of the Code or from the date of the dispatch of an invitation to confirm the interest.</p>

<b>and please specify the website:</b>	<p>TED: <a href="http://ted.europa.eu/TED/misc/chooseLanguage.do">http://ted.europa.eu/TED/misc/chooseLanguage.do</a>          Procuring authority's website (depending on the project), and          ANAC:  <a href="http://www.anticorruzione.it/portal/public/classic/AmministrazioneTrasparente/BandiGaraContratti">http://www.anticorruzione.it/portal/public/classic/AmministrazioneTrasparente/BandiGaraContratti</a></p>
<b>15. In a case comparable to the case study assumptions, have standardized PPP model contracts and/or transaction documents been developed?</b>	<p>Yes</p>
<b>If yes, please specify and provide a government-supported website where the mentioned standards are available or provide an electronic copy of them:</b>	<p>RGS public consultation on the standard convention scheme on Public-Private Partnership - (Text in consultation since November 30, 2015 to February 29, 2016:  <a href="http://www.mef.gov.it/documenti-allegati/2015/Paper_24_novembre_2015_-_25-11-15_Finale.pdf">http://www.mef.gov.it/documenti-allegati/2015/Paper_24_novembre_2015_-_25-11-15_Finale.pdf</a>          and paragraph IV.1.1 of the publication by Ministero dell'Economia e delle Finanze entitled "A focus on PPPS in Italy."</p>
<b>16.1 In a case comparable to the case study assumptions, who is the responsible party for each of the following requirements ? Obtaining the required urban permits: Procuring authority (or other Government entity)</b>	<p>No</p>

<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</b>	No
<b>To be established in the contract</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	No regulatory basis
<b>16.2. Obtaining the required environmental permits: Procuring authority (or other Government entity)</b>	Yes
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</b>	No
<b>To be established in the contract</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	<p>According to Article 14 of Law N.241-1990: 5. Without prejudice to the provisions contained in regional legislation governing Environmental Impact Assessments (EIAs), in cases involving the grant of a concession to carry out public works, a services conference shall be convened by the licensing authority or, with the latter's consent, by the licensee within fifteen days. When the conference is convened at the request of the licensee, the licensing authority shall have the right to vote in any event.</p> <p>Section 14-bis provides: 1. A service conference may be convened, at the request of the</p>

interested party, before the presentation of a definitive application or project for particularly complex projects or projects concerning installations producing goods or services. The request must contain a statement of reasons and, in the absence of a preliminary project, be documented by a feasibility study. The conference shall have the purpose of examining on what conditions the necessary formal consent may be obtained when the definitive application or project is presented. In such cases, the conference shall state its conclusions within thirty days of the date of the request and the related costs shall be borne by the party making the request. 2. In procedures concerning the realisation of public works or works in the public interest, the services conference shall evaluate the preliminary project for the purposes of indicating the conditions on which the understandings, opinions, concessions, authorizations, licenses, permissions, or assent documents of whatever denomination required by the legislation in force for the definitive project may be obtained. On that occasion, the authorities responsible for protection of the environment, the landscape, territory, historical, and artistic heritage or protection of health and public safety shall assess the project's proposed solutions with reference to the interest that each one protects. If, on the basis of the available documentation, no elements definitively precluding the project's realisation emerge, the aforesaid authorities shall, within forty-five days, indicate the conditions and elements necessary for obtaining formal consent when the definitive project is presented. 3. In cases where an EIA is required, the services conference shall express its view within thirty days of the conclusion of the preliminary phase defining the contents of the Environmental Impact Study, in accordance with the provisions governing EIAs. Should such phase not be concluded within ninety days of the request referred to in subsection, (1) the services conference shall express its view within the following thirty days in any event. During such conference, the authority with competence for the EIA shall state the conditions governing development of both the project and the environmental impact study. During this phase, which constitutes an integral part of the EIA procedure, the aforesaid authority shall examine the main alternatives, including the zero alternative and, on the basis of the documentation available, check for potentially incompatible elements, including with reference to the project's proposed location. Should no such elements exist, it shall, during the services conference, indicate the conditions on which the necessary formal consent may be obtained when the definitive project is presented. 3-bis. Dissent expressed during the preliminary conference by an authority responsible for protection of the environment, the landscape and territory, the historical and artistic heritage, health or public safety, with reference to inter-regional works, shall be subject to the provisions contained in section 14-quater (3). 4. In the cases referred to in subsections (1), (2) and (3), the services conference shall express its view on the basis of the documents at its disposal and the indications given on that occasion may be modified or integrated only if significant elements emerge during subsequent phases of the procedure, including following observations made by private parties in relation to the definitive project. Such modifications or integrations must include a statement of reasons. 5. In the case referred to under subsection (2), the officer with exclusive responsibility for the procedure shall send the authorities concerned a copy of the definitive project, drawn up on the basis of the conditions indicated by the same authorities during the services conference on the preliminary project. He/she shall convene the conference on a date falling between the thirtieth and sixtieth day following the project's transmission. In cases where public works are entrusted by way of a procurement contract, competitive tendering, or the grant of a license, the contracting authority shall convene the services conference on the sole basis of the preliminary project, in accordance with the provisions of Law no. 109, dated 11 February 1994, as subsequently amended.



<b>16.3. Obtaining the required operational permits: Procuring authority (or other Government entity)</b>	No
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</b>	No
<b>To be established in the contract</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	No regulatory basis
<b>16.4. Obtaining the required land: Procuring authority (or other Government entity)</b>	No
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</b>	No
<b>To be established in the contract</b>	Yes

<b>Relevant legal/regulatory provision (if any)</b>	Article 6 (8) of Presidential Decree 327 of June 2001 states: If public works or public works are to be carried out by a concessionaire, the granting authority may delegate, in whole or in part, its expropriation powers, clearly determining the scope of the delegation in the concession, the ends of which must be specified in each act of the expropriation procedure.
<b>16.5. Obtaining the required right of way: Procuring authority (or other Government entity)</b>	No
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</b>	No
<b>To be established in the contract</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	No regulatory basis
<b>PPP Procurement</b>	
<b>18. Which of the following options best describes the required qualifications of the bid evaluation committee members? (Please select only one): The membership of the bid evaluation committee is specified and/or its members are</b>	Yes

<b>required to meet detailed qualifications.</b>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Articles 77 and 78 of the New Public Contracts Code provide some rules to ensure that the members of the tender commission are independent and in possession of adequate qualifications in relation with the object of the contract. In particular:</p> <ol style="list-style-type: none"> <li>1. the commissioners are drawn from a register managed by the National Anti-Corruption Authority (not yet entered into force);</li> <li>2.the tender commission is composed of an odd number of members, with a maximum number of five, experts in the same field of the object of the contract;</li> <li>3. the commissioners should not have done or can do any other function, technical, or administrative position in relation to the contract;</li> <li>4. people who have acted in the previous two-years as public administrator cannot be appointed commissioners in relation with contracts awarded by the government in which they have performed their task;</li> <li>5. People who are excluded from successive positions of commissioner who, as members of commission, have contributed, with intent or gross negligence established in court with no suspended sentence, to the approval of acts declared unlawful;</li> <li>6. causes of abstention provided by Article 51 of Italian Procedure Civil Code shall be applied to the commissioners;</li> <li>7. the appointment of the commissioners and the constitution of the committee shall take place after the expiry of the deadline for submission of tenders;</li> <li>8. the expenses of the commission are included in the economic framework of the project between the amounts available to the contracting authority;</li> <li>9. in case of renewal of the procedure following the annulment of the award or the exclusion of canceling out any of the competitors, it is reconvened the same commission.</li> </ol> <p>The Guidelines n. 5 of implementation of Legislative Decree no. 50/2016, “Criteria for the selection of the commissioners and for the inscription of experts in the national Register of the commissioners”, approved by the Council of the National Anti-Corruption Authority with deliberation n. 1190 of 16 the Novembre 2016, available at the following link <a href="http://www.anticorruzione.it/portal/public/classic/AttivitaAutorita/AttiDellAutorita/_Atto?ca=6632">http://www.anticorruzione.it/portal/public/classic/AttivitaAutorita/AttiDellAutorita/_Atto?ca=6632</a> provides indications about the procedures for the appointment and for the functioning modalities of the tender commission.</p>
<b>The bid evaluation committee members require sufficient qualification without specific details.</b>	<p>No</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>n/a</p>

<b>ry provisions (if any):</b>	
<b>The bid evaluation committee members are not required to have any specific qualifications.</b>	No
<b>Please elaborate and provide examples:</b>	n/a
<b>19. Does the procuring authority issue a public procurement notice of the PPP project?</b>	Yes
<b>If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):</b>	According to Articles 71, 72, and 73 of the Public Contracts Code, the public procurement notice is published in the Official Gazette, in either the Official Journal of the European Community (if the value of the contract exceeds the Community threshold) or the National Official Journal depending on the type of contract, and on the website of the procuring authority and ANAC (The National Anticorruption Authority). Additionally, other forms of direct advertising may be included, such as newspapers and institutional websites.
<b>19.1. If yes, is the public procurement notice published online?</b>	Yes
<b>If yes, please specify the website:</b>	The procuring authority website, ANAC website, Ministry of Infrastructure's website, e-procurement digital platform and <a href="http://www.gazzettaufficiale.it/30giorni/contratti;jsessionid=8dsO64+HY2LK6gwd+wu4VQ__.ntc-as4-guri2b">http://www.gazzettaufficiale.it/30giorni/contratti;jsessionid=8dsO64+HY2LK6gwd+wu4VQ__.ntc-as4-guri2b</a> , <a href="http://ted.europa.eu/TED/misc/chooseLanguage.do">http://ted.europa.eu/TED/misc/chooseLanguage.do</a>
<b>20. Are foreign companies prohibited from participating in the bidding process?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a

<b>ry provisions (if any):</b>	
<b>21. In a case comparable to the case study assumptions, does the procuring authority grant the potential bidders a minimum period of time to submit their bids?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Article 60 of the Public Contracts Code identifies a 35-day minimum time period (which be reduced to 15 days under certain conditions) for open tenders. In restricted procedures (Article 61), negotiated procedures with publication of a contract notice (Article 62), and the competitive dialogue (Article 64), the time limit for receipt of requests to participate cannot be fewer than thirty days from the date of transmission of the notice. In case of concession and PPP contracts, article 173(2) of the Public Contracts Code (which applies to PPPs by reference made by Article 179 to Part III of the Code) identifies a 30-day minimum time period to submit bids (regardless of the type of procedure).</p> <p>Unlike what was stated in the previous code, which fixed precisely the time limits to be respected in order to submit the bids, the current Article 79 of the Public Contracts Code merely states that, in fixing the deadlines for the receipt of applications for participation and the offers, the procuring authorities should take into consideration the complexity of the contract and the time necessary for the preparation of tenders, subject to the minimum deadlines laid down in Articles 60, 61, 62, 64, and 65 of the Public Contracts Code.</p>
<b>and the time in calendar days:</b>	35
<b>22.1. In a case comparable to the case study assumptions, which are the procurement procedures available and/or set as default for PPP projects? Open tendering: Available</b>	Yes
<b>Default</b>	No

<b>Relevant legal/regulatory provision (if any)</b>	<p>According to Article 59(1) of the Public Contracts Code: 1. In the award of public contracts, the contracting authority uses open or restricted procedures, upon publication of a notice of invitation to tender. They may also use the innovation partnership when there are the conditions laid down in Article 65, the competitive procedure with negotiation and competitive dialogue when the conditions provided for in paragraph 2 are met, and the negotiated procedure without prior publication notice of a call for tenders when the conditions provided for in Article 63 are met.</p> <p>Additionally, article 60 (1) provides: “In open procedures, any economic operator can submit an offer in response to a notice of Invitation to tender.”</p>
<b>22.2. Restricted tendering (with pre-qualification stage): Available</b>	Yes
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	<p>According to article 61 (1) of the Public Contracts Code: “1. In restricted procedures, any economic operator may submit a request for participation in response to a notice of Invitation to tender ... providing the information set by the contracting authority for the purpose of qualitative selection”.</p> <p>Article 171 (4) of the Public Contracts Code (applicable to concessions but also PPP by reference to Part III in article 179) provides: “The contracting authority may limit the number of candidates, ... as long as the number of tenderers invited to participate remain sufficient to ensure effective competition”</p> <p>Article 91 (1) of the Public Contracts Code provides that: in restricted procedures, when the complexity of the works or the supply or service requires it, the contracting authority may limit the number of candidates who meet the selection criteria and who can be invited to submit an offer or negotiate.</p>
<b>22.3 Multi-stage tendering (with shortlisting of final candidate(s)): Available</b>	No
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>22.4. Competitive dialogue: Available</b>	Yes
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	<p>According to Article 59 of the Public Contracts Code, 2. Contracting authorities shall use the competitive procedure with negotiation or competitive dialogue in the following circumstances: (A) for the award of works, supplies or service contracts if one or more of the</p>

<b>ry provision (if any)</b>	<p>following conditions apply:</p> <p>1) the requirements of the contracting authority require the adoption of solutions that are immediately available; 2) involve design or innovative solutions; 3) the contract cannot be awarded without any prior notice negotiations due to particular circumstances in relation to the nature, complexity or financial and legal setting of the contract or of the risks associated with it; 4) technical specifications cannot be established with sufficient precision by the contracting authority reference to a standard, a European technical evaluation, one common technical specification, or technical reference under points 2 to 5 of Annex XIII; (B) for the award of works, supplies, or service contracts for which, following an open or restricted procedure, the tenders submitted were unreasonable or inadmissible according to paragraphs 3 and 4. In such situations, the contracting authorities are not required to publish a notice, if they only include the bidders, who meet the requirements of Articles 80 to 90 who, in the open or restricted procedure, have submitted bids conforming to the formal requirements of the procurement procedure.</p> <p>Additionally, article 181 (1) of the Public Contracts Code provides (under the section related to PPPs): 1. The economic operator’s choice is made through competitive dialogue. Furthermore, according to article 64 (2) of the Public Contracts Code; “In the competitive dialogue any economic operator may respond to a call for tender, (or a notice of invitation to tender) by providing the information requested by the procuring authority for qualitative selection”. Article 64 (5) provides that the procuring authority proceeds with the dialogue phase in order to identify and define the proper means to cover their needs. In the Dialogue phase, all the selected participants discuss aspects of the contract,” and article 64 (9) further states, “The procuring authority continues the dialogue until it identifies the solutions that satisfy its needs.”</p> <p>Finally, Article 91 (1) of the Public Contracts Code provides that: in a competitive dialogue, when the complexity of the works or the supply or service requires it, the contracting authority may limit the number of candidates who meet the selection criteria and who will be invited to participate in the dialogue.</p>
<b>22.5. Direct negotiation with more than one candidate: Available</b>	<p>No</p>
<b>Default</b>	<p>No</p>
<b>Relevant legal/regulatory provision (if any)</b>	<p>n/a</p>
<b>22.6. Direct negotiation with only one candidate: Available</b>	<p>No</p>
<b>Default</b>	<p>No</p>
<b>Relevant legal/regulatory provision (if any)</b>	<p>n/a</p>

<b>22.7 Other. Specify:</b>	Yes, Partnership for Innovation
<b>Available</b>	Yes
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	<p>According to article 65 (1) of the Public Contracts Code: “Contracting authorities can resort to innovation partnerships when they need to develop innovative products, services or works, and to subsequently purchase the supplies, services or works that cannot be satisfied with the solutions already available on the market...”. Furthermore, according to Article 65 (5), “The Innovation Partnership is structured in stages according to the sequence of the phases of the research process and Innovation, which may include the manufacture of products, the provision of services, or the realization of works. The Innovation partnerships set intermediate goals for the parties to reach and provide for appropriate remuneration rates. The contracting entity may, after each stage, resolve the innovation partnership or, in the case of a partnership with more operators, reduce the number of operators, provided that it has indicated such possibilities and set the conditions of use in the tender documents. “</p> <p>Finally, Article 91 (1) of the Public Contracts Code provides that: in partnership for innovation, when the difficulty or the complexity of the works or the supply or service requires it, the contracting authority may limit the number of candidates who meet the selection criteria and can be invited to participate in the dialogue.</p>
<b>22.8. Do the tender documents detail the procedure of the procurement process providing the same information to all the bidders?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Article 71 of the Public Contracts Code states that all selection procedures are called through a tender notice which must contain the information referred to in Annex XIV, Part I, which includes:</p> <ol style="list-style-type: none"> <li>1. Name, address, telephone number, fax number, and email address of the contracting authority.</li> <li>2. Email or website URL where the tender documents will be available for free with direct and unlimited access. (and if needed: An indication of how to access tender documents)</li> <li>3. Type of contracting authority and principal place of business</li> <li>7. Description of the contract: nature of the works or service.</li> <li>8. Estimated total value of the contract(s).</li> <li>9. Admission or prohibition of changes.</li> <li>10. Time of delivery or supply of goods, works, or services and the duration of the contract.</li> <li>11. Conditions of participation (...): (C) a list and brief description of the criteria relating to the personal situation of the economic operators (can include exclusion and selection criteria); Level or Minimum specific levels of capacity as required. Indication of the required information (self-certification and documentation).</li> </ol>



	<p>12. Type of award procedure 18. Award criteria or contract award criteria.</p> <p>According to article 179 of the Public Contracts Code (applicable to PPP), “The procedures referred to in this Part shall be: Apply the provisions of Parts I, III, V, and VI as compatible.”</p> <p>Article 183 of the Public Contracts Code (applicable to PPP) states: “(6)The notice indicates the criteria in the order of importance attributed to them on the basis of which a comparative assessment is carried out among the various proposals. (7)The tender specifications, explicitly mentioned in the notice, indicate in particular, the location and description of the project, the urban planning, the consistency, and the types of service to be handled, so that the proposals are presented in accordance with homogeneous assumptions. (9) Tenders must contain a final draft, a draft of contract, and an economic-financial plan”</p>
<b>If no, please elaborate:</b>	n/a
<b>22.9. Do the tender documents specify the prequalification/shortlisting criteria (when applicable) in order to make them available to all the bidders?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>According to article 61 (1) of the Public Contracts Code: “1. In restricted procedures, any economic operator may, submit a request for participation in response to a notice of Invitation to tender containing the information set out in Annex XIV, Part I, or Letter B or C as appropriate, provided by the contracting authority in order to make a qualitative selection.”</p> <p>According to article 62 (1) of the Public Contracts Code: “ In any competitive negotiated procedures any economic operator can submit a request for participation in response to a notice of invitation to tender containing the information referred to in Annex XIV, Part I, and points B and C, by providing the information requested by the contracting authority for qualitative selection purposes.”</p> <p>According to article 64 (2) of the Public Contracts Code, “In the competitive dialogue any economic operator may participate in response to a call for tenders or to a notice of invitation to tender by providing the information requested by the procuring authority for qualitative selection.”</p> <p>According to article 65 (3) of the Public Contracts Code, “Any economic operator in the innovation partnership can make a request for participation in response to an invitation to</p>

	<p>tender or a notice of invitation to tender, by submitting the information required by the procurement authority for the qualitative selection.”</p> <p>Article 171 (4) of the Public Contracts Code (applicable to concessions but also PPP by reference to Part III in article 179) provides: “The contracting authority may limit the number of candidates, as long as it is a transparent process and done on the basis of objective criteria. The number of candidates or tenderers invited to participate must be sufficient to ensure effective competition”</p> <p>Article 91 (1) of the Public Contracts Code provides that: in restricted procedures, in competitive procedures with negotiation, competitive dialogue procedures and partnership for innovation, when the complexity of the works or the supply or service requires it, the contracting authority may limit the number of candidates who meet the selection criteria and can be invited to submit an offer or negotiate.</p>
<b>22.10. Based on your experience, is it always the case that the specified criteria are respected in practice?</b>	<p>Yes</p>
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	<p>No regulatory basis</p>
<b>If no, please elaborate:</b>	<p>n/a</p>
<b>23. Can interested parties/potential bidders submit questions to clarify the public procurement notice and/or the request for proposals?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Article 74 (4) of the New Public Contracts Code provides that inquiries, - which have been requested in time -additional information relating to the specifications, and any supporting documents shall be supplied by the contracting authorities at least six days before the fixed deadline for the receipt of the offers.</p>

<b>23.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose those questions and clarifications to all potential bidders?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Article 74 (4) of the Public Contracts Code provides that disclosure of this information is done to all bidders</p>
<b>23.2. Based on your experience, is it always the case that this disclosure of information is done in practice?</b>	<p>Yes</p>
<b>If yes, please specify:</b>	<p>In Italy, the disclosure to all potential bidders of questions and clarifications about the public procurement notice and/or the request for proposals is always done in practice. In addition, very often the procuring authority publishes on its website a page dedicated to the FAQ.</p>
<b>If no, please elaborate:</b>	<p>n/a</p>
<b>24. Besides questions and clarifications, can the procuring authority conduct pre-bidding conference?</b>	<p>Yes</p>
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	<p>According to article 165 (3) of the Public Contracts Code: the contracting authority may organize a preliminary consultation with the invited bidders, before the expiration of the deadline to submit bids, in order to hear any potential criticism of the project based on competition in terms of financeability. Following the consultation, the procuring authority may update the deadline for submission of tenders, (which may not be less than thirty days from the communication of the new deadline to interested parties.”</p>

<b>24.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose the content and the results of the pre-bid conference to all bidders?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>No regulatory basis</p>
<b>24.2. Based on your experience, is it always the case that this disclosure of information is done in practice?</b>	<p>Yes</p>
<b>If yes, please specify:</b>	<p>The disclosure of the content and results of the pre-bidding conference to all bidders is done in practice in Italy in the context of PPP projects</p>
<b>If no, please elaborate:</b>	<p>n/a</p>
<b>25. In a case comparable to the case study assumptions, does the procuring authority require the bidders to prepare and present a financial model with their proposals?</b>	<p>Yes</p>

<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>According to Article 183 (9) of the Public Contracts Code, the offer must contain an economic-financial plan attested by a credit institution, a company constituted by the credit institution itself, and registered on the general list of financial intermediaries or by an auditing firm.</p> <p>Article 181 (2) of the Public Contracts Code provides that the procuring authorities shall ensure that contracts are awarded on the basis, inter alia, of an economic and financial plan scheme, which shall provide for the allocation of risks between the procuring authority and the economic operator.</p>
<b>If no, please elaborate:</b>	<p>n/a</p>
<b>26. Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>According to article 95 (1) of the Public Contracts Code “The award criteria limit the discretion of the contracting authority for the choice of the winning bidder. The criteria guarantee effective competition and the specifications allow for effective verification of the information provided by tenderers in order to assess fulfillment of the criteria for the award of tenders.”</p> <p>Article 95 of the Public Contracts Code provides that where a contract is entrusted with the most economically advantageous tender, the invitation to tender sets out the bid evaluation criteria, appropriate to the nature, object, and characteristics of the contract, such as, but not limited to:</p> <ul style="list-style-type: none"> <li>a) the price;</li> <li>b) quality, including technical, functional characteristics, accessibility for people with disabilities;</li> <li>c) possession of a European Union Ecolabel (Ecolabel) in respect of goods or services covered by the contract, to a value equal to or greater than 30% of the value of the supplies or services covered by the contract;</li> <li>d) the cost of use and maintenance was also related to the consumption of energy and natural resources, polluting emissions, and overall costs;</li> <li>e) the environmental characteristics, the reduction of energy consumption, and the environmental resources of the work or product;</li> <li>f) the greenhouse gas emission compensation associated with the activities of the company;</li> <li>g) the organization, qualifications, and experience of staff actually employed in the contract;</li> <li>h) after-sales service and technical assistance;</li> <li>l) the date of delivery or the delivery or performance;</li> </ul> <p>According to Article 95 and Article 183 (4) &amp; (5) (applicable to PPP): “4. Contracting authorities shall evaluate the tenders submitted with the criterion of the most economically advantageous tender ...</p> <p>5. In addition to the provisions of Article 95, consideration of the proposals is extended to the</p>

	aspects of the quality of the final project presented to the economic and financial value of the plan and to the content of the draft agreement
<b>Evaluation criteria is not set in the tender documents</b>	No
<b>27. In the case where only one proposal is submitted (sole proposals), which of the following options best describes the way the procuring authority deals with them? (Please select only one)?: The procuring authority follows a specific procedure before awarding a PPP contract where only one proposal is submitted.</b>	No
<b>Please specify and provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The procuring authority considers sole proposals valid as long as they meet the conditions outlined in the tender documents.</b>	Yes

<b>Please provide the relevant legal/regulatory provisions (if any):</b>	<p>According to article 183 (10) of the Public Contracts Code “The contracting authority shall: A) examine the offers that have been received according to the terms provided in the notice; B) the contracting authority ... may award the contract to a bidder even in the presence of one offer”</p>
<b>The procuring authority does not award a PPP contract if only one proposal is submitted.</b>	<p>No</p>
<b>Please provide the relevant legal/regulatory provisions (if any):</b>	<p>n/a</p>
<b>The regulatory framework does not include any provisions.</b>	<p>No</p>
<b>28. Does the procuring authority publish the award notice?</b>	<p>Yes</p>
<b>If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):</b>	<p>According to Article 72, 73, and 98 of the Public Contracts Code, the award notice is published in the website of the awarding authorities, in the website of the Ministry of the Infrastructures and Transportation, in the platform of the Italian Anti-Corruption Authority (which is coming into use), in national newspapers, in the Official Gazette of Italy, and in the Official Journal of the European Union (TED) for contracts above EU threshold.</p>
<b>28.1. If yes, is the public procurement award notice published online?</b>	<p>Yes</p>
<b>If yes, please specify the website:</b>	<p>the awarding authority’s website, which would include in this case the Ministry of Infrastructure and Transportation <a href="https://www.serviziocontrattipubblici.it">https://www.serviziocontrattipubblici.it</a> but also on: <a href="http://www.gazzettaufficiale.it/30giorni/contratti;jsessionid=8dsO64+HY2LK6gwd+wu4VQ__.ntc-as4-guri2b">http://www.gazzettaufficiale.it/30giorni/contratti;jsessionid=8dsO64+HY2LK6gwd+wu4VQ__.ntc-as4-guri2b,</a> and <a href="http://ted.europa.eu/TED/misc/chooseLanguage.do">http://ted.europa.eu/TED/misc/chooseLanguage.do</a> and the ANAC website</p>

<b>29. Does the procuring authority provide all the bidders with the result of the PPP procurement process?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>According to Article 98 (1) of the Public Contracts Code, "Procuring authorities that have awarded a public contract send a notice ... on the results of award procedure, within thirty days of such award."          Additionally, according to article 76 (1) of the Public Contracts Code: "The procuring authorities shall promptly inform each candidate about the result of the procurement process." And finally, according to article 76 (5) of the Public Contracts Code, "the procuring authorities shall immediately communicate, within a maximum of five days: (C) the decision not to award a contract ... to all candidates;"</p>
<b>If no, please elaborate:</b>	<p>n/a</p>
<b>29.1. If yes, does the notification of the result of the PPP procurement process include the grounds for the selection of the winning bid?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>According to article 76 (2) of the Public Contracts Code: " At the written request of the tenderer concerned, the contracting authority shall communicate immediately, and in any event within fifteen days of receipt of the request:          (A) to any tenderer excluded with the reasons for the rejection of their offer, ...          (B) to any tenderer who has submitted an offer, including the features and the advantages of the offer that was selected and the name of the tenderer that has been awarded the contract;          (C) to any tenderer who submitted a bid with the result and progress of the negotiations and dialogue with the bidders."</p>
<b>30. Is there a standstill (or pause) period after the contract award and before the signing of the contract in order to allow unsuccessful</b>	<p>Yes</p>



<b>bidders to challenge the award decision?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	According to Article 32 (9) of the Public Contracts Code: "However, the contract may not be concluded before thirty-five days from the last communication of the Award decision." and finally, Article 32 (10) provides that the provisions of 32(9) do not apply in the following cases: if following the publication of a notice, a single offer has been submitted or was granted and appeals regarding the notice of call for tender have already been rejected by a definitive decision
<b>and the time in calendar days:</b>	35
<b>30.1. Is the standstill period set out in the notice of intention to award?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 46 of the European Concession Directive referring to the Directive 89/665/EEC that regulates review procedures for public contracts, the award notice will include reference to the standstill period (article 2.a of the mentioned Directive 89/665/EEC).
<b>31. Does the regulatory framework restrict negotiations with the selected bidder between the award and the signature of the PPP contract in order to prevent an unfair disadvantage to the other bidders?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 183 (10) of the Public Contracts Code governs the selection procedure, where the procuring authority appoints the bidder who submitted the most convenient proposal and, if appropriate, requests the bidder to make amendments to such proposal. Only if the bidder makes the requested amendments, the PPP contract is signed. If the selected bidder does not agree to modify the project, the procuring authority may ask the subsequent competitors in the ranking to modify the project under the same terms.

<b>31.1. Based on your experience, is it always the case that this restriction is respected in practice?</b>	<p>Yes</p>
<b>If yes, please specify:</b>	<p>In Italy, the restrictions of negotiations with the selected bidder between the award and the signature of the PPP contract are complied with in practice in order to prevent an unfair disadvantage to the other bidders</p>
<b>If no, please elaborate:</b>	<p>n/a</p>
<b>32. Does the procuring authority publish the PPP contract?</b>	<p>No</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>n/a</p>
<b>32.1. If yes, which of the following options best describes this publication (choose only one)?: Publication of the full PPP contract including all its annexes and appendixes</b>	<p>n/a</p>
<b>Publication of the full PPP contract without including all its annexes and appendixes</b>	<p>n/a</p>
<b>Publication of a summary of the PPP contract without</b>	<p>n/a</p>

<b>publishing the full PPP contract</b>	
<b>Publication of a summary of the PPP contract along with the full PPP contract including all its annexes and appendixes</b>	n/a
<b>Publication of a summary of the PPP contract along with the full PPP contract without including all its annexes and appendixes</b>	n/a
<b>32.2. If yes, is it published online?</b>	n/a
<b>If yes, please specify the website:</b>	n/a
<b>32.3. If yes, does the procuring authority also publish any subsequent amendment made to the PPP contract?</b>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>PPP Contract Management</b>	
<b>41. Has the procuring or contract management authority established a</b>	Yes

<p><b>system to manage the implementation of the PPP contract (e.g. attributing responsibilities or establishing specific management tools)?</b></p>	
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	<p>Article 30 of the Public Contracts Code sets out the general principle that the execution of works, services and concession, governed by the Code, guarantees quality of performance.</p> <p>The project manager identified in Articles 31, 101, and 111 of the Public Contracts Code is responsible for the proper implementation of the PPP contract (the guidelines approved by the National Anti-corruption Authority on November 16th, 2016, detail qualifications, functions and duties of the project manager:  <a href="http://www.anticorruzione.it/portal/rest/jcr/repository/collaboration/Digital%20Assets/anaccocs/Attivita/Atti/determinazioni/2016/1096/Determina1096_Linee%20Guida%20N3.pdf">http://www.anticorruzione.it/portal/rest/jcr/repository/collaboration/Digital%20Assets/anaccocs/Attivita/Atti/determinazioni/2016/1096/Determina1096_Linee%20Guida%20N3.pdf</a>).</p> <p>According to Article 166 (1) of the Public Contracts Code (applicable to concessions), the contracting authority is free to decide the best way to handle the execution of work and the provision of services to ensure in particular high level of quality, security and accessibility, parity treatment and the promotion of universal access and rights of public utilities.</p> <p>Pursuant to Article 201 (6) of the Public Contracts Code, the Ministry of Infrastructure and Transport draws up a report on the development of the public works included in the programming tools. In order for the Ministry to support this activity, the procuring authority must send the Ministry a report on the main characteristics of the infrastructure, the costs, the timetable, and the eventual variations from the relevant feasibility project within 30 days from the final approval of the project.</p> <p>In case of priority infrastructures, pursuant to Article 214 (4) of the Public Contracts Code, the Ministry of Infrastructure and Transport can propose to the Chairman of the Council of Ministers the appointment of a commissioner to follow the progress of the works and provide the appropriate support and actions.</p> <p>Article 181 (4) of the Public Contracts Code provides that the contracting authority introduces and applies monitoring systems in order to conduct effective controls over the activities carried out by the economic operator, in particular with regard to the risks transferred. Article 182 (2) establishes that the contract defines the risks transferred to the private party and the tools to monitor them during the execution of the contract.</p> <p>In this context, the Italian Anti-Corruption Authority has approved on the 1st of February, 2017, “The Guidelines concerning the monitoring activities of the public authorities on economic operators in PPP contracts”, pursuant to article 181 (4) of New Public Contracts Code, which are still waiting adoption. In particular, the Guidelines specify (see paragraphs 5.2 and 5.4) the minimum contents of the conventions, which are considered an essential aspect</p>

	<p>to enable rigorous monitoring to be carried out during the execution of the contract. The contract shall also include provisions, concerning the Service level agreement (SLA), with the definition of the level of quality that the private party has to guarantee and the provision of penalties and reduction in fees in the event of non-conformity. Article 8 further provides that a periodical economic-management report on the execution of the contract, which shows the progress of the work, the compliance with SLA, the application of any penalties, or fee reductions is necessary in order to ensure the proper management of the PPP contract. Public entities shall also establish and implement a risk matrix which defines the risks assessment, making reference to the different articles of the contract.</p> <p>In case of modifications or revisions of the economic-financial plan, the public entity is entitled to verify that the allocation of risks set out in the tender documents has not been altered. The call for tender shall specify the most relevant data concerning the execution of works and the operating performance to be submitted to the public entity during the execution of the contract.</p> <p>For PPP's projects related to the realization of public works subject to the monitoring procedure set out in Legislative Decree no. 229/2011, the information - to be requested to the private party -shall include the data that the public entity is required to provide to the Public Administrations Data Base (BDAP) pursuant to that Decree.</p>
<b>41.1. If yes, which of the following tools does it include (check all that apply)?:</b> <b>Establishment of a PPP contract management team</b>	<p>Yes</p>
<b>Relevant legal/regulatory provisions (if any):</b>	<p>The project manager identified in Articles 31, 101, and 111 of the Public Contracts Code is responsible for the proper implementation of the PPP contract (the guidelines approved by the National Anti-corruption Authority on November 16th, 2016, detail qualifications, functions and duties of the project manager:  <a href="http://www.anticorruzione.it/portal/rest/jcr/repository/collaboration/Digital%20Assets/anaccocs/Attivita/Atti/determinazioni/2016/1096/Determina1096_Linee%20Guida%20N3.pdf">http://www.anticorruzione.it/portal/rest/jcr/repository/collaboration/Digital%20Assets/anaccocs/Attivita/Atti/determinazioni/2016/1096/Determina1096_Linee%20Guida%20N3.pdf</a>).</p>
<b>Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa</b>	<p>No</p>
<b>Relevant legal/regulatory</b>	<p>n/a</p>

<b>ry provisions (if any):</b>	
<b>Elaboration of a PPP implementation manual or an equivalent document</b>	Yes
<b>Relevant legal/regulatory provisions (if any):</b>	<p>The project manager identified in Article 148 of the Implementing Regulations would also undertake the task of verification of the validity of the maintenance program, the user manuals and maintenance manuals, modifying and updating all the work to ensure it is completed and report to the head of the procedure about any failure on the part of the performer.</p> <p>the guidelines approved by the National Anti-corruption Authority on November 16th, 2016, detail qualifications, functions and duties of the project manager:  <a href="http://www.anticorruzione.it/portal/rest/jcr/repository/collaboration/Digital%20Assets/anaccocs/Attivita/Atti/determinazioni/2016/1096/Determina1096_Linee%20Guida%20N3.pdf">http://www.anticorruzione.it/portal/rest/jcr/repository/collaboration/Digital%20Assets/anaccocs/Attivita/Atti/determinazioni/2016/1096/Determina1096_Linee%20Guida%20N3.pdf</a></p>
<b>Establishment of personnel training programs (i.e. initial training and continued training throughout the course of the project)</b>	No
<b>Relevant legal/regulatory provisions (if any):</b>	n/a
<b>Establishment of a risk mitigation mechanism which considers the evolving nature of risks throughout the project lifecycle (guidelines, specific processes, insurance regime, etc.)</b>	No
<b>Relevant legal/regulatory</b>	n/a

<b>ry provisions (if any):</b>	
<b>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.</b>	<p>No</p>
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	<p>n/a</p>
<b>The PPP contract management team members are required to meet sufficient qualification without specific details.</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Article 31 of the Public Contracts Code and Article 4 of the ANAC Guidelines on the “Appointment, role, and duties of the project manager for the award of contracts and concessions” define the qualifications of the project manager. In short, according to article 4 of the Guidelines, the project manager should be in possession of a degree, work experience, and vocational training corresponding to the type and size of the work concerned.</p>

<p><b>The PPP contract management team members are not required to meet any specific qualifications.</b></p>	<p>No</p>
<p><b>Please elaborate and provide examples:</b></p>	<p>n/a</p>
<p><b>42. Does the procuring or contract management authority establish a system for tracking progress and completion of construction works under a PPP contract?</b></p>	<p>Yes</p>
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	<p>Article 30 of the Public Contracts Code sets out the general principle that the execution of works, services, and concession, governed by the Code, guarantees quality of performance.</p> <p>The project manager identified in Articles 31, 101, and 111 of the Public Contracts Code is responsible for the proper implementation of the PPP contract (the guidelines approved by the National Anti-corruption Authority on November 16th, 2016, detail qualifications, functions, and duties of the project manager.</p> <p>Pursuant to Article 201 (6) of the Public Contracts Code, the Ministry of Infrastructure and Transport draws up a report on the development of the public works included in the programming tools. In order to support the Ministry in this activity, the procuring authority, within 30 days from the final approval of the project, sends the Ministry a report on the main characteristics of the infrastructure, the costs, the timetable and the eventual variations from the relevant feasibility project.</p> <p>In case of priority infrastructures, pursuant to Article 214 (4), of the Public Contracts Code, the Ministry of Infrastructure and Transport can propose to the Chairman of the Council of Ministers the appointment of a commissioner to follow the progress of the works and provide the appropriate support and actions.</p> <p>Article 181 (4) of the Public Contracts Code provides that the contracting authority introduces and applies monitoring systems in order to conduct effective controls over the activities carried out by the economic operator, in particular with regard to the risks transferred.</p>



<b>42.1. If yes, is the PPP contract construction performance information made available to the public?</b>	<p>No</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>n/a</p>
<b>42.2. If yes, is the PPP contract construction performance information made publicly available online?</b>	<p>n/a</p>
<b>If yes, please specify the website:</b>	<p>n/a</p>
<b>43. Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract implementation after construction?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Article 30 of the Public Contracts Code sets out the general principle that the execution of works, services and concession, governed by the Code, guarantees quality of performance.</p> <p>The project manager identified in Articles 31, 101, and 111 of the Public Contracts Code is responsible for the proper implementation of the PPP contract (the guidelines approved by the National Anti-corruption Authority on November 16th, 2016, detail qualifications, functions and duties of the project manager.</p> <p>According to article 166 (1) of the Public Contracts Code (applicable to concessions), the contracting authority is free to decide the best way to handle the execution of work and the</p>

provision of services to ensure in particular high level of quality, security and accessibility, parity treatment and the promotion of universal access and rights of public utilities.

Pursuant to Article 201 (6) of the Public Contracts Code the Ministry of Infrastructure and Transport draws up a report on the development of the public works included in the programming tools. In order to support the Ministry in this activity, the procuring authority, within 30 days from the final approval of the project, sends the Ministry a report on the main characteristics of the infrastructure, the costs, the timetable and the eventual variations from the relevant feasibility project.

Article 213 of the Public Contracts Code sets forth that (i) the supervision and control of public contracts and (ii) the regulation of the same are attributed to the ANAC - National Anti-Corruption Authority, within the limits provided by the Code.

The ANAC shall, inter alia, perform the following powers / functions:

- a) supervising public contracts of works, service and supply, including those of regional interest, in both ordinary and special sectors, secret contracts, and contracts excluded from the scope of the Code;
- b) ensuring that the economic viability of the execution of public contracts is guaranteed and verifying that there is no injury to the treasury;
- c) reporting to the Government and the Parliament on those situations that raise a particularly serious issues of non-compliance or irregular application of the sectoral regulations;
- d) formulating proposals to the Government on changes to be made in relation to current sector regulation

In case of priority infrastructures, pursuant to Article 214 (4), of the Public Contracts Code, the Ministry of Infrastructure and Transport can propose to the Chairman of the Council of Ministers the appointment of a commissioner to follow the progress of the works and provide the appropriate support and actions.

Article 181 (4) of the Public Contracts Code provides that the contracting authority introduces and applies monitoring systems in order to conduct effective controls over the activities carried out by the economic operator, in particular with regard to the risks transferred.

Article 182 (2) establishes that the contract defines the risks transferred to the private party and the tools to monitor them during the execution of the contract.

In this context, the Italian Anti-Corruption Authority has approved on the 1st February 2017 “The Guidelines concerning the monitoring activities of the public authorities on economic operators in PPP contracts”, pursuant to article 181 (4) of New Public Contracts Code, which are still waiting adoption. In particular, the Guidelines specify (see paragraphs 5.2 and 5.4) the minimum contents of the conventions, which is considered an essential aspect to enable rigorous monitoring to be carried out during the execution of the contract.

The contract shall also include provisions concerning the Service level agreement (SLA), with the definition of the level of quality that the private party has to guarantee and the provision of penalties and reduction in fees in the event of non-conformity. Article 8 further provides that a periodical economic-management report on the execution of the contract, which shows the progress of the work, the compliance with SLA, the application of any penalties or fee reductions is necessary in order to ensure the proper management of the PPP contract. Public entities shall also establish and implement a risk matrix which defines the risks assessment, making reference to the different articles of the contract.

In case of modifications or revisions of the economic-financial plan, the public entity is entitled

	<p>to verify that the allocation of risks set out in the tender documents has not been altered The call for tender shall specify the most relevant data concerning the execution of works and the operating performance to be submitted to the public entity during the execution of the contract.</p> <p>For PPP's projects related to the realization of public works subject to the monitoring procedure set out in Legislative Decree no. 229/2011, the information - to be requested to the private party -shall include the data that the public entity is required to provide to the Public Administrations Data Base (BDAP) pursuant to that Decree.</p>
<b>43.1. If yes, which of the following tools does it include (check all that apply)?: Performance is assessed against evaluation criteria set in the tender documents and the PPP contract</b>	<p>No</p>
<b>Relevant legal/regulatory provisions (if any)</b>	<p>n/a</p>
<b>The procuring or contract management authority can abate (reduce) payments for non-performance of operating obligations under the PPP contract</b>	<p>Yes</p>
<b>Relevant legal/regulatory provisions (if any)</b>	<p>According to article 180 (4) of the Public Contracts Code “Regarding the availability of the work or Service, the contracting authority may choose to reduce and/or cancel the payment of the economic operator proportionally to the reduction, lack of availability of the work, or lack of provision of the services.”</p> <p>According to article 5.2 of the Guidelines, the bid should contain: “the mechanism of variation of the fee commensurate with the lack or non-availability of the work or service”</p>
<b>The private partner must provide the</b>	<p>Yes</p>

<b>procuring or contract management authority with periodic operational and financial data</b>	
<b>Relevant legal/regulatory provisions (if any)</b>	No regulatory basis
<b>The procuring or contract management authority must periodically gather information on the performance of the PPP contract</b>	Yes
<b>Relevant legal/regulatory provisions (if any)</b>	The project manager identified in Article 101(3) of the Public Contracts Code would periodically verify the ownership and regularity by the performer and the subcontractor of the documentation required by current laws and would undertake the task of verifying the validity of the maintenance program, the user manuals, and maintenance manuals, modifying and updating all the work to ensure it is completed and report to the head of the procedure about any failure on the part of the performer.
<b>The PPP contract performance information must be available to the public</b>	No
<b>Relevant legal/regulatory provisions (if any)</b>	n/a
<b>43.2. Is PPP contract performance information made publicly available online?</b>	No
<b>If yes, please specify the website:</b>	n/a

<b>44. Are foreign companies prohibited from repatriating the income resulting from the operation of a PPP project?</b>	<p>No</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>n/a</p>
<b>45. Does the regulatory framework (including standard contractual clauses) expressly regulate changes in the ownership structure (i.e. stakeholder composition) of the private partner and/or assignment of the PPP contract?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	<p>Article 175 (1d) of the New Public Contracts Code regulates the different changes that can occur during the execution of a concession. In particular, it establishes that concessions may be modified without a new concession award procedure in case of universal or partial succession into the position of the initial concessionaire, following corporate restructuring - including takeover, mergers, acquisitions, and insolvency - of another economic operator that fulfils the criteria for qualitative selection initially established, provided that this does not entail other substantial modifications to the contract and is not aimed at circumventing the application of the Code. In this case, the authorization of the public entity could occur, in accordance to the sector regulatory framework.</p> <p>In addition, article 106 and article 184 (3) of the Public Contracts Code details the procedure according to which the transfer of project company shares shall be executed.</p>

<p><b>45.1. If yes, which of the following circumstances are specifically regulated? (check all that apply): Any change in the private partner during an initial period (e.g. construction and first five years of operation).</b></p>	<p>Yes</p>
<p><b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b></p>	<p>According to Article 184(3) of the Public Contracts Code, the change of ownership rules has to be provided in the relevant PPP contract and, in any case, the shareholder, which has granted the project company with the requirements for the qualification to the public tender, shall remain a shareholder of the project company until the issuance of the commissioning certificate (i.e. the end of the construction phase). The rationale of this provision is to guarantee the proper performance of the project company's obligations in favour of the procuring authority during the whole construction phase. Subsequently, during the operation phase, a shareholder shall be able to transfer its share capital to third parties, also without the consent of the procuring authority, provided that the new shareholder, which has to perform the operation services under the PPP contract, satisfies the requirements necessary for the operation of the relevant services. Lastly, if (i) the potential acquirer or (ii) the shareholder, which did not grant the requirements for the qualifying to the public tender, is a bank or a financing institution, such change of ownership is permitted at any time.</p>
<p><b>Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.</b></p>	<p>Yes</p>
<p><b>If yes, please provide the relevant legal/regulatory/standard contractual</b></p>	<p>Article 175 (1) (D) (2) of the Public Contracts Code states “following corporate restructuring, including merger, acquisition or insolvency, the new economic operator shall meet the qualitative criteria of selection established initially for the initial concessionaire, although that does not imply other substantial changes. This is not intended to circumvent the application of the code, subject to the authorization of the grantor...”</p>

<b>provisions (if any):</b>	
<b>In other cases, flexibility to change the ownership structure and/or assign the contract.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	No regulatory basis
<b>46. Does the regulatory framework (including standard contractual clauses) expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	<p>Article 175 (1) of the New Public Contracts Code regulates the different changes that can occur during the execution of a concession. In particular, it establishes that concessions may be modified - without a new concession award procedure: (a) where the modifications, irrespective of their monetary value, have been provided for in the initial concession documents; (b) for additional works or services by the original concessionaire that have become necessary and that were not included in the initial concession, if the specific conditions set out in Article 175 (1b) are met; (c) where the need for modification has been brought about by circumstances which a diligent contracting authority could not foresee, if the specific conditions set out in Article 175 (1c) are met; (d) where a new concessionaire replaces the one to which the contracting authority had initially awarded the concession as a consequence of a review clause or a universal or partial succession, pursuant to Article 175 (1d); (e) where the modifications, irrespective of their value, are not substantial within the meaning of Article 175 (7); f) for modifications with a value lower than the EU threshold and 10% of the value of the initial concession according to Article 175 (4).</p> <p>In addition, Articles 165 (6) &amp; 182(3) of the New Public Contracts Code regulate the procedure for the revision of the economic-financial plan in case of events non-attributable to the</p>

	<p>economic operator and altering the equilibrium of the economic-financial plan. The parties may redetermine the conditions of economic equilibrium but in any case the initial risk assessment and the conditions of equilibrium related to the contract shall be preserved. For works of public interest or financed with public funds the previous evaluation of the Consulting Nucleus for the implementation of the Guide Lines for the regulation of services of public utilities (NARS) is requested. If no agreement is reached, the parties may withdraw from the contract, according to the economic conditions set out in the above said articles.</p> <p>Article 106 of the Public Contracts Code also regulates the modification of a contract.</p>
<p><b>46.1. If yes, is an approval from a government authority, other than the procuring authority, required?</b></p>	<p>Yes</p>
<p><b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b></p>	<p>Pursuant to article 165 (6) &amp; article 182(3) of the Public Contracts Code, the approval of the NARS, a specific Committee set up at the Presidency of the Council of Ministers - Department for Planning and Coordination of Economic Policy, is required in case of public works partially funded by the State.</p>
<p><b>46.2. If yes to question 46, which of the following circumstances are specifically regulated? (check all that apply): A change in the scope and/or object of the contract.</b></p>	<p>Yes</p>
<p><b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b></p>	<p>Article 175(1) of the Public Contracts Code provides for the renegotiation of concession contracts in case of additional works or services by the original concessionaire that have become necessary and that were not included in the initial concession, where a change of concessionaire: i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, services, or installations procured under the initial concession; and ii) would cause significant delay or substantial costs for the contracting authority or contracting entity. However, any increase in value shall not exceed 50% of the value of the original concession.</p>



<b>A change in the risk allocation of the contract.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	No regulatory basis
<b>A change in the financial and/or economic balance of the contract.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Articles 165(6) and 182(3) of the Public Contracts Code provide for the renegotiation of the PPP contract in case of changes in the financial or economic balance of the contract not attributable to the private partner.
<b>A change in the duration of the contract.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	No regulatory basis
<b>A change in the agreed price or tariff.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Under Article 175 (2) of the Public Contracts Code, the sum of any change in the agreed value cannot exceed 50% of the original value.
<b>46.3. Can the procuring authority</b>	No

<b>unilaterally modify a PPP contract?</b>	
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	<p>n/a</p>
<b>47. Does the regulatory framework (including standard contractual clauses) expressly regulate the following circumstances that may occur during the life of the PPP contract? (check all that apply): Force Majeure</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	<p>Article 158 &amp; 159 of the Implementation Regulation and Article 107 of the New Public Contracts Code regulate force majeure as an unforeseen condition in the context of suspension of the contract, where, when certain portions of the work are executable in such conditions, they should resume.</p> <p>Article 175 (1c) of the New Public Contracts Code regulates the need for modification during the execution of a concession brought about by circumstances which a diligent contracting authority could not foresee. In this case concession may be modified without a new concession award procedure, if the modification does not alter the nature of the concession, and the increase value is not higher than the 50% of the value of the initial concession.</p> <p>Articles 165 (6) &amp; 182(3) of the New Public Contracts Code regulate the procedure for the revision of the economic-financial plan in case of events non-attributable to the economic operator and altering the equilibrium of the economic-financial plan.</p> <p>Article 4.4 of the ANAC Guidelines on monitoring activities of the contracting authorities on economic operators in PPP contracts (which are not adopted yet) considers “Among the events not attributable to the economic operator that entitle to a PEF review are the events of force majeure such as to render objectively impossible or excessively Onerous, in whole or in part, the fulfillment of contractual obligations. The PPP contract reports a list of cases of force majeure.</p> <p>By way of example, they can Consider events of force majeure:</p> <p>(A) strikes, with the exception of those relating to the administration, the economic operator, or the contractor of works or services, who are covered by the PPP contract;</p>

	<p>(B) wars or acts of hostilities, including terrorist acts, sabotage, vandalism and riots, insurrections, and other civil agitation;</p> <p>(C) explosions, radiation, and chemical contamination;</p> <p>(D) adverse natural phenomena of particular gravity and exceptionality, including floods, Lightning, earthquakes, droughts, snow, or ice accumulations;</p> <p>E) epidemics and contagion;</p> <p>F) unavailability of electricity, gas, or water unavailable to the administration, the economic operator, or third parties entrusted with the work or services object Of the contract;</p> <p>(G) unavailability, unforeseen, and unforeseeable access to raw materials by the third party and/or services necessary for the implementation of the intervention.</p> <p>Article 1218 of the Italian Civil Code provides “The debtor who does not exactly render due performance is liable for damages unless he proves that the non-performance or delay was due to impossibility of performance for a cause not imputable to him”</p> <p>The institutional PPP standard contract contains a section 5 entitled “Force Majeure and suspension of activities”, <a href="http://www.mef.gov.it/documenti-allegati/2015/Paper_24_novembre_2015_-_25-11-15_Finale.pdf">http://www.mef.gov.it/documenti-allegati/2015/Paper_24_novembre_2015_-_25-11-15_Finale.pdf</a> and</p>
<b>Material Adverse government action .</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	No regulatory basis
<b>Change in the Law.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	No regulatory basis
<b>Refinancing.</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a

<b>Subcontracting and replacement of the subcontractors.</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	<p>Article 174 of the Public Contracts Code regulates subcontracting in concessions and PPP (by reference made to Part III in article 179)</p>
<b>48. Does the regulatory framework (including standard contractual clauses) allow for administrative and/or contractual complaint review mechanisms to address disputes arising from the implementation of PPP contracts?</b>	<p>Yes</p>
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	<p>Articles 205 and 206 of the Code provides for an amicable settlement procedure for the settlement of contracts of works, services, and supply related disputes.</p> <p>In particular, Article 205 provides for the amicable settlement procedure for public works awarded by procuring authorities or concessionaires, where following the registration of reservations on accounting documents, the amount of the work may vary between 5 and 15 per cent of the contractual price.</p> <p>Article 209 of the Code provides that disputes concerning rights arising from the execution of public contracts relating to works, services, supplies and design, and ideas contests, including those resulting from the failure to reach the amicable settlement referred to in articles 205 and 206, may be referred to arbitrators.</p> <p>Article 208 of the Code, a residual provision, provides that disputes concerning rights arising from the execution of public contracts of works, services, and supplies may be resolved by means of a transaction in accordance with the Italian Civil Code, provided that remedies alternative to litigation cannot be initiated.</p>
<b>48.1. If yes, please specify</b>	<p>Yes</p>

<b>which of the following options are available (check all that apply): Local administrative review body</b>	
<b>If yes, please specify:</b>	<p>According to Article 211 of the Public Contracts Code “At the initiative of the contracting station or one or more of the Other parties, the ANAC expresses its views on issues raised During the course of the tendering procedures, within thirty days Upon receipt of the request. The opinion obliges the parties that you Have previously agreed to abide by what is established in it. The binding opinion can be appealed to the competent authorities Organs of administrative justice within the meaning of Article 120 of the Administrative procedure code”</p>
<b>Local courts</b>	No
<b>Domestic arbitration</b>	Yes
<b>International arbitration</b>	Yes
<b>Investor-State Dispute Settlement (ISDS)</b>	No
<b>Mediation</b>	Yes
<b>Please provide the relevant legal/regulatory/standard contractual provisions (if any)</b>	<p>Articles 205-208 of the Public Contracts Code provides for Mediation as one of the available procedures. Articles 209 of the Public Contracts Code and Article 832 of the Civil Procedure Code provide for Domestic and International Arbitration</p>
<b>48.2. If applicable, are arbitration awards enforceable by the local courts?: Domestic Arbitration</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions/standard contractual</b>	<p>the enforceability of domestic arbitration awards is provided for in Article 209, Paragraphs 12-13 of the Code (public procurement related arbitration) and in Articles 824-bis and 825 of the Italian Code of Civil Procedure (domestic arbitration in general).</p>

<b>provisions (if any):</b>	
<b>International arbitration</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions/standard contractual provisions (if any):</b>	the enforceability of international arbitration awards is provided for in Article 839 of the Italian Code of Civil Procedure.
<b>Investor-State arbitration</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions/standard contractual provisions (if any):</b>	n/a
<b>49. Does the regulatory framework (including standard contractual clauses) allow for the restructuring of a PPP private partner (SPV) in financial difficulty prior to insolvency?</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>50. Does the regulatory</b>	Yes

<p><b>framework (including standard contractual clauses) allow for the lenders to take control of the PPP project (lender step-in rights) if either the private partner defaults or if the PPP contract is under threat of termination for failure to meet service obligations?</b></p>	
<p><b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b></p>	<p>Article 176 of the Public Contracts Code provides that lenders (including project bond holders) could designate a company that takes over the concessionaire under specific circumstances.</p>
<p><b>50.1. If yes, which of the following options best describes the lender step-in right? (Please select only one): The regulatory framework expressly regulates the lender step-in rights.</b></p>	<p>Yes</p>
<p><b>If yes, please specify and provide the relevant legal/regulatory</b></p>	<p>Article 176 (8) of the Public Contracts Code states that in the cases that would result in the termination of a concession for causes attributable to the concessionaire, the procuring authority shall communicate in writing to the concessionaire and to the lending institutions its intention to terminate the contractual relationship. The lending institutions, including holders of bond and other similar securities issued by the</p>

<b>ry/standard contractual provisions (if any):</b>	<p>concessionaire, within 90 days of receipt of the communication, may indicate an economic operator who may replace the original concessionaire, provided that such economic operator has technical and financial characteristics corresponding or similar to those provided for in the tender notice with regard to the state of progress of the concession on the date of the succession.</p> <p>According to article 176 (9) of the Public Contracts Code: The economic operator who is successful in taking over the concession must ensure the resumption of the execution of the concession and the exact fulfillment of the obligations originally imposed on the first contractor. These obligations must be satisfied within the deadline indicated by the procuring authority. The succession of the economic operator shall take effect as soon as the procuring authority gives its consent</p> <p>According to article 176 (10) of the Public Contracts Code, Except for the cases referred to in Article 175, para. 1, let. d), the replacement of the concessionaire is limited to the time necessary for the completion of a new tendering procedure.</p> <p>The procuring authority shall provide in the tender documents the right to succeed of the lending institutions referred to in art. 176, para. 8, of the Code.</p>
<b>The regulatory framework prescribes that a direct agreement should be signed with the lenders.</b>	<p>No</p>
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	<p>n/a</p>
<b>The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.</b>	<p>No</p>
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual</b>	<p>n/a</p>



<b>provisions (if any):</b>	
<b>Other.</b>	No
<b>Please Specify:</b>	n/a
<b>51. Does the regulatory framework (including standard contractual clauses) expressly establish the grounds for termination of a PPP contract?</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	<p>Article 180 (7) of the Public Contracts Code provides that the documented availability of funding is a necessary precondition for being allowed to enter into a PPP contract. Consequently, the PPP contract is terminated by law if the financing contract is not completed within twelve months of signing the PPP contract.</p> <p>Article 176 of the Public Contracts Code regulates termination of PPP contracts in the following cases:</p> <ul style="list-style-type: none"> <li>a) when the concessionaire should have been excluded pursuant to Article 80 of the Code;</li> <li>b) when the Court of Justice of the European Union finds in a procedure under Article 258 TFEU that Italy has failed to fulfil its obligations under the Treaty;</li> <li>c) when a modification of the concession has taken place, which would have required a new concession award procedure;</li> <li>d) when the concession terminates for reasons attributable to the public entity or for reasons of public interest;</li> <li>e) when the concession terminates for reasons attributable to the concessionaire.</li> </ul>
<b>51.1. If yes, does the regulatory framework (including standard contractual clauses) establish the consequences for the termination of the PPP contract?</b>	Yes
<b>If yes, please specify and provide the</b>	According to article 176 (4) of the Public Contracts Code, if the concession is terminated for breach of contract by the procuring authority or the latter revokes the concession for reasons of public interest, the following payments shall be paid to the concessionaire:

<b>relevant legal/regulatory/standard contractual provisions (if any):</b>	<p>a) the value of the works carried out, excluding amortization, plus ancillary charges, or, in circumstances where the work has not yet passed the test stage, the costs that have already been incurred by the concessionaire are compensable;</p> <p>b) penalties and other costs incurred or to be incurred as a result of the termination, including charges arising from the early termination of interest rate fluctuation hedging contracts;</p> <p>c) compensation for loss of profit equal to 10 per cent of (i) the value of the works still to be carried out, or (ii) the value of the services, equal to the management costs provided for in the financial plan attached to the concession.</p> <p>Without prejudice to the payment of the sums referred to in article 176 (4) of the Public Contracts Code, in all cases of contract termination other than termination for breach of contract by the concessionaire, the concessionaire is entitled to continue the ordinary management of the work and to collect the related revenues, up to the actual payment of the above sums.</p> <p>The effectiveness of the termination of the concession is subject to the payment by the procuring authority of the sums provided for in article 176 (4) of the Public Contracts Code</p> <p>If the concession is terminated for breach of contract by the concessionaire, art. 1453 of the Italian Civil Code shall apply.</p>
<b>Unsolicited Proposals</b>	
<b>34. Are unsolicited proposals in Italy: (choose only one): Explicitly prohibited by the legal framework? (If prohibited, skip to section F)</b>	<p>No</p>
<b>Explicitly allowed by the legal framework?</b>	<p>Yes</p>
<b>Not regulated by the legal framework, but do happen in practice?</b>	<p>No</p>
<b>Not regulated by the legal framework, and do not happen in practice? (if not done in practice, skip to section F)</b>	<p>No</p>
<b>If the legal framework</b>	<p>The Article 183(15) of the Legislative Decree no. 50 of April 18, 2016 provides that economic operators may submit proposals to the Contracting Authorities regarding the realization in</p>

<p><b>explicitly prohibits or allows unsolicited proposals, please provide the relevant legal/regulatory provisions</b></p>	<p>public works concession or public utility works not in the three-year program laid down in Article 21 or in the instruments of programming approved by the contracting authority on the basis of existing legislation. According to the Article 183(16) the proposal may concern any PPP contract.</p>
<p><b>35. Does the procuring authority conduct an assessment to evaluate unsolicited proposals? (if not, skip to question 37)</b></p>	<p>Yes</p>
<p><b>If yes, please specify and provide the relevant legal/regulatory provisions (if any</b></p>	<p>Economic operators may submit unsolicited proposals to the Contracting Authorities regarding the realization in public works concession or public utility works. A specific procedure is provided in Article 183 (15) to evaluate its feasibility. The approval of the project may be subject to changes according to the indications of the public administration, in order to admit the project in the schedule of approved public works of the contracting authority. Once the proposed work is included in the annual schedule, the procuring authority may publish the public tender, containing criteria to evaluate offers of other competitors. The original proponent may participate to the tender, and under certain conditions, has the right of first refusal.</p>
<p><b>35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?</b></p>	<p>Yes</p>
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	<p>According to Article 183(15) of the Public Contracts Code, the procuring authority must evaluate the feasibility of the unsolicited proposal within 3 months.</p>
<p><b>36. Which of the following options best describe how the procuring authority</b></p>	<p>Yes</p>

<p><b>ensures that unsolicited proposals are consistent with existing government priorities? (Please select only one): The procuring authority follows a specific procedure to ensure the consistency of PPPs with other government investment priorities.</b></p>	
<p><b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b></p>	<p>According to article 183 (15) of the Public Contracts Code: A feasible project, possibly modified, is included in the annual list of public works approved by the administration on the basis of current legislation and in accordance with the criteria required for approval of projects.”</p>
<p><b>The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.</b></p>	<p>No</p>
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	<p>n/a</p>
<p><b>The procuring authority</b></p>	<p>No</p>

<b>does not evaluate unsolicited proposals against existing government priorities.</b>	
<b>Please elaborate and provide examples:</b>	n/a
<b>37. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Article 183 (paragraph 15) of the Public Contracts Code provides for a basis for the competitive procedure when proceeding with PPP projects in the context of unsolicited proposals, where competitors, including the promoter, must be compliant with the requirements and make an offer containing a draft of the PPP contract, as well as the economic-financial plan. If the promoter is not successful, it may exercise, within fifteen days from the final award notice, the right of first refusal and be the successful tenderer if it declares its commitment to fulfill the contractual obligations under the same conditions as these of the successful bidder. If the promoter is not awarded the contract and does not exercise his right of first refusal, he is entitled to reimbursement of the expenses occurred for the preparation of the proposal. If the promoter exercises his right of first refusal, the original contractor should be reimbursed for the expenses for preparation of the tender by the promoter.</p>
<b>38. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?</b>	Yes
<b>If yes, please provide the</b>	<p>Articles 79 and 183(15) of the Public Contracts Code provides rules on the minimum period for additional prospective bidders to prepare their proposals, which apply. In fact, according to</p>

<b>relevant legal/regulatory provisions (if any):</b>	<p>article 79 (1): “In fixing the time-limits for the receipt of offers, contracting authorities take into account in particular the complexity of the contract and the time needed to prepare the offers, (subject to the terms set out in Articles 60 to 63).</p> <p>According to Article 60 (1) of the Public Contracts Code, “In open procedures, (...) The minimum time limit for receipt of tenders is thirty-five days (35) from the date of the announcement of the announcement race.”</p> <p>According to Article 61 (1) and (2) of the Public Contracts Code, “In restricted procedures, (...) The minimum time limit for receipt of applications for Participation is thirty days (30) from the date of transmission of the Call for tenders or, if a pre-information notice is used as Means of an invitation to tender from the date of the invitation to Confirm interest.”</p>
<b>and the time in calendar days:</b>	<p>35</p>
<b>39.1 Does the procuring authority use any of the following incentive mechanisms to reward/compensate the presentation of unsolicited proposals? (check all that apply): Access to the best and final offer (BAFO) process and/or automatic shortlisting.</b>	<p>No</p>
<b>39.2 Developer’s fee (reimbursing the original proponent for the project development cost).</b>	<p>Yes</p>
<b>39.3 Bid Bonus.</b>	<p>No</p>
<b>39.4 Swiss challenge (If unsuccessful,</b>	<p>Yes</p>

<b>the original proponent has the option to match the winning bid and win the contract).</b>	
<b>39.5 Other.</b>	No
<b>Please specify:</b>	n/a
<b>Please provide the relevant legal/regulatory provisions (if any):</b>	<p>The Swiss challenge in Italy falls within the definition of “diritto di prelazione.” According to Article 183 (15) of the Public Contracts Code, the contracting authority evaluates, within three months, the feasibility of the proposal. To this end, the contracting authority may invite the proponent to make the necessary changes to the feasibility project for approval. If the applicant does not make the required changes, the proposal cannot be evaluated positively. The feasibility project is included in the programming tools approved by the administration on the basis of the current legislation; the proponent is required to make any further changes requested when approving the project; failing that, the project is not approved. The tender for the award of the concession is based on the approved feasibility project; the proponent, i.e. the promoter, is invited to participate. In the notice, the contracting authority may ask the competitors, including the promoter, the submission of any variations to the project. In the announcement it is specified that the promoter can exercise the right of first refusal. If the promoter is not successful, he may exercise, within fifteen days from the final award notice, the right of first refusal and be the successful tenderer if he undertakes to fulfill the contractual obligations under the same conditions as the successful tenderer. If the promoter is not awarded and does not exercise this right, he is entitled to the payment of the amount of expenses for the preparation of the proposal by the successful tenderer within the limits indicated in paragraph 9. If the promoter exercises the first refusal right, the original contractor is entitled to be paid by the promoter the amount of expenses for the preparation of the tender within the limits indicated in paragraph 9.</p>