



PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN NICARAGUA

SURVEY QUESTION	ANALYSIS
PPP Regulatory Framework	
2. Does the regulatory framework in your country allow procuring PPPs?	Yes
If yes, please specify the relevant regulatory framework and the year of adoption:	The focus of this analysis will be the newly established PPP regulatory framework is mainly comprised by: i) the “Public Private Association Law” (Law No. 935 of 2016) published in La Gaceta, Diario Oficial number 191 dated 12 October 2016, hereinafter “PPP Law”; ii) and its Regulations (Decree 05-2017) published in La Gaceta, Diario Oficial number 54 dated 17 March 2017, hereinafter “PPP Regulations”
and provide a link to a government–supported website where the mentioned regulatory framework is available or provide an electronic copy of it:	(1) Law N 935 “Public-Private Partnership Law”: http://www.lagaceta.gob.ni/gaceta-191-miercoles-12-de-octubre-2016/ ; (2) Bylaw of the Law N 935 “Public-Private Partnership Law”: http://www.lagaceta.gob.ni/gaceta-54-viernes-17-de-marzo-2017/ (iii) http://www.nicaraguacompra.gob.ni/normativa
2.1. Are you aware of any reforms (in the regulatory frameworks – laws, regulations, policies, etc.- or in generally followed practices) related to PPPs that: Took place in 2016, are ongoing and/or are planned to be adopted BEFORE June 1, 2017?	Yes
Please describe:	The PPP Law was approved on October 12, 2016, and the PPP Regulations were approved on March 17, 2017.
2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?	Yes
Please describe:	According to our contributors further regulations on the bidding for PPP projects are being discussed.
3.1 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Transportation.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.2 Besides national defense and other matters of national	No

security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Water and Irrigation	
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.3 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Energy generation and distribution.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.4 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Telecom	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.5 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Other	No
If yes, specify and provide the relevant legal/regulatory provisions:	n/a
4. Does the regulatory framework provide for a specific tax regime for PPP transactions (i.e. tax incentives, special tax depreciation treatment, etc.)?	No
If yes, please specify and provide the relevant legal/regulatory provision (if any):	n/a
5. Please identify the PPP procuring authorities in Nicaragua and provide their website(s) (if available):	<p>The PPP Law defines in Article 3 the procuring authority (Institucion contratante) as any government department or agency that contracts a PPP while the DGIP functions as the PPP unit defined in the law as implementation agency (organo de aplicacion) but not as procuring authority. The website will be a relevant website of a procuring authority.</p>

6. In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?	<p>Yes</p>
If yes, please indicate its name, and its website (if available):	<p>Article 3 of the PPP Regulation assigns a role of a PPP unit to General Direction of Public Investment (DGIP). The main function of DGIP is procurement assistance to public authorities. In addition, PRONICARAGUA whose role is promoting foreign investment in Nicaragua can also support promotion activities for PPPs</p>
6.1 If yes, what are the main responsibilities of the PPP Unit (check all that apply): PPP regulation and policy guidance.	<p>Yes</p>
6.2 PPP capacity building for other public authorities.	<p>Yes</p>
6.3 PPP promotion among the public and/or private sectors in national and international forums.	<p>No</p>
6.4 Technical support in implementing PPP projects.	<p>Yes</p>
6.5 Identification and selection of PPP projects from the pipeline.	<p>Yes</p>
6.6 Revision of fiscal risks born by the Government.	<p>Yes</p>
6.7 Consultation with affected communities on potential impact of PPP projects.	<p>No</p>
6.8 Approval of PPP projects.	<p>Yes</p>
6.9 Undertaking the procurement of PPPs.	<p>No</p>
6.10 Oversight of PPP implementation.	<p>Yes</p>
6.11 Other	<p>No</p>
6.11 please specify:	<p>n/a</p>
Please provide the relevant legal/regulatory provisions:	<p>Pursuant to Article 3 of the PPP Regulations, DGIP performs the following functions: (1) feasibility study of PPP projects, affordability and fiscal sustainability study; (2) socio-economic study of PPP projects; (3) cooperation with the procuring institution on elaborating on statements of terms and conditions of a PPP contract; (4) Inspect, in coordination with the procuring authority, compliance with the service quality and technical standards prescribed in a PPP contract and in the service manual of a project; (5) assure project compliance , in coordination with the procuring authority, with user rights and responsibilities, which shall be established in the service manual of a PPP project; (6) develop the selection process for a PPP project auditor, propose a physical or legal person to be nominated from the Ministry of</p>

	Finance and Public Credit; (7) determine functions and scope of the nominated project auditor; (8) Issue declarations in case of breaches of contract or cases of neglect if requested by the procuring authority or a private partner; (9) apply and interpret applicable regulations; (10) summon information from a procuring authority necessary for compliance with its functions; (11) carry out the stages of a tender process according to the Rules for Private Initiative; (12) Determine, in coordination with a procuring authority, the terms of contract modification; (13) design, develop, implement, maintain and realize a holistic management system of all stages of PPP projects, from the identification of a project until the termination of a contract; (14) carry out all activities and undertake all necessary actions to comply with the previous functions; (15) legal regulations
PPP Preparation	
8. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 16 of the PPP Law, selection of a project by a procuring authority in coordination with the DGIP happens after a favorable resolution on the project is issued by the DGIP. Pursuant to Article 6 of the PPP Regulation (last paragraph), selection and identification of a PPP Project may only start after a favorable decision of DGIP based on a feasibility study and evaluation of alternative procurement methods vs. the PPP system.
8.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before signing the PPP contract?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
8.2. Does the Ministry of Finance (or government more broadly) have a specific system of: Budgeting for PPP projects.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 8 of the PPP Law 935 provides that the procuring authority shall include in its project budget for each fiscal period, during the term of PPP contract, the allocation of relevant stipulated payments in this fiscal period and contingent quantifiable, which have been converted into direct guarantees/bonds. The Ministry of Finance and Public Credit will be responsible for valuation and registration of direct and contingent liabilities derived from a PPP contract with a goal to maintain an equilibrium and sustainability of public finance. (Link: http://www.lagaceta.gob.ni/gaceta-191-miercoles-12-de-octubre-2016/)
Accounting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	No

If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Reporting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
8.3. If yes to question 8.2, which of the following alternatives best describes the regulation?: Accounting and reporting according to International Public Sector Accounting Standards (IPSAS).	No
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.)?	No
If yes, please specify the relevant authority	n/a
and provide the relevant legal/regulatory provisions (if any):	n/a
9.1. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before signing the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 23 of the PPP Law establish that PPP Contracts and it amendments have to be approved by Law of the National Assembly.
10. Does the procuring authority use transaction	Yes

advisors during the PPP project cycle?	
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
11. In a case comparable to the case study assumptions, please select the option that best describes the way your government integrates the prioritization of PPP projects with other public investment project prioritization? (e.g. in the context of a national public investment system, multi-year perspective plans, medium-term budgetary framework): The regulatory framework provides for the inclusion of PPPs in the national public investment system/medium term budgetary framework and details a specific procedure to ensure the consistency of PPPs with other public investment priorities.	No
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework prescribes the need for PPPs to be consistent with all other investment priorities without establishing a specific procedure to achieve that goal.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Article 12(1) of the PPP Law, the selection of PPP projects has to be aligned with national development objectives, and they have to be promoted by the DGIP -department of the Ministry of Finance-, which articulates and approves other public investment initiatives.
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	No

existing government priorities.	
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?	No Data
If yes, please specify:	n/a
If no, please elaborate:	No project has been developed under the new PPP scheme yet.
12.1 Which of the following assessments are conducted when identifying and preparing a PPP in order to inform the decision to proceed with it? (check all that apply): Socio-economic analysis (cost-benefit analysis of the socio-economic impact of the PPP project)	Yes
Relevant legal/regulatory provision (if any)	Pursuant to Article 12 of the PPP Law, the identification and selection of PPP projects requires development of pre-feasibility and feasibility studies, economic analysis of the convenience of the PPP scheme, environmental analysis, fiscal sustainability and risk analysis. Additionally, Article 3 identifies socio-economic study of PPP proposals as an integral function of DGIP.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No Data
Details:	No project has been developed under the new PPP scheme yet.
12.2. Affordability assessment, including the identification of the required long term public commitments (explicit and implicit, direct and contingent liabilities)	Yes
Relevant legal/regulatory provision (if any)	Pursuant to Article 3(1) of the PPP Regulations, DGIP conducts affordability and fiscal sustainability study of a PPP project before launching the procuring process. Pursuant to Article 12 of the PPP Law, the identification and selection of PPP projects requires, inter alia, economic analysis of the convenience of the PPP scheme

Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No Data
Details:	No project has been developed under the new PPP scheme yet.
12.3. Risk identification, allocation and assessment (risk matrix)	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology for the assessment?	n/a
If yes, please elaborate	n/a
Is the assessment done in practice?	n/a
Details:	n/a
12.4. Comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives (i.e. value for money analysis, public sector comparator)	Yes
Relevant legal/regulatory provision (if any)	Article 12, PPP Law the identification and selection of PPP projects requires, inter alia, economic analysis of the convenience of the PPP scheme (which entails comparing procurement alternatives). Pursuant to Article 6 of the PPP Regulation (last paragraph), selection and identification of a PPP Project may only start after a favorable decision of DGIP based on a feasibility study and evaluation of alternative procurement methods vs. PPP system.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No Data
Details:	No project has been developed under the new PPP scheme yet.
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?	No Data
Details:	No project has been developed under the new PPP scheme yet.
12.6. Market sounding and/or assessment (showing evidence of investors' interest in the market for the project)	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology for the assessment?	n/a
If yes, please elaborate	n/a
Is the assessment done in practice?	n/a
Details:	n/a
12.7. Environmental impact assessment	Yes
Relevant legal/regulatory provision (if any)	Article 12(4) of the PPP Law provides that selection process of a PPP project entails analysis of its environmental impact. General environmental impact assessment regulations and laws apply.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No Data
Details:	No project has been developed under the new PPP scheme yet.
12.8. Consultation process with affected communities on potential impact of the PPP project	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology for the assessment?	n/a
If yes, please elaborate	n/a
Is the assessment done in practice?	n/a
Details:	n/a
13. Does the procuring authority include the assessments (indicated in Question 12 above) in the request for proposals and/or tender documents (for example, as part of an Information Memorandum to the bidders)?	Yes

If yes, please provide the relevant legal/regulatory provisions (if any):	Article 24 of PPP Regulation states the tendering documents shall contain (4) pre-feasibility and feasibility studies developed before the bidding process.
and specify which of the assessments are included in the request for proposals and/or tender documents:	Pre-feasibility and feasibility studies developed before the bidding process.
13.1. Are the assessments published online?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	The assessments are published inside the Statement of Terms and Conditions of the bid according to article 24 of the PPP Regulations. In addition, since the tender documents have to be online and the studies are part of the tender documents, then by logic the assessments have to be online in the same place where the tender documents are. This should be the website once they start using it for real projects http://www.snip.gob.ni/Portada/App
specify the website	http://www.snip.gob.ni/Portada/App ; www.nicaraguacompra.gob.ni
please specify which of the assessments are published online:	Prefeasibility and feasibility studies developed prior to the bid.
14. Does the procuring authority include a draft PPP contract in the request for proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 24(23) of PPP Regulation states that the tendering documents shall contain a contract proposal.
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):	Article 17 of the PPP Regulations states all tendering processes are public and open. Also, Article 18 of the PPP regulations state every stage of the tendering process (initial resolution, tendering convocation, presentation and open of bids, evaluation of offers, award resolution, and contract signing) shall be published in the website of the integral system of information of PPPs.
and please specify the website:	http://www.snip.gob.ni/Portada/App ; www.nicaraguacompra.gob.ni
15. In a case comparable to the case study assumptions, have standardized PPP model contracts and/or transaction documents been developed?	No
If yes, please specify and provide a government-supported website where the mentioned standards are available or provide an electronic copy of them:	n/a
16.1 In a case comparable to the case study assumptions, who is the responsible party for each of the following	No

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

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)	Yes
To be established in the contract	No
Relevant legal/regulatory provision (if any)	No regulatory basis
PPP Procurement	
18. Which of the following options best describes the required qualifications of the bid evaluation committee members? (Please select only one): The membership of the bid evaluation committee is specified and/or its members are required to meet detailed qualifications.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Article 32 of the PPP Regulation, the evaluation committee shall be appointed by the MHCP and shall be composed by two representatives of DGIP, one representative of the Presidency and two representatives appointed by the contracting entity. Furthermore, Article 33 of the PPP Regulation sets out a list of impediments to be a member of the evaluation committee.
The bid evaluation committee members require sufficient qualification without specific details.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The bid evaluation committee members are not required to have any specific qualifications.	No
Please elaborate and provide examples:	n/a
19. Does the procuring authority issue a public procurement notice of the PPP project?	Yes
If yes, please specify the means of publication and provide the relevant	Article 21 of the PPP Regulation details the content of the notice and provides it shall be published in the website of the procuring authority, in the website of PRONICARAGUA, and in one national newspaper.

legal/regulatory provisions (if any):	
19.1. If yes, is the public procurement notice published online?	Yes
If yes, please specify the website:	http://pronicaragua.gob.ni/en/ ; http://www.nicaraguacompra.gob.ni/ ; http://www.snip.gob.ni/Portada/App ;
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):	According to article 30 of the PPP Regulation, the minimum period of time to be granted to submit proposals is 120 days from the day of the convening notice.
and the time in calendar days:	120
22.1. In a case comparable to the case study assumptions, which are the procurement procedures available and/or set as default for PPP projects? Open tendering: Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	Article 17 of the PPP Regulations states that tendering processes are public and international, and any firm can participate as long as it complies with the requirements set in the tendering documents. Article 18 of the PPP Regulations outlines the stages of the tender process.
22.2. Restricted tendering (with pre-qualification stage): Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	Article 24(5) of the PPP Regulation states that a pre-qualification process can be a part of the tender procedure.
22.3 Multi-stage tendering (with shortlisting of final candidate(s)): Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.4. Competitive dialogue: Available	No
Default	No

Relevant legal/regulatory provision (if any)	n/a
22.5. Direct negotiation with more than one candidate: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.6. Direct negotiation with only one candidate: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.7 Other. Specify:	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):	Article 24 of the PPP Regulation details the content of the tendering documents, including procedure and timeline of the procurement process, as well as criteria used for evaluation of tender bids.
If no, please elaborate:	n/a
22.9. Do the tender documents specify the prequalification/shortlisting criteria (when applicable) in order to make them available to all the bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 24(5) establishes that the procurement process could include a pre qualification phase. In such case, the tender documents will include the terms, conditions and criteria for the prequalification
22.10. Based on your experience, is it always the case that the specified criteria are respected in practice?	No Data
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
If no, please elaborate:	No projects have been developed under the new PPP regime
23. Can interested parties/potential bidders	Yes

submit questions to clarify the public procurement notice and/or the request for proposals?	
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 27 of the PPP Regulation enables bidders to formulate questions to the tender documents.
23.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose those questions and clarifications to all potential bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Article 27 of the PPP Regulations, the clarifications made by the procuring authority shall be published in the pertaining websites and made available to the public. The procuring authority shall also insert such clarifications in the tender documents within the time period provided therein, otherwise the procurement process shall be void.
23.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	No Data
If yes, please specify:	n/a
If no, please elaborate:	No projects have been developed under the new PPP regime
24. Besides questions and clarifications, can the procuring authority conduct pre-bidding conference?	Yes
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	Article 26 of the PPP Regulations allows pre-bidding meetings, in order to clarify and unify the interpretation of the terms and conditions outlined in the tendering documents. The results shall be publicized to all bidders.
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?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 26 of the PPP Regulation mandates to register this meetings in minutes and to send them to all participants.
24.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	No Data
If yes, please specify:	n/a
If no, please elaborate:	No projects have been developed under the new PPP regime

25. In a case comparable to the case study assumptions, does the procuring authority require the bidders to prepare and present a financial model with their proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
If no, please elaborate:	n/a
26. Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 37 of the PPP Regulations states that the award criteria shall be included in the tendering documents; and Article 38 of the PPP Regulation states that in cases when criteria not outlined in the tendering documents are used, the tender process shall be considered invalid.
Evaluation criteria is not set in the tender documents	No
27. In the case where only one proposal is submitted (sole proposals), which of the following options best describes the way the procuring authority deals with them? (Please select only one)?: The procuring authority follows a specific procedure before awarding a PPP contract where only one proposal is submitted.	No
Please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority considers sole proposals valid as long as they meet the conditions outlined in the tender documents.	Yes
Please provide the relevant legal/regulatory provisions (if any):	Article 42 of the PPP Regulations states that in the case of a sole proposal, the contract award is considered immediately consented without the otherwise required 5-day standstill period. As a consequence, sole proposals are considered valid as long as the meet the requirement set forth in the tender documents
The procuring authority does not award a PPP contract if	No

only one proposal is submitted.	
Please provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework does not include any provisions.	No
28. Does the procuring authority publish the award notice?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 41 of the PPP Regulations "Approval of the Award", the result has to be published at the web sites of several public institutions: contracting institution, MHCP-DGIP, PRO Nicaragua.
28.1. If yes, is the public procurement award notice published online?	Yes
If yes, please specify the website:	http://pronicaragua.gob.ni/en/ ; http://www.nicaraguacompra.gob.ni/ ; http://www.snip.gob.ni/Portada/App ;
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):	According to Article 41 of the PPP Regulation, besides published, the results of the procurement process will be notified to all the bidders.
If no, please elaborate:	n/a
29.1. If yes, does the notification of the result of the PPP procurement process include the grounds for the selection of the winning bid?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Article 40 of the PPP Regulations, all the bidders will be notified with the Evaluation Committee award recommendation including the grounds for the selection.
30. Is there a standstill (or pause) period after the contract award and before the signing of the contract in order to allow unsuccessful bidders to challenge the award decision?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 42 of the PPP Regulations establishes a period of 5 days to allow the bidders to appeal the award. If the period of 5 days passed and no other bidder has challenge the award, the award is considered "consented" for the procedure continuation.
and the time in calendar days:	5

30.1. Is the standstill period set out in the notice of intention to award?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
31. Does the regulatory framework restrict negotiations with the selected bidder between the award and the signature of the PPP contract in order to prevent an unfair disadvantage to the other bidders?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
31.1. Based on your experience, is it always the case that this restriction is respected in practice?	No Data
If yes, please specify:	n/a
If no, please elaborate:	No projects have been developed under the new PPP regime
32. Does the procuring authority publish the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	PPP Contracts and its amendments have to be approved by Law according to article 23 of the PPP Law and articles 54 and 55 of the PPP Regulations, consequently the PPP contract and any amendments will be published on the official Gazette as any other law would be.
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	Yes
Publication of a summary of the PPP contract without publishing the full PPP contract	No
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:	www.lagaceta.gob.ni
32.3. If yes, does the procuring authority also publish any subsequent amendment made to the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	PPP Contracts and its amendments have to be approved by Law according to article 23 of the PPP Law and articles 54 and 55 of the PPP Regulations, consequently the PPP contract and any amendments will be published in the official Gazette as any other law would be.
PPP Contract Management	
41. Has the procuring or contract management authority established a system to manage the implementation of the PPP contract (e.g. attributing responsibilities or establishing specific management tools)?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Article 32 of the PPP Law, the Ministry of Finance will be responsible to inspect the compliance of the terms and conditions of the PPP contract through the execution of works and exploitation phases of the PPP contract. For that purpose, the Ministry shall appoint a project inspector, who may be a natural or legal person, and who cannot belong to the contracting entity. Chapter VII of the PPP Regulations, articles 51 to 57, and chapter VIII, articles 58 to 67 further regulate in detail all the matters related to the execution (management), supervising, and inspecting of the PPP contract.
41.1. If yes, which of the following tools does it include (check all that apply)?: Establishment of a PPP contract management team	Yes
Relevant legal/regulatory provisions (if any):	According to Article 32 of the PPP Law, the Ministry of Finance will be responsible to inspect the compliance of the terms and conditions of the PPP contract through the execution of works and exploitation phases of the PPP contract. For that purpose, the Ministry shall appoint a project inspector, who may be a natural or legal person, and who cannot belong to the contracting entity.
Participation of the members of the PPP contract management team in the PPP	No

procurement process and/or vice versa	
Relevant legal/regulatory provisions (if any):	n/a
Elaboration of a PPP implementation manual or an equivalent document	Yes
Relevant legal/regulatory provisions (if any):	Article 33 of the PPP Law establishes the obligation to develop a manual of the services of the contract, containing a description of services and technical standards of the contract, and other aspects.
Establishment of personnel training programs (i.e. initial training and continued training throughout the course of the project)	No
Relevant legal/regulatory provisions (if any):	n/a
Establishment of a risk mitigation mechanism which considers the evolving nature of risks throughout the project lifecycle (guidelines, specific processes, insurance regime, etc.)	No
Relevant legal/regulatory provisions (if any):	n/a
41.2. Which of the following options best describes the required qualifications of the PPP contract management team members? (Please select only one): The membership of the PPP contract management team is specified and/or its members are required to meet detailed qualifications.	No
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The PPP contract management team members are required to meet sufficient qualification without specific details.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	PPP Law regulation refers to the qualification of the PPP Contract Inspector in article 60. This article indicates that the qualification of the inspector will be defined in the terms of reference of his contracting process based on the nature of the PPP contract

The PPP contract management team members are not required to meet any specific qualifications.	No
Please elaborate and provide examples:	n/a
42. Does the procuring or contract management authority establish a system for tracking progress and completion of construction works under a PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Article 61 of the PPP Regulations, the project inspector/auditor is entitled to supervise the progress of construction works.
42.1. If yes, is the PPP contract construction performance information made available to the public?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
42.2. If yes, is the PPP contract construction performance information made publicly available online?	n/a
If yes, please specify the website:	n/a
43. Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract implementation after construction?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	All matters related to monitoring and oversight of the PPP contract implementation are regulated in detail by Chapter VII of the PPP Regulations, articles 51 to 57, and chapter VIII, articles 58 to 67. In particular, Article 63 of the PPP Regulations provides that the project inspector will verify the compliance of: 1) tariff structures and levels provided in the PPP contract and everything related to fee charges; 2) the project services manual, as well as its adequate publicity; and 3) any obligations and rules within its competence.
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)	According to article 62(5) and 63 of the PPP Regulation the PPP project inspector will verify compliance with the service standards as established in the PPP contract
The procuring or contract management authority can abate (reduce) payments for non-performance of operating obligations under the PPP contract	No
Relevant legal/regulatory provisions (if any)	n/a
The private partner must provide the procuring or contract management authority with periodic operational and financial data	No
Relevant legal/regulatory provisions (if any)	n/a
The procuring or contract management authority must periodically gather information on the performance of the PPP contract	Yes
Relevant legal/regulatory provisions (if any)	Pursuant to Article 62, the project inspector inspects fulfilment of norms stipulated by the contract: quality of work, security, completion of the stages of service, technical specifications regulated in a PPP contract. According to article 66 the project inspector will have to report on his findings to the Ministry of Finance and for that he has unrestricted access to the project and can request any information from the private partner.
The PPP contract performance information must be available to the public	No
Relevant legal/regulatory provisions (if any)	n/a
43.2. Is PPP contract performance information made publicly available online?	No
If yes, please specify the website:	n/a
44. Are foreign companies prohibited from repatriating the income resulting from the operation of a PPP project?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
45. Does the regulatory framework (including	Yes

<p>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?</p>	
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>Article 25 of the PPP Law requires the approval from the Department of Public Investment as well as the National Congress (through a law that approves such assignment) in case the private partner wishes to assign the contract to a third party, whom shall meet with all the legal requirements from the statement of terms and conditions for a private partner.</p>
<p>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).</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>n/a</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>According to Article 25 of the PPP Law, the assignee shall meet the same standards as the private partner, which are described in the statement of terms and conditions.</p>
<p>In other cases, flexibility to change the ownership structure and/or assign the contract.</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. Does the regulatory framework (including standard contractual clauses) expressly regulate the modification or renegotiation</p>	<p>Yes</p>

of the PPP contract (once the contract is signed)?	
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 54 of the PPP Regulation establishes the unilateral agreement modification of the PPP contract, and article 55 regulates the mutual agreement modification. In both cases, it sets out the maximum period of time and the amount (as a percentage of the contract) of the modification that can be done.
46.1. If yes, is an approval from a government authority, other than the procuring authority, required?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Articles 54 and 55 of the PPP Regulation indicate that the Ministry of Finance has to approve the terms and conditions of such modifications to the PPP contract. Also, since the amendment will have to be approved as a Law, the National Assembly approval is required.
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.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	The amount of the unilateral modifications cannot exceed 20 % while the amount of agreed modifications cannot exceed 25 % of the original contract budget.
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.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the agreed price or tariff.	No

If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
46.3. Can the procuring authority unilaterally modify a PPP contract?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	According to Article 54 of the PPP Regulations, the procuring authority is entitled to request one or more modifications to the features of the works and/or services with the objective of increasing the level of the service and technical standards or by any other public interest reason that justifies such a modification.
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	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Material Adverse government action .	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 27 of the PPP Law contemplates the possibility for the private partner to request compensation if an administrative measure occurs and substantially increases the cost of the project and/or decreases the expected benefits for the execution.
Change in the Law.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 27 of the PPP Law contemplates the possibility for the private partner to request compensation if an administrative measure occurs and substantially increases the cost of the project and/or decreases the expected benefits for the execution.
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	Pursuant to Article 25 of the PPP Law (second paragraph), the private partner may subcontract third parties if it wishes so, as long as the sub-contract meets

contractual provisions (if any):	all the legal requirements from the statement of terms and conditions for a private partner.
48. Does the regulatory framework (including standard contractual clauses) allow for administrative and/or contractual complaint review mechanisms to address disputes arising from the implementation of PPP contracts?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to Article 31 of the PPP Law, the PPP contract shall have a clause of alternative dispute resolution mechanism to resolve any kind of dispute arising from the execution of the contract and provisions included in the annexes to the contract.
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	No
Domestic arbitration	Yes
International arbitration	Yes
Investor-State Dispute Settlement (ISDS)	Yes
Mediation	Yes
Please provide the relevant legal/ regulatory/standard contractual provisions (if any)	Article 31 of the PPP Law indicates mediation as the first option for dispute resolution. If mediation fails, the dispute must be resolve by arbitration.
48.2. If applicable, are arbitration awards enforceable by the local courts?: Domestic Arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	Pursuant to Article 63 of the Law 540 “Mediation and arbitration Law”, an arbitral award, irrespective of the country in which it was issued, shall be recognized as binding and, upon submission of a written request to the competent court, be executed in accordance with the provisions established in this Law and other laws of the State.
International arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	Pursuant to Article 63 of the Law 540 “Mediation and arbitration Law”, an arbitral award, irrespective of the country in which it was issued, shall be recognized as binding and, upon submission of a written request to the competent court, be executed in accordance with the provisions established in this Law and other laws of the State.
Investor-State arbitration	Yes
If yes, please provide the relevant legal/ regulatory	Pursuant to Article 63 of the Law 540 “Mediation and arbitration Law”, an arbitral award, irrespective of the country in which it was issued, shall be

provisions/standard contractual provisions (if any):	recognized as binding and, upon submission of a written request to the competent court, be executed in accordance with the provisions established in this Law and other laws of the State. Nicaragua is also a signatory 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 difficulty prior to insolvency?	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
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?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 29 of the PPP Law provides that when the private partner enters into a serious breach of the contract, the DGIP (per request of the procuring authority) will be entitled to call the lenders in order to give them a chance to name a sole company that will continue with the execution of the project.
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.	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
The regulatory framework prescribes that a direct agreement should be signed with the lenders.	No
If yes, please specify and provide the relevant legal/regulatory/standard	n/a

contractual provisions (if any):	
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.	Yes
Please Specify:	According to article 29 of the PPP Law, the Department of Public Investment will make an announcement with a proposal to the lenders, which will have up to 30 legal days to name a company that will execute the project, with the approval of at least 75% of the lenders.
51. Does the regulatory framework (including standard contractual clauses) expressly establish the grounds for termination of a PPP contract?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 28 of the PPP Law provides that the contract will be suspended or terminated according to the grounds set forth in the Bidding Documents and Conditions, which shall be incorporated into the PPP contract.
51.1. If yes, does the regulatory framework (including standard contractual clauses) establish the consequences for the termination of the PPP contract?	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Unsolicited Proposals	
34. Are unsolicited proposals in Nicaragua: (choose only one): Explicitly prohibited by the legal framework? (If prohibited, skip to section F)	No
Explicitly allowed by the legal framework?	Yes
Not regulated by the legal framework, but do happen in practice?	No

Not regulated by the legal framework, and do not happen in practice? (if not done in practice, skip to section F)	No
If the legal framework explicitly prohibits or allows unsolicited proposals, please provide the relevant legal/regulatory provisions	Article 14 of the PPP Law, refers to the unsolicited proposals, and the chapter IV of the PPP Law Regulation describes in detail this mechanism.
35. Does the procuring authority conduct an assessment to evaluate unsolicited proposals? (if not, skip to question 37)	Yes
If yes, please specify and provide the relevant legal/regulatory provisions (if any)	Pursuant to Article 14 of the PPP Law, the procuring authority shall assess a USP against the national priorities. Chapter IV of the PPP Regulation (articles 8, 10 and 11) describes the evaluation and procurement procedures for unsolicited proposals. USPs are evaluated first based on technical and economic information at pre-feasibility level. If accepted, the USP proponent is compensated for the expenses, and the project is transferred to the contracting authority, which announces a tendering process.
35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 10 of the PPP Regulations establishes all the technical and economic information at pre-feasibility level that has to be presented as part of the unsolicited proposal.
36. Which of the following options best describe how the procuring authority ensures that unsolicited proposals are consistent with existing government priorities? (Please select only one): The procuring authority follows a specific procedure to ensure the consistency of PPPs with other government investment priorities.	No
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific	Yes

procedures to achieve that goal.	
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 9 of the PPP Regulation outlines the procedures which must be outlined in tender documents when DGIP (within the Ministry of Finance) is presented with unsolicited proposals. DGIP will undertake a annual announcement for a contest of unsolicited proposals. This contest will set out the government priorities.
The procuring authority does not evaluate unsolicited proposals against existing government priorities.	No
Please elaborate and provide examples:	n/a
37. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 14 of the PPP Regulations indicates that after the unsolicited proposal has been accepted, the project will be procured in a public and competitive way, as it happens with public initiatives.
38. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 30 of the PPP Regulations sets a minimum period of 120 days (after the request for offers) to present alternative proposals.
and the time in calendar days:	120
39.1 Does the procuring authority use any of the following incentive mechanisms to reward/compensate the presentation of unsolicited proposals? (check all that apply): Access to the best and final offer (BAFO) process and/or automatic shortlisting.	No
39.2 Developer's fee (reimbursing the original proponent for the project development cost).	Yes
39.3 Bid Bonus.	Yes
39.4 Swiss challenge (If unsuccessful, the original proponent has the option to	No

match the winning bid and win the contract).	
39.5 Other.	No
Please specify:	Article 15 of the PPP Regulations outlines two incentive mechanisms: (1) a bid bonus and (2) a developer fee.
Please provide the relevant legal/regulatory provisions (if any):	Article 15 of the PPP Regulations states the proponent has a right to the reimbursement of costs associated with the USP in a case when he/she does not win the bid. Further, the proponent has 5% of advantage over the economic proposals of the other bidders.