



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

SURVEY QUESTION	ANALYSIS
<b>PPP Regulatory Framework</b>	
<b>2. Does the regulatory framework in your country allow procuring PPPs?</b>	Yes
<b>If yes, please specify the relevant regulatory framework and the year of adoption:</b>	<p>In Myanmar, there is no specific regulatory framework for PPPs at the national or local level. However, general tendering processes are governed by the terms of Directive No. 1/2017 (“Tender Rules”). The Tender Rules are generally used as a standard for PPPs. The Tender Rules sit behind the overarching framework of Presidential Directive on Procurement No. 1/2013 (“Directive 1/2013”). These are both supported by guidance issued by the Ministry of Construction in relation to construction contracts (released 9 January 2014 and 6 September 2016).</p> <p>Further, where the private party(ies) have some international connection, the regulations on investment, which are the Myanmar Investment Law (“MIL”) promulgated in 2016 and its rules (“MIR”) apply. Restricted investment activities are outlined in the notification 15/2017 of the Myanmar Investment Commission (10 April 2017) and the List of Restricted Investment Activities (Notification 15/2017).</p> <p>The Myanmar Citizen Investment Law - The Pyidaungsu Hluttaw Law No. 18., the notification no. 49/2014 of Myanmar Investment Commission (14 August, 2014) Amended Classification of Types of Economic Activities (“Notification 49/2014”), Environmental Impact Assessment Procedure (‘EIA Procedure’), Notification No. 616 / 2015 generally apply, as well as Public Debt Management Law of 2016, State-owned Economic Enterprises Law of 1989 and Contract Act of 1872.</p> <p>PPPs can also be regulated by sectoral notifications prepared by Ministries. However, these are released independently and should be considered in relation to the industry of each specific project (for example, a transport project would be governed by notifications from the Ministry of Transport and Communications).</p> <p>Note: Tender Rules specifically state that they do not apply to PPP projects for petroleum and gas blocks, construction of electric power stations, renting of electricity generators, issuance telecommunications licenses, and mining. To date, there has been no specific guidance on what rules will apply in those instances, however, the general assumption is that they will be similar to the Tender Rules in most respects.</p>
<b>and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:</b>	<a href="http://www.pppmyanmar.gov.mm">http://www.pppmyanmar.gov.mm</a>

<b>2.1. Are you aware of any reforms (in the regulatory frameworks – laws, regulations, policies, etc.- or in generally followed practices) related to PPPs that: Took place in 2016, are ongoing and/or are planned to be adopted BEFORE June 1, 2017?</b>	<p>Yes</p>
<b>Please describe:</b>	<p>The Tender Rules were adopted on 10 April 2017. The Presidential Directive on Procurement (Directive No - 1/2013) was repealed by Directive No - 1/2017 which states that separate tender procedures must be drafted for PPPs (oil and gas blocks, establishment of power stations, lease of power generators, grant of telecommunication business licenses, and mining) with the approval of the Union Government. Subject to the Commission’s Notification (Notification No. 10 / 2017) under the Myanmar Investment Law of 2016 (MIL), the years granted for income tax exemption will vary according to the designated development zones where the business activities occur or are situated in. On 30th March 2017, the Ministry of Planning and Finance published Notification 35/2017, the final version of the Myanmar Investment Rules (MIR) issued under the MIL.</p>
<b>2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?</b>	<p>No</p>
<b>Please describe:</b>	<p>n/a</p>
<b>3.1 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Transportation.</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>According to Notification 15/2017, transport services are restricted and require the approval of the Ministry of Transport and Communication. These are listed under section 1.(D)4, including train operation and manufacturing and maintenance of locomotives, carriages, wagons, and maintenance of railways (1.(D)4.4) (and related services), domestic and international air transport services ( 1.(D)4.31 and 32), coastal and inland water transport services for passengers and cargo ( 1.(D)4.36), and international transport services (see 1(D)4.39).</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>Yes</p>

<b>If yes, please provide the relevant legal/regulatory provisions:</b>	PPPs in fresh water fisheries and relevant services are explicitly prohibited under Section 1 (b) serial no (2) of the Notification 15/2017. Manufacturing and distribution of purified drinking water is only permitted in the form of joint venture with Myanmar citizens (Section 1.(C)17).
<b>3.3 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Energy generation and distribution.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	Notification 15/2017 explicitly prohibits administration of electric power systems and inspection of electrical work. Administration of electric power systems is listed as an investment activity which can only be carried out by the Union. Furthermore, large-scale power project (above 30 MW) require the approval of the Ministry of Electricity and Energy. And all electricity generation projects which connect to the power grid also require the approval of the Ministry of Electricity and Energy.
<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>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	Pursuant to Section 1 (d) serial no 4 (9) of the Notification 15/2017, telecommunication services may be permitted in the form of a joint venture with a Myanmar citizen with the approval of the Ministry of Transport and Communications. Production and domestic marketing of mobile handset and telephone is possible only with the approval of the Ministry of Transport and Communications. In addition, Tender Rules also note that a specific tender process shall be developed and carried out for PPP activities relating to issuing telecommunications licences, although this has not yet been released (or may in fact be determined individually for each project).
<b>3.5 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Other</b>	Yes
<b>If yes, specify and provide the relevant legal/regulatory provisions:</b>	Section 1 (a) serial no (4) (5) of the MIC Notification 15/2017 restricts Air Traffic Services and Pilotage Services.
<b>4. Does the regulatory framework provide for a specific tax regime for PPP transactions (i.e. tax incentives, special tax depreciation treatment, etc.)?</b>	No
<b>If yes, please specify and provide the relevant</b>	n/a

<b>legal/regulatory provision (if any):</b>	
<b>5. Please identify the PPP procuring authorities in Myanmar and provide their website(s) (if available):</b>	<p>Union Departments are the procuring bodies for national procurement processes. Union, Region, or State Departments or Organisations are the procuring bodies for State or Region procurement processes. Procuring Ministries and States/Regions are :</p> <p>Ministry of Electric Power: &lt;<a href="http://www.moep.gov.mm">www.moep.gov.mm</a>&gt;  Ministry of Energy: &lt;<a href="http://www.energy.gov.mm">www.energy.gov.mm</a>&gt;  Ministry of Communications and Information Technology:  &lt;<a href="http://www.mcit.gov.mm">http://www.mcit.gov.mm</a>&gt;  Ministry of Transport: &lt;<a href="http://www.mot.gov.mm/mm/index.htm">www.mot.gov.mm/mm/index.htm</a>&gt;  Ministry of Education: &lt;<a href="http://www.moemyanmar.net">www.moemyanmar.net</a>&gt;  Ministry of Health: &lt;<a href="http://www.moh.gov.mm">www.moh.gov.mm</a>&gt;  Ministry of Mines: &lt;<a href="http://www.mining.gov.mm">www.mining.gov.mm</a>&gt;  Ministry of National Planning and Economic Development:  &lt;<a href="https://www.mnped.gov.mm">https://www.mnped.gov.mm</a>&gt;</p>
<b>6. In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?</b>	Yes
<b>If yes, please indicate its name, and its website (if available):</b>	<p>The Ministry of Planning and Finance has established the Project Appraisal and Progress Reporting Department (PAPRD) as a PPP Unit in November 2016 and PAPRD will start to prepare its PPP related functions. (<a href="http://www.mopf.gov.mm">www.mopf.gov.mm</a>)  However, the functions of PARD as to PPP project and policy management have not been clearly outlined.</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>	No
<b>6.2 PPP capacity building for other public authorities.</b>	No
<b>6.3 PPP promotion among the public and/or private sectors in national and international forums.</b>	No
<b>6.4 Technical support in implementing PPP projects.</b>	No
<b>6.5 Identification and selection of PPP projects from the pipeline.</b>	No
<b>6.6 Revision of fiscal risks born by the Government.</b>	No
<b>6.7 Consultation with affected communities on potential impact of PPP projects.</b>	No
<b>6.8 Approval of PPP projects.</b>	No

<b>6.9 Undertaking the procurement of PPPs.</b>	No
<b>6.10 Oversight of PPP implementation.</b>	No
<b>6.11 Other</b>	No
<b>6.11 please specify:</b>	n/a
<b>Please provide the relevant legal/regulatory provisions:</b>	n/a
<b>PPP Preparation</b>	
<b>8. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>8.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before signing the PPP contract?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>8.2. Does the Ministry of Finance (or government more broadly) have a specific system of: Budgeting for PPP projects.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	No regulatory basis
<b>Accounting 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>Reporting liabilities (explicit and implicit, direct and contingent) arising from PPPs.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>8.3. If yes to question 8.2, which of the following alternatives best describes the regulation?: Accounting and reporting according to</b>	n/a

<b>International Public Sector Accounting Standards (IPSAS).</b>	
<b>Accounting and reporting according to other international standard (e.g. European System of Accounts).</b>	n/a
<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>	The President's Office and the Union Government
<b>and provide the relevant legal/regulatory provisions (if any):</b>	The Tender Rules specify different requirements depending on the scale of the PPP, the Department or Organisation requesting the PPP, or the type of PPP in question. According to Section 6 of the Tender Rules, for government projects, the Union ministries and organizations are to seek the approval of the President's Office and the Union Government, and the State-level ministries and organizations are required to seek the approval of the respective governments of the state/region. Further, Section 7 provides that while for a large scale State PPP, the Union Departments must seek Union Government approval, for the smaller projects - Union, State and Regional Departments or Organisations must seek approval from the relevant level of Government. The approving level of Government seeks approval to use State funds for the purposes of the PPP from the Union Government.
<b>9.1. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before signing the PPP contract?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	After sending draft contract to Union Department or Region or State Government Board, Naypyi Taw Council and Autotomized Division/ Local chief management Ministry Committee meeting and approving, the agreement shall be made (Notification 1/2013, section 3. q) dd)). In addition, various bodies may be required to provide further approval. For example, further approval would be required where the private investor in the PPP is a foreign investor, or in cases of PPP projects where Notification 15/2017 puts forward restrictions for investment in a particular sector and requires approval from a relevant Ministry.

<b>10. Does the procuring authority use transaction advisors during the PPP project cycle?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>11. In a case comparable to the case study assumptions, please select the option that best describes the way your government integrates the prioritization of PPP projects with other public investment project prioritization? (e.g. in the context of a national public investment system, multi-year perspective plans, medium-term budgetary framework): The regulatory framework provides for the inclusion of PPPs in the national public investment system/medium term budgetary framework and details a specific procedure to ensure the consistency of PPPs with other public investment priorities.</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The regulatory framework prescribes the need for PPPs to be consistent with all other investment priorities without establishing a specific procedure to achieve that goal.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The regulatory framework does not include any provisions but the procuring authority evaluates the consistency of PPPs with other government investment priorities in practice.</b>	Yes
<b>If yes, please elaborate:</b>	While the Tender Rules rules do not explicitly state that approval is required, an approval from the Union, State or Regional Government for the use of

	funds implies some form of financial regulatory consideration against the government investment priorities, which is respected in practice.
<b>The procuring authority does not evaluate PPPs against existing government priorities.</b>	No
<b>Please elaborate and provide examples:</b>	n/a
<b>11.1. Based on your experience, is it always the case that this prioritization is done in practice in accordance with the provisions of the regulatory framework described above?</b>	No
<b>If yes, please specify:</b>	n/a
<b>If no, please elaborate:</b>	Prioritization is not specifically provided by any regulatory framework and is determined according to ad hoc policies, usually issued by the President's Office.
<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>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>Is there a specific methodology for the assessment?</b>	n/a
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	n/a
<b>Details:</b>	n/a
<b>12.2. Affordability assessment, including the identification of the required long term public commitments (explicit and implicit, direct and contingent liabilities)</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	No regulatory basis
<b>Is there a specific methodology for the assessment?</b>	No
<b>If yes, please elaborate</b>	n/a



<b>Is the assessment done in practice?</b>	No
<b>Details:</b>	The identification of the required long term public commitments is done only on a case to case basis.
<b>12.3. Risk identification, allocation and assessment (risk matrix)</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>Is there a specific methodology for the assessment?</b>	n/a
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	n/a
<b>Details:</b>	n/a
<b>12.4. Comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives (i.e. value for money analysis, public sector comparator)</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>Is there a specific methodology for the assessment?</b>	n/a
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	n/a
<b>Details:</b>	n/a
<b>12.5. Financial viability or bankability assessment</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>Is there a specific methodology for the assessment?</b>	n/a
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	n/a
<b>Details:</b>	n/a
<b>12.6. Market sounding and/or assessment (showing evidence of investors' interest in the market for the project)</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a

<b>Is there a specific methodology for the assessment?</b>	n/a
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	n/a
<b>Details:</b>	n/a
<b>12.7. Environmental impact assessment</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	<p>Pursuant to Article 12 of the Environmental Impact Assessment Procedure 2015, for any preliminary activities to be carried out by or on behalf of a Project Proponent before the Ministry has determined whether the Project is obliged to carry out an Initial Environmental Examination (IEE) or Environmental Impact Assessment (EIA), the Ministry shall have the right to establish and impose requirements with respect to those preliminary activities, which the Project Proponent shall be obliged to comply with as a prior condition to engaging in those preliminary activities such as to ensure that such preliminary activities do not cause Environmental Impacts.</p> <p>Pursuant to Article 13 of the Environmental Impact Assessment Procedure 2015, the Project Proponent shall: a) arrange for appropriate public consultation through all phases of the IEE and EIA process as required by Articles 34, 50, and 61, and b) disclose to the public in a timely manner all relevant Project-related information in accordance with this Procedure except that which may relate to National Security concerns as informed by the Ministry.</p>
<b>Is there a specific methodology for the assessment?</b>	Yes
<b>If yes, please elaborate</b>	A PPP proponent, where required, will need to comply with the EIA process set out in the Environmental Impact Assessment Procedure. In the EIA Procedure, Chapters IV and V lay out the methodology for Initial Environmental Examination (IEE) or Environmental Impact Assessment (EIA) accordingly, when a project is proposed, but there is no specific methodology specific to a PPP Project.
<b>Is the assessment done in practice?</b>	Yes
<b>Details:</b>	Environmental impact assessment processes are extensive and are known to take up to 2 years to complete.
<b>12.8. Consultation process with affected communities on potential impact of the PPP project</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	According to Article 34 of the EIA Procedure, the Project Proponent shall undertake the following public consultation process in regard to an Initial Environmental Examination: a) Immediately upon commencement of the IEE, disclose relevant information about the proposed Project to the public and civil society through the Project or Project Proponent's website(s) and local media, including by means of the prominent posting of legible sign boards at the Project site which are visible to the public, and comply with technical

	<p>guidelines issued by the Ministry; and b) arrange the required complement of consultation meetings as advised by the Ministry, with local communities, potential PAPs, local authorities, community based organizations, and civil society, and provide appropriate and timely explanations in press conferences and media interviews.</p> <p>In addition, under Section 60 of EIA assessment procedures, the EIA shall consider the views, concerns, and perceptions of stakeholders, communities and individuals that could be affected by the Project or who otherwise have an interest in the Project. The EIA shall include the results of consultations with the public, affected populations and other stakeholders on the environmental and social issues.</p>
<b>Is there a specific methodology for the assessment?</b>	Yes
<b>If yes, please elaborate</b>	<p>According to Article 34 of the EIA Procedure, the Project Proponent shall undertake the following public consultation process in regard to an Initial Environmental Examination: a) Immediately upon commencement of the IEE, disclose relevant information about the proposed Project to the public and civil society through the Project or Project Proponent's website(s) and local media, including by means of the prominent posting of legible sign boards at the Project site which are visible to the public, and comply with technical guidelines issued by the Ministry; and b) arrange the required complement of consultation meetings as advised by the Ministry, with local communities, potential PAPs, local authorities, community based organizations, and civil society, and provide appropriate and timely explanations in press conferences and media interviews.</p>
<b>Is the assessment done in practice?</b>	Yes
<b>Details:</b>	Consultation with affected communities is part of the Initial Environmental Examination.
<b>13. Does the procuring authority include the assessments (indicated in Question 12 above) in the request for proposals and/or tender documents (for example, as part of an Information Memorandum to the bidders)?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>and specify which of the assessments are included in the request for proposals and/or tender documents:</b>	n/a
<b>13.1. Are the assessments published online?</b>	No

<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>specify the website</b>	n/a
<b>please specify which of the assessments are published online:</b>	n/a
<b>14. Does the procuring authority include a draft PPP contract in the request for proposals?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>If no, please elaborate</b>	The Tender Rules do not include a draft contract. Importantly, as PPPs will be conducted based on the needs and approvals of various Union and State departments and organisations, there is unlikely to be a standard form contract for PPPs moving forward.
<b>14.1. Are the tender documents published online?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>and please specify the website:</b>	n/a
<b>15. In a case comparable to the case study assumptions, have standardized PPP model contracts and/or transaction documents been developed?</b>	No
<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>	n/a
<b>16.1 In a case comparable to the case study assumptions, who is the responsible party for each of the following requirements? Obtaining the required urban permits: Procuring authority (or other Government entity)</b>	No
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</b>	No
<b>To be established in the contract</b>	Yes

<b>Relevant legal/regulatory provision (if any)</b>	No regulatory basis
<b>16.2. Obtaining the required environmental permits: Procuring authority (or other Government entity)</b>	No
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</b>	No
<b>To be established in the contract</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	No regulatory basis
<b>16.3. Obtaining the required operational permits: Procuring authority (or other Government entity)</b>	No
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</b>	No
<b>To be established in the contract</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	No regulatory basis
<b>16.4. Obtaining the required land: Procuring authority (or other Government entity)</b>	No
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</b>	Yes
<b>To be established in the contract</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	MIL, Article 50 "Rights to Use Land" provides that investor shall obtain permit or endorsement to use land. Additionally, (d) The investor shall register the land lease contract at the Office of Registry of Deeds in accordance with the Registration Act and (e) The Government may grant more favorable terms and conditions for the lease of land and the use of land by Myanmar citizen investors.
<b>16.5. Obtaining the required right of way: Procuring authority (or other Government entity)</b>	No
<b>Private Partner</b>	No

<b>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</b>	No
<b>To be established in the contract</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	No regulatory basis
<b>PPP Procurement</b>	
<b>18. Which of the following options best describes the required qualifications of the bid evaluation committee members? (Please select only one): The membership of the bid evaluation committee is specified and/or its members are required to meet detailed qualifications.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Section 9 of the Tender Rules specifies that the Union-level department and organization will form a “Tender Invitation Committee” with the heads from the procuring departments and organizations. The Deputy Minister or Permanent Secretary will be the Chairman of this “Tender Invitation Committee”. Ministers from the relevant regions or states will act in the capacity of Chairman of the “Tender Invitation Committee” if the tender invitation will involve the Union’s funds. In the event of a tender invitation using regional or state funds, a “Tender Invitation Committee” will be formed with representatives from the procuring department and related departments. It will be chaired by the minister from the relevant regional or state ministry.</p> <p>Further, Section 14(a) of the Tender Rules specifies that the Tender Acceptance and Vetting Committee must have 3 and 5 members from related departments with the knowledge and experience in construction and procurement of goods and services. Other than this, the Tender Committee may also (with approval) employ a consultants with technical or specialised experience.</p>
<b>The bid evaluation committee members require sufficient qualification without specific details.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The bid evaluation committee members are not required to have any specific qualifications.</b>	No
<b>Please elaborate and provide examples:</b>	n/a
<b>19. Does the procuring authority issue a public</b>	Yes

<b>procurement notice of the PPP project?</b>	
<b>If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):</b>	<p>Regarding the tender for construction, purchase and services ranging from MMK 10 million to MMK 100 million, public a procurement notice must be issued two weeks prior to the date of the opening of the tendering process on the notice board of the relevant ministry, general administrative office, district administrative office, and township administrative office. [Section 10 (b) of the Tender Rules]</p> <p>Regarding construction tendering, for purchases and services exceeding MMK 100 million, a public procurement notice must be announced in the state owned newspapers twice, one month prior to the date of the opening of the tendering. Similarly, such an announcement must be provided on the website of the Ministry at least one month in advance. [Section 10 (c) of the Tender Rules]</p>
<b>19.1. If yes, is the public procurement notice published online?</b>	Yes
<b>If yes, please specify the website:</b>	Relevant Ministry's website
<b>20. Are foreign companies prohibited from participating in the bidding process?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Foreign companies cannot engage in activities in some prohibited areas, or can only engage in activities in other areas when they operate in partnership with a local company. Further, it appears from the Tender Rules (art. 10(e)) that international bidders for a tender shall only be invited to tender where there is no authorised local dealer of the goods and services. Further, international companies submitting tenders shall register as a company in Myanmar before entering any contract (art. 42 of the Tender Rules).
<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>	Pursuant to Section 10 (b) of the Tender Rules, tender opening shall be offered two weeks prior to a specified date for projects which are from MMK 10 million to MMK 100 million whereas one month in advance for projects exceeding MMK 100 million under Section 10(c) of the this Directive.
<b>and the time in calendar days:</b>	30
<b>22.1. In a case comparable to the case study assumptions, which are the procurement procedures available and/or set as default for PPP projects? Open tendering: Available</b>	No
<b>Default</b>	Yes

<b>Relevant legal/regulatory provision (if any)</b>	In general, the Tender Rules provides for an open procedure. Section 48 (c) of the Tender Rules states as follows: “An invitation to tender for matters related to national defense, security and electronic security systems where there will be limits on the number of bidders, as well as any procurement by direct contracts can be carried out separately in accordance with the policies of the Ministry of Defense and the Ministry of Transport and Communications. Any other procurement of commodities must be carried out in line with this directive”.
<b>22.2. Restricted tendering (with pre-qualification stage): Available</b>	No
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<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>	No
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>22.5. Direct negotiation with more than one candidate: Available</b>	No
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>22.6. Direct negotiation with only one candidate: Available</b>	No
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>22.7 Other. Specify:</b>	Unspecified separate tender procedure
<b>Available</b>	Yes
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	Section 48(d) of the Tender Rules states that separate tender procedures will be drafted for Public Private Partnerships or PPPs (oil and gas blocks, the establishment of power stations, leasing of power generators, telecommunication licenses, and mining) with the approval of the Union Government. The Rules do not specify the details of this procedure.
<b>22.8. Do the tender documents detail the procedure of the procurement process providing the same</b>	No



<b>information to all the bidders?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>If no, please elaborate:</b>	Currently in Myanmar, there is no standard way of informing all the bidders about the procurement process. All the processes and documents are prepared on a specific subject and on a case to case basis.
<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>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>22.10. Based on your experience, is it always the case that the specified criteria are respected in practice?</b>	n/a
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>If no, please elaborate:</b>	n/a
<b>23. Can interested parties/potential bidders submit questions to clarify the public procurement notice and/or the request for proposals?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	No regulatory basis
<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>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>23.2. Based on your experience, is it always the case that this disclosure of information is done in practice?</b>	No
<b>If yes, please specify:</b>	n/a

<b>If no, please elaborate:</b>	Currently in Myanmar no information is disclosed referred to clarifications and evaluation of bids to third parties. Given that there are no standard practices, it differs from the ministry to ministry.
<b>24. Besides questions and clarifications, can the procuring authority conduct pre-bidding conference?</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	n/a
<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>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>24.2. Based on your experience, is it always the case that this disclosure of information is done in practice?</b>	n/a
<b>If yes, please specify:</b>	n/a
<b>If no, please elaborate:</b>	Currently in Myanmar no information is disclosed regarding clarifications and evaluation of bids to third parties. Depending on the ministry involved, the practice on disclosure of information differs.
<b>25. In a case comparable to the case study assumptions, does the procuring authority require the bidders to prepare and present a financial model with their proposals?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Under Section 12(d) of the Tender Rules, Tender Invitation Committee must stipulate facts to be included in the proposed contract, evaluation criteria and financial background (contractual facts and data, payment schedules, schedules for supply/delivery of goods, taxes and so on).
<b>If no, please elaborate:</b>	n/a
<b>26. Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Section 24 of the Tender Rules states that the procurement department must use the evaluation criteria prescribed in the tender document for evaluation purposes.

<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>	No
<b>Please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The procuring authority does not award a PPP contract if only one proposal is submitted.</b>	No
<b>Please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The regulatory framework does not include any provisions.</b>	Yes
<b>28. Does the procuring authority publish the award notice?</b>	Yes
<b>If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):</b>	No regulatory basis
<b>28.1. If yes, is the public procurement award notice published online?</b>	Yes
<b>If yes, please specify the website:</b>	Publication of the award notice will be placed on the relevant ministry's website.
<b>29. Does the procuring authority provide all the bidders with the result of the PPP procurement process?</b>	Yes

<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Under section 37 of the Tender Rules, the Tender Committee must inform all unsuccessful bidders.
<b>If no, please elaborate:</b>	n/a
<b>29.1. If yes, does the notification of the result of the PPP procurement process include the grounds for the selection of the winning bid?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Under Section 37 of the Tender Rules, Tender Acceptance and Scrutiny Committee shall compile the Assessment Report together with the suggestions and submit it to the "Tender Committee". In the Report, those who failed in Tender and the reasons for such failure shall be mentioned.
<b>30. Is there a standstill (or pause) period after the contract award and before the signing of the contract in order to allow unsuccessful bidders to challenge the award decision?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>and the time in calendar days:</b>	n/a
<b>30.1. Is the standstill period set out in the notice of intention to award?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<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>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>31.1. Based on your experience, is it always the case that this restriction is respected in practice?</b>	n/a
<b>If yes, please specify:</b>	n/a
<b>If no, please elaborate:</b>	n/a
<b>32. Does the procuring authority publish the PPP contract?</b>	No

<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>32.1. If yes, which of the following options best describes this publication (choose only one)?:</b> <b>Publication of the full PPP contract including all its annexes and appendixes</b>	n/a
<b>Publication of the full PPP contract without including all its annexes and appendixes</b>	n/a
<b>Publication of a summary of the PPP contract without publishing the full PPP contract</b>	n/a
<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 system to manage the implementation of the PPP contract (e.g. attributing responsibilities or establishing specific management tools)?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a

<b>41.1. If yes, which of the following tools does it include (check all that apply)?: Establishment of a PPP contract management team</b>	n/a
<b>Relevant legal/regulatory provisions (if any):</b>	n/a
<b>Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa</b>	n/a
<b>Relevant legal/regulatory provisions (if any):</b>	n/a
<b>Elaboration of a PPP implementation manual or an equivalent document</b>	n/a
<b>Relevant legal/regulatory provisions (if any):</b>	n/a
<b>Establishment of personnel training programs (i.e. initial training and continued training throughout the course of the project)</b>	n/a
<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>	n/a
<b>Relevant legal/regulatory provisions (if any):</b>	n/a
<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>	n/a
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The PPP contract management team members</b>	n/a

are required to meet sufficient qualification without specific details.	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The PPP contract management team members are not required to meet any specific qualifications.	n/a
Please elaborate and provide examples:	n/a
<b>42. Does the procuring or contract management authority establish a system for tracking progress and completion of construction works under a PPP contract?</b>	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
<b>42.1. If yes, is the PPP contract construction performance information made available to the public?</b>	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
<b>42.2. If yes, is the PPP contract construction performance information made publicly available online?</b>	n/a
If yes, please specify the website:	n/a
<b>43. Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract implementation after construction?</b>	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	MIL, Chapter 9, Section 51 requires foreign investors to submit a progress report to the Myanmar Investment Commission every 90 days (), and requires him/her to send a prescribed form.
<b>43.1. If yes, which of the following tools does it include (check all that apply)?: Performance is assessed against evaluation criteria set in the tender documents and the PPP contract</b>	No

<b>Relevant legal/regulatory provisions (if any)</b>	n/a
<b>The procuring or contract management authority can abate (reduce) payments for non-performance of operating obligations under the PPP contract</b>	No
<b>Relevant legal/regulatory provisions (if any)</b>	n/a
<b>The private partner must provide the procuring or contract management authority with periodic operational and financial data</b>	Yes
<b>Relevant legal/regulatory provisions (if any)</b>	In accordance with MIR Section 197, the investor is required to submit a quarterly report to the Commission.
<b>The procuring or contract management authority must periodically gather information on the performance of the PPP contract</b>	No
<b>Relevant legal/regulatory provisions (if any)</b>	n/a
<b>The PPP contract performance information must be available to the public</b>	No
<b>Relevant legal/regulatory provisions (if any)</b>	n/a
<b>43.2. Is PPP contract performance information made publicly available online?</b>	No
<b>If yes, please specify the website:</b>	n/a
<b>44. Are foreign companies prohibited from repatriating the income resulting from the operation of a PPP project?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>45. Does the regulatory framework (including standard contractual clauses) expressly regulate changes in the ownership structure (i.e. stakeholder composition) of the private partner and/or</b>	Yes



<b>assignment of the PPP contract?</b>	
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	In accordance with Section 191 of the MIR, the Myanmar Investment Commission's prior approval is required if a transfer of shares or business results in a person who is not a related body corporate of the investor acquiring a majority ownership or control of the investor, and more than 50% of the assets of the investor.
<b>45.1. If yes, which of the following circumstances are specifically regulated? (check all that apply): Any change in the private partner during an initial period (e.g. construction and first five years of operation).</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>In other cases, flexibility to change the ownership structure and/or assign the contract.</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<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>	No
<b>If yes, please provide the relevant legal/regulatory/standard</b>	n/a

<b>contractual provisions (if any):</b>	
<b>46.1. If yes, is an approval from a government authority, other than the procuring authority, required?</b>	n/a
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>46.2. If yes to question 46, which of the following circumstances are specifically regulated? (check all that apply): A change in the scope and/or object of the contract.</b>	n/a
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>A change in the risk allocation of the contract.</b>	n/a
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>A change in the financial and/or economic balance of the contract.</b>	n/a
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>A change in the duration of the contract.</b>	n/a
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>A change in the agreed price or tariff.</b>	n/a
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a

<b>46.3. Can the procuring authority unilaterally modify a PPP contract?</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>47. Does the regulatory framework (including standard contractual clauses) expressly regulate the following circumstances that may occur during the life of the PPP contract? (check all that apply): Force Majeure</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Section 48(h) of the Tender Rules: the department or organisation in charge of overseeing the PPP may amend the contract due to outbreak of force majeure.
<b>Material Adverse government action .</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	The Foreign Investment Law provides a guarantee in favor of businesses implementing an investment project (approved under an investment permit) against (a) nationalization within the contract term (section 28); and (b) non-suspension of the approved project by the Government before expiry of the project without any sufficient cause (section 29).
<b>Change in the Law.</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<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>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>48. Does the regulatory framework (including standard contractual clauses)</b>	Yes

<b>allow for administrative and/or contractual complaint review mechanisms to address disputes arising from the implementation of PPP contracts?</b>	
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	<p>The Tendering Regulations specify that any dispute arising from a contract entered into between a Myanmar Government Department and private entity should be solved by the terms of the contract (3.o) ff).FIL section 43 indicates “(i) it shall be complied and carried out in accord with the existing laws of the Union if the dispute settlement mechanism is not stipulated in the relevant agreement; (ii) it shall be complied and carried out in accord with the dispute settlement mechanism if it is stipulated in the relevant agreement.” PPP contracts in Myanmar generally specify Singapore as the seat of arbitration. There will usually be an arbitration clause in the PPP contract which states that the: “parties irrevocably agree to refer and resolve their dispute by arbitration conducted according to the rules of the Singapore International Arbitration Centre. “ On 5 January 2016, the Myanmar Union Parliament adopted a new Arbitration Law (Union Law No. 5/2016) (the “2016 Arbitration Act”), which provides a domestic legal framework to fully implement and comply with the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958 (the “New York Convention”), which Myanmar signed and ratified in 2013. The 2016 Arbitration Act is yet to be tested by Myanmar courts. In addition, under the State Owned Economic Enterprises Law, State owned enterprises can be named as defendants. Also, under the MIL, an investor may bring a claim against the Union by a competent court, where the claim could not be otherwise amicably resolved.</p>
<b>48.1. If yes, please specify which of the following options are available (check all that apply): Local administrative review body</b>	No
<b>If yes, please specify:</b>	n/a
<b>Local courts</b>	Yes
<b>Domestic arbitration</b>	Yes
<b>International arbitration</b>	Yes
<b>Investor-State Dispute Settlement (ISDS)</b>	No
<b>Mediation</b>	No
<b>Please provide the relevant legal/ regulatory/standard contractual provisions (if any)</b>	<p>The Tendering Regulations specify that any dispute arising from a contract entered into between a Myanmar Government Department and private entity should be solved by the terms of the contract (3.o) ff).</p> <p>FIL section 43 indicates “(i) it shall be complied and carried out in accord with the existing laws of the Union if the dispute settlement mechanism is not stipulated in the relevant agreement; (ii) it shall be complied and carried out in accord with the dispute settlement mechanism if it is stipulated in the relevant agreement.”</p> <p>PPP contracts in Myanmar generally specify Singapore as the seat of arbitration. There will usually be an arbitration clause in the PPP contract</p>

	<p>which states that the: “parties irrevocably agree to refer and resolve their dispute by arbitration conducted according to the rules of the Singapore International Arbitration Centre. “</p> <p>On 5 January 2016, the Myanmar Union Parliament adopted a new Arbitration Law (Union Law No. 5/2016) (the “2016 Arbitration Act”), which provides a domestic legal framework to fully implement and comply with the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958 (the “New York Convention”), which Myanmar signed and ratified in 2013. The 2016 Arbitration Act is yet to be tested by Myanmar courts. In addition, under the State Owned Economic Enterprises Law, State owned enterprises can be named as defendants. Also, under the MIL, an investor may bring a claim against the Union by a competent court, where the claim could not be otherwise amicably resolved.</p>
<b>48.2. If applicable, are arbitration awards enforceable by the local courts?: Domestic Arbitration</b>	Yes
<b>If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):</b>	Section 40(a), Arbitration Law: Enforcement of Domestic Arbitration: the domestic award shall be enforced under the Code of Civil Procedure in the same manner as if it were a decree of the court.
<b>International arbitration</b>	Yes
<b>If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):</b>	Chapters 9 and 10 of Arbitration Law, Union Law No. 5/2016 outline enforcement procedure of domestic and foreign arbitration in the local courts of Myanmar. In addition, ASEAN Comprehensive Investment Agreement, and Myanmar also has Bilateral Investment Protection Agreements with 12 countries, namely, Israel, Republic of Korea, USA, Indonesia, Japan, India, Thailand, Kuwait, Laos, China, Vietnam, and Philippines.
<b>Investor-State arbitration</b>	No
<b>If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):</b>	n/a
<b>49. Does the regulatory framework (including standard contractual clauses) allow for the restructuring of a PPP private partner (SPV) in financial difficulty prior to insolvency?</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>50. Does the regulatory framework (including standard contractual clauses)</b>	No

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?	
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
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.	n/a
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.	n/a
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.	n/a
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Other.	n/a
Please Specify:	n/a
51. Does the regulatory framework (including standard contractual clauses) expressly establish the grounds for termination of a PPP contract?	No

<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>51.1. If yes, does the regulatory framework (including standard contractual clauses) establish the consequences for the termination of the PPP contract?</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>Unsolicited Proposals</b>	
<b>34. Are unsolicited proposals in Myanmar: (choose only one): Explicitly prohibited by the legal framework? (If prohibited, skip to section F)</b>	No
<b>Explicitly allowed by the legal framework?</b>	No
<b>Not regulated by the legal framework, but do happen in practice?</b>	Yes
<b>Not regulated by the legal framework, and do not happen in practice? (if not done in practice, skip to section F)</b>	No
<b>If the legal framework explicitly prohibits or allows unsolicited proposals, please provide the relevant legal/regulatory provisions</b>	According to our contributors, unsolicited proposals are not regulated by the legal framework, but do happen in practice.
<b>35. Does the procuring authority conduct an assessment to evaluate unsolicited proposals? (if not, skip to question 37)</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any)</b>	No regulatory basis
<b>35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?</b>	No

<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<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>	<p>No</p>
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>The procuring authority does not evaluate unsolicited proposals against existing government priorities.</p>	<p>Yes</p>
<p>Please elaborate and provide examples:</p>	<p>The practice is ad hoc, and there is no standard practice.</p>
<p>37. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>38. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?</p>	<p>n/a</p>



<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>and the time in calendar days:</b>	n/a
<b>39.1 Does the procuring authority use any of the following incentive mechanisms to reward/compensate the presentation of unsolicited proposals? (check all that apply): Access to the best and final offer (BAFO) process and/or automatic shortlisting.</b>	No
<b>39.2 Developer's fee (reimbursing the original proponent for the project development cost).</b>	No
<b>39.3 Bid Bonus.</b>	No
<b>39.4 Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).</b>	No
<b>39.5 Other.</b>	No
<b>Please specify:</b>	n/a
<b>Please provide the relevant legal/regulatory provisions (if any):</b>	n/a