

PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN PAKISTAN

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>In March 2017, the National Assembly of Pakistan passed the Public Private Partnership Authority Bill 2017 (hereinafter PPP Act). Considering the study's scope, the following analysis will be based on the aforementioned bill together with the Private Participation in Infrastructure for Better Public Services Policy (hereinafter the "Policy"). The Policy was approved by Economic Coordination Committee of the Cabinet on January 26, 2010, and provides comprehensive guidelines on PPP.</p> <p>Additionally, PPRA instruction No.2/1/2008/PPRA-RA.III provides that PPRA Ordinance and Rules are applicable to those PPPs in which the Federal Government and the private party have joint equity or ownership.</p> <p>Pakistan's procurement code includes public procurement rules which comprise a framework of procurement of goods and/or services. The procurement code's contents are as follows: the Public Procurement Regulatory Authority Ordinance, 2002 ; the Public Procurement Rules, 2004; the Public Procurement Regulations, 2008; the Public Procurement Regulations, 2009; the Procurement of Consultancy Services Regulations, 2010; the Public Procurement Regulations, 2011 and the PPRA Instructions.</p> <p>There are also provincial PPP laws, such as Sindh Public Private Partnership Act 2010, which contains all the rules and regulations pertaining to Public Private Partnership arrangements with the provincial government of Sindh. We will not be using these documents, as their local application locates them outside of our study's scope.</p>
and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:	<p>http://pakistancode.gov.pk/english/UY2FqaJw1-apaUY2Fqa-apaUY2JxZpg%3D-sg-jjjjjjjjjjjj</p> <p>http://www.ipdf.gov.pk/prod_img/PPP%20Policy%20FINAL%2014-May-2010.pdf</p> <p>http://www.ppra.org.pk/Rules.asp</p>
2.1. Are you aware of any reforms (in the regulatory frameworks – laws, regulations, policies, etc.- or in generally followed practices) related to PPPs that: Took place in 2016, are ongoing and/or are planned to be adopted BEFORE June 1, 2017?	Yes
Please describe:	On March 23, 2017, the Federal Government enacted the The Public Private Partnership Authority Bill, 2017 which provides for the establishment of an

	independent Public Private Partnership Authority (“PPPA”) to succeed the Infrastructure Project Development Facility. The functions of the PPPA include ensuring that projects are consistent with national and sectoral strategies, evaluating projects and making fiscal risk assessments, advising and facilitating implementing agencies (including ministerial departments and public sector companies) and acting as gatekeeper during the planning, tendering, bidding and contract stages.
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 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	Yes
If yes, specify and provide the relevant legal/regulatory provisions:	There is no express prohibition or restriction on PPPs for any of the aforementioned sectors. However, the term “Project” is defined in the PPP Act, Article 2(l) as “an infrastructure project, provision of infrastructure related services or both, under a public private partnerships”.
4. Does the regulatory framework provide for a specific tax regime for PPP transactions (i.e. tax incentives, special tax depreciation treatment, etc.)?	No
If yes, please specify and provide the relevant legal/regulatory provision (if any):	n/a
5. Please identify the PPP procuring authorities in Pakistan and provide their website(s) (if available):	The PPP Act, Article 2(g) specifies an “Implementing Agency” as the procuring entity in terms of execution of PPP Agreements with private parties. It is further defined as “any of the line ministries, attached departments, body corporate, autonomous body of the Federal Government or any organization or corporation owned or controlled by the Federal Government.”
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):	<p>Public Private Partnership Authority (hereinafter “PPP Authority”) is a new specialized government entity with headquarters at Islamabad, that facilitates the PPP program. It was established by the PPP Act in March 2017 as “an independent corporate body having perpetual succession and common seal, subject (...) to acquire and hold property, both movable and immovable, and shall by its name sue and be sued”. The predecessor of the Public Private Partnership Authority is Infrastructure Project Development Facility at the Ministry of Finance. (www.ipdf.gov.pk) The PPP Act dissolves the Infrastructure Project Development Facility (hereinafter “IPDF”) (Article 3, PPP Act 2017) , which was identified as a key institution in Policy (Section “Infrastructure Project Development Facility”) and transfers all IPDF’s assets, liabilities, rights, interests and obligations to the PPP Authority.</p> <p>The PPP Authority does not yet have an operational website, and therefore, IPDF’s website (www.ipdf.gov.pk) is still used as a reference.</p>

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.	Yes
6.4 Technical support in implementing PPP projects.	Yes
6.5 Identification and selection of PPP projects from the pipeline.	Yes
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.	Yes
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:	<p>Section 4 “Functions and Powers of the Board” of the PPP Act provides for a non-exhaustive list of powers and functions of the PPP Authority: “(a) ensure that projects are consistent with national and sectoral strategies; (b) ensure value for money by conducting an analysis to evaluate projects. A public private partnership (PPP) arrangement yields value for money if it results in a net positive gain to society; (c) adhere to the principle of budget affordability in the context of medium term budgetary framework; (d) make assessment of fiscal risks;</p> <p>(e) advise and facilitate the implementing agency to identify, develop, structure and procure the projects; (f) prescribe and receive fee and charges; (g) standardize the contractual provisions and to develop the sector specific provisions of the model public private partnership agreements; (h) develop annuity, user-based and hybrid financial models for the projects; (i) ensure that public private partnership agreement is consistent with the provisions of this Act; (j) interact, collaborate and liaise with international agencies; (k) play the role of gatekeeper at all stages of project cycle such as planning, tendering, bidding and contract; and (l) notify, from time to time, a limit on the size of PPP projects that an implementing agency may undertake in relation to its annual spending.</p>
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 K. i. c. section of the Policy “Approval and Authorities”, projects will be screened, reviewed and evaluated by the appropriate public institutions, including the Ministry of Finance if public financial obligations are involved.
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):	Pursuant to K. ii. Of the Policy, is required an approval of Project Structuring and draft concession contract before tendering by the Ministry of Finance if public financial obligations are involved, and an approval of any final public financial commitments by MoF.
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).	No
Accounting and reporting according to other international standard (e.g. European System of Accounts).	No
Please specify:	n/a

Other.	No
Please specify:	n/a
9. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before launching the procurement process (e.g. Cabinet, Cabinet Committee, Parliament, Supreme Audit Office, etc.)?	Yes
If yes, please specify the relevant authority	Planning Commission; the Board of the PPP Authority
and provide the relevant legal/regulatory provisions (if any):	<p>Section 13(3)-(4) of the PPP Act provides that an Implementing Agency, as the “procuring authority”, submits bid documents and the project proposal to the Board of the PPP Authority for its approval, which, when granted, allows the Implementing Agency to proceed with the procurement of the project in accordance with the provisions of the PPP Act.</p> <p>Moreover, K. i. of the Policy indicates that projects will be screened, reviewed and evaluated by the appropriate public institutions: a. Planning Commission to ensure consistency with GOP infrastructure policy /strategy.</p> <p>In addition, PPP projects in some sectors require approval from the Economic Coordination Committee (ECC) or any other regulatory body.</p>
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):	According to Article 14 of the PPP Act, approval of and draft concession contract before tendering is required as above, i.e. the PPP Authority.
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):	<p>Article 5 of the PPP Act 2017: Appointment of officers and staff of the Authority.—(1) The Authority may appoint such officers, experts, advisers, consultants and members of staff as it may consider necessary for the efficient performance of its functions in the prescribed manner and on prescribed terms and conditions... (2) The officers, members of staff, advisers, consultants and experts and other persons appointed by the Authority shall not be civil servants within the meaning of the Civil Servants Act, 1973 (LXXI of 1973). (3) The officers, advisers, consultants, employees and staff of the Authority when acting or purporting to act under any of the provisions of this Act or rules made there under shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).</p>

<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>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>The Policy (K. i.) indicates that projects will be screened, reviewed and evaluated by the appropriate public institutions, including (a.) Planning Commission to ensure consistency with Government of Pakistan infrastructure policy /strategy.</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>No</p>
<p>Please elaborate and provide examples:</p>	<p>n/a</p>

11.1. Based on your experience, is it always the case that this prioritization is done in practice in accordance with the provisions of the regulatory framework described above?	No
If yes, please specify:	n/a
If no, please elaborate:	Whether the PPP Authority or the Federal Government will prioritize a particular PPP project over other projects depends on the relevant sector being promoted by the Federal Government under its development policies and whether such projects are backed by international agreements with other countries.
12.1 Which of the following assessments are conducted when identifying and preparing a PPP in order to inform the decision to proceed with it? (check all that apply): Socio-economic analysis (cost-benefit analysis of the socio-economic impact of the PPP project)	Yes
Relevant legal/regulatory provision (if any)	<p>Pursuant to Article 4 (b) of the PPP Act, the PPP Authority can ensure that projects represent value for money by conducting analysis to evaluate projects. A PPP arrangement yields value for money if it results in a net positive gain to society.</p> <p>Further, according to IV J. of the Policy, the Government of Pakistan is committed to ensure that each project is delivered through a contractual relationship with the private sector under this policy which shall have positive impact upon the public interest. The following issues will be addressed in PPP transactions:</p> <ul style="list-style-type: none"> o Safeguard to users in local communities, particularly those falling in the vulnerable groups; o Ensuring public health, safety, social safeguards and protection of environment; o Providing adequate protection of users' rights to privacy; o Providing information to the public about the obligations of the private sector and the government relating to PPP projects; o Setting affordable user charges and tariff structures.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	In practice, in order to successfully promote and implement PPP projects as per its functions and responsibilities under the PPP Act, the Implementing Agency or the PPP Authority may carry out such assessments and analyses

	depending on the relevant sector in which the PPP project is being implemented.
12.2. Affordability assessment, including the identification of the required long term public commitments (explicit and implicit, direct and contingent liabilities)	Yes
Relevant legal/regulatory provision (if any)	Pursuant to Article 4(2C) of the PPP Act, the PPP Authority must adhere to principle of budget affordability in the context of medium term budgetary framework. In addition, according to IV J. of the Policy, the 2nd step consists in an Initial Viability Analysis : preparation of a Pre-Feasibility Study including (...) an initial indication whether the project is likely to be viable and affordable.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	In practice, in order to successfully promote and implement PPP projects as per its functions and responsibilities under the PPP Act, the Implementing Agency or the PPP Authority may carry out such assessments and analyses depending on the relevant sector in which the PPP project is being implemented. E.g. this analysis has been done for the Swat Express Way PPP project.
12.3. Risk identification, allocation and assessment (risk matrix)	Yes
Relevant legal/regulatory provision (if any)	Under Article 4(2)(d) of the PPP Act, the PPP Authority can make assessments of fiscal risks. Additionally, according to IV J. of the Policy, the 4th step consists in a Risk, Affordability and Value for Money test. The government assesses through information in Step 3 whether the proposed project is robust and meets GOP criteria for risk (...)
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Pursuant to III. I. of the Policy, the general risk process, which will be followed by PPP institutions when developing PPP projects, is described under the following headings. a) Risk Identification; b) Risk Allocation; c) Risk Mitigation; d) The Debt Policy Coordination Office; e) Risks and the Concession Contract; f) Guarantees.
Is the assessment done in practice?	Yes
Details:	In the Concession Agreement of Swat Expressway risks have been specified and are allocated
12.4. Comparative assessment to evaluate	Yes

whether a PPP is the best option when compared to other procurement alternatives (i.e. value for money analysis, public sector comparator)	
Relevant legal/regulatory provision (if any)	The PPP Act does not provide for a comparative assessment to evaluate whether a PPP is the best option. However, the first step identified by the policy (IV. J) is a Project Needs Options Analysis. Government/Agencies conduct Needs and Options Analysis to determine the best solution to provide the service / build infrastructure i.e. traditional public procurement or PPP route.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	The Experts on the Node level as well as on the PPP Unit level evaluate the PPP Projects and its alternatives.
12.5. Financial viability or bankability assessment	Yes
Relevant legal/regulatory provision (if any)	There is no such specific requirement in the PPP Act, but, according to IV J. of the Policy, the 4th step consists in a Risk, Affordability and Value for Money test. The government assesses through information in Step 3 whether the proposed project is robust and meets GOP criteria for risk, viability, bankability, affordability and value for money. This includes estimates of viability gap and the need for subsidies.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	In practice, PPP Unit and independent experts evaluate financial viability and bankability of a PPP Project.
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)	The fifth step of the analysis is market sounding : transaction Advisor continuously conducts market sounding to determine under which conditions the market is willing to competitively tender for the services. IPDF can assist the contracting authority in undertaking the market sounding and the need for viability gap and other funding support by IPFF and determine the final PPP design parameters (Policy, IV. J).
Is there a specific methodology for the assessment?	No

If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	Market sounding is done in practice.
12.7. Environmental impact assessment	Yes
Relevant legal/regulatory provision (if any)	There is no such specific requirement in the PPP Act. However, the Environmental Protection Act, 1997 ("EPA Act") requires project proponents to undertake and submit environmental assessment reports to the Environmental Protection Agency for approval.
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	The procedure and methodology for undertaking and submitting environmental assessment reports is set out in the EPA Act.
Is the assessment done in practice?	Yes
Details:	Environmental assessment reports on PPP projects are submitted to the Environmental Protection Agency for approval.
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?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Section 13(2)(c) of the PPP Act: 13. Responsibilities of an implementing agency are (...) (c) to develop and issue or cause to be developed and issued a request for proposal including draft of the public private partnership agreement. In addition, under Article 23 (2) (d) of the Public Procurement Rules 2004, procuring agencies are required to include a “form of contract” in bidding documents.
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:	Bidding documents are available at : http://www.ppra.org.pk/ and in the PPR of 2009. It appears furthermore that IPDF has developed standardized contractual provisions, which are however not public.
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 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.	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.	Yes
Please elaborate and provide examples:	Neither the PPP Act nor the PPRA Rules specify the qualifications of the bid evaluation committee members. Customarily it is members of the procuring agency, or the Ministry under which that procuring agency falls that will evaluate the bid.
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):	<p>Section 13(1) of the PPP Act contemplates that future rules and regulations may be promulgated under the PPP Act governing the procurement process applicable to Implementing Agencies. Apart from that, pursuant to Section 12 of the PPR :</p> <p>(1) Procurements over forty thousand rupees and up to the limit of one million rupees shall be advertised on the Authority's website in the manner and format specified by regulation by the Authority from time to time. These procurement opportunities may also be advertised in print media, if deemed necessary by the procuring agency.</p> <p>(2) All procurement opportunities over one million rupees should be advertised on the Authority's website as well as in other print media or newspapers having wide circulation. The advertisement in the newspapers shall principally appear in at least two national dailies, one in English and the other in Urdu.</p> <p>(3) In cases where the procuring agency has its own website it may also post</p>

	<p>all advertisements concerning procurement on that website as well.</p> <p>(4) A procuring agency utilizing electronic media shall ensure that the information posted on the website is complete for the purposes for which it has been posted, and such information shall remain available on that website until the closing date for the submission of bids.</p>
19.1. If yes, is the public procurement notice published online?	Yes
If yes, please specify the website:	http://www.ppra.org.pk/
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):	<p>Article 13(1) of the PPP Act contemplates that rules may be promulgated which may prescribe such minimum time periods. Apart from that, Section 13 of the PPR provides for the Response time.- (1) The procuring agency may decide the response time for receipt of bids or proposals (including proposals for pre-qualification) from the date of publication of an advertisement or notice, keeping in view the individual procurement’s complexity, availability and urgency. However, under no circumstances the response time shall be less than fifteen working days for national competitive bidding and thirty working days for international competitive bidding from the date of publication of advertisement or notice. All advertisements or notices shall expressly mention the response time allowed for that particular procurement along with the information for collection of bid documents which shall be issued till a given date, allowing sufficient time to complete and submit the bid by the closing date Provided that no time limit shall be applicable in case of emergency.</p> <p>(2) The response time shall be calculated from the date of first publication of the advertisement in a newspaper or posting on the web site, as the case may be.</p> <p>(3) In situations where publication of such advertisements or notices has occurred in both electronic and print media, the response time shall be calculated from the day of its first publication in the newspapers.</p>
and the time in calendar days:	45
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	Yes
Relevant legal/regulatory provision (if any)	<p>Pursuant to section 20 of the public procurement Rules, 2004: Save as otherwise provided hereinafter, the procuring agencies shall use open competitive bidding as the principal method of procurement for the procurement of goods, services and works.</p> <p>Open tendering includes, according to section 36: Single stage – one envelope procedure; Single stage – two envelope procedure; Two stage bidding procedure; Two stage - two envelope bidding procedure;</p> <p>Single stage is a procedure during which each bid shall comprise one single envelope containing, separately, financial proposal and technical proposal (if any). All bids received shall be opened and evaluated in the manner prescribed in the bidding document.</p> <p>For single stage - two envelope procedure: The bid shall comprise a single package containing two separate envelopes. Each envelope shall contain separately the financial proposal and the technical proposal.</p> <p>Pursuant to Section 37, “Conditions for use of single stage two envelope, two stage and two stage two envelope bidding procedures”, single stage one envelope bidding procedure shall ordinarily be the main open competitive bidding procedure used for most of the procurement. (a) single stage two envelope bidding procedure shall be used where the bids are to be evaluated on technical and financial grounds and price is taken into account after technical evaluation.</p>
22.2. Restricted tendering (with pre-qualification stage): Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	<p>Section 15 of the public procurement rules indicates: (1) A procuring agency, prior to the floating of tenders, invitation to proposals or offers in procurement proceedings, may engage in pre-qualification of bidders in case of services, civil works, turnkey projects and in case of procurement of expensive and technically complex equipment to ensure that only technically and financially capable firms having adequate managerial capability are invited to submit bids. Such pre-qualification shall solely be based upon the ability of the interested parties to perform that particular work satisfactorily.</p> <p>Section 16 provides for the Pre-qualification process.</p>
22.3 Multi-stage tendering (with shortlisting of final candidate(s)): Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	<p>Pursuant to Section 36(c) of the Public Procurement Rules, 2004, a procuring agency may use a two stage bidding procedure and a two stage - two envelope bidding procedure. Both are outlined further in the same article.</p> <p>Two stage bidding procedure: First stage: (i) the bidders shall first submit, according to the required specifications, a technical proposal without price; (ii) the technical proposal shall be evaluated in accordance with the specified evaluation criteria and may be discussed with the bidders regarding any deficiencies and unsatisfactory technical features; (iii) after such discussions, all the bidders shall be permitted to revise their</p>

	<p>respective technical proposals to meet the requirements of the procuring agency;</p> <p>(iv) the procuring agency may revise, delete, modify or add any aspect of the technical requirements or evaluation criteria, or it may add new requirements or criteria not inconsistent with these rules. [...]</p> <p>Second stage: (vi) the bidders, whose technical proposals or bids have not been rejected and who are willing to conform their bids to the revised technical requirements of the procuring agency, shall be invited to submit a revised technical proposal along with the financial proposal;</p> <p>(vii) the revised technical proposal and the financial proposal shall be opened at a time, date and venue announced and communicated to the bidders in advance.</p> <p>For the Two stage - two envelope bidding procedure: (viii) after agreement between the procuring agency and the bidders on the technical requirements, bidders who are willing to conform to the revised technical specifications and whose bids have not already been rejected shall submit a revised technical proposal and supplementary financial proposal, according to the technical requirement.</p> <p>Pursuant to article 37, (b) two stage bidding procedure shall be adopted in large and complex contracts where technically unequal proposals are likely to be encountered or where the procuring agency is aware of its options in the market but, for a given set of performance requirements, there are two or more equally acceptable technical solutions available to the procuring agency; and</p> <p>(c) two stage two envelope bidding method shall be used for procurement where alternative technical proposals are possible, such as certain type of machinery or equipment or manufacturing plant.</p>
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:	Two Envelope Procedure is applied as a variation of both single and double-stage bidding procedure.
Available	Yes

Default	No
Relevant legal/regulatory provision (if any)	Section 36 of the Public Procurement Rules, 2004, describes (i) a single stage – two envelope procedure and (ii) a two stage – two envelope procedure, in which financial proposal and technical proposals are submitted in two separate envelopes and evaluated separately. The envelope with a technical proposal is opened and evaluated first, and financial proposal is evaluated only after a technical proposal is confirmed to comply with the technical specifications of a procuring authority outlined in the tender documents.
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):	Rule 23 of the PPRA Rules provides that procuring agencies “shall formulate precise and unambiguous bidding documents that shall be made available to the bidders immediately after the publication of the invitation to bid. The bidding documents shall include, inter alia, qualification criteria (Rule 23(i)) and bid evaluation criteria (Rule 23(j)). Rule 29 of the PPRA Rules provides that an appropriate evaluation criterion listing all the relevant information against which a bid is to be evaluated shall form an integral part of the bidding documents. Failure to provide for unambiguous evaluation criteria in the bidding documents shall amount to mis-procurement.
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):	Pursuant to section 16. (1) of the PPR, the procuring agency engaging in pre-qualification shall announce, in the pre-qualification documents, all information required for pre-qualification including instructions for preparation and submission of the pre-qualification documents, evaluation criteria,(...)
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):	All of the contributors confirmed that tender documents specify the prequalification/ shortlisting criteria for bidders.
If no, please elaborate:	n/a
23. Can interested parties/potential bidders submit questions to clarify	Yes

the public procurement notice and/or the request for proposals?	
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:	Questions and clarifications disclosed to all potential bidders in all prior projects that were conducted, this is common practice.
If no, please elaborate:	n/a
24. Besides questions and clarifications, can the procuring authority conduct pre-bidding conference?	Yes
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	No regulatory basis
24.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose the content and the results of the pre-bid conference to all bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
24.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	Yes
If yes, please specify:	The majority of the contributors indicated that the release of the results of a pre-bidding conference is conducted in practice.
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?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Rule 36 of the PPRA Rules prescribes the procedure to be followed for open competitive bidding which expressly mentions that the bids will include a financial proposal.</p>
If no, please elaborate:	<p>n/a</p>
26. Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Pursuant to Section 30 (1) of the PPR, all bids shall be evaluated in accordance with the evaluation criteria and other terms and conditions set forth in the prescribed bidding documents. Save as provided for in clause (iv) of sub-rule (3) of rule 36 no evaluation criteria shall be used for evaluation of bids that had not been specified in the bidding documents.</p>
Evaluation criteria is not set in the tender documents	<p>No</p>
27. In the case where only one proposal is submitted (sole proposals), which of the following options best describes the way the procuring authority deals with them? (Please select only one)?: The procuring authority follows a specific procedure before awarding a PPP contract where only one proposal is submitted.	<p>No</p>
Please specify and provide the relevant legal/regulatory provisions (if any):	<p>n/a</p>
The procuring authority considers sole proposals valid as long as they meet the conditions outlined in the tender documents.	<p>No</p>
Please provide the relevant legal/regulatory provisions (if any):	<p>n/a</p>
The procuring authority does not award a PPP contract if only one proposal is submitted.	<p>No</p>

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):	According to Section 35 of the PPR, procuring agencies shall announce the results of bid evaluation in the form of a report giving justification for acceptance or rejection of bids at least ten days prior to the award of procurement contract. Moreover, as soon as a contract has been awarded the procuring agency shall make all documents related to the evaluation of the bid and award of contract public (section 47).
28.1. If yes, is the public procurement award notice published online?	Yes
If yes, please specify the website:	www.ppra.org.pk
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):	The procuring authority publishes the results of the bidding on the website of PPRA.
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):	The procuring agencies shall announce the results of bid evaluation in the form of a report which provides justification for acceptance or rejection of bids (...)” (Rule 35, PPRA Instructions “Announcement of Evaluation Reports” as of August 6, 2012 enclosed to PPR, paragraph 2) Rule 47 of the PPR: as soon as a contract has been awarded the procuring agency shall make all documents related to the evaluation of the bid and award of contract public
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?	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?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 24 of the PPP Act provides that PPP Agreement is a public document and any interested person shall be able to obtain a copy as per the relevant freedom of information laws.
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	Yes
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	No
Publication of a summary of the PPP contract along with the full PPP contract including all its annexes and appendixes	No

Publication of a summary of the PPP contract along with the full PPP contract without including all its annexes and appendixes	No
32.2. If yes, is it published online?	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?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
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):	Section 13 of the PPP Act specifies that the Implementing Agency, as the “procuring authority”, shall, inter alia, be responsible for the planning, development, procurement, implementation, execution and monitoring of a PPP project in accordance with the respective PPP agreement. Section J of the policy identifies, as a step of the PPP Project Life Cycle for government originated projects: Project Monitoring by Institution (Construction and Operational Periods), and monitoring of milestone based disbursements if subsidies/annuities are involved.
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):	No regulatory basis
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)	No
Relevant legal/regulatory provisions (if any):	n/a
Establishment of a risk mitigation mechanism which considers the evolving nature of risks throughout the project lifecycle (guidelines, specific processes, insurance regime, etc.)	Yes
Relevant legal/regulatory provisions (if any):	PPP Policy, I (e) "Risk sharing and Management Framework", provides that a Concession contract will specifically reflect how risks have been allocated and mitigated between the two.
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:	No regulatory basis

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):	No regulatory basis
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):	Section J of the policy identifies, as a step of the PPP Project Life Cycle for government originated projects : Project Monitoring by Institution (Construction and Operational Periods), and monitoring of milestone based disbursements if subsidies/annuities are involved.
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	No
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	Yes
Relevant legal/regulatory provisions (if any)	No regulatory basis
The procuring or contract management authority must periodically gather information on the performance of the PPP contract	Yes
Relevant legal/regulatory provisions (if any)	No regulatory basis
The PPP contract performance information must be available to the public	No
Relevant legal/regulatory provisions (if any)	n/a
43.2. Is PPP contract performance information made publicly available online?	No
If yes, please specify the website:	n/a
44. Are foreign companies prohibited from repatriating the income resulting from the operation of a PPP project?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
45. Does the regulatory framework (including 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):	Article 15 of the PPP Act provides that the content of a PPP Agreement shall include clauses for reversion, transfer or handing back of the project, wherever applicable (...)
45.1. If yes, which of the following circumstances are specifically regulated? (check all that apply): Any change in	No

the private partner during an initial period (e.g. construction and first five years of operation).	
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.	No
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 contractual provisions (if any):	n/a
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	No

following circumstances that may occur during the life of the PPP contract? (check all that apply): Force Majeure	
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 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):	Section 18 of the PPP Act provides that all disputes arising between Implementing Agencies and private parties shall be decided pursuant to the terms of the PPP Agreement. Further, Section 13(2)(f) specifies that Implementing Agencies may follow their applicable law on dispute resolution mechanisms in the PPP Agreement. Section 49 of the PPR is related to arbitration.- (1) After coming into force of

	<p>the procurement contracts, disputes between the parties to the contract shall be settled by arbitration.</p> <p>(2) The procuring agencies shall provide for a method of arbitration in the procurement contract, not inconsistent with the laws of Pakistan.</p>
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)	No
Mediation	Yes
Please provide the relevant legal/ regulatory/standard contractual provisions (if any)	<p>Section 49 of the PPR is related to arbitration.- (1) After coming into force of the procurement contracts, disputes between the parties to the contract shall be settled by arbitration.</p> <p>(2) The procuring agencies shall provide for a method of arbitration in the procurement contract, not inconsistent with the laws of Pakistan.</p>
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):	The Arbitration Act, 1940 empowers courts to enforce arbitral awards and pronounce judgment according to the award.
International arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	<p>Pakistan ratified the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the "New York Convention") in 2005. The prevalent law in Pakistan governing the enforcement of foreign arbitral awards is the Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act 2011 (the "Act"), which allows foreign arbitral awards to be enforced in Pakistan. This Act states that any "foreign arbitral award" made on or after July 14, 2005, may be enforced in Pakistan as if it were an order or judgment of a court in Pakistan. For the purposes of the Act, a "foreign arbitral award" means a foreign arbitral award made in a country that is a party to the New York Convention and such other state as may be notified by the Federal Government in the official gazette of Pakistan.</p>
Investor-State arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	Pakistan is a signatory of the ICSID Convention.

49. Does the regulatory framework (including standard contractual clauses) allow for the restructuring of a PPP private partner (SPV) in financial difficulty prior to insolvency?	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
50. Does the regulatory framework (including standard contractual clauses) allow for the lenders to take control of the PPP project (lender step-in rights) if either the private partner defaults or if the PPP contract is under threat of termination for failure to meet service obligations?	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	n/a

step-in rights should be regulated in the contract.	
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):	Section 15(2) of the PPP Act provides that Implementing Agencies may follow the applicable laws in relation to termination of PPP contracts: (g) exit clause in case of early termination of the contract
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):	Section 15(2) of the PPP Act provides that Implementing Agencies may follow the applicable laws in relation to termination of PPP contracts: (h) termination payments and compensation
Unsolicited Proposals	
34. Are unsolicited proposals in Pakistan: (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	Unsolicited proposals are allowed and regulated in Pakistan by the Policy, which indicates that the Government's policy on unsolicited proposals aims to balance its desire to stimulate innovation and to create new opportunities for

<p>provide the relevant legal/regulatory provisions</p>	<p>the private sector, with the need to ensure that the Government and consumers get value for money in PPP transactions. Unlike the Sindh and Punjab PPP laws, which contain provisions dealing with unsolicited proposals, the PPP Act does not contain similar provisions. Nevertheless, the PPP Act does not preclude a private party from approaching an Implementing Agency for negotiating the procurement of a PPP project directly with such Implementing Agency.</p> <p>Article 20 of the PPP Act describes circumstances under which unsolicited proposal procurement or “Negotiated procurement of a project” are allowed: the implementing agency may enter into a negotiated procurement of a public private partnership project, in case of the following circumstances, namely:---</p> <p>(a) where the project is being undertaken on the basis of any Federal Government’s bilateral treaty or arrangement; or (b) in any other case where the Federal Government authorizes such an exception, for reasons to be recorded in writing, in the public interest. Note: There is an additional consideration that unsolicited projects may edge out higher priority solicited projects (Policy L.).</p>
<p>35. Does the procuring authority conduct an assessment to evaluate unsolicited proposals? (if not, skip to question 37)</p>	<p>Yes</p>
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any</p>	<p>Innovation, reasoned analysis, a demonstrated appreciation of the requirements of the country and a project’s likely inability to be implemented by other means should be the minimum considerations of an unsolicited proposal. (...) In general, the Government would verify project performance including viability with the assistance of independent transaction advisors. In all circumstances, unsolicited infrastructure projects will be subject to a value for money test. In some cases, the GOP may require competitive bidding that will take into account the interest of the initiating private entity. (Policy, L)</p>
<p>35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Article 13(2) of the PPP Act provides that the Implementing Agency may vet the Project or conduct a feasibility study in respect of the unsolicited proposal.</p>
<p>36. Which of the following options best describe how the procuring authority ensures that unsolicited proposals are consistent with existing government priorities? (Please select only one): The procuring authority follows a specific procedure to ensure the consistency of PPPs with other government investment priorities.</p>	<p>No</p>

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.	No
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.	Yes
Please elaborate and provide examples:	The PPP Act or PPRA Rules do not provide insight in respect of evaluation of unsolicited proposals against government priorities.
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):	No regulatory basis
38. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and the time in calendar days:	n/a
39.1 Does the procuring authority use any of the following incentive mechanisms to reward/compensate the presentation of unsolicited proposals? (check all that apply): Access to the best and final offer (BAFO) process and/or automatic shortlisting.	No
39.2 Developer's fee (reimbursing the original	No

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