

SURVEY QUESTION	ANALYSIS
PPP Regulatory Framework	
2. Does the regulatory framework in your country allow procuring PPPs?	<p>Yes</p>
If yes, please specify the relevant regulatory framework and the year of adoption:	<p>In Japan, PPP projects are mainly carried out through the regulatory framework called Private Finance Initiative (“PFI”) adopted in 1999. This will be the main focus of our analysis. The relevant laws, regulation, and policies integrating this regulatory framework and related (year of adoption and website) information are as follows:</p> <p>a) Law and regulations regarding PFI</p> <p>1) Act on Promotion of Private Finance Initiative (1999) (“PFI Act”) (http://www8.cao.go.jp/pfi/en/pdf/english_pfi.pdf)</p> <p>2) Order for Enforcement of the Act on Promotion of Private Finance Initiative (1999) (“PFI Order”) (http://law.e-gov.go.jp/htmldata/H11/H11SE279.html) (Japanese only)</p> <p>3) Ordinance for Enforcement of the Act on Promotion of Private Finance Initiative (2011) (PFI Ordinance) (http://law.e-gov.go.jp/cgi-bin/idxselect.cgi?IDX_OPT=3&H_NAME=&H_NAME_YOMI=%82%A0&H_RYAKU=1&H_CTG=1&H_YOMI_GUN=1&H_CTG_GUN=1&H_NO_GENGO=H&H_NO_YEAR=23&H_NO_TYPE=5&H_FILE_NAME=H23F10001000065) (Japanese only)</p> <p>b) Basic policy for PFI</p> <p>1) Basic policy for the implementation of PFI projects (2000) (“Basic Policy”) (http://www8.cao.go.jp/pfi/hourei/kaisei/pdf/h27kaisei_kihonhoushin.pdf) (Japanese only)</p> <p>c) Guidelines for PFI</p> <p>1) Procurement Process Guideline (2001) (“Procurement Process Guideline”) (http://www8.cao.go.jp/pfi/hourei/guideline/pdf/process_guideline.pdf) (Japanese only)</p> <p>2) Risk Allocation Guideline (2001) (“Risk Allocation Guideline”) (http://www8.cao.go.jp/pfi/hourei/guideline/pdf/risk_buntan_guideline.pdf) (Japanese only)</p> <p>3) Value-for-Money Guideline (2001) (“VFM Guideline”) (http://www8.cao.go.jp/pfi/hourei/guideline/pdf/vfm_guideline.pdf) (Japanese only)</p> <p>4) Contract Guideline (2003) (“Contract Guideline”) (http://www8.cao.go.jp/pfi/hourei/guideline/pdf/keiyaku_guideline.pdf) (Japanese only)</p> <p>5) Monitoring Guideline (2003) (“Monitoring Guideline”) (http://www8.cao.go.jp/pfi/hourei/guideline/pdf/keiyaku_guideline.pdf) (Japanese only)</p> <p>6) Concession Guideline (2013) (“Concession Guideline”) (http://www8.cao.go.jp/pfi/hourei/guideline/pdf/keiyaku_guideline.pdf) (Japanese only)</p> <p>7) Operational Guideline on Public-Private Dialogue and Bidding Process in PPP projects (2016) (https://www.mlit.go.jp/common/001150188.pdf) (Japanese only)</p> <p>Additional, another relevant framework is the “Designated Administrator System (shitei-kanrisky-seido)” adopted in 2003 that is regulated by the (i) Local Autonomy Act (1947) and the (ii) Notice issued by the Ministry of Internal Affairs and Communications regarding Operation of Designated Administrator System (2010).</p>
and provide a link to a government–	<p>In general: http://www8.cao.go.jp/pfi/index_e.html; http://www8.cao.go.jp/pfi/index.html (Japanese only). In particular, the legal and related documents can be accessed in http://www8.cao.go.jp/pfi/hourei/hourei_index.html. See previous question for specific links.</p>

<p>supported website where the mentioned regulatory framework is available or provide an electronic copy of it:</p>	
<p>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?</p>	<p>Yes</p>
<p>Please describe:</p>	<p>a) Reform completed in 2016 - Amendment of the PFI Order (November 2016): In 2016, the PFI Order was amended to allow the procuring authorities to continue to collect user charges or tolls on and in behalf of the concessionaire.</p> <p>b) Reform completed before June 1, 2017 - Revision of the Concession Guideline (March 2017): In 2017, the Concession Guideline was revised to clarify that concessionaires can lease the public facility to a third-party tenant under certain circumstances.</p> <p>c) General policy plans: The PPP/PFI Promotion Action Plan was adopted by the PFI Promotion Council led by the Prime Minister in May 2016, which the plan (i) enhanced the aggregated target project amount to 21 trillion yen for the period of 10 years between 2013 and 2022 (the present target amount is 10-12 trillion yen), (ii) added educational facilities and public housing to the target sectors of concession projects (the present target sectors include airports, water, sewage and roads), and (iii) specified clear policies with regards to the time-frame and the responsible central government authorities and conducted annual follow-ups through the PDCA (plan-do-check-act) cycle on the implementation of businesses and compliance status of the policies implemented. This Action Plan was recently updated on June 9, 2017 and further included passenger terminal facilities for cruising boats and MICE facilities for the target sectors of concession projects.</p>
<p>2.2 Are ongoing and/or are planned to be adopted</p>	<p>Yes</p>

AFTER June 1, 2017?	
Please describe:	<p>Reforms expected after June 1, 2017:</p> <ul style="list-style-type: none"> - Amendment of the PFI Act: The government has been considering the amendment of the PFI Act to further expand the circumstances where concessionaires can lease the public facility to a third-party tenant. - Amendment of the Water Act: The government already submitted to the Diet a bill to amend the Water Act in order to enable a local government to grant a private partner concession rights to operate the public water facility under practical conditions.
3.1 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Transportation.	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions:	<p>The Road Act restricts the ability of the private sector to manage and operate roads. Since the PFI Act does not amend or repeal the Road Act, further legislation is required to enable private sectors to undertake the management or operation of roads as concessionaire except for those located in certain economic regions designated under the special deregulation scheme enacted by the government. Thus, the road sector under the Road act and Act on Special Measures concerning Road Construction and Improvement restrict in this sense the use of PPPs for roads. To be precise, according to our contributors, it does not “prohibit PPP,” but it only allows public sector and privatized highway companies to be road operators, especially of toll roads. According to our contributors, only one PPP project in Road has been implemented only under the Special District in which National government agrees to do a pilot project.)</p>
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	<p>No</p>
If yes, please provide the relevant	<p>n/a</p>

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

restrict PPPs in any of the following sectors?: Other	
If yes, specify and provide the relevant legal/regulatory provisions:	<p>The list of “public facilities” which could be subject of PFI is in Article 2 of the PFI Act. According to the referred Article 2 Paragraph 1 of the PFI Act the PFI Act is applicable only to the procurement regarding the following facilities and equipment’s</p> <ol style="list-style-type: none"> (1) Public facilities, such as roads, railways, ports and harbors, airports, rivers, parks, water services, sewage systems, and industrial water supplies; (2) Official facilities, such as government buildings and accommodation; (3) Public interest facilities, such as rental housing, educational and cultural facilities, waste treatment facilities, medical facilities, social welfare facilities, offender rehabilitation facilities, parking, and underground malls; (4) Information and communications facilities, heat supply facilities, new energy facilities, recycling facilities (excluding waste treatment facilities), tourist facilities, and research facilities; and (5) Transportation facilities, such as ships and airplanes, and artificial satellites (including such facilities as are necessary for the operation of these facilities).
4. Does the regulatory framework provide for a specific tax regime for PPP transactions (i.e. tax incentives, special tax depreciation treatment, etc.)?	<p>Yes</p>
If yes, please specify and provide the relevant legal/regulatory provision (if any):	<p>There are depreciation treatments on real estate acquisition tax, fixed asset tax, and city planning tax related to facilities constructed/operated under the PFI Act, as follows:</p> <ol style="list-style-type: none"> (1) as to the public facilities that a private partner constructs and transfers to the procuring authority without using such under the PFI Act, the real estate acquisition tax is not imposed upon the private partner in accordance with Article 73-2 Paragraph 2 of Local Tax Act; and (2) as to the public facilities a private partner builds and operates under the PFI Act, the tax base amount of real estate acquisition tax, fixed asset tax, and city planning tax are reduced to half in accordance with Article 11 Paragraph 6 and 8, and Article 15 Paragraph 17 and 20 of Supplementary Provision of Local Tax Act.
5. Please identify the PPP procuring authorities in Japan and provide their website(s) (if available):	<p>There is not a single centralized authority specifically responsible for the procurement of PFI projects. Generally, a project would be procured by a particular division within the relevant ministry (e.g., Ministry of Land, Infrastructure, Transport and Tourism; Ministry of Health, Labor and Welfare), local government, or government-related organizations responsible for the target facility. For example, in the national government: (i) Ministry of Land, Infrastructure, Transport, and Tourism http://www.mlit.go.jp/en/index.html or (ii) Ministry of Health, Labor, and Welfare: http://www.mhlw.go.jp/english/.</p> <p>The specific authorities procuring PPPs are such “Administrator of Public Facility etc.” as defined Article 2, Clause 3 of the PFI Act, i.e. (i) the head of each ministry and national agency, who is an administrator of Public Facility etc. (i.e. the Chairperson of the House of Representatives, the Chairperson of the House of Councilors, the Chief Justice of the Supreme Court, the President of the Board of Audit, and ministers, the same shall apply hereinafter), or ministers having jurisdiction over a Qualified Project, (ii) the head of a local government, who is an administrator of Public Facility etc., or the head of a local government who is going to implement a Qualified</p>

	<p>Project, and (iii) an independent administrative agency, a corporation having a special status, and another public corporation (including an association formed to carry out an urban redevelopment project, a land readjustment project, and another urban development project; hereinafter referred to as “Public Corporation”) in charge of the provision etc. of Public Facility etc.</p> <p>Based on this same article, (Article 2, Clause 3 of the PFI Act, as amended in 2016) the term- the Administrator of Public Facility is defined as the head of these agencies.</p> <p>(1) Central Government Entities All entities covered by the Public Accounts Law as follows:</p> <ul style="list-style-type: none"> - House of Representatives - House of Councilors - Supreme Court - Board of Audit - Cabinet - National Personnel Authority - Cabinet Office - Reconstruction Agency - Imperial Household Agency - Japan Fair Trade Commission - National Public Safety Commission (National Police Agency) - Specific Personal Information Protection Commission - Financial Services Agency - Consumer Affairs Agency - Ministry of Internal Affairs and Communications - Ministry of Justice - Ministry of Foreign Affairs - Ministry of Finance - Ministry of Education, Culture, Sports, Science and Technology - Ministry of Health, Labor and Welfare - Ministry of Agriculture, Forestry and Fisheries - Ministry of Economy, Trade and Industry - Ministry of Land, Infrastructure, Transport and Tourism - Ministry of the Environment - Ministry of Defense <p>(2) Local Government Entities Please refer to Appendix 2 for the list of local government entities listed in the website of the PFI Promotion Office, especially those established their own PFI guidelines.</p> <p>(3) Public Corporation: an independent administrative agency, a corporation having a special status, and other public corporations in association formed to carry out an urban redevelopment project, a land readjustment project and other urban development project</p>
<p>6. In addition to the PPP procuring authorities listed above, is there a specialized</p>	<p>Yes</p>

government entity that facilitates the PPP program (PPP Unit)?	
If yes, please indicate its name, and its website (if available):	Private Finance Initiative Promotion Office of Cabinet Office (http://www8.cao.go.jp/pfi/index.html)
6.1 If yes, what are the main responsibilities of the PPP Unit (check all that apply): PPP regulation and policy guidance.	Yes
6.2 PPP capacity building for other public authorities.	No
6.3 PPP promotion among the public and/or private sectors in national and international forums.	Yes
6.4 Technical support in implementing PPP projects.	Yes
6.5 Identification and selection of PPP projects from the pipeline.	No
6.6 Revision of fiscal risks born by the Government.	No
6.7 Consultation with affected communities on potential	No

impact of PPP projects.	
6.8 Approval of PPP projects.	No
6.9 Undertaking the procurement of PPPs.	No
6.10 Oversight of PPP implementation.	No
6.11 Other	No
6.11 please specify:	n/a
Please provide the relevant legal/regulatory provisions:	PFI Project Assistance Committee that is established with the PFI Promotion Corporation - Article 45 of the PFI Act (as amended in 2016) PFI Promotion Council - Article 83 of the PFI Act (as amended in 2016) (formerly, Article 20) PFI Promotion Committee - Article 84 of the PFI Act (as amended in 2016) (formerly, Article 21)
PPP Preparation	
8. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
8.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before signing the PPP contract?	No
If yes, please provide the relevant	n/a

legal/regulatory provisions (if any):	
8.2. Does the Ministry of Finance (or government more broadly) have a specific system of: Budgeting for PPP projects.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Accounting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Reporting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
8.3. If yes to question 8.2, which of the following alternatives best describes the regulation?: Accounting	No

and reporting according to International Public Sector Accounting Standards (IPSAS).	
Accounting and reporting according to other international standard (e.g. European System of Accounts).	No
Please specify:	n/a
Other.	No
Please specify:	n/a
9. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before launching the procurement process (e.g. Cabinet, Cabinet Committee, Parliament, Supreme Audit Office, etc.)?	Yes
If yes, please specify the relevant authority	Diet
and provide the relevant legal/regulatory provisions (if any):	A resolution by the Diet or the local council (as the case may be) must be obtained in advance in order for the national or local government to incur ongoing monetary obligations under a PPP contract. (Public Finance Act, Article 14 to 15, Local Autonomy Act, 214).

9.1. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before signing the PPP contract?	<p>No</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>n/a</p>
10. Does the procuring authority use transaction advisors during the PPP project cycle?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>This is not a requirement but a possibility. Section 1-1 (7) of the Guideline relating to Process for Implementation of PFI Projects (the “Process Guideline”) states: For the consideration of particular PFI projects, it can also be effective for the operators of the projects to engage external consultants or advisors who are the experts, as the PFI projects would require specialized knowledge and know-hows regarding finance, legal, and technical areas.</p>
11. In a case comparable to the case study assumptions, please select the option that best describes the way your government integrates the prioritization of PPP projects with other public investment project prioritization?	<p>Yes</p>

<p>(e.g. in the context of a national public investment system, multi-year perspective plans, medium-term budgetary framework): The regulatory framework provides for the inclusion of PPPs in the national public investment system/medium term budgetary framework and details a specific procedure to ensure the consistency of PPPs with other public investment priorities.</p>	
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p>	<p>According to Article 7 of the PFI Act, when administrators of public facilities have publicized implementation policies pursuant to the provisions of Article 5 paragraph 3, the policies shall be implemented based on the basic policy and implementation policy, and it is possible to select specific projects that are deemed appropriate. Furthermore, the Guidelines for Preferentially considering the introduction of various PPP / PFI method (多様な PPP/PFI 手法導入を優先的に検討するための指針) are accessible in this link http://www8.cao.go.jp/pfi/yuusenkentou/shishin_index.html. Under this guideline, the procuring authority should consider PFIs as the preferential method for public procurement. If a project meets certain requirements, the public authority must choose an appropriate PFI method rather than a traditional non-PPP method of public procurement.</p>
<p>The regulatory framework prescribes the need for PPPs to be consistent with all other investment priorities without establishing a</p>	<p>No</p>

specific procedure to achieve that goal.	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework does not include any provisions but the procuring authority evaluates the consistency of PPPs with other government investment priorities in practice.	No
If yes, please elaborate:	n/a
The procuring authority does not evaluate PPPs against existing government priorities.	No
Please elaborate and provide examples:	n/a
11.1. Based on your experience, is it always the case that this prioritization is done in practice in accordance with the provisions of the regulatory framework described above?	Yes

If yes, please specify:	Contributors confirm that for national projects (as the one referred in the case study assumption), this is usually the case.
If no, please elaborate:	n/a
12.1 Which of the following assessments are conducted when identifying and preparing a PPP in order to inform the decision to proceed with it? (check all that apply): Socio-economic analysis (cost-benefit analysis of the socio-economic impact of the PPP project)	Yes
Relevant legal/regulatory provision (if any)	Article 11, Paragraph 1 of PFI Act mandates that in conducting the selection of a specific project under Article 7 and the selection of a private business operator under Article 8, paragraph 1, the administrator of a public facility shall conduct an objective evaluation (an evaluation on the effectiveness and efficiency of the specified project). Further requirements and details on this are contained on paragraphs 1-3 of Basic Policy regarding PFI and in the Basic Guideline regarding Implementation of PFI Projects (民間資金等の活用による公共施設等の整備等に関する事業の実施に関する基本方針) 1-3
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Section 3-1 (1) of the Process Guideline stipulates that the selection standard is whether the implementation of public facilities is efficiently and effectively undertaken through the operation of the PFI projects, and more specifically, by engaging a private business operator, (a) it can be expected to reduce public expenditures during the project time-frame, taking account of the same level/quality for public services, or (b) it can be expected to enhance the standards/quality for public services, taking account of the same amount for public expenditures. Another guideline (Guideline relating to Value for Money) that took effect simultaneously with the Process Guideline on December 18, 2015, which further details aspects of the applicable and required cost benefit analysis. http://www8.cao.go.jp/pfi/hourei/guideline/pdf/vfm_guideline.pdf
Is the assessment done in practice?	Yes
Details:	Contributors confirm that the assessment is done in practice
12.2. Affordability assessment,	Yes

including the identification of the required long term public commitments (explicit and implicit, direct and contingent liabilities)	
Relevant legal/regulatory provision (if any)	Provision 3 (2) of the Basic PFI Policy that requires the evaluation of the public financial burden as a prerequisite to procure PFIs is a requirement to perform an affordability assessment including the identification of the required long term public commitments.
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Applicable methods are provided for under Section 3-1 of the Process Guideline, and the evaluation elements are as follows: (1) selection standards include whether the Public Facility would operate efficiently and effectively in a way that (i) the public financial burden can be reduced where the standard of services remain the same and (ii) the standard service improves where the public financial burden remains the same (NB: however, there are no specific languages of such “explicit and implicit, direct and contingent liabilities); (2) calculation of the estimates of the public financial burden; (3) evaluation of the public service standard; (4) value for money calculation; and (5) consideration for other business operation methods.
Is the assessment done in practice?	Yes
Details:	Contributors answering this question confirm that the assessment happens in practice
12.3. Risk identification, allocation and assessment (risk matrix)	Yes
Relevant legal/regulatory provision (if any)	Guideline relating to Risk Allocation, etc. with respect to PFI projects
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	<p>Guideline relating to Risk Allocation, etc. with respect to PFI projects. For example, in particular, Section 1-2 (4) of the Risk Allocation Guideline specifies the exemplified methodologies as follows.</p> <p>(a) All of the risks are born by the either the procuring authority (the Administrator of Public Facility) or the Appointed Business Operator</p> <p>(b) Both of the parties bear the risks on a proportional basis (the proportion ratio can be modified incrementally)</p>

	<p>(c) One of the parties bear the risks up to the certain amount determined, and if the amount resulting from the risk exceeded such determined amount, the risks can be allocated based on either (a) or (b) above</p> <p>(d) Both of the parties bear the risks up to the certain amounts determined, and if the amounts resulting from the risk exceeded such determined amount, the risks can be allocated in accordance with (b) above.</p> <p>This section also specifies that, the allocation would be considered for each of the risks, by taking into account the allocation method for additional costs that would be required, if the risks are materialized, as well as the abilities of each party that can potentially bear the additional costs if the risks are materialized.</p>
Is the assessment done in practice?	Yes
Details:	Contributors confirm that a risk allocation matrix is attached to the implementation policy
12.4. Comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives (i.e. value for money analysis, public sector comparator)	Yes
Relevant legal/regulatory provision (if any)	Guideline relating to Value for Money (the "VFM Guideline")
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Section 1-1 (5) of the VFM Guideline provides that the VFM is calculated based on a comparison between the "Public Sector Comparator ("PSC"- the present value of the estimated amount for public expenditures during the overall project period for which the government itself operates the facility)" and the "Life Cycle Cost ("LLC") of the PFI Project (the estimated public expenditure amount through the overall project period in case of the PFI Project." If the value of LLC for the PFI Project is smaller than the value of PSC, the VFM is present for the PFI Project, and if the value of PSC exceeds the value of LLC for the PFI Project, there is no VFM.
Is the assessment done in practice?	Yes

Details:	Contributors confirm that the VFM analysis is conducted in practice
12.5. Financial viability or bankability assessment	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	Contributors answering this question confirm that this assessment happens in practice
12.6. Market sounding and/or assessment (showing evidence of investors' interest in the market for the project)	Yes
Relevant legal/regulatory provision (if any)	Section 2-3(2) of the Process Guideline provides for that a "market research" should be conducted to obtain necessary information for developing implementation policies and selecting relevant Projects. This paragraph refers to that such "market research" is preferably conducted prior to selecting relevant Projects in order to reflect the opinions of the private sector operators.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	In some PFI cases, market sounding was used to develop better project or to make sure there is investors' interest into the project. (e.g.. airport concessions, local governments' utilization of assets etc.)
12.7. Environmental impact assessment	Yes
Relevant legal/regulatory	Environmental Impact Assessment Law, whose purpose is as set forth below.

ry provision (if any)	Article 1. Purposes: Because it is extremely important, in terms of protecting the environment, for a corporation that is undertaking a project that changes the shape of the terrain or that involves the construction of a new structure, or that is engaging in other similar activities, to conduct an environmental impact assessment in advance of such a project. The purposes of this law are to ensure that proper consideration is given to environmental protection issues relating to such a project and, ultimately, to ensure that present and future generations of this nation's people enjoy healthy and culturally rewarding lives. In order to achieve these purposes, this law sets forth procedures, contains other provisions designed to clearly define the responsibilities of the government regarding environmental impact assessments and to ensure that such assessments are conducted properly and smoothly with respect to large-scale projects that could have a serious impact on the environment, and prescribes measures to reflect the results of such environmental impact assessments in implementing such projects and in determining the content of such projects.
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	The Environmental Impact Assessment Law describes the methodology and steps involved in the environmental impact assessment
Is the assessment done in practice?	Yes
Details:	Contributors answering this question confirm that the assessment happens in practice
12.8. Consultation process with affected communities on potential impact of the PPP project	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	According to our contributors, this depends on the project, but it will happen in practice usually for a large construction project.
13. Does the procuring authority include the assessments	Yes

<p>(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)?</p>	
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>No regulatory basis</p>
<p>and specify which of the assessments are included in the request for proposals and/or tender documents:</p>	<p>For PFI projects, usually all the documents related to the project are made public. In some cases, according to our contributors, detailed VFM analysis may not be published, but risk allocation matrix is always published.</p>
<p>13.1. Are the assessments published online?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Article 11, Paragraph 2 of PFI Act mandates to publish the results of the conducted assessments. In practice this implies that the basic risk allocation contemplated by the procuring authority is usually included in the request for proposal.</p>
<p>specify the website</p>	<p>Each of relevant government agencies or local governments creates the website for each project: E.g.. http://www.city.yokohama.lg.jp/shimin/sports/buntai/tokuteijigyoku.pdf</p>
<p>please specify which of the assessments are published online:</p>	<p>According to our contributors' risk allocation, Value-for-Money assessments are usually included in the feasibility study report published online.</p>
<p>14. Does the procuring authority include a draft PPP contract in the request for proposals?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory</p>	<p>The (Procurement) Process Guideline, Section 4-1(7) mandates to attach a draft PPP contract to the tender documents</p>

ry provisions (if any):	
If no, please elaborate	n/a
14.1. Are the tender documents published online?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
and please specify the website:	There is no centralized website, so the tender documents are published in the website of each Ministry or local government. E.g.: http://www.city.kawasaki.jp/250/page/0000047905.html
15. In a case comparable to the case study assumptions, have standardized PPP model contracts and/or transaction documents been developed?	Yes
If yes, please specify and provide a government-supported website where the mentioned standards are available or provide an electronic copy of them:	<p>The PFI Promotion Office makes it available on its website the Guideline relating to Contracts (Consideration Issues with respect to the PFI Business Agreement) and provides a standard agreement attached thereto. Also a standardized PFI contract for service procurement-type projects (as opposed to concession-type projects) is available on the following website of Cabinet Office, PFI Promotion Office:</p> <p>http://www8.cao.go.jp/pfi/hourei/keiyaku1/keiyaku1.html (available in the Japanese language only).</p> <p>http://www.pfikyokai.or.jp/doc/doc-model/2PFIsankouH20.pdf http://www.pfikyokai.or.jp/doc/doc-model/08_keiyakusho_an.doc</p>
16.1 In a case comparable to the case study assumptions, who is the responsible party for each of the following	No

requirements ? Obtaining the required urban permits: Procuring authority (or other Government entity)	
Private Partner	Yes
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
16.2. Obtaining the required environmental permits: Procuring authority (or other Government entity)	No
Private Partner	Yes
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes

Relevant legal/regulatory provision (if any)	Risk Allocation Guideline, Section 2-1 (3)) expressly considers that matters regarding environmental permits/impact assessment and their potential impact on the PPP project should be considered in the contract
16.3. Obtaining the required operational permits: Procuring authority (or other Government entity)	No
Private Partner	Yes
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	No
Relevant legal/regulatory provision (if any)	1-9-2 of Guidelines regarding PFI Agreement (http://www8.cao.go.jp/pfi/hourei/guideline/pdf/keiyaku_guideline.pdf) attributes the main responsibility on this to the private partner.
16.4. Obtaining the required land: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No

To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	Risk Allocation Guideline, Section 2-2 states that land and premises acquisition should be examined and the obligations established in the PFI agreement among the parties.
16.5. Obtaining the required right of way: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	Risk Allocation Guideline, Section 2-2 states that land and premises acquisition should be examined and the obligations established in the PFI agreement among the parties.
PPP Procurement	
18. Which of the following options best describes the required qualifications of the bid evaluation committee members? (Please select only one): The membership of the bid evaluation committee is specified and/or its members are	No

required to meet detailed qualifications.	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The bid evaluation committee members require sufficient qualification without specific details.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
The bid evaluation committee members are not required to have any specific qualifications.	No
Please elaborate and provide examples:	n/a
19. Does the procuring authority issue a public procurement notice of the PPP project?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	Article 8, Paragraph 1 of PFI Act requires to select the private operator by invitation. According to article 15 of the PFI Act, the administrators of public facilities shall publicly announce the matters concerning the prospect of the formulation of implementation policy for each fiscal year as provided for by a Cabinet Office Ordinance, pursuant to the provision of a Cabinet Office Ordinance. (...) (2) When an administrator of a public facility changes the matter pertaining to the forecast set forth in the preceding paragraph, he/she shall publicize the matters after the change pursuant to the provision of a Cabinet Office Ordinance. Such notices are usually posted on the official gazettes and relevant authorities' websites and are required to be published on official gazette, newspaper, or any other media under Article 74 and 75 of the Cabinet Order on Budgets, the Settlement of Accounts, and Accounting, or Article 167-6 of the Order for Enforcement of the Local Autonomy Act.

19.1. If yes, is the public procurement notice published online?	Yes
If yes, please specify the website:	The notice is published online by each different procuring authority for each project.
20. Are foreign companies prohibited from participating in the bidding process?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
21. In a case comparable to the case study assumptions, does the procuring authority grant the potential bidders a minimum period of time to submit their bids?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Section 4-1 (1) (iii) of the Process Guideline stipulates that it is necessary to consider securing a sufficient duration of time for the private business operators to prepare their proposals as designated and to execute necessary agreements. Section 4-1 (5) of the above Guideline elaborates on the reasons for such consideration that the private business operators need to consider the specifications corresponding to the quality-based orders and business plans corresponding to the creativity and the long-term business period, as well as that the private business operators need to prepare agreements based on the business plans proposed by the appointed private business operator with a view to executing the PFI project agreement.
and the time in calendar days:	n/a
22.1. In a case comparable to the case study assumptions, which are the	Yes

procurement procedures available and/or set as default for PPP projects? Open tendering: Available	
Default	No
Relevant legal/regulatory provision (if any)	Section 4-1-(11) (ii) of the Process Guideline sets the methods for the selection of the private partner and refers to the applicability on this area of the general public procurement regulations. In particular, open tendering is possible according to Article 29-6 Paragraph 2 of Public Accounting Act http://www.japaneselawtranslation.go.jp/law/detail/?id=2044&vm=04&re=02 and is also regulated in more detail by the PFI Process Guideline itself.
22.2. Restricted tendering (with pre-qualification stage): Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	Selective Bidding under Article 29-3 (3) of the Public Accounting Act, under which the procuring authority selects a number of bidders to participate in the bid.
22.3 Multi-stage tendering (with shortlisting of final candidate(s)): Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	Technical Proposal System: Section 4-1-(11) (ii-3) of the Process Guideline and Article 18 of the Act on Promoting Quality Assurance in Public Works provides for technical proposals method where multiple private business operators participated in the tender, and it may be difficult to confirm which operators have the most appropriate technologies and creativity for the qualified project. Article 16 of the Act on Promoting Quality Assurance in Public Works provides for the Step-by-Step Selection Method, which reads: in the case of the method requesting technical proposals from tender participants when there are expected to be a large number of tender participants or when finding it necessary, the Commissioning Entity may select persons who have a certain technical capability in evaluating matters regarding the technical capabilities pertaining to said public works and determine a successful bidder from among such persons, while considering that persons with necessary construction technology are not unduly prevented from newly participating in the tender.
22.4. Competitive dialogue: Available	Yes
Default	No

Relevant legal/regulatory provision (if any)	Article 29-3 Paragraph 4 of Public Accounting Act and Section 4-1-(11)(i-2) of the Process Guideline that regulates in detail the steps of a competitive dialogue
22.5. Direct negotiation with more than one candidate: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.6. Direct negotiation with only one candidate: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.7 Other. Specify:	n/a
Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.8. Do the tender documents detail the procedure of the procurement process providing the same information to all the bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Paragraph 2-3, Article 5 of the PFI Act (as amended in 2016) provides for the Implementation Policy that the procuring authority needs to determine and announce, and will elaborate regarding the specified projects on: matters relating to the selection of a business and matters concerning recruitment and selection of private business operators
If no, please elaborate:	n/a

22.9. Do the tender documents specify the prequalification/shortlisting criteria (when applicable) in order to make them available to all the bidders?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Article 5, Paragraph 2-2 requires that the criteria for selection must be specified in detail in the Implementation Policy, that must be made public to all bidders. Please see the reference English translations for the relevant Provisions under the PFI Act. Pursuant to Article 5, an administrator of Public Facility etc. shall determine the policy regarding implementation of a Qualified Project (hereinafter referred to as the "Implementation Policy") in accordance with the Basic Policy, when the administrator is to select a Qualified Project pursuant to Article 7 and to select a private business operator pursuant to paragraph (1) of Article 8.</p> <p>(2) The Implementation Policy shall specifically set forth the following matters on the Qualified Project:</p> <ul style="list-style-type: none"> (i) The matters on the selection of the Qualified Project; (ii) The matters on the invitation and selection of a private business operator; <p>(Selection of Private Business Operator) Article 8-1 When an Administrator of Public Facility etc. has selected a Qualified Project pursuant to the provision of the preceding article, the administrator shall select a private business operator which will implement the said Qualified Project by methods such as open invitation for participation.</p>
22.10. Based on your experience, is it always the case that the specified criteria are respected in practice?	<p>Yes</p>
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	<p>Contributors confirm that the criteria set are respected in practice.</p>
If no, please elaborate:	<p>n/a</p>
23. Can interested parties/potential bidders submit questions to clarify the	<p>Yes</p>

<p>public procurement notice and/or the request for proposals?</p>	
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>2-1-(7) of Basic Policy Regarding PFI and 4-1 (8) of the Procurement Process Guideline Guidelines Regarding Process of PFI regulates the possibility of asking questions and the requirement to make them available to all bidders</p>
<p>23.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose those questions and clarifications to all potential bidders?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Section 4-1-(8) of the Process Guideline (provided, however, that the procuring authority would consider not to disclose questions and answers relating to unique technology or know-hows of the applicant which may risk harming the right of such applicant, the status in the competition and other justifiable interests).</p>
<p>23.2. Based on your experience, is it always the case that this disclosure of information is done in practice?</p>	<p>Yes</p>
<p>If yes, please specify:</p>	<p>Contributors confirm that this disclosure is done in practice</p>
<p>If no, please elaborate:</p>	<p>n/a</p>
<p>24. Besides questions and clarifications, can the procuring authority conduct pre-bidding conference?</p>	<p>Yes</p>

If yes, please specify and provide the relevant legal/regulatory provisions (if any):	<p>Frequently Asked Question Section of the PFI Promotion Office (Question 2-13) refers to that. According to our contributors in at least 12 projects out of the previous 20 projects through PFI methods, shortly after the announcement of the implementation policies, the procuring authorities held “explanatory meetings” with regards to their implementation policies.</p>
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?	<p>No</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>n/a</p>
24.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	<p>Yes</p>
If yes, please specify:	<p>Contributors confirm that minutes of the explanatory meeting have been posted on the procuring authorities websites.</p>
If no, please elaborate:	<p>n/a</p>
25. In a case comparable to the case study assumptions, does the procuring authority require the bidders to prepare and present a	<p>Yes</p>

financial model with their proposals?	
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Article 6 of the PFI Act (as amended in 2016) (and the Cabinet Order) requires the private business operator to submit the process and methods applied to evaluate the effect and efficiency of the qualified project. Section 4-1 (9) of Guidelines Regarding Process of PFI also requires submitting a financial model in order to evaluate the efficiency of the proposal</p>
If no, please elaborate:	<p>n/a</p>
26. Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Article 11 (Objective Evaluation) of the PFI Act (as amended in 2016) provides for the procuring authority's objective evaluation and requires that the procuring authority must objectively evaluate and select the qualified project, appoint a private business operator, and then announce the result thereof. 4-1 (4) and (6) of Guidelines Regarding Process of PFI reiterate this idea and specifically require to use the criteria announced in the tender documents.</p>
Evaluation criteria is not set in the tender documents	<p>No</p>
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	<p>No</p>

<p>follows a specific procedure before awarding a PPP contract where only one proposal is submitted.</p>	
<p>Please specify and provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>The procuring authority considers sole proposals valid as long as they meet the conditions outlined in the tender documents.</p>	<p>Yes</p>
<p>Please provide the relevant legal/regulatory provisions (if any):</p>	<p>No regulatory basis</p>
<p>The procuring authority does not award a PPP contract if only one proposal is submitted.</p>	<p>No</p>
<p>Please provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>The regulatory framework does not include any provisions.</p>	<p>No</p>
<p>28. Does the procuring authority</p>	<p>Yes</p>

publish the award notice?	
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	Paragraph 1, Article 11 of the PFI Act requires to publish the result on the official Gazette, newspaper or any other media (Article 11 Paragraph 1 of PFI Act). Section 4-2 (1) of Guidelines Regarding Process of PFI further regulates the publication the results of the selection of the private operator process.
28.1. If yes, is the public procurement award notice published online?	Yes
If yes, please specify the website:	There is no centralized website. Each government agency or each local government publishes its own website. For example: http://www.city.yokohama.lg.jp/suidou/kyoku/suidoujigyo/kawai-saiseibi/pdf/kawai-pfi/20081205-rakusatsu.pdf (Japanese only) https://www.city.narashino.lg.jp/jigyosha/proposal/kekka/syuyakusisetuatopropokekka.files/senteikekka.pdf (Japanese only)
29. Does the procuring authority provide all the bidders with the result of the PPP procurement process?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	4-2 (3) of the Procurement Process Guidelines requires to provide the non-selected bidders with information about the results of the process and the reasons that they were not selected.
If no, please elaborate:	n/a
29.1. If yes, does the notification of the result of the PPP procurement process include the grounds for the selection of the winning bid?	Yes
If yes, please provide the relevant	4-2 (3) of the Procurement Process Guidelines requires to provide the non-selected bidders with information about the results of the process and the reasons that they were not selected. 4-2 (2) of the Procurement Process Guidelines requires to refer to the criteria used to select the winner bidder.

legal/regulatory provisions (if any):	
30. Is there a standstill (or pause) period after the contract award and before the signing of the contract in order to allow unsuccessful bidders to challenge the award decision?	<p>No</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>n/a</p>
and the time in calendar days:	<p>n/a</p>
30.1. Is the standstill period set out in the notice of intention to award?	<p>n/a</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>n/a</p>
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	<p>No</p>

disadvantage to the other bidders?	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
31.1. Based on your experience, is it always the case that this restriction is respected in practice?	n/a
If yes, please specify:	n/a
If no, please elaborate:	n/a
32. Does the procuring authority publish the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 15, Paragraph 3 of PFI Act states that when concluding a business contract, an administrator of a public facility etc. shall, pursuant to the provision of a Cabinet Office Ordinance, without delay, publish the contents of the business contract (the name and location of public facilities, the trade name or name of the selected business operator, the obligations of maintenance, etc. of the public facilities etc., the contract period, matters concerning measures in the event that continuation of business becomes difficult, and other matters specified by a Cabinet Office Ordinance). Section 5-2 of Guidelines Regarding Process of PFI reiterates this obligation
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	No
Publication of the full PPP contract without including all its annexes and appendixes	No

Publication of a summary of the PPP contract without publishing the full PPP contract	Yes
Publication of a summary of the PPP contract along with the full PPP contract including all its annexes and appendixes	No
Publication of a summary of the PPP contract along with the full PPP contract without including all its annexes and appendixes	No
32.2. If yes, is it published online?	Yes
If yes, please specify the website:	The content of PPP contracts is published online by each different procuring authority for each project. Set forth below are just examples: http://www.city.higashiosaka.lg.jp/cmsfiles/contents/0000018/18230/keiyakukouhyou.pdf (Japanese only) http://www.city.kawasaki.jp/250/cmsfiles/contents/0000055/55468/keiyakunonaiyo.pdf (Japanese only)
32.3. If yes, does the procuring authority also publish any subsequent amendment made to the PPP contract?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
PPP Contract Management	
41. Has the procuring or	Yes

contract management authority established a system to manage the implementation of the PPP contract (e.g. attributing responsibilities or establishing specific management tools)?	
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Step 6 of the Process Guideline regulates implementation and monitoring in general assigning to the procuring authority the responsibility to monitor the correct implementation of the project and the appropriate provision of the service.</p>
41.1. If yes, which of the following tools does it include (check all that apply)?: Establishment of a PPP contract management team	<p>No</p>
Relevant legal/regulatory provisions (if any):	<p>n/a</p>
Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa	<p>No</p>
Relevant legal/regulatory provisions (if any):	<p>n/a</p>

Elaboration of a PPP implementation manual or an equivalent document	<p>Yes</p>
Relevant legal/regulatory provisions (if any):	<p>The Contract Guideline specifies how the project must be implemented by referring to various agreements, including PFI Business Operations Agreement, Basic Agreement, Direct Agreement, Delegation and Services Agreement, Loan Agreement, Security Agreement, and Shareholders (Creditors) Agreement.</p>
Establishment of personnel training programs (i.e. initial training and continued training throughout the course of the project)	<p>Yes</p>
Relevant legal/regulatory provisions (if any):	<p>Step 6 (4) of the Process Guideline provide that, in connection with the implementation of a PFI project, when it is necessary to provide high quality public services at the request of the appointed business operator, the procuring authority may provide human resource assistance to the private business operator within the dispatching system of the presently existing officials, including dispatching officials on the condition that such officials will return to the authorities after a certain duration of time, business trips of officials, and holding seminars by officials, among other things.</p>
Establishment of a risk mitigation mechanism which considers the evolving nature of risks throughout the project lifecycle (guidelines, specific processes, insurance regime, etc.)	<p>Yes</p>
Relevant legal/regulatory provisions (if any):	<p>Risk Allocation Guideline</p>
41.2. Which of the following options best describes the required qualifications of the PPP contract management	<p>n/a</p>

<p>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.</p>	
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p>	n/a
<p>The PPP contract management team members are required to meet sufficient qualification without specific details.</p>	n/a
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	n/a
<p>The PPP contract management team members are not required to meet any specific qualifications.</p>	n/a
<p>Please elaborate and provide examples:</p>	n/a
<p>42. Does the procuring or</p>	Yes

contract management authority establish a system for tracking progress and completion of construction works under a PPP contract?	
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>The private partner is required in the PFI contract to provide a report on the progress and completion of the construction works to the procuring authority, either periodically or upon request of the procuring authority. (Contract Guideline, Section 2-2-6). Other provisions related to the oversight during construction are contained in 2-3-1 and 2-3-2 of the Contract Guidelines</p>
42.1. If yes, is the PPP contract construction performance information made available to the public?	<p>No</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>n/a</p>
42.2. If yes, is the PPP contract construction performance information made publicly available online?	<p>n/a</p>
If yes, please specify the website:	<p>n/a</p>
43. Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract	<p>Yes</p>

implementation after construction?	
If yes, please provide the relevant legal/regulatory provisions (if any):	The Monitoring Guideline has been developed by the PFI Promotion Office of the Cabinet Office regulating in detail the different monitoring and evaluation mechanism that also complement the provisions of the Step 6 in the Process Guideline regarding the implementation of the project.
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	Yes
Relevant legal/regulatory provisions (if any)	Performance is assessed against evaluation criteria set in the tender documents and the PPP contract in accordance with the Procurement Process Guideline, Section 5-1(3) and the Monitoring Guideline, Section 2-2(1)
The procuring or contract management authority can abate (reduce) payments for non-performance of operating obligations under the PPP contract	Yes
Relevant legal/regulatory provisions (if any)	The procuring or contract management authority can abate (reduce) payments for non-performance of operating obligations under the PPP contract in accordance to the Monitoring Guideline, Section 3-2(1)
The private partner must provide the procuring or contract management authority with periodic operational	Yes

and financial data	
Relevant legal/regulatory provisions (if any)	The private partner must provide the procuring or contract management authority with periodic operational and financial data as required by different provisions in the Monitoring Guideline (i.e. Section 2-6) and the Procurement Process Guideline (Section 5-1(3))
The procuring or contract management authority must periodically gather information on the performance of the PPP contract	Yes
Relevant legal/regulatory provisions (if any)	According to the Monitoring Guideline, Section 2-3 establish periodical monitoring and information gathering duties for the procuring authorities.
The PPP contract performance information must be available to the public	Yes
Relevant legal/regulatory provisions (if any)	According to the Monitoring Guideline, Section 6-2(2) PPP contract performance information must be available to the public.
43.2. Is PPP contract performance information made publicly available online?	Yes
If yes, please specify the website:	Websites of different procuring authorities, government entities, and local governments acting as such.
44. Are foreign companies prohibited from repatriating the income resulting from the operation of a PPP project?	No

If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
45. Does the regulatory framework (including standard contractual clauses) expressly regulate changes in the ownership structure (i.e. stakeholder composition) of the private partner and/or assignment of the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>Section 6-2 of the Guideline relating to Contracts provides for Share Transfer of the Appointed Business Operator, including permitted and prohibited period for share transfer, share ratio approved for transfer, approval, and denial conditions to be imposed on the party as the transferee.</p> <p>Section 6-2 of the Guideline relating to Contracts provides for the disposition of rights and obligation under the PFI agreement by the appointed business operator and specifies that the PFI agreement would stipulate, among other provisions, that, unless otherwise the procuring authority consents, the appointed business operator shall not (i) transfer, put out for security or dispose its rights and obligations under the PFI Agreement, (ii) issue any shares, shares with call option and convertible bonds, or (iii) change organizational structure to the holding company, merge with another entity, and undertake corporate divesture, share exchange or transfer. This provision is reflected in Article 7 of the Standard PFI Agreement #1 (Implementation of Public Facility and Service Purchase Model) (the “Standard Agreement”).</p> <p>Section 2 (1) 2 (1) of the Guideline on Concession and the Right to Operate a Public Facility (the “Concession Guideline”) lists share transfer conditions (Item 8) and the transfer of concession right (Item 7) as additional items to be included in the Implementation Policy.</p>
45.1. If yes, which of the following circumstances are specifically regulated? (check all that apply): Any change in the private	Yes

<p>partner during an initial period (e.g. construction and first five years of operation).</p>	
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>Section 6-2 of the Guideline relating to Contracts provides for Share Transfer of the Appointed Business Operator, including permitted and prohibited period for share transfer</p>
<p>Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>The public authority must consent to the changes of ownership/contract assignment, and in case of the assignment, in order to give consent, the public authority shall evaluate and select the party that would be the assignee of the contract in accordance with Article 8 of the PFI Act (as amended in 2016). Accordingly, it can be inferred that technical qualifications as the original operator would need to be preserved.</p>
<p>In other cases, flexibility to change the ownership structure and/or assign the contract.</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>n/a</p>
<p>46. Does the regulatory framework (including</p>	<p>Yes</p>

<p>standard contractual clauses) expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?</p>	
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>Provision 2-1-2 of the Contract Guidelines deals with design changes, change of design. Furthermore, the Standard Agreement contains the following model provisions.</p> <p>Article 12 (Modification of Terms and Conditions) Article 13 (Modification of Business Requirement Standards) Article 25 (Modification of Delivery Date) Article 26 (Consultation relating to Modification of Delivery Date) Article 50 (Modification of Service Fee based on Price Movements) Article 51 (Modification of Service Fee relating to Implementation of Facility based on Price Movements) Article 52 (Modification of Service Fee in response to Interest Rates Fluctuation) Article 53 (Modification of Service Fee based on Technological Innovation) Article 54 (Modification Method for Service Fee) Article 55 (Modification of Business Requirement Standards in lieu of Modification of Service Fee)</p>
<p>46.1. If yes, is an approval from a government authority, other than the procuring authority, required?</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>n/a</p>
<p>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</p>	<p>Yes</p>

object of the contract.	
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Provision 2-1-2 of the Contract Guidelines regulates grounds and processes to introduce design changes in the project.
A change in the risk allocation of the contract.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the financial and/or economic balance of the contract.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the duration of the contract.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Provision 2-2-7 of the Guideline for Agreement regulates changes in the construction period
A change in the agreed price or tariff.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Provision 4-4 of the Guideline for Agreement regulates revision of the “service fee” that is further regulated in the Standard PFI agreement as mentioned above.

ry/standard contractual provisions (if any):	
46.3. Can the procuring authority unilaterally modify a PPP contract?	<p>No</p>
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>n/a</p>
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	<p>Yes</p>
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>Different provisions in the Contract Guidelines (For example, provision 2-2-9, 3-6, 5-3 and 6-9) address this issue. Furthermore,</p> <p>(1)The Standard Agreement contains the following provisions. Article 30 (Damages resulting from Force Majeure during Construction Article 40 (Force Majeure during Maintenance/Management and Operation) Article 41 (Damages resulting from Force Majeure during Maintenance/Management and Operation) Article 59 (Termination Rights based on Force Majeure and Change in the Law)</p> <p>(2)Section 6 (1) of the Risk Allocation Guideline refers to what may constitute force majeure events with references to disasters based on (i) Paragraph 1-1, Article 2 of the Basic Act on Disaster Control Measures, (ii) “Storm, Heavy Rain, Flood, High Tides, Earthquake, Landslide, Cave-in, Fire, Riot, Disturbance, and other natural and unnatural events” as used in a Standard Construction Consignment Agreement for Public Works and (iii) long-term rain, long-team snow, snow-slide, discovery of archaeological, unforeseeable week land, and eruption of poisonous gas.</p>
Material Adverse	<p>Yes</p>

government action .	
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Provision 3-6 of the Contract Guidelines recognizes material government action as a form of force majeure.
Change in the Law.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Provision 2-1-2 of the Contract Guidelines discusses design changes in the project due to changes in the applicable regulations and laws. Besides, the Standard Agreement contains the following provisions. Article 44 (Change in Law, etc..) Article 45 (Increased Cost based on Change in Law) Article 46 (Decreased Cost based on Change in Law)
Refinancing.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Subcontracting and replacement of the subcontractors.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Provisions 2-2-5 and 3-2 of the Contract Guideline establish a framework for subcontracting with third parties during both construction and operation of the facilities.
48. Does the regulatory framework (including standard contractual clauses) allow for administrative and/or contractual complaint	Yes

review mechanisms to address disputes arising from the implementation of PPP contracts?	
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	Provision 6-8 of the Contract Guidelines address specific mechanisms for mediation and dispute resolution mechanisms.
48.1. If yes, please specify which of the following options are available (check all that apply): Local administrative review body	No
If yes, please specify:	n/a
Local courts	Yes
Domestic arbitration	Yes
International arbitration	Yes
Investor-State Dispute Settlement (ISDS)	Yes
Mediation	Yes
Please provide the relevant legal/regulatory/standard contractual provisions (if any)	In accordance with Article 4-4 of the Law relating to the Prevention of Delayed Payment of the Government Contracts, as well as Paragraph 1-7 of Article 100 of the Cabinet Order on Budgets, the Settlements of Accounts and Accounting, the contract with the procuring authority must specify the method of resolving disputes relating to contracts. Theoretically, with respect to the dispute resolutions methods described in the questions, such methods are available so long as these are stipulated in the contract. With respect to the applicability of the Investor State Dispute mechanism, the legal basis can be found in the bilateral investment treaties as well as the Economic Partnership Agreements/Free Trade Agreements containing the Investment Chapter, which the agreements have been entered into between Japan and other countries. For international arbitration awards to be enforceable in civil in Japan, the enforceability determination must be obtained in accordance with Article 46 of the Arbitration Act, and Article 45, Paragraph 2-8 excludes those disputes, for which the arbitration process was applied and may not be subjected for arbitration agreement under the Japanese laws.
48.2. If applicable, are	Yes

arbitration awards enforceable by the local courts?: Domestic Arbitration	
If yes, please provide the relevant legal/regulatory provisions/standard contractual provisions (if any):	Arbitration Act, Article 45, 46, New York Convention. Article 22, Sub-clause 6-2 of the Civil Execution Law (Law No. 4 of 1997)
International arbitration	Yes
If yes, please provide the relevant legal/regulatory provisions/standard contractual provisions (if any):	Arbitration Act, Article 45, 46, New York Convention. Article 22, Sub-clause 6-2 of the Civil Execution Law (Law No. 4 of 1997)
Investor-State arbitration	Yes
If yes, please provide the relevant legal/regulatory provisions/standard contractual provisions (if any):	Arbitration Act, Article 45, 46, New York Convention. Article 22, Sub-clause 6-2 of the Civil Execution Law (Law No. 4 of 1997). Japan is also a signatory State of the ICSID Convention
49. Does the regulatory framework (including standard contractual clauses) allow for the restructuring of a PPP private partner (SPV) in financial	Yes

difficulty prior to insolvency?	
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>Provision 5.1 of the Contract Guidelines regulates specifics regarding situations when the private operator is in risk of default and not fulfilling its obligations (in particular, it regulates lender step in right but further circumstances are regulated as well).</p>
50. Does the regulatory framework (including standard contractual clauses) allow for the lenders to take control of the PPP project (lender step-in rights) if either the private partner defaults or if the PPP contract is under threat of termination for failure to meet service obligations?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>Section 5-1-5 of the Guideline relating to Contracts provides for Step-in by the lenders and refers to that the lenders' step-in can enhance the possibility of the procuring authority to be successful with the PFI project in the light of the Basic Policy Section 3-2 (9). Section 5-1-6 of the Guideline relating to Contracts provides for principles governing the Direct Agreement, which refers to that the lenders are enabled to step-in based on the necessary provisions to be included in the PFI Business Agreement. Furthermore, Article 72 of the Standard Agreement provides for the direct agreement between the procuring authority and the lenders.</p>
50.1. If yes, which of the following options best describes the lender step-in right? (Please select only	<p>No</p>

one): The regulatory framework expressly regulates the lender step-in rights.	
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
The regulatory framework prescribes that a direct agreement should be signed with the lenders.	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>Section 5-1-5 of the Guideline relating to Contracts provides for Step-in by the lenders and refers to that the lenders' step-in can enhance the possibility of the procuring authority to be successful with the PFI project in the light of the Basic Policy Section 3-2 (9). Section 5-1-6 of the Guideline relating to Contracts provides for principles governing the Direct Agreement, which refers to that the lenders are enabled to step-in based on the necessary provisions to be included in the PFI Business Agreement. Furthermore, Article 72 of the Standard Agreement provides for the direct agreement between the procuring authority and the lenders.</p>
The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Other.	No

Please Specify:	n/a
51. Does the regulatory framework (including standard contractual clauses) expressly establish the grounds for termination of a PPP contract?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>Section 5 of the Guideline relating to Contracts provides for the followings.</p> <ul style="list-style-type: none"> 5-1 Termination Rights of the Procuring Authority 5-2 Termination Rights of the Appointed Business Operators 5-3 Termination Rights, etc. based on Force Majeure 5-4 Effects of Termination 5-5 Penalties 5-6 Administration upon the Termination of Agreement
51.1. If yes, does the regulatory framework (including standard contractual clauses) establish the consequences for the termination of the PPP contract?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>Besides the aforementioned, the Standard Agreement contains the following provisions.</p> <ul style="list-style-type: none"> Article 60 (Termination Effects prior to completion of construction) Article 61 (Exceptions in case of termination for the reason attributable to the appointed business operator) Article 62 (Termination Effects after the completion of construction)
Unsolicited Proposals	
34. Are unsolicited proposals in Japan: (choose only one): Explicitly	No

prohibited by the legal framework? (If prohibited, skip to section F)	
Explicitly allowed by the legal framework?	Yes
Not regulated by the legal framework, but do happen in practice?	No
Not regulated by the legal framework, and do not happen in practice? (if not done in practice, skip to section F)	No
If the legal framework explicitly prohibits or allows unsolicited proposals, please provide the relevant legal/regulatory provisions	<p>Article 6, Clause 1 of the PFI Act explicitly allows unsolicited proposals: (1) by a private business operator planning to engage in a Qualified Project (as defined in PFI Act, Article 2, Clause 2 to mean that “a project (including an urban redevelopment project, a land readjustment project, and another urban development project) involving the provision etc. of Public Facility etc. (which mean construction, rehabilitation, maintenance or operation of Public Facility etc., or planning of them, and include provision of services to the citizens; the same shall apply hereinafter), which is carried out more efficiently and effectively by utilizing private finance, management abilities and technical capabilities”); and (2) to the effect that an Administrator of Public Facility (i.e. PPP procuring authority) shall determine the policy regarding implementation of the Qualified Project.</p>
35. Does the procuring authority conduct an assessment to evaluate unsolicited proposals? (if not, skip to question 37)	Yes
If yes, please specify and provide the relevant legal/regulatory provisions (if any	<p>Paragraph 1, Article 6 of the PFI Act (as amended in 2016) provides that a private business operator having an intention to implement a project to be qualified as the PFI project, such operator may propose that the procuring authority would determine the Implementation Policy relating to such qualified project. Paragraph 2, Article 6 of the PFI Act (as amended in 2016) requires the procuring authority to consider such proposal made by a private business operator and notify such private business operator of the result of its consideration without delay.</p>

35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?	<p>No</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>n/a</p>
36. Which of the following options best describe how the procuring authority ensures that unsolicited proposals are consistent with existing government priorities? (Please select only one): The procuring authority follows a specific procedure to ensure the consistency of PPPs with other government investment priorities.	<p>No</p>
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	<p>n/a</p>
The regulatory framework requires	<p>Yes</p>

<p>unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.</p>	
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Paragraph 1, Article 6 requires the private business operator to submit a proposal of the project, the documents indicating the results of its evaluation regarding the effects and efficiency of the proposed project and other documents required under the Cabinet Order (which are those documents identifying the processes and methods of achieving the results of the evaluation of the effects and efficiency of the proposed project). Section 1-2(3) (i) of the Process Guideline provides for the consideration process of a proposal made by the private business operator and provides a list of factors for consideration as follows: a. necessity for the implementation of a public facility relation to the proposal; b. feasibility of the proposal; c. appropriateness to use the PFI method; d. impacts on financial conditions; e. possibility for other methods for implementation; and other necessary factors.</p>
<p>The procuring authority does not evaluate unsolicited proposals against existing government priorities.</p>	<p>No</p>
<p>Please elaborate and provide examples:</p>	<p>n/a</p>
<p>37. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>The procuring authority sets a certain period for additional bidders to submit their proposals in accordance with the Procurement Process Guideline, Section 4-1(13) and Section 2-3(6). According to the Japanese PFI regulation, procuring authority must select the project as “qualified project for PFI” in order to proceed as a PFI project, even with the unsolicited proposals. Therefore, Japanese “unsolicited proposal” is a proposal to the procuring authority to develop “PFI implementation policy of the project,” and if it selects the project as</p>

	qualified project for PFI, it will follow regular procedures for selection. As a consequence, the competitive procedure applies.
38. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and the time in calendar days:	n/a
39.1 Does the procuring authority use any of the following incentive mechanisms to reward/compensate the presentation of unsolicited proposals? (check all that apply): Access to the best and final offer (BAFO) process and/or automatic shortlisting.	No
39.2 Developer's fee (reimbursing the original proponent for the project)	No

development cost).	
39.3 Bid Bonus.	No
39.4 Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).	No
39.5 Other.	No
Please specify:	n/a
Please provide the relevant legal/regulatory provisions (if any):	n/a