

PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN PAPUA NEW GUINEA

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>The Public Private Partnership Act of 2014 (hereinafter “PPP Act”) was passed by the PNG Parliament on 21 October, 2014 but has not yet commenced operation. It follows on from the National Public Private Partnership Policy (hereinafter “PPP Policy”) which was enunciated by the Public Private Partnership Task Force in 2008. Upon commencement, the PPP Act will have several functions including: o confirmation that State Authorities have the statutory powers to enter into new procurement arrangements. These powers supplement the existing powers of State Authorities under relevant existing legislation. The PPP procurement process will cover all public infrastructure projects with a value of over K50 million; o provision for State Authorities to form companies and to enter into joint ventures for the purpose of a PPP, including giving State Authorities the legal capacity necessary to contract direct agreements with the private financiers of PPPs; o provision that the functions of a State Authority may be conferred under the PPP arrangement to the private sector, subject to the general control of the State Authority; o establishment of a PPP Centre, the PPP Steering Group and the PPP Forum, the responsibilities and powers of which are outlined in the PPP Act;o provision for reporting, accountability and transparency in implementing the PPP program and managing the PPP Centre; and o provision for the role of National Executive Council (NEC) as the sole decision-making body for approval of procurement of a project by way of a PPP arrangement. While the PPP Act contains specific provisions for the procedures for assessment and development of a PPP, the PPP Act does not contain any significant provisions on the procurement options available, nor details on the specific procurement process of a PPP. Provisions of the PPP Act indicate that the PPP Centre will issue guidelines and regulations on PPP processes. It should be pointed out, however, that the PPP Centre is yet to be established in Papua New Guinea. In the meantime, while public-private partnerships are not prohibited, there currently is no formal structure for the regulation of public-private partnerships in Papua New Guinea. Procurement for government projects occurs on an ad hoc basis through normal government processes, and depend in large measure on the policies and priorities of the government of the day.</p>
and provide a link to a government-supported website where the mentioned regulatory framework is available or provide	PPP Act: http://www.treasury.gov.pg/html/legislation/files/acts/2014/Public.Private.Partnership.(PPP).Act.2014.pdf PPP Policy: http://www.treasury.gov.pg/html/misc/Special%20Projects/PPP/PNG%20National%20PPP%20Policy%202014.pdf

an electronic copy of it:	
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:	A redrafting of the PPP legislation is planned by the Treasury Dept. Our contributor stated that they believe that a redraft of the PPP Act exists, but is not yet available publicly. Furthermore, a PPP Center is expected to be established.
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:	Extractives Sector, pursuant to schedule 3, section 5, points f and g of the PPP Act.
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 Papua New Guinea and provide their website(s) (if available):	Relevant Public Bodies (Line Agency, SOE)
6. In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?	Yes
If yes, please indicate its name, and its website (if available):	The Public Private Partnership Centre established under the Public Private Partnership Act. This has not yet been set up as it is awaiting the enacting of the Regulations.
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	No

communities on potential impact of PPP projects.	
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	Yes
6.11 please specify:	To manage and administer funds in connection with public private partnership arrangements on behalf of the State.
Please provide the relevant legal/regulatory provisions:	Part III of the PPP Act
PPP Preparation	
8. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
8.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before signing the PPP contract?	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	n/a

legal/regulatory provisions (if any):	
Accounting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Reporting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
8.3. If yes to question 8.2, which of the following alternatives best describes the regulation?: Accounting and reporting according to International Public Sector Accounting Standards (IPSAS).	n/a
Accounting and reporting according to other international standard (e.g. European System of Accounts).	n/a
Please specify:	n/a
Other.	n/a
Please specify:	n/a
9. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before launching the	Yes

procurement process (e.g. Cabinet, Cabinet Committee, Parliament, Supreme Audit Office, etc.)?	
If yes, please specify the relevant authority	The National Executive Council has the power to approve the PPP project where the Relevant Public Body is the State, Provincial or Local Government, or a State Owned Entity
and provide the relevant legal/regulatory provisions (if any):	Section 5 of the PPP Act
9.1. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before signing the PPP contract?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
10. Does the procuring authority use transaction advisors during the PPP project cycle?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
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,	No

<p>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>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p>	n/a
<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>	Yes
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	According to Section 4 of PPP Policy
<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>	No
<p>If yes, please elaborate:</p>	n/a

The procuring authority does not evaluate PPPs against existing government priorities.	No
Please elaborate and provide examples:	n/a
11.1. Based on your experience, is it always the case that this prioritization is done in practice in accordance with the provisions of the regulatory framework described above?	No
If yes, please specify:	No Data
If no, please elaborate:	No Data
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)	According to Section 8.1.4 of the PPP Policy, the analytical framework which should accompany the Concept Note, and which will form the basis for the review by the PPP Centre will include an economic analysis and a social cost benefit analysis.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No
Details:	n/a
12.2. Affordability assessment, including the identification of the	No

required long term public commitments (explicit and implicit, direct and contingent liabilities)	
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)	Yes
Relevant legal/regulatory provision (if any)	According to section 8.2.4 of the PPP Policy, an outline business case prepared for National Economic Council approval will include a Public Sector Comparator analysis, which is an assessment of the net cost of the PPP project to the country, including net cost to the Government of retained risks to determine whether PPP represents better value for money than public sector implementation. A risk management manual will be developed to guide this process during outline business case preparation and the final business case development at the later stage of procurement. Furthermore, section 8.1.4 of the PPP Policy states that a preliminary identification and notional allocation of risks will be a part of the concept note that is to be submitted to the PPP Center for review.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No
Details:	No Data
12.4. Comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives (i.e. value for money analysis, public sector comparator)	Yes

Relevant legal/regulatory provision (if any)	According to Section 8.1.4 of the PPP Policy, the analytical framework which should accompany the Concept Note, and which will form the basis for the review by the PPP Centre will include options for PPP Modalities, versus other modalities such as purely private provision .According to section 8.2.4 of the PPP Policy, an outline business case prepared for National Economic Council approval will include A Public Sector Comparator analysis, which is an assessment of the net cost of the PPP project to the country, including net cost to the Government of retained risks to determine whether PPP represents better value for money than public sector implementation
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No
Details:	No Data
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?	No
Details:	No Data
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)	According to section 8.2.4 of the PPP Policy, an outline business case prepared for National Economic Council approval will include an analysis on the strength of the private sector appetite for the project.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No
Details:	No Data

12.7. Environmental impact 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?	No
Details:	No Data
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	n/a

and/or tender documents:	
13.1. Are the assessments published online?	n/a
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):	Point 9.2.4 of the PPP Policy states that all bidding documents should contain an Information Memorandum, or its equivalent in the Request for Proposal (RFP), as well as full drafts of all of the Project Agreements. Aside from the evaluation criteria to be used in determining the First Ranked Bidder, the documents should allow the private proponent to understand the project background, output specifications, proposed risk allocation, any constraints or a requirement arising from the legal or regulatory environment, as well as the expected support that Government is willing to assume.
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?	No
If yes, please specify and provide a government-supported website where the	n/a

mentioned standards are available or provide an electronic copy of them:	
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	No

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.	
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:	<p>A PPP Steering group is established under Section 41 of the PPP Act 2014 and is made up of the Secretary for Treasury, the Secretary of the National Planning and the State Solicitor. The PPP Steering Group is made up of persons nominated to various pre-defined positions. The PPP Center is meant to act as the secretariat for the PPP Steering group and is to analyze and comment on all submissions to the PPP steering group and provide secretarial services to the PPP steering group. It is, however, unclear whether this group is also responsible for evaluating the bids.</p>
19. Does the procuring authority issue a public procurement notice of the PPP project?	No
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	n/a
19.1. If yes, is the public procurement	n/a

notice published online?	
If yes, please specify the website:	n/a
20. Are foreign companies prohibited from participating in the bidding process?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
21. In a case comparable to the case study assumptions, does the procuring authority grant the potential bidders a minimum period of time to submit their bids?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and the time in calendar days:	n/a
22.1. In a case comparable to the case study assumptions, which are the procurement procedures available and/or set as default for PPP projects?	No
Open tendering:	
Available	
Default	n/a
Relevant legal/regulatory provision (if any)	n/a
22.2. Restricted tendering (with pre-qualification stage):	No
Available	
Default	Yes
Relevant legal/regulatory provision (if any)	Pursuant to Sections 9.1 and 9.2 of the PPP Policy:

22.3 Multi-stage tendering (with shortlisting of final candidate(s)): Available	No
Default	n/a
Relevant legal/regulatory provision (if any)	n/a
22.4. Competitive dialogue: Available	No
Default	n/a
Relevant legal/regulatory provision (if any)	n/a
22.5. Direct negotiation with more than one candidate: Available	No
Default	n/a
Relevant legal/regulatory provision (if any)	n/a
22.6. Direct negotiation with only one candidate: Available	No
Default	n/a
Relevant legal/regulatory provision (if any)	n/a
22.7 Other. Specify:	No
Available	n/a
Default	n/a
Relevant legal/regulatory provision (if any)	n/a
22.8. Do the tender documents detail the procedure of the procurement process providing the same information to all the bidders?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
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?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
22.10. Based on your experience, is it always the case that the specified criteria are respected in practice?	n/a
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
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?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
23.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose those questions and clarifications to all potential bidders?	No
If yes, please provide the relevant	n/a

legal/regulatory provisions (if any):	
23.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	n/a
If yes, please specify:	n/a
If no, please elaborate:	n/a
24. Besides questions and clarifications, can the procuring authority conduct pre-bidding conference?	No
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
24.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose the content and the results of the pre-bid conference to all bidders?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
24.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	n/a
If yes, please specify:	n/a
If no, please elaborate:	n/a
25. In a case comparable to the case study assumptions, does the procuring authority require the	No

bidders to prepare and present a financial model with their proposals?	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
If no, please elaborate:	No provisions in the law
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):	<p>9.2.2: The PPP Centre and the Project Committee will actively participate together with the Line Agency in developing the bidding documents. Once prepared, the bidding documents should provide comprehensive project information to allow the short-listed private proponents to fully understand the service requirements, develop a complete project proposal and commit to enter into a binding contract to implement and operate the project.</p> <p>9.2.3 If the proposals received from short-listed bidders are non-complying, the PPP Centre can recommend to NEC that the project be withdrawn. Alternatively, the bidders may be requested to resubmit their bids. If the bids received in complying proposals suggest costs to the Government that are in excess of the costs assumed at the initial appraisal stage, the project will be reassessed to ensure that the principal of value for money is achieved and that it is affordable in the context of the Government's fiscal and debt strategies.</p>
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	No

one proposal is submitted.	
Please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority considers sole proposals valid as long as they meet the conditions outlined in the tender documents.	No
Please provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority does not award a PPP contract if only one proposal is submitted.	No
Please provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework does not include any provisions.	Yes
28. Does the procuring authority publish the award notice?	No
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	n/a
28.1. If yes, is the public procurement award notice published online?	n/a
If yes, please specify the website:	n/a
29. Does the procuring authority provide all the bidders with the result of the PPP	No

procurement process?	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
If no, please elaborate:	There is no regulatory provision establishing this requirement
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	No

unfair disadvantage to the other bidders?	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
31.1. Based on your experience, is it always the case that this restriction is respected in practice?	n/a
If yes, please specify:	n/a
If no, please elaborate:	n/a
32. Does the procuring authority publish the PPP contract?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
32.1. If yes, which of the following options best describes this publication (choose only one)?: Publication of the full PPP contract including all its annexes and appendixes	n/a
Publication of the full PPP contract without including all its annexes and appendixes	n/a
Publication of a summary of the PPP contract without publishing the full PPP contract	n/a
Publication of a summary of the PPP contract along with the full PPP contract including all its annexes and appendixes	n/a
Publication of a summary of the PPP	n/a

contract along with the full PPP contract without including all its annexes and appendixes	
32.2. If yes, is it published online?	n/a
If yes, please specify the website:	n/a
32.3. If yes, does the procuring authority also publish any subsequent amendment made to the PPP contract?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
PPP Contract Management	
41. Has the procuring or contract management authority established a system to manage the implementation of the PPP contract (e.g. attributing responsibilities or establishing specific management tools)?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
41.1. If yes, which of the following tools does it include (check all that apply)? Establishment of a PPP contract management team	No
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	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.)	No
Relevant legal/regulatory provisions (if any):	n/a
41.2. Which of the following options best describes the required qualifications of the PPP contract management team members? (Please select only one): The membership of the PPP contract management team is specified and/or its members are required to meet detailed qualifications.	No
If yes, please specify and provide the	n/a

relevant legal/regulatory provisions (if any):	
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 PPP works under a PPP contract?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
42.1. If yes, is the PPP contract construction performance information made available to the public?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
42.2. If yes, is the PPP contract construction performance information made	n/a

publicly available online?	
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?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
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	n/a
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	n/a
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	n/a
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	n/a
Relevant legal/regulatory provisions (if any)	n/a
The PPP contract performance information must be available to the public	n/a
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?	No
If yes, please provide the relevant	n/a

legal/regulatory/standard contractual provisions (if any):	
45.1. If yes, which of the following circumstances are specifically regulated? (check all that apply): Any change in the private partner during an initial period (e.g. construction and first five years of operation).	<p>No</p>
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>n/a</p>
Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.	<p>No</p>
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>n/a</p>
In other cases, flexibility to change the ownership structure and/or assign the contract.	<p>No</p>
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>n/a</p>
46. Does the regulatory framework (including standard contractual clauses) expressly regulate the modification or renegotiation of the	<p>No</p>

PPP contract (once the contract is signed)?	
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?	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
47. Does the regulatory framework (including standard contractual clauses) expressly regulate the following circumstances that may occur during the life of the PPP contract? (check all that apply): Force Majeure	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Material Adverse government action .	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Change in the Law.	No
If yes, please provide the relevant	n/a

legal/regulatory/standard contractual provisions (if any):	
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?	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
48.1. If yes, please specify which of the following options are available (check all that apply): Local administrative review body	n/a
If yes, please specify:	n/a
Local courts	n/a
Domestic arbitration	n/a
International arbitration	n/a
Investor-State Dispute Settlement (ISDS)	n/a

Mediation	n/a
Please provide the relevant legal/regulatory/standard contractual provisions (if any)	n/a
48.2. If applicable, are arbitration awards enforceable by the local courts?: Domestic Arbitration	n/a
If yes, please provide the relevant legal/regulatory provisions/standard contractual provisions (if any):	n/a
International arbitration	n/a
If yes, please provide the relevant legal/regulatory provisions/standard contractual provisions (if any):	n/a
Investor-State arbitration	n/a
If yes, please provide the relevant legal/regulatory provisions/standard contractual provisions (if any):	n/a
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	No

<p>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?</p>	
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	n/a
<p>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.</p>	n/a
<p>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	n/a
<p>The regulatory framework prescribes that a direct agreement should be signed with the lenders.</p>	n/a
<p>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	n/a
<p>The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.</p>	n/a
<p>If yes, please specify and provide the</p>	n/a

relevant legal/regulatory/standard contractual provisions (if any):	
Other.	n/a
Please Specify:	n/a
51. Does the regulatory framework (including standard contractual clauses) expressly establish the grounds for termination of a PPP contract?	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
51.1. If yes, does the regulatory framework (including standard contractual clauses) establish the consequences for the termination of the PPP contract?	n/a
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Unsolicited Proposals	
34. Are unsolicited proposals in Papua New Guinea: (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	No

do not happen in practice? (if not done in practice, skip to section F)	
If the legal framework explicitly prohibits or allows unsolicited proposals, please provide the relevant legal/regulatory provisions	According to section 13.1 of the PPP Policy, the PPP Policy envisages that it will consider unsolicited proposals from the private sector for infrastructure projects that are NOT in the project list of any Line Agencies and/or SOEs - i.e. the unsolicited project has attributes that justify its inclusion in this category, and has not already been considered by the Government, Line Agencies and/or the SOEs
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)	According to section 13.1 of the PPP Policy, the PPP Policy envisages that it will consider unsolicited proposals from the private sector for infrastructure projects that are NOT in the project list of any Line Agencies and/or SOEs - i.e. the unsolicited project has attributes that justify its inclusion in this category, and has not already been considered by the Government, Line Agencies and/or the SOEs
35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
36. Which of the following options best describe how the procuring authority ensures that unsolicited proposals are consistent with existing government priorities? (Please select only one): The procuring authority follows a specific procedure to ensure the consistency of PPPs with other	No

government investment priorities.	
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:	There does not currently exist an explicit requirement to evaluate unsolicited proposals against existing 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):	According to section 13.2 of the PPP Policy, the process for consideration of an unsolicited bid will be defined in due course. However, in principle, the proponents of an unsolicited project will be given an opportunity to develop a business case at their own costs on the understanding that the technical sections of their business case will be used for a competitive bidding process should the project be deemed a priority. The PPP Law, to be developed in due course will specify in detail the preferential treatment that may be afforded to unsolicited bidders for having spent their own resources to develop a feasibility study or business case for such projects.
38. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to	No

prepare their proposals?	
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 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