

PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN PANAMA

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:	Panama does not have a standalone regulatory framework for PPPs However, Law 22 of 2006 (as last modified by Law 15 of 2012) that regulates public procurement in Panama governs the procurement of “6. Concessions and all other contract not regulated by special Law”. Further regulation is contained in Law No 5 of 1988 of Concessions (as last modified by Law 128 of 2013 and Law 76 2010). Certain sectors, such as energy and telecommunications, have other specific laws that handles the PPP relationships within said sectors. In 2011, the Law Project 349, which created the public-private association regime, was introduced, however, the Cabinet Council requested that this project be withdrawn for further review and consultation.
and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:	www.panamacompra.gob.pa ; www.asamblea.gob.pa/legispan-y-gacetas-oficiales/
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?	Yes
Please describe:	In June 2016 President Varela vetoed the Law project 305 of 2016 and sent it back to the Legislative Assembly for reviewing. It is expected that the project will be discussed in the coming months, however, it is uncertain. Also, according to some contributors, Panama plans to work with the World Bank to create a new Concessions law applying the best practices in PPPs.
3.1 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the	No

following sectors?: Transportation.	
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 specific tax regime for PPP transactions (i.e. tax incentives, special tax depreciation treatment, etc.)?	No
If yes, please specify and provide the relevant	n/a

legal/regulatory provision (if any):	
5. Please identify the PPP procuring authorities in Panama and provide their website(s) (if available):	Each Ministry and public entity conducts its own contracting process. The authority that oversees the public contracting process is the General Public Procurement Directorate (Dirección General de Contrataciones Públicas). Their website is www.panamacompra.gob.pa
6. In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?	No
If yes, please indicate its name, and its website (if available):	n/a
6.1 If yes, what are the main responsibilities of the PPP Unit (check all that apply): PPP regulation and policy guidance.	n/a
6.2 PPP capacity building for other public authorities.	n/a
6.3 PPP promotion among the public and/or private sectors in national and international forums.	n/a
6.4 Technical support in implementing PPP projects.	n/a
6.5 Identification and selection of PPP projects from the pipeline.	n/a
6.6 Revision of fiscal risks born by the Government.	n/a
6.7 Consultation with affected communities on potential impact of PPP projects.	n/a
6.8 Approval of PPP projects.	n/a
6.9 Undertaking the procurement of PPPs.	n/a
6.10 Oversight of PPP implementation.	n/a
6.11 Other	n/a
6.11 please specify:	n/a
Please provide the relevant legal/regulatory provisions:	n/a
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):	Article 24 of the Law 22 of 2006 requires certification of the Ministry of Economy and Finance to enter into contracts that imply expenses for more than one year.
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	Yes

<p>project before launching the procurement process (e.g. Cabinet, Cabinet Committee, Parliament, Supreme Audit Office, etc.)?</p>	
<p>If yes, please specify the relevant authority</p>	<p>PPP projects developed under the Concession system should be approved by Resolution of the Cabinet.</p>
<p>and provide the relevant legal/regulatory provisions (if any):</p>	<p>Article 6 of the Law 5 of 1988</p>
<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?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Article 70 of the Law 22 of 2006 requires approval of either the National Economic Council or the Cabinet depending on the amount at stake in the contract. Also, article 74 of the same Law 22 of 2006 requires the ratification of the Contract by the General Comptroller.</p>
<p>10. Does the procuring authority use transaction advisors during the PPP project cycle?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>No regulatory basis</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</p>	<p>n/a</p>

legal/regulatory provisions (if any):	
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.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework does not include any provisions but the procuring authority evaluates the consistency of PPPs with other government investment priorities in practice.	Yes
If yes, please elaborate:	Each authority developing its project reviews the project against its own pipeline of investments. Additionally, all projects must contemplate the norms established in Law 34 of 2004 "Fiscal social responsibility" and the Law of the General Budget of the Republic of Panama (approved annually for the each year).
The procuring authority does not evaluate PPPs against existing government priorities.	No
Please elaborate and provide examples:	n/a
11.1. Based on your experience, is it always the case that this prioritization is done in practice in accordance with the provisions of the regulatory framework described above?	Yes
If yes, please specify:	Contributors who answered the question confirmed that the prioritization of PPPs is done in practice in consistency with government priorities.
If no, please elaborate:	n/a
12.1 Which of the following assessments are conducted when identifying and preparing a PPP in order to inform the decision to proceed with it? (check all that apply): Socio-economic analysis (cost-benefit analysis of the socio-economic impact of the PPP project)	Yes

Relevant legal/regulatory provision (if any)	Article 23 of the Law 34 of 2008 (Ley de Responsabilidad Fiscal), last amended by Law 25 of 2014, requires performing a cost benefit analysis for investment projects whose investment value is over 0.1 % of the annual budget.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	Contributors confirm that this assessment is done in practice
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)	Title IV Chapter II of Law 41 of 1998 (General Environmental Law of Panama) establishes the process for environmental impact assessment in Panama. Article 23 states that the projects that could create environmental risks are required to go through an environmental impact assessment; Regulatory Decree 123 of 2009 regulates Title IV Chapter II of Law 41 of 1998. Article 16 determines the list of projects that need to go through an environmental assessment, including for example the construction of highways.
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Executive Decree 123 of 2009 establishes the methodology and requirements of the environmental assessment
Is the assessment done in practice?	Yes
Details:	Contributors confirm that is done in practice

12.8. Consultation process with affected communities on potential impact of the PPP project	Yes
Relevant legal/regulatory provision (if any)	Article 24 of Law No. 6 of 2002 (transparency law) states that both the state and the federal government must allow the participation of citizens in every public administration act that could potentially affect private interests. The construction of infrastructure is mentioned as one of those public administration acts.
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Law No. 6 of 2002 (transparency law) requires that all projects that have an impact in private interest must have public participation instance. The method that is used more frequently is the public consultation (consulta pública), whereby the public entity makes public information about the project and requests the citizens and organizations to provide their suggestions, opinions or proposals.
Is the assessment done in practice?	Yes
Details:	Contributors confirm that this assessment is done in practice
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):	Article 25 subsection 9 and Article 30 of Law 22 of 2006. Article 25 establishes that the procuring authority has to include a draft contract in the solicitation documents. Article 30 goes over the different documents which has to be included as solicitation documents to create equality among bidders; the draft contract is one of those documents.
If no, please elaborate	.
14.1. Are the tender documents published online?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Second to last paragraph of article 25 of Law 22 of 2006 affirms that the consultation documents are public to any individual interested and that they may get those by electronic means of communication. Also, article 7 subsection D of Executive Decree 366/2006 states that the solicitation documents and other relevant information should be available right after the publication of the tender notice in PanamaCompra.
and please specify the website:	www.panamacompra.com.pa
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)	Article 15 subsection 5 of law 5/1988 states that private partners have the right to request from the procuring authority the necessary permits. According to this the private partner is the party responsible to obtain the permits but can request help to get them from the procuring authority.
16.2. Obtaining the required environmental permits: Procuring authority (or other Government entity)	No

Private Partner	Yes
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	No
Relevant legal/regulatory provision (if any)	Article 15 subsection 5 of law 5/1988 states that private partners have the right to request from the procuring authority the necessary permits. According to this the private partner is the party responsible to obtain the permits but can request help from the procuring authority.
16.3. Obtaining the required operational permits: Procuring authority (or other Government entity)	No
Private Partner	Yes
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	No
Relevant legal/regulatory provision (if any)	Article 15 subsection 5 of law 5/1988 states that private partners have the right to request from the procuring authority the necessary permits. According to this the private partner is the party responsible to obtain the permits but can request help from the procuring authority.
16.4. Obtaining the required land: Procuring authority (or other Government entity)	No
Private Partner	Yes
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
16.5. Obtaining the required right of way: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	Yes
To be established in the contract	No

Relevant legal/regulatory provision (if any)	Article 15 subsection 5 of Law 5/1988 states that the private partners have the right to get from the procuring authority the necessary rights of way for the execution of the project.
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):	Article 54 of Law 22/2006 states that the bid evaluation committee has to be comprised of competent professionals from either the public or the private sector.
The bid evaluation committee members are not required to have any specific qualifications.	No
Please elaborate and provide examples:	n/a
19. Does the procuring authority issue a public procurement notice of the PPP project?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	Article 32 of the Law 22 of 2006 requires the publication of the procurement notice in the electronic portal "panobacumab"
19.1. If yes, is the public procurement notice published online?	Yes
If yes, please specify the website:	www.panamacompra.gob.pa
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):	Article 33 of the Law 22 of 2006 establish different minimum periods to submit the bids depending on the object of the contract and the value of the contract Given the case study assumptions, when works are included and the value is over B/.5,000,000 the minimum period is 40 days (this same minimum period applies for service contracts when the value is over B/.175,000).
and the time in calendar days:	40
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)	Article 42 of Law 22/2006 states that open tendering is one of the possible methods for the selection of contractors.
22.2. Restricted tendering (with pre-qualification stage):	Yes
Available	
Default	No
Relevant legal/regulatory provision (if any)	Article 51 of Law 22/2006 states that the Cabinet Council can apply restricted tendering in those cases in which the quantity and complexity of the project requires so.
22.3 Multi-stage tendering (with shortlisting of final candidate(s)):	Yes
Available	
Default	No
Relevant legal/regulatory provision (if any)	Available when the projects are financed by international organizations based on the provision of articles 6 and 7 of Law 22/2006
22.4. Competitive dialogue:	No
Available	
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.5. Direct negotiation with more than one candidate:	No
Available	
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.6. Direct negotiation with only one candidate:	No
Available	

Default	No
Relevant legal/regulatory provision (if any)	n/a
22.7 Other. Specify:	No
Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.8. Do the tender documents detail the procedure of the procurement process providing the same information to all the bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 25.6 of the Law 22 of 2006 requires to include in the tender documents: The circumstances of time, manner and place as deemed necessary to ensure objective, clear and complete rules
If no, please elaborate:	n/a
22.9. Do the tender documents specify the prequalification/shortlisting criteria (when applicable) in order to make them available to all the bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 65 of the Executive Decree 366 of 2006 requires to include the prequalification criteria in the tender documents.
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):	Contributors are not aware of cases in which the specified criteria were not respected. Bidders will have legal resources to defend their rights in other cases
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):	Article 35 of the Law 22 of 2006 regulates a "Homologation" act and meeting where the bidders can formulate reservations and questions to the bidding documents that is required for any contract of value higher than 175.000 balboas
23.1. If yes, notwithstanding confidential information pertaining to the bidders,	Yes

does the procuring authority disclose those questions and clarifications to all potential bidders?	
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 35 of the Law 22 of 2006 requires to elaborate minutes of the “homologation” meeting to be signed by all the participants and include it in the procurement files. Also, according to article 38 any modification to the tender documents must be published in the electronic portal.
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:	Contributors are not aware of cases that the afore-mentioned information was not disclosed.
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):	Article 35 of Law 22/2006 states that for projects worth more than \$175,000.00, a pre-bidding conference will be conducted.
24.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose the content and the results of the pre-bid conference to all bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 35 of Law 22/2006 states that the final certificate with the resolutions of the pre-bidding conference has to be included in the solicitation documents.
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:	Document prepared by the procuring authority is distributed to the potential bidders
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:	In certain procurement processes, financial models or information is required. However, no specific provision requires the submission of a financial model in every case.
26. Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 28 of the Law 22 of 2006 requires the inclusion among the special conditions of the evaluation criteria and the methodology to evaluate the proposals. Also, according to article 45 of the same Law 22 of 2006 (regulating tenders with separated technical evaluation) the evaluation will be performed according to the criteria and methodology included in the tender documents and the contract will be awarded to the bidder to the bidder who obtains the highest rating according to the methodology specified in 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.	Yes
Please provide the relevant legal/regulatory provisions (if any):	Article 42 of Law 22/2006 states that the procuring authority will accept sole proposals when the proposal meets all the requirements established in the tender documents and the bidding price is convenient for the Government.
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.	No
28. Does the procuring authority publish the award notice?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	Articles 43, 45, 46 and 48 of the Law 22 of 2006 regulating the different awarding procedures require in all cases to publish the evaluation of the proposals on the electronic portal "panobacumab". Also article 129 in general requires all resolutions in the process to be published.
28.1. If yes, is the public procurement award notice published online?	Yes
If yes, please specify the website:	www.panamacompra.gob.pa
29. Does the procuring authority provide all the bidders with the result of the PPP procurement process?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
If no, please elaborate:	Article 129 of the Law 22 of 2006 considers that the publication in the electronic portal constitutes notification to the bidders, being their responsibility to frequently check the information available.
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?	n/a
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):	No regulatory basis
31.1. Based on your experience, is it always the case that this restriction is respected in practice?	Yes
If yes, please specify:	The majority of contributors indicated that this is a yes
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 74 of Law 22/2006 states that all the contracts -no matter the price- have to be published in Panobacumab (online website)
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?	Yes
If yes, please specify the website:	www.panamacompra.gob.pa
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)?	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

<p>Establishment of a risk mitigation mechanism which considers the evolving nature of risks throughout the project lifecycle (guidelines, specific processes, insurance regime, etc.)</p>	<p>n/a</p>
<p>Relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>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.</p>	<p>n/a</p>
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>The PPP contract management team members are required to meet sufficient qualification without specific details.</p>	<p>n/a</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>The PPP contract management team members are not required to meet any specific qualifications.</p>	<p>n/a</p>
<p>Please elaborate and provide examples:</p>	<p>n/a</p>
<p>42. Does the procuring or contract management authority establish a system for tracking progress and completion of construction works under a PPP contract?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Article 72 subsection 1 of Law 22/2006 states that the procuring authority will have the right to control and supervise the execution of the contract. Further, article 12 of law 22/2006 determines that the procuring authority can perform inspections in the areas where the contract is being executed. Finally, Art. 13.4 of the Law 22/2006 includes among the obligations of the procuring authority to periodically review information on the situation of the works and the delivery of the services.</p>

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 12 and 13 of the Law 22 of 2006 regulate the rights and obligations of the parties in public contracts. Article 12 indicates specifically for Concessions that the procuring authority is empowered to conduct inspections on areas, goods or services covered by the contract to verify compliance with the obligations undertaken by the concessionaire. Article 13.4 also includes among the obligations of the procuring authority to periodically review information on the situation of the works and the delivery of the services.
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	No

Relevant legal/regulatory provisions (if any)	n/a
The procuring or contract management authority must periodically gather information on the performance of the PPP contract	Yes
Relevant legal/regulatory provisions (if any)	Art. 13.4 includes among the obligations of the procuring authority to periodically review information on the situation of the works and the delivery of the services.
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 76 of the Law 22 of 2006 regulates "assignment" (cesión) of a public 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

<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>n/a</p>
<p>Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>According to article 76 of the Law 22 of 2006 requires that the substituting entity meets the requirements of the original contractor.</p>
<p>In other cases, flexibility to change the ownership structure and/or assign the contract.</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>No other restriction applies besides the one mentioned above regulated in article 76 of the Law 22 of 2006</p>
<p>46. Does the regulatory framework (including standard contractual clauses) expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>The Law 22 of 2006 mentions the modification of the contract as a possibility to be regulated in the contract and that may imply the need to reestablish the financial balance of the contract (article 21 and article 27)</p>
<p>46.1. If yes, is an approval from a government authority, other than the procuring authority, required?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>Contracts must be approved by the General Comptroller of the Republic in order to be effective, in accordance to article 74 of Law 22 of 2006. As stated in Article 77 of the same Law, amendments are considered part of the contracts, which means they are subject to the same requirements and formalities established for the contracts by the law. Therefore, any modification to a contract must be approved by the General Comptroller.</p>
<p>46.2. If yes to question 46, which of the following circumstances are specifically regulated? (check all that</p>	<p>Yes</p>

apply): A change in the scope and/or object of the contract.	
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	According to article 77 of the Law 22 of 2006 object and nature of the contract cannot be modified.
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.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 21 of Law 22 of 2006 determines that when an economic balance clause is not expressly included in construction contracts, it can be considered to be part of the agreement in the case of force majeure, or when the conditions of the contracts have been substantially modified to the extent that the object of the agreement would be impossible to be fulfilled.
A change in the duration of the contract.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the agreed price or tariff.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 77 point 5 of Law 22 of 2006 states that in the case the agreement wants to be modified on a public interest basis, the price of the contract can be revised only when the modifications would alter more than 25% of the agreement's initial value.
46.3. Can the procuring authority unilaterally modify a PPP contract?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 72 subsection 2 of Law 22/2006 states that the procuring authority have the right to agree on exceptional clauses including the unilateral modification of the contract.
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	Yes

If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Force majeure is included as a potential cause for reestablishment of the financial balance (article 31 of the Law 22 of 2006) and extension of the contract (article 109).
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):	Article 88 of law 22/2006 states that unless the contract says the opposite, there is always the possibility of including subcontractors in the project.
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):	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	No
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):	Law 131 of 2013 regulating commercial arbitration (domestic and international) and Law 5/1983 approves the New York Convention and introduces it as part of the national legislation of Panama.
International arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	Law 131 of 2013 regulating commercial arbitration (domestic and international). Further, law 5/1983 approves the New York Convention and introduces it as part of the national legislation of Panama.
Investor-State arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	In 1996 Panama ratified 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	Yes

or if the PPP contract is under threat of termination for failure to meet service obligations?	
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 24.A of the Law 5 1988 as modified by the Law 76 of 2010 indicates that the financial institutions can subrogate in the rights and obligations of the Concessionaire.
50.1. If yes, which of the following options best describes the lender step-in right? (Please select only one): The regulatory framework expressly regulates the lender step-in rights.	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
The regulatory framework prescribes that a direct agreement should be signed with the lenders.	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	No
Other.	Yes
Please Specify:	Article 24.A of the Law 5 1988 as modified by the Law 76 of 2010 indicates that the financial institutions can subrogate in the rights and obligations of the Concessionaire.
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):	Breach of contract provisions, death of the contractor, bankruptcy of the contractor, physical incapacity of the contractor and dissolution of the contractor are causes for termination of a public contract. Article 113 of Law 22 of 2006
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):	Article 115 of Law 22 of 2006 regulates the effect of the resolution of the contract in case of breach of contract by the contractor.
Unsolicited Proposals	
34. Are unsolicited proposals in Panama: (choose only one): Explicitly prohibited by the legal framework? (If prohibited, skip to section F)	No
Explicitly allowed by the legal framework?	No
Not regulated by the legal framework, but do happen in practice?	Yes
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	The Law 5 of 1988 of Concessions permits, due to its flexibility, to consider or award a contract to an unsolicited proposal, but in practice, it is not common that the government uses this figure
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)	No regulatory basis
35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?	No

<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>36. Which of the following options best describe how the procuring authority ensures that unsolicited proposals are consistent with existing government priorities? (Please select only one): The procuring authority follows a specific procedure to ensure the consistency of PPPs with other government investment priorities.</p>	<p>No</p>
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>No regulatory basis</p>
<p>The procuring authority does not evaluate unsolicited proposals against existing government priorities.</p>	<p>No</p>
<p>Please elaborate and provide examples:</p>	<p>n/a</p>
<p>37. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>No regulatory basis</p>
<p>38. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?</p>	<p>Yes</p>

If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
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 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