

PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN NIGER**NOTE**

Please note that Niger has a dual regime of PPPs and Concessions. Both regimes are evaluated and scored separately in order to ensure the accuracy of the analysis. This document contains the data for **both** regimes. For your convenience, we have specified the page numbers for when the analysis for each regime begins and ends.

PPP	Concession
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PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN NIGER (PPP)

SURVEY QUESTION	ANALYSIS
PPP Regulatory Framework	
2. Does the regulatory framework in your country allow procuring PPPs?	Yes
If yes, please specify the relevant regulatory framework and the year of adoption:	<p>2 types of contracts meet the study's definition of PPPs: public-private partnership contracts and public service delegation.</p> <p>PPP contracts are regulated by (i) the Ordinance no 2011-07 of September 16th, 2011 related to General Regime of the Agreements of Public private partnership in Republic of Niger - hereinafter the "PPP Ordinance", implemented by (ii) the decree n 2011-559/PRN/PM of November 09th, 2011, as modified by decree n 2014-226/prn/pm of March 27th, 2014 - hereinafter the "PPP Decree" - and (iii) the law n 2014-02 of March 31st, 2014 Setting the financial, accounting and applicable tax regime in agreements of private public partnership. Guidelines related to the feasibility study have been published by the PPP Cell (Canevas etude de faisabilite de projet) - hereinafter the "Guidelines".</p> <p>The first article of the PPP Ordinance defines these contracts as follows: the Contract of PPP is a contract by which one legal entity of public law, called "principal" delegates, for a determined period, the management and/or the production of the public service for which it is responsible, to a legal entity called the "agent".</p>
and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:	Legal framework not available online.
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?	No
Please describe:	n/a
2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?	No
Please describe:	n/a
3.1 Besides national defense and other matters of national security, does the regulatory	No

<p>framework explicitly prohibit or restrict PPPs in any of the following sectors?: Transportation.</p>	
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	n/a
<p>3.2 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Water and Irrigation</p>	No
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	n/a
<p>3.3 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Energy generation and distribution.</p>	No
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	n/a
<p>3.4 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Telecom</p>	No
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	n/a
<p>3.5 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Other</p>	No
<p>If yes, specify and provide the relevant legal/regulatory provisions:</p>	n/a
<p>4. Does the regulatory framework provide for a specific tax regime for PPP transactions (i.e. tax incentives, special tax depreciation treatment, etc.)?</p>	Yes

If yes, please specify and provide the relevant legal/regulatory provision (if any):	<p>Law n 2014-02 of March 31st, 2014 setting the financial, accounting and applicable tax regime in agreements of private public partnership provides for tax incentives. In particular, in design and/or realization phase, the PPP projects benefit for their operations of a total exemption from taxes and rights perceived by the State including the value-added tax (VAT), on the service deliveries, the works and the services contributing directly to the realization of the project.</p>
5. Please identify the PPP procuring authorities in Niger and provide their website(s) (if available):	<p>Pursuant to article 2 of the PPP Ordinance, procuring authorities are the State, regional authorities or their groups, departments of ministries, public establishment et state companies.</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>PPP Ordinance makes provision for a Cell of support to PPPs, detailed by decree 2011-560/PRN/PM, which indicates the Cell is within the Prime Ministry and is an expert institution in charge of supporting technical ministries and public administrations for elaboration, negotiation and monitoring of the project's implementation.</p> <p>The PPP Cell is made of an orientation Committee, composed of representative of several ministries, and of an expert body, made of an economist, a jurist, a financial analyst, an engineer and an assistant (Articles 4 and 10).</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>Yes</p>
6.4 Technical support in implementing PPP projects.	<p>Yes</p>
6.5 Identification and selection of PPP projects from the pipeline.	<p>No</p>
6.6 Revision of fiscal risks born by the Government.	<p>No</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.	Yes
6.11 Other	No
6.11 please specify:	n/a
Please provide the relevant legal/regulatory provisions:	Decree no 2011/560/PRN/PM of November 9th, 2011 provides for the PPP Cell mission in its article 3.
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 5 of the PPP Decree, the ministry of finance gives its opinion on the budgetary sustainability of the project when it requires financing under conditions of the technical and financial partners.
8.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before signing the PPP contract?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
8.2. Does the Ministry of Finance (or government more broadly) have a specific system of: Budgeting for PPP projects.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Accounting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Reporting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
8.3. If yes to question 8.2, which of the following alternatives best describes the regulation?: Accounting and reporting according to International Public Sector Accounting Standards (IPSAS).	n/a

Accounting and reporting according to other international standard (e.g. European System of Accounts).	n/a
Please specify:	n/a
Other.	n/a
Please specify:	n/a
9. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before launching the procurement process (e.g. Cabinet, Cabinet Committee, Parliament, Supreme Audit Office, etc.)?	Yes
If yes, please specify the relevant authority	Expert body of the PPP Cell
and provide the relevant legal/regulatory provisions (if any):	Pursuant to article 8 of the PPP Decree, the evaluation report [prepared by the PPP Cell based on the feasibility study] is sent to the Government with the expert body's opinion on the option of realization through a PPP.
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):	Pursuant to article 24 of the PPP decree, the contract shall be signed after the notice of non-objection expressed by the Prime Ministry.
10. Does the procuring authority use transaction advisors during the PPP project cycle?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to article 15 of the PPP decree, The PPP Cell is in charge of advising procuring entities and can recourse to transaction advisors.
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,	No

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.	
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):	A partnership contract can only be entered into in the case of complexity or urgency. Urgency involves a motive of general interest resulting from socio-economic necessity to reduce a delay due to the non-realization of an infrastructure or to accelerate the economic growth (Article 4 of PPP Decree).
The regulatory framework does not include any provisions but the procuring authority evaluates the consistency of PPPs with other government investment priorities in practice.	No
If yes, please elaborate:	n/a
The procuring authority does not evaluate PPPs against existing government priorities.	No
Please elaborate and provide examples:	n/a
11.1. Based on your experience, is it always the case that this prioritization is done in practice in accordance with the provisions of the regulatory framework described above?	Yes
If yes, please specify:	PPPs are in practice prioritized within other public investment projects through the feasibility study and evaluation made by the PPP Cell.
If no, please elaborate:	n/a

12.1 Which of the following assessments are conducted when identifying and preparing a PPP in order to inform the decision to proceed with it? (check all that apply): Socio-economic analysis (cost-benefit analysis of the socio-economic impact of the PPP project)	<p>Yes</p>
Relevant legal/regulatory provision (if any)	<p>Pursuant to article 4 of the PPP Decree, a partnership contract cannot be entered into if the evaluation does not prove the complexity, urgency and the juridical, technical, financial and economic feasibility. Article 6 furthermore indicates it shows the economic and social interest of the project, and technical and financial structure. The study is detailed by the guidelines issued by the PPP Cell.</p>
Is there a specific methodology for the assessment?	<p>Yes</p>
If yes, please elaborate	<p>The study is detailed by the guidelines issued by the PPP Cell (Canevas etude de faisabilite de projet). In particular, section E (1) refers to analyzing the economic impacts, and section E (2) to social impacts. Within those 2 analyses, are to be included: The human and material needs; The number of created jobs, the total costs relative to these jobs; The key players of the project; The impact of the project on the public finances; The added value which will be generated by the project and its distribution; Analysis of the social elements likely to affect the realization of the project (Traditions, environment, habits ...); Enumeration of the set of social realizations, the infrastructures planned to improve the living conditions of the employees and the populations living in the zone of the project.</p>
Is the assessment done in practice?	<p>Yes</p>
Details:	<p>Socio-economic impacts are studied as per the PPP Cell guidelines.</p>
12.2. Affordability assessment, including the identification of the required long term public commitments (explicit and implicit, direct and contingent liabilities)	<p>Yes</p>
Relevant legal/regulatory provision (if any)	<p>Pursuant to article 4 of the PPP Decree, a partnership contract cannot be entered into if the evaluation does not prove the complexity, urgency and the juridical, technical, financial and economic feasibility. Article 6 furthermore indicates it shows the economic and social interest of the project, and technical and financial structure. The procuring authority prepares the feasibility study that is evaluated by the PPP Cell and passed onto the Government, it includes in particular the consistency of the financial commitments, the credits availability and their impact on public finances (article 7 of the PPP Decree).</p>

	The Guidelines include the impact on public finances in the socio-economic impacts analysis.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	Budgetary sustainability is assessed for each PPP project.
12.3. Risk identification, allocation and assessment (risk matrix)	Yes
Relevant legal/regulatory provision (if any)	Section H of the Guidelines requires for the responsible entities to: (i) identify risks during the conception, construction, operation and other phases, and identify risks factors (ii) evaluate risks: during the conception, construction, operation and other phases, prepare a monetary valorization of those risks (iii) Allocate risks: during the conception, construction, operation and other phases, share risks in between the private and public partners.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	Risks are identified, evaluated and allocated within the feasibility study.
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)	The PPP Cell validates the option of using the PPP form for a project based on the procuring authority's feasibility study (article 7 of the PPP Decree).
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Section C of the guidelines refer to the juridical structure. It lists the possible structures: public procurement contracts; global contracts; public service delegation among others, requires to provide reasoning for choosing an option over another and prepare a comparative analysis of the juridical structures. To justify recourse to PPP, the study shall indicate the reasons, ensure recourse to PPP is technical and juridically available, and present the complexity, urgency or efficiency factors.
Is the assessment done in practice?	Yes

Details:	PPP option is compared to other contractual possibilities within the feasibility study.
12.5. Financial viability or bankability assessment	Yes
Relevant legal/regulatory provision (if any)	Pursuant to article 4 of the PPP Decree, a partnership contract cannot be entered into if the evaluation does not prove the complexity, urgency and the juridical, technical, financial and economic feasibility. Article 6 furthermore indicates it shows the economic and social interest of the project, and technical and financial structure.
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Section D requires a market analysis, which includes an analysis of the offer and demand, opportunities and threats to the project, strengths and weaknesses of the project. A study of the price structure (comparison with current prices, analysis of the distribution channels, quantities to produce and sales estimate, cost of the service, comparative analysis of public contracts), and of the revenues (calculation of the revenues, projection on the contract's duration, estimate of the revenues for subcontractors and sub region). Financial rentability is assessed through the net present value and internal rate. Section G related to financial analysis and rentability analysis details the financial analysis (including the investment and structures; investment financing; financial forecasts); financial sustainability; and global cost.
Is the assessment done in practice?	Yes
Details:	Financial viability of PPP projects is assessed.
12.6. Market sounding and/or assessment (showing evidence of investors' interest in the market for the project)	Yes
Relevant legal/regulatory provision (if any)	Pursuant to article 4 of the PPP Decree, a partnership contract cannot be entered into if the evaluation does not prove the complexity, urgency and the juridical, technical, financial and economic feasibility. Article 6 furthermore indicates it shows the economic and social interest of the project, and technical and financial structure. Section D requires a market analysis, which includes an analysis of the demand and offer.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	Market's appetite for the project is assessed within the feasibility study.
12.7. Environmental impact assessment	Yes
Relevant legal/regulatory provision (if any)	Section E (3) of the guidelines refers to analyzing the environmental impacts and requires to precise the measures to protect and conserve the

	<p>environment. In any case, an environmental impact study is mandatory according to the current regulation.</p> <p>Section 2 of title 3 of the Law no 1990-56 related to environment refers to impact studies on the environment. Article 31 provides that any project likely to harm the natural and human environment due to their large dimension or effects on those shall receive an authorization of the Ministry of environment. This authorization is provided based on an impact study. This study includes at least an analysis of the initial state of the site and its environment, a description of the project, an analysis of the modifications which could occur and the measures to suppress, reduce and compensate any damaging consequence for the environment.</p>
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	Environmental impacts are analyzed.
12.8. Consultation process with affected communities on potential impact of the PPP project	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	Contributors provide potentially affected population are consulted.
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)?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and specify which of the assessments are included in the request for proposals and/or tender documents:	n/a
13.1. Are the assessments published online?	No

If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
specify the website	n/a
please specify which of the assessments are published online:	n/a
14. Does the procuring authority include a draft PPP contract in the request for proposals?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
If no, please elaborate	Clauses of the contract are negotiated with the preferred bidder after the contract's award.
14.1. Are the tender documents published online?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and please specify the website:	n/a
15. In a case comparable to the case study assumptions, have standardized PPP model contracts and/or transaction documents been developed?	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 requirements? Obtaining the required urban permits: Procuring authority (or other Government entity)	No
Private Partner	Yes
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	No
Relevant legal/regulatory provision (if any)	Pursuant to article 25 of the PPP Ordinance, entrusting a partner with a delegation does not exempt the partner from obtaining legally required

	authorizations, including in the fields of urban permits, occupying public areas, security and environmental protection.
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)	Pursuant to article 25 of the PPP Ordinance, entrusting a partner with a delegation does not exempt the partner from obtaining legally required authorizations, including in the fields of urban permits, occupying public areas, security and environmental protection. In practice there is a facilitation role by the procuring authority according to our contributors.
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)	Pursuant to article 25 of the PPP Ordinance, entrusting a partner with a delegation does not exempt the partner from obtaining legally required authorizations, including in the fields of urban permits, occupying public areas, security and environmental protection. Public domain occupation, security and environmental protection. In practice there is a facilitation role by the procuring authority according to our contributors.
16.4. Obtaining the required land: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	Yes
To be established in the contract	No
Relevant legal/regulatory provision (if any)	Pursuant to article 25 of the PPP Ordinance, entrusting a partner with a delegation does not exempt the partner from obtaining legally required authorizations, including in the fields of urban permits, occupying public areas, security and environmental protection. Article 23 moreover indicates that the partner can obtain a right of occupation of the public domain for the

	<p>contract's duration, in which case the procuring authority assists the partner to obtain the right.</p> <p>Finally, article 29 indicates that the PPP contract, including occupation of public domain, implies right of occupation for its duration.</p>
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)	<p>Pursuant to article 25 of the PPP Ordinance, entrusting a partner with a delegation does not exempt the partner of obtaining legally required authorizations, including in the fields of urbanism, public domain occupation, security and environmental protection. Article 23 moreover indicates that the partner can obtain a right of occupation of the public domain for the contract's duration, in which case the procuring authority assists the partner to obtain the right.</p> <p>Finally, article 29 indicates that the PPP contract including occupation of public domain implies right of occupation for its duration.</p>
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.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The bid evaluation committee members require sufficient qualification without specific details.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Pursuant to article 15 of the PPP Decree, the Special Commission for bid evaluation of PPPs is composed of experts of the PPP Cell, the procuring Authority and other administrative officers having the necessary technical capacities to analyze bids.</p>
The bid evaluation committee members are not required to have any specific qualifications.	No

Please elaborate and provide examples:	n/a
19. Does the procuring authority issue a public procurement notice of the PPP project?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	Pursuant to article 9 of the PPP Decree, procurement of a PPP contract is submitted to a mandatory competition and publicity guaranteeing free access, equality of treatment and objectivity of procedures. The call for interest is widely published with all means of communication (Article 10).
19.1. If yes, is the public procurement notice published online?	No
If yes, please specify the website:	n/a
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):	Pursuant to article 11 of the PPP Decree, the tender documents indicate the period of time granted to the bidders to submit their bids.
and the time in calendar days:	n/a
22.1. In a case comparable to the case study assumptions, which are the procurement procedures available and/or set as default for PPP projects? Open tendering:	Yes
Available	
Default	No
Relevant legal/regulatory provision (if any)	Pursuant to article 10 of the PPP Decree, procurement is made through open tendering or restricted tendering when a call for interest has been launch.
22.2. Restricted tendering (with pre-qualification stage):	Yes
Available	
Default	No
Relevant legal/regulatory provision (if any)	Pursuant to article 10 of the PPP Decree, procurement is made through open tendering or restricted tendering when a call for interest has been launch.
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	Yes
Default	No
Relevant legal/regulatory provision (if any)	Article 12 of the PPP Decree indicates a contract can be procured through direct negotiation in the following cases: urgency, national defense or security, activities reserved to pattern holders or only one partner can be entrusted with the execution. It is moreover available if no offer has been presented or the call for tenders was declared infructuous.
22.7 Other. Specify:	No
Available	n/a
Default	n/a
Relevant legal/regulatory provision (if any)	n/a
22.8. Do the tender documents detail the procedure of the procurement process providing the same information to all the bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
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):	No regulatory basis
22.10. Based on your experience, is it always the	Yes

case that the specified criteria are respected in practice?	
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	Prequalification criteria provided to the bidders are in practice applied by the procuring authority.
If no, please elaborate:	n/a
23. Can interested parties/potential bidders submit questions to clarify the public procurement notice and/or the request for proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
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):	No regulatory basis
23.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	Yes
If yes, please specify:	When clarifications are requested, the answers are provided to all bidders as per the principle of transparency and equality.
If no, please elaborate:	n/a
24. Besides questions and clarifications, can the procuring authority conduct pre-bidding conference?	No
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
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?	n/a

If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
24.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	n/a
If yes, please specify:	n/a
If no, please elaborate:	n/a
25. In a case comparable to the case study assumptions, does the procuring authority require the bidders to prepare and present a financial model with their proposals?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
If no, please elaborate:	The regulatory framework requires a financial offer to be presented by bidders along their proposal, but not a financial model.
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):	No regulatory basis
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	No

conditions outlined in the tender documents.	
Please provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority does not award a PPP contract if only one proposal is submitted.	No
Please provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework does not include any provisions.	Yes
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 23 of the PPP Decree, the procuring authority publishes the winner's name when receiving the prequalification report.
28.1. If yes, is the public procurement award notice published online?	No
If yes, please specify the website:	n/a
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):	Pursuant to article 23 of the PPP Decree, the procuring authority notifies within 10 days the unsuccessful 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?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
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?	No

If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and the time in calendar days:	n/a
30.1. Is the standstill period set out in the notice of intention to award?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
31. Does the regulatory framework restrict negotiations with the selected bidder between the award and the signature of the PPP contract in order to prevent an unfair disadvantage to the other bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to article 24 of the PPP Decree, after the results' notification, the PPP Cell sets the start of discussions of the contract's terms.
31.1. Based on your experience, is it always the case that this restriction is respected in practice?	Yes
If yes, please specify:	Negotiations are organized by the PPP Cell.
If no, please elaborate:	n/a
32. Does the procuring authority publish the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to article 11 of the PPP Ordinance, an extract of the partnership contract is published in the Official Journal. This extract includes the name and quality of contractors, the object, duration and content of the delegation, as well as provisions regarding users.
32.1. If yes, which of the following options best describes this publication (choose only one)?:	No
Publication of the full PPP contract including all its annexes and appendixes	No
Publication of the full PPP contract without including all its annexes and appendixes	No
Publication of a summary of the PPP contract without publishing the full PPP contract	Yes
Publication of a summary of the PPP contract along with	No

the full PPP contract including all its annexes and appendixes	
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?	No
If yes, please specify the website:	n/a
32.3. If yes, does the procuring authority also publish any subsequent amendment made to the PPP contract?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
PPP Contract Management	
41. Has the procuring or contract management authority established a system to manage the implementation of the PPP contract (e.g. attributing responsibilities or establishing specific management tools)?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	The contract shall include modalities of control by the public authority (article 10 of the PPP Ordinance). Article 16 details the procuring authority's rights. Articles 17 and 18 relates to monitoring and control of implementation.
41.1. If yes, which of the following tools does it include (check all that apply)? Establishment of a PPP contract management team	Yes
Relevant legal/regulatory provisions (if any):	Pursuant to article 17 of the PPP Decree, the contract shall include monitoring structures. Article 26 furthermore requires the responsible authorities to create a team to manage construction, and to designate a person in charge of monitoring.
Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa	No
Relevant legal/regulatory provisions (if any):	n/a

Elaboration of a PPP implementation manual or an equivalent document	No
Relevant legal/regulatory provisions (if any):	n/a
Establishment of personnel training programs (i.e. initial training and continued training throughout the course of the project)	Yes
Relevant legal/regulatory provisions (if any):	Pursuant to article 27 of the PPP Decree, the partner shall justify, to the procuring authority and any controlling authority, efficient implementation, through a manual describing functioning procedures of structure, internal control and quality certification.
Establishment of a risk mitigation mechanism which considers the evolving nature of risks throughout the project lifecycle (guidelines, specific processes, insurance regime, etc.)	No
Relevant legal/regulatory provisions (if any):	n/a
41.2. Which of the following options best describes the required qualifications of the PPP contract management team members? (Please select only one): The membership of the PPP contract management team is specified and/or its members are required to meet detailed qualifications.	No
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The PPP contract management team members are required to meet sufficient qualification without specific details.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The PPP contract management team members are not required to meet any specific qualifications.	Yes
Please elaborate and provide examples:	Regulatory framework does not indicate any requirement pertaining to the managing team's qualification.

42. Does the procuring or contract management authority establish a system for tracking progress and completion of construction works under a PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 26 of the PPP Decree requires to designate a team of construction management. The Decree includes furthermore specific requirements regarding information to be provided by the partner.
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):	Article 16 of the PPP Ordinance indicates the rights of procuring authorities pertaining to the monitoring and control of implementation. Article 17 provides the obligations of the partner regarding information to provide the procuring authority with.
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)	Pursuant to article 10 of the PPP Ordinance, the contract shall include performance objectives, and sanctions and penalties in case of a breach of its obligations.
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	Yes
Relevant legal/regulatory provisions (if any)	Articles 16 and 17 of the PPP Ordinance requires information to be provided by the private partner to the procuring authority.
The procuring or contract management authority must periodically gather information on the performance of the PPP contract	Yes
Relevant legal/regulatory provisions (if any)	Article 16 of the PPP Ordinance relates to the means of controlling available to the procuring authority. Those include visits, request of any documents and audits, but also meetings (article 18).
The PPP contract performance information must be available to the public	No
Relevant legal/regulatory provisions (if any)	n/a
43.2. Is PPP contract performance information made publicly available online?	n/a
If yes, please specify the website:	n/a
44. Are foreign companies prohibited from repatriating the income resulting from the operation of a PPP project?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
45. Does the regulatory framework (including standard contractual clauses) expressly regulate changes in the ownership structure (i.e. stakeholder composition) of the private partner and/or assignment of the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to article 32 of the PPP Ordinance, the contract can only be transferred, in parts or totally, with a written agreement of the procuring authority after evaluation and approval of the PPP Cell. In case of approval, the new partner shall take charge of all obligations of the initial partner. Some clauses could be modified if necessary, assuming those

	modifications are of public utility and/or introduce better efficiency or implementation of the contract.
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).	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to article 32 of the PPP Ordinance, the new partner shall take charge of all obligations of the initial partner. Some clauses could be modified if necessary, assuming those modifications are of public utility and/or introduce better efficiency or implementation of the contract.
In other cases, flexibility to change the ownership structure and/or assign the contract.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
46. Does the regulatory framework (including standard contractual clauses) expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	There is no specific procedure for modifications, only different provisions for specific changes. Article 26 of the PPP Ordinance refers to prices and tariffs, article 11 to duration.
46.1. If yes, is an approval from a government authority, other than the procuring authority, required?	No

If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
46.2. If yes to question 46, which of the following circumstances are specifically regulated? (check all that apply): A change in the scope and/or object of the contract.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the risk allocation of the contract.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the financial and/or economic balance of the contract.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the duration of the contract.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 11 of the PPP Ordinance indicates conditions to change the contract's duration.
A change in the agreed price or tariff.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to article 26 of the PPP Ordinance, the contract shall include conditions governing the modification of the tariffs.
46.3. Can the procuring authority unilaterally modify a PPP contract?	Yes
If yes, please provide the relevant legal/regulatory/standard	Pursuant to article 10 of the PPP Ordinance, the contract shall include conditions prescribing how the procuring authority can modify clauses of the contract or terminate it through a unilateral decision.

contractual provisions (if any):	
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 .	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Change in the Law.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Refinancing.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Subcontracting and replacement of the subcontractors.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to article 21 of the PPP Ordinance, the contract can authorize subcontracting, in which case the partner remains personally liable to the procuring authority for fulfilling obligations included in the contract.
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 30 of the PPP Ordinance, the contract can make provision for arbitration, according to the national legislation or an applicable international convention. Dispute resolutions mechanisms shall be included in the contract (Article 10).
48.1. If yes, please specify which of the following options are available (check all that apply): Local administrative review body	No
If yes, please specify:	n/a
Local courts	Yes
Domestic arbitration	Yes
International arbitration	Yes
Investor-State Dispute Settlement (ISDS)	Yes
Mediation	Yes
Please provide the relevant legal/ regulatory/standard contractual provisions (if any)	Pursuant to article 30 of the PPP Ordinance, the contract can make provision for arbitration, according to the national legislation or an applicable international convention. Dispute resolutions mechanisms shall be included in the contract (Article 10).
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):	Article 30 of the OHADA Uniform Act on Arbitration dated March 11, 1999: The arbitration judgment is subject to forced execution only by virtue of a decision of exequatur by the competent judge in the State. Article 3 of the New York Convention on Recognition and Enforcement of Foreign Arbitral Awards dated June 10, 1958 (in force in Benin since May 16, 1974): Each Contracting State shall recognize arbitral awards as binding and enforce them in accordance with the rules of procedure of the territory where the award is relied upon, under the conditions laid down in the following articles. There shall not be imposed substantially more onerous conditions or higher fees or charges on the recognition or enforcement of arbitral awards to which this Convention applies than are imposed on the recognition or enforcement of domestic arbitral awards.
International arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	Article 30 of the OHADA Uniform Act on Arbitration dated March 11, 1999: The arbitration judgment is subject to forced execution only by virtue of a decision of exequatur by the competent judge in the State. Article 3 of the New York Convention on Recognition and Enforcement of Foreign Arbitral Awards dated June 10, 1958 (in force in Benin since May 16, 1974): Each Contracting State shall recognize arbitral awards as binding and enforce them in accordance with the rules of procedure of the territory where the award is relied upon, under the conditions laid down in the following articles. There shall not be imposed substantially more onerous conditions or higher fees or charges on the recognition or enforcement of arbitral awards to which this Convention applies than are imposed on the recognition or

	<p>enforcement of domestic arbitral awards.</p> <p>Niger accessed the New-York Convention on 14 Oct 1964.</p>
Investor-State arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	The ICSID convention entered into force on Dec 14, 1966 in Niger
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?	No
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	n/a

agreement should be signed with the lenders.	
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?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to article 31 of the PPP Decree, a contract can be terminated by the judge on the request of the procuring authority, or by the procuring authority based on a fault of the partner or in case of motives of general interest.
51.1. If yes, does the regulatory framework (including standard contractual clauses) establish the consequences for the termination of the PPP contract?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	The contract shall include the consequences of termination, early or not (Article 10 of the PPP Ordinance). Article 31 of the PPP Decree provides for an indemnity in case of termination due to general interest.
Unsolicited Proposals	
34. Are unsolicited proposals in Niger: (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 12 of the PPP Decree indicates that any operator having useful technics or technology for the production or operation of a public service can propose, unsolicited, its application with an offer including a study of technical, economical and financial feasibility to the PPP Cell to propose a partnership contract. Article 13 indicates which documents can be asked of the promotor.
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 12 of the PPP Decree, the PPP Cell shall examine the offer. Moreover, the offer shall include a study of technical, economical and financial feasibility. Furthermore, a partnership contract can only be entered into if it satisfies conditions of article 4: complexity, urgency and juridical, technical, economical and financial feasibility.
35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
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	Yes

government priorities without establishing specific procedures to achieve that goal.	
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
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):	Pursuant to article 12 of the PPP Decree, if the Administration decides to launch a procurement process, it can use the unsolicited offer to call for tenders, with regard to the patterns and industrial property rights linked to the candidate proposal.
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):	Pursuant to article 11 of the PPP Decree, the tender documents indicate the period of time granted to the bidders to submit their bids.
and the time in calendar days:	n/a
39.1 Does the procuring authority use any of the following incentive mechanisms to reward/compensate the presentation of unsolicited proposals? (check all that apply): Access to the best and final offer (BAFO) process and/or automatic shortlisting.	No
39.2 Developer's fee (reimbursing the original proponent for the project development cost).	No
39.3 Bid Bonus.	No
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:	n/a
Please provide the relevant legal/regulatory provisions (if any):	n/a

**PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN NIGER
(CONCESSION)**

SURVEY QUESTION	ANALYSIS
PPP Regulatory Framework	
2. Does the regulatory framework in your country allow procuring PPPs?	Yes
If yes, please specify the relevant regulatory framework and the year of adoption:	<p>2 types of contracts meet the study's definition of PPPs: public-private partnership contracts and public service delegation. Public service delegations are regulated by Decree 2016-641/PRN/PM of December 1st, 2016 creating a Code of public procurement and delegations of public service, replacing the previous regulation of public procurement and public service delegations.</p> <p>According to article 3 of PPC, "public service delegations are contracts by which one of the legal entities governed by public or private law referred to in the preceding article entrusts the management of a public service under its jurisdiction to a delegate whose remuneration is related or substantially ensured by the results of the service operation. They include interested agencies, leases and public service concessions, whether or not they include the execution of a work.</p> <p>In the case of public service delegation, the delegation contract must provide that the contracts awarded by the delegatee with third parties to carry out works, purchase supplies, perform services, are subject to the provisions of this Code."</p>
and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:	http://www.armp-niger.org/reglementation/lois/
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:	Decree no 2016/641/PRN/PM of December 1st 2016, Code of public procurement and delegations of public service.
2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?	Yes
Please describe:	Regulations were adopted on July 24th, 217 related to the public procurement and public service delegations (Regulation 0135/PM/ARMP); documents to be provided to be able to present an offer (0137/PM/ARMP); time periods to

	procure contracts (0136/PM/ARMP); thresholds (0139/PM/ARMP); signatures and approvals (0140/CAB/PM/ARMP).
3.1 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Transportation.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.2 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Water and Irrigation	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.3 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Energy generation and distribution.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.4 Besides national defense and other matters of national 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	No

specific tax regime for PPP transactions (i.e. tax incentives, special tax depreciation treatment, etc.)?	
If yes, please specify and provide the relevant legal/regulatory provision (if any):	n/a
5. Please identify the PPP procuring authorities in Niger and provide their website(s) (if available):	Pursuant to article 2 of the 2016 Code, the procuring authorities are the following: the State; regional collectivities; publish establishments; state companies or companies with a financing majorly public; private operators acting on behalf of the State or of other public operators; associations of several public institutions.
6. In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?	Yes
If yes, please indicate its name, and its website (if available):	The authority for regulating public procurement contracts and public service delegations: audits public procurement contracts, controls transparency and compliance with regulations, reports anomalies, informs competent authorities of infractions, publishes the list of debarred companies, prepares an annual report, prepares regulations, standard documents, ensures execution of the National Regulation Council informs and trains all actors on public procurement's regulations and procedures (Articles 178 and 179 of the 2016 Code). http://www.armp-niger.org
6.1 If yes, what are the main responsibilities of the PPP Unit (check all that apply): PPP regulation and policy guidance.	Yes
6.2 PPP capacity building for other public authorities.	Yes
6.3 PPP promotion among the public and/or private sectors in national and international forums.	No
6.4 Technical support in implementing PPP projects.	Yes
6.5 Identification and selection of PPP projects from the pipeline.	No
6.6 Revision of fiscal risks born by the Government.	No
6.7 Consultation with affected communities on potential impact of PPP projects.	No
6.8 Approval of PPP projects.	No

6.9 Undertaking the procurement of PPPs.	No
6.10 Oversight of PPP implementation.	Yes
6.11 Other	No
6.11 please specify:	n/a
Please provide the relevant legal/regulatory provisions:	The authority of regulation of public procurement contracts and public service delegations: audits public procurement contracts, controls transparency and compliance with regulations, reports anomalies, informs competent authorities of infractions, publishes the list of debarred companies, prepares an annual report, prepares regulations, standard documents, ensures the execution of the National Regulation Council, informs and trains all actors on public procurement's regulations and procedures (Articles 178 and 179 of the 2016 Code).
PPP Preparation	
8. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
8.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before signing the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	The administrative entity in charge of controlling public procurement shall control the conformity of any contract before its signature and approval (article 27 of the 2016 Code). Selection of the winning bid is validated by the same entity (article 36).
8.2. Does the Ministry of Finance (or government more broadly) have a specific system of: Budgeting for PPP projects.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Accounting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Reporting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	No

If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
8.3. If yes to question 8.2, which of the following alternatives best describes the regulation?: Accounting and reporting according to International Public Sector Accounting Standards (IPSAS).	n/a
Accounting and reporting according to other international standard (e.g. European System of Accounts).	n/a
Please specify:	n/a
Other.	n/a
Please specify:	n/a
9. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before launching the procurement process (e.g. Cabinet, Cabinet Committee, Parliament, Supreme Audit Office, etc.)?	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?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
10. Does the procuring authority use transaction advisors during the PPP project cycle?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a

<p>11. In a case comparable to the case study assumptions, please select the option that best describes the way your government integrates the prioritization of PPP projects with other public investment project prioritization? (e.g. in the context of a national public investment system, multi-year perspective plans, medium-term budgetary framework): The regulatory framework provides for the inclusion of PPPs in the national public investment system/medium term budgetary framework and details a specific procedure to ensure the consistency of PPPs with other public investment priorities.</p>	<p>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 prescribes the need for PPPs to be consistent with all other investment priorities without establishing a specific procedure 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 regulatory framework does not include any provisions but the procuring authority evaluates the consistency of PPPs with other government investment priorities in practice.</p>	<p>No</p>
<p>If yes, please elaborate:</p>	<p>n/a</p>
<p>The procuring authority does not evaluate PPPs against existing government priorities.</p>	<p>Yes</p>
<p>Please elaborate and provide examples:</p>	<p>The regulatory framework does not include any requirement towards the integration of PPPs within a broader public investment system.</p>
<p>11.1. Based on your experience, is it always the</p>	<p>No</p>

case that this prioritization is done in practice in accordance with the provisions of the regulatory framework described above?	
If yes, please specify:	n/a
If no, please elaborate:	The regulatory framework does not include any requirement towards the integration of PPPs within a broader public investment system.
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)	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
12.2. Affordability assessment, including the identification of the required long term public commitments (explicit and implicit, direct and contingent liabilities)	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
12.3. 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)	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
12.5. Financial viability or bankability assessment	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
12.6. 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)	Section 2 of title 3 of the Law no 1990-56 related to environment refers to impact studies on the environment. Article 31 provides that any project likely to harm the natural and human environment due to their large dimension or

	effects on it shall receive an authorization from the Ministry of environment. This authorization is provided based on an impact study. This study includes at least an analysis of the initial state of the site and its environment, a description of the project, an analysis of the modifications which could occur and the measures to suppress, reduce and compensate any damage to the environment.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	Environmental impacts are analyzed.
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)?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and specify which of the assessments are included in the request for proposals and/or tender documents:	n/a
13.1. Are the assessments published online?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
specify the website	n/a

please specify which of the assessments are published online:	n/a
14. Does the procuring authority include a draft PPP contract in the request for proposals?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
If no, please elaborate	n/a
14.1. Are the tender documents published online?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and please specify the website:	n/a
15. In a case comparable to the case study assumptions, have standardized PPP model contracts and/or transaction documents been developed?	Yes
If yes, please specify and provide a government-supported website where the mentioned standards are available or provide an electronic copy of them:	Standardized tender documents for public service delegations have been released and are accessible at: http://www.armp-niger.org/documentation/dossiers-types-ao/
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)	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
16.2. 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)	No
To be established in the contract	Yes
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)	No
To be established in the contract	Yes
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)	No
To be established in the contract	Yes
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	Yes

members? (Please select only one): The membership of the bid evaluation committee is specified and/or its members are required to meet detailed qualifications.	
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to article 8 of Regulation 0145/CAB/PM/ARMP of June 29th 2012, the bidding Committee is made of: a representative of the procuring authority; the director of the public procurement department of the procuring Institution; a representative of the Ministry of finance or of the Ministry in charge of exterior investment funds; a representative of the Chamber of Commerce; a court officer. Observants will be added in case of a tender with prequalification or a 2 stages procedure.
The bid evaluation committee members require sufficient qualification without specific details.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The bid evaluation committee members are not required to have any specific qualifications.	No
Please elaborate and provide examples:	n/a
19. Does the procuring authority issue a public procurement notice of the PPP project?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	Pursuant to article 21 of the 2016 Code, the tender can be national, of the community or international, depending on notice of invitation to tender: whether it is made known to the public by means of a publication medium with national, local or international distribution.
19.1. If yes, is the public procurement notice published online?	No
If yes, please specify the website:	n/a
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	No

minimum period of time to submit their bids?	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and the time in calendar days:	n/a
22.1. In a case comparable to the case study assumptions, which are the procurement procedures available and/or set as default for PPP projects? Open tendering: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.2. Restricted tendering (with pre-qualification stage): Available	No
Default	Yes
Relevant legal/regulatory provision (if any)	According to article 55 of the 2016 Code, procurement of a public service delegation is always preceded of prequalification made according to articles 41 and 42.
22.3 Multi-stage tendering (with shortlisting of final candidate(s)): Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	The standard tender documents for public service delegations mention a two-stage procedure (clause 26.1).
22.4. Competitive dialogue: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.5. Direct negotiation with more than one candidate: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.6. Direct negotiation with only one candidate: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.7 Other. Specify:	No
Available	n/a
Default	n/a

Relevant legal/regulatory provision (if any)	n/a
22.8. Do the tender documents detail the procedure of the procurement process providing the same information to all the bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	The standard tender documents for public service delegations require to include instructions to candidates and data particular to the call for tenders (clause 6.1).
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):	The 2016 Code requires to include in the call for prequalification a detailed description of the conditions to be filled to be prequalified (article 41).
22.10. Based on your experience, is it always the case that the specified criteria are respected in practice?	Yes
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	Article 42 of the 2016 Code indicates the procuring authority, with the bidding committee, analyses the documents and selects the candidates that meet the required conditions.
If no, please elaborate:	n/a
23. Can interested parties/potential bidders submit questions to clarify the public procurement notice and/or the request for proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Clause 7 of the standard tender documents refers to clarifications to the tender documents. In particular, the procuring authority shall answer to all questions and send a copy of the answers to all potential candidates.
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):	Clause 7 of the standard tender documents refers to clarifications to the tender documents. In particular, the procuring authority shall answer to all questions and send a copy of the answer to all potential candidates.

23.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	Yes
If yes, please specify:	When clarifications are requested, the answers are provided to all bidders as per the principle of transparency and equality.
If no, please elaborate:	n/a
24. Besides questions and clarifications, can the procuring authority conduct pre-bidding conference?	No
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
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?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
24.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	n/a
If yes, please specify:	n/a
If no, please elaborate:	n/a
25. In a case comparable to the case study assumptions, does the procuring authority require the bidders to prepare and present a financial model with their proposals?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
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):	Pursuant to article 91 of the 2016 Code, the bidding commission realizes a technical and financial analysis and a ranking of offers according to the criteria of the tender documents.
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.	No
Please provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority does not award a PPP contract if only one proposal is submitted.	No
Please provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework does not include any provisions.	Yes
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):	Article 164 of the 2016 Code requires an award notice to be published.
28.1. If yes, is the public procurement award notice published online?	No
If yes, please specify the website:	n/a

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):	Pursuant to Article 97 of the 2016 Code, the award is notified to unsuccessful candidates with motives for rejection, value of the awarded contract and the name of the winning bid.
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):	Pursuant to Article 97 of the 2016 Code, the award is notified to unsuccessful candidates with motives of rejection, value of the awarded contract and the name of the winning bidder.
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):	Pursuant to article 97 of the 2016 Code, the contract can be signed 5 days after the notification to unsuccessful bidders unless a claim is filed.
and the time in calendar days:	5
30.1. Is the standstill period set out in the notice of intention to award?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
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?	n/a
If yes, please specify:	n/a
If no, please elaborate:	n/a

32. Does the procuring authority publish the PPP contract?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
32.1. If yes, which of the following options best describes this publication (choose only one)?: Publication of the full PPP contract including all its annexes and appendixes	n/a
Publication of the full PPP contract without including all its annexes and appendixes	n/a
Publication of a summary of the PPP contract without publishing the full PPP contract	n/a
Publication of a summary of the PPP contract along with the full PPP contract including all its annexes and appendixes	n/a
Publication of a summary of the PPP contract along with the full PPP contract without including all its annexes and appendixes	n/a
32.2. If yes, is it published online?	n/a
If yes, please specify the website:	n/a
32.3. If yes, does the procuring authority also publish any subsequent amendment made to the PPP contract?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
PPP Contract Management	
41. Has the procuring or contract management authority established a system to manage the implementation of the PPP contract (e.g. attributing responsibilities or establishing specific management tools)?	No

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

legal/regulatory provisions (if any):	
The PPP contract management team members are required to meet sufficient qualification without specific details.	n/a
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
42. Does the procuring or contract management authority establish a system for tracking progress and completion of construction works under a PPP contract?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
42.1. If yes, is the PPP contract construction performance information made available to the public?	n/a
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):	The Authority of regulation of public procurement, which has responsibilities related to monitoring: ordering independent technical audits, publishing those audits, collecting and centralizing data; receiving documents or reports (decree no 2011-687/PRN/PM).
43.1. If yes, which of the following tools does it include	No

(check all that apply)?: Performance is assessed against evaluation criteria set in the tender documents and the PPP contract	
Relevant legal/regulatory provisions (if any)	n/a
The procuring or contract management authority can abate (reduce) payments for non-performance of operating obligations under the PPP contract	No
Relevant legal/regulatory provisions (if any)	n/a
The private partner must provide the procuring or contract management authority with periodic operational and financial data	No
Relevant legal/regulatory provisions (if any)	n/a
The procuring or contract management authority must periodically gather information on the performance of the PPP contract	No
Relevant legal/regulatory provisions (if any)	n/a
The PPP contract performance information must be available to the public	No
Relevant legal/regulatory provisions (if any)	n/a
43.2. Is PPP contract performance information made publicly available online?	n/a
If yes, please specify the website:	n/a
44. Are foreign companies prohibited from repatriating the income resulting from the operation of a PPP project?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
45. Does the regulatory framework (including standard contractual clauses)	No

expressly regulate changes in the ownership structure (i.e. stakeholder composition) of the private partner and/or assignment of the PPP contract?	
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
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).	n/a
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.	n/a
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
In other cases, flexibility to change the ownership structure and/or assign the contract.	n/a
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
46. Does the regulatory framework (including standard contractual clauses) expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?	No

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

contractual provisions (if any):	
46.3. Can the procuring authority unilaterally modify a PPP contract?	n/a
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
47. Does the regulatory framework (including standard contractual clauses) expressly regulate the following circumstances that may occur during the life of the PPP contract? (check all that apply): Force Majeure	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Material Adverse government action .	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Change in the Law.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Refinancing.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Subcontracting and replacement of the subcontractors.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
48. Does the regulatory framework (including	Yes

standard contractual clauses) allow for administrative and/or contractual complaint review mechanisms to address disputes arising from the implementation of PPP contracts?	
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	No regulatory basis
48.1. If yes, please specify which of the following options are available (check all that apply): Local administrative review body	No
If yes, please specify:	n/a
Local courts	Yes
Domestic arbitration	Yes
International arbitration	Yes
Investor-State Dispute Settlement (ISDS)	Yes
Mediation	Yes
Please provide the relevant legal/ regulatory/standard contractual provisions (if any)	No regulatory basis
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):	Article 30 of the OHADA Uniform Act on Arbitration dated March 11, 1999: The arbitration judgment is subject to forced execution only by virtue of a decision of exequatur by the competent judge in the State. Article 3 of the New York Convention on Recognition and Enforcement of Foreign Arbitral Awards dated June 10, 1958 (in force in Benin since May 16, 1974): Each Contracting State shall recognize arbitral awards as binding and enforce them in accordance with the rules of procedure of the territory where the award is relied upon, under the conditions laid down in the following articles. There shall not be imposed substantially more onerous conditions or higher fees or charges on the recognition or enforcement of arbitral awards to which this Convention applies than are imposed on the recognition or enforcement of domestic arbitral awards.
International arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	Article 30 of the OHADA Uniform Act on Arbitration dated March 11, 1999: The arbitration judgment is subject to forced execution only by virtue of a decision of exequatur by the competent judge in the State. Article 3 of the New York Convention on Recognition and Enforcement of Foreign Arbitral Awards dated June 10, 1958 (in force in Benin since May 16,

	<p>1974): Each Contracting State shall recognize arbitral awards as binding and enforce them in accordance with the rules of procedure of the territory where the award is relied upon, under the conditions laid down in the following articles. There shall not be imposed substantially more onerous conditions or higher fees or charges on the recognition or enforcement of arbitral awards to which this Convention applies than are imposed on the recognition or enforcement of domestic arbitral awards.</p> <p>Niger accessed the New-York Convention on 14 Oct 1964.</p>
Investor-State arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	The ICSID convention entered into force on Dec 14, 1966 in Niger
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?	No
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
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
51.1. If yes, does the regulatory framework (including standard contractual clauses) establish the consequences for the termination of the PPP contract?	n/a
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Unsolicited Proposals	
34. Are unsolicited proposals in Niger: (choose only one):	No

Explicitly prohibited by the legal framework? (If prohibited, skip to section F)	
Explicitly allowed by the legal framework?	No
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)	Yes
If the legal framework explicitly prohibits or allows unsolicited proposals, please provide the relevant legal/regulatory provisions	The regulatory framework does not regulate unsolicited proposals for public service delegations in Niger, and contributors provide there is no practice among procuring authorities to accept them.
35. Does the procuring authority conduct an assessment to evaluate unsolicited proposals? (if not, skip to question 37)	n/a
If yes, please specify and provide the relevant legal/regulatory provisions (if any)	n/a
35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
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.	n/a
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 procedures to achieve that goal.	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority does not evaluate unsolicited proposals against existing government priorities.	n/a
Please elaborate and provide examples:	n/a
37. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
38. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and the time in calendar days:	n/a
39.1 Does the procuring authority use any of the following incentive mechanisms to reward/compensate the presentation of unsolicited proposals? (check all that apply): Access to the best and final offer (BAFO) process and/or automatic shortlisting.	n/a
39.2 Developer's fee (reimbursing the original proponent for the project development cost).	n/a
39.3 Bid Bonus.	n/a
39.4 Swiss challenge (If unsuccessful, the original	n/a

proponent has the option to match the winning bid and win the contract).	
39.5 Other.	n/a
Please specify:	n/a
Please provide the relevant legal/regulatory provisions (if any):	n/a