

PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN PERU

SURVEY QUESTION	ANALYSIS
PPP Regulatory Framework	
2. Does the regulatory framework in your country allow procuring PPPs?	Yes
If yes, please specify the relevant regulatory framework and the year of adoption:	The Peruvian PPPs regulatory framework is mainly composed by the Legislative Decree 1224 (“PPP Law”), published on September 25, 2015, and recently modified by the Legislative Decree 1251, published on November 30, 2016, and its regulation, Supreme Decree 410-2015-EF (“PPP Regulations”), published on December 27, 2015, as well recently modified by the Supreme Decree 068-2017-EF, published on March 28, 2017.
and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:	https://www.mef.gob.pe/es/asociaciones-publico-privadas/normativa
2.1. Are you aware of any reforms (in the regulatory frameworks – laws, regulations, policies, etc.- or in generally followed practices) related to PPPs that: Took place in 2016, are ongoing and/or are planned to be adopted BEFORE June 1, 2017?	Yes
Please describe:	<p>On 2016, new legislation regarding the PPP regulatory framework was adopted. Among the new legislation, it is important to notice the following:</p> <ul style="list-style-type: none"> - Legislative Decree N° 1251, published on November 30th, 2016: Legislative Decree that modifies certain aspects of Legislative Decree N° 1224 (PPP Law). - Supreme Decree N° 068-2017-EF, published on March 28th, 2017: Supreme Decree that modifies Supreme Decree N° 410-2015-EF, which approves the Regulations of Legislative Decree N° 1224 (PPP Regulations). - Legislative Decree N° 1252, published on December 1st, 2016 and its regulations: Legislative Decree which creates the National System for the Multiannual Programming and Management of Investments (Sistema Nacional de Programación Multianual y Gestión de Inversiones como sistema administrativo del Estado in Spanish). Such law repealed Law N° 27293 - Law on the Public Investment National System (SNIP). - Supreme Decree N° 077-2016-EF published on April 11th, 2016: Supreme Decree

	which approves the National Policy for the Promotion of PPP Investments and Projects in Assets.
2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?	Yes
Please describe:	Different technical guidelines, including one for the elaboration of a standard PPP contract, and a National Infrastructure Plan, are planned to be adopted in the future
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	No

restrict PPPs in any of the following sectors?: Telecom	
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.)?	Yes
If yes, please specify and provide the relevant legal/regulatory provision (if any):	Companies carrying out PPP projects can benefit from certain specific tax regimes, provided that all requirements are met. This includes, among others, the possibility of: (i) entering into a legal stability agreement with Peru, which assures the private party the stability of the Peruvian legal tax framework in force at the time of the agreement, particularly regarding the Income Tax, and (ii) benefiting from a special regime for the early recuperation of the sales tax. (Legislative Decree 662, 757, Supreme Decree No. 059-96-PCM (article 19) and Legislative Decree 973).
5. Please identify the PPP procuring authorities in Peru and provide their website(s) (if available):	According to the PPP Law the procuring authorities are: (i) Private Investment Promotion Agency (Proinversion) (http://www.proinversion.gob.pe) for multifaceted state projects of national relevance, private or state projects developed on nationwide assets, self-financed nationwide private initiatives, co-financed private initiatives; (ii) the Special Investment Committee (Comité de Inversión) of each Ministry for projects which are not in charge of Proinversion, and (iii) Committees in local and regional governments in case of regional or local projects. Since the PPP framework does not apply to the financial public sector entities such as the Central Reserve Bank of Peru (Banco Central de Reserva del Perú), and the National Bank (Banco de la Nación), among others and thus these entities cannot procure PPPs.
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):	Proinversion (www.proinversion.gob.pe). Besides, the Ministry of Economy and Finance (www.mef.gob.pe), through the Directorate-General of Private Investment Policy and Promotion (Dirección General de Política de Promoción de la Inversión Privada), acts as the control unit.
6.1 If yes, what are the main responsibilities of the PPP Unit (check all that apply): PPP regulation and policy guidance.	Yes
6.2 PPP capacity building for other public authorities.	Yes
6.3 PPP promotion among the public and/or private sectors in national and international forums.	Yes
6.4 Technical support in implementing PPP projects.	Yes
6.5 Identification and selection of PPP projects from the pipeline.	Yes
6.6 Revision of fiscal risks born by the Government.	No
6.7 Consultation with affected communities on potential impact of PPP projects.	No
6.8 Approval of PPP projects.	Yes
6.9 Undertaking the procurement of PPPs.	Yes
6.10 Oversight of PPP implementation.	No
6.11 Other	No
6.11 please specify:	n/a
Please provide the relevant legal/regulatory provisions:	Articles 4.b), 14.1, 15.4, 16, 17.4, 18, 19, 20, 23, 45, 46, 48, 51, 55-A, 83 of the PPP Regulations.
PPP Preparation	
8. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	The regulatory framework in Peru (Legislative Decree 1224 and Supreme Decree 410-2015-EF) provides for the MEF to: (i) issue favorable opinion to the Evaluation Report (similar to a Business Case) for the project to be incorporated into the

	private investment promotion process; (ii) issue a favorable opinion to the PPP contract before entering the transaction phase; (iii) issue a favorable opinion to the final version of the PPP contract (i.e. before contract award) regarding fiscal responsibility and budget capacity, over the amount of the maximum co-financing to be granted in the contract. Without a favorable opinion of the MEF, any subsequent act issued within the private investment promotion process, including the contract award, will be void. Under the reformed PPP Law and its Regulations, the MEF must approve the evaluation report and the respective PPP agreement for any kind of project, not only for those that require the issuance of public guarantees (Article 16 of the PPP Law and 17 of the PPP Regulations)
8.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before signing the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 16.1.C. of PPP Law and article 21 of the PPP Regulations require the approval the Ministry of Economy and Finance to the final draft of the contract before its signature.
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.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Articles 27 of PPP Law determines the way to classify accounting liabilities from a PPP project (Determined commitments and potential commitments). Further, article 29 establishes limits in the accounting liabilities that could arise from a PPP project. Ministerial Resolution No. 048-2015-EF-52 provides guidance for the quantification of determined commitments and potential commitments derived from PPP contracts.
Reporting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to the reporting system for liabilities arising from PPPs, Public Entities have the obligation to register and actualize the direct and contingent commitments that arise from PPP. The reporting system is regulated articles 28 and 29 of the PPP regulations and the “Annex C” of the Ministerial Resolution N° 048-2015-EF/02
8.3. If yes to question 8.2, which of the following alternatives	Yes

best describes the regulation?: Accounting and reporting according to International Public Sector Accounting Standards (IPSAS).	
Accounting and reporting according to other international standard (e.g. European System of Accounts).	No
Please specify:	Resolution 011-2013-EF/51.01, which makes official all the IPSAS in Peru, including IPSAS 32 [Oficializan las Normas Internacionales de Contabilidad para el Sector Público - NICSP, emitidas por el Consejo de Normas Internacionales de Contabilidad del Sector Público de la Federación Internacional de Contadores (IFAC)] and Resolution 006-2014-EF/51.01, Methodology for recognition and measurement of concession contracts in procuring authority. [Metodología para el reconocimiento y medición de contratos de concesión en las entidades gubernamentales concedentes]
Other.	No
Please specify:	n/a
9. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before launching the procurement process (e.g. Cabinet, Cabinet Committee, Parliament, Supreme Audit Office, etc.)?	Yes
If yes, please specify the relevant authority	Another authority that has to issue non-binding technical opinions to the draft of the PPP contract are the regulatory entities of the corresponding sector such as OSITRAN (Supervisory Organism of Investment in Public Transportation Infrastructure), OSINERGMIN (Supervisory Organism of Investment in Energy and Mines), SUNASS (National Superintendence of Sanitation Services) and OSIPTEL (Supervisory Agency of Private Investment in Telecommunications). The scope of the regulatory entities' opinion is related the matters of their competency. When Proinversion acts as the OPIP (procuring authority) of the procurement process, the approval of the competent authority or authorities of the relevant sector is also needed.
and provide the relevant legal/regulatory provisions (if any):	Article 16.4.b) of the PPP Law states that Proinversion needs to get technical binding opinions regarding the draft PPP contract from (a) the Ministry of Economy and Finance, and (b) the Ministry or local government in charge of the PPP's corresponding sector . Proinversion also needs to get a technical non-binding opinion from the regulatory entities of the corresponding sector.

<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>Both the regulatory bodies and the National Audit Office (Contraloría General de la República) issue a previous opinion to the final version of the PPP contract before the award (article 16 of the PPP Law)</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>Article 13 of the PPP Regulations allows the preparation of studies and consultancy by the private sector, provided that they do not provide their services to potential participants and / or bidders of the PPP process. Further regulation is detailed in articles 4.3.b); 9.3; 43.5; 43.6 and 82.b) of PPP Law Regulations as well as Proinversión Agreement 267-01-2009 on the Procurement of goods and services (...)</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>Yes</p>

If yes, please specify and provide the relevant legal/regulatory provisions (if any):	<p>The PPP Law sets forth that the Ministry of Economic and Finance approves the Infrastructure National Plan based on the Investment Multiannual Plans prepared by the Ministries and local governments. Such Plan prioritize the investment projects. Article 14 and 14A of the PPP Law regulates the PPP planning and formulation stage. The planning phase is comprised of the planning of projects and commitments, also including the use of PPPs when needed. All these projects are reflected in the Multiannual Investment Report. Article 14 of the PPP Regulations establishes that this report is created by different Ministries to identify potential PPP projects with the goal of being incorporated to the promotion process of private investment in the next 3 years. In the formulation stage, In the case of co-financed PPPs, the formulation of the PPP has two components; the project of Public Investment, which is regulated by the National Public Investment System (now substituted by INVIERTE.PE) and the Evaluation Report, regulated National Private Investment Promotion System. In the case of self-financed PPPs, the formulation is regulated by the National Private Investment Promotion System.</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>No</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>n/a</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</p>
The procuring authority does not evaluate PPPs against existing government priorities.	<p>No</p>
Please elaborate and provide examples:	<p>n/a</p>
11.1. Based on your experience, is it always the case that this prioritization is done in practice in accordance with the provisions of the regulatory	<p>Yes</p>

framework described above?	
If yes, please specify:	According to our contributors, prioritization of projects is carried out in accordance with the multi-year programming developed by each government sector and as contemplated by the regulatory framework to a certain state. However, it is important to notice that the regulatory framework has changed significantly in the last years and, for example, Legislative Decree 1252, which creates the National System of Multiannual Programming and Investment Management, was only recently enacted and is thus currently being implemented. Also, political considerations do still play a key role in determining the level of governmental support that each project effectively receives.
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 16.2 of the PPP Regulations. PPP Projects classified as co-financed must satisfy all the requirements of the National Multi-annual Programming and Investment Management System (INVIERTE.PE), which is an administrative system of the State that through a set of principles, procedures and technical standards certifies the quality of Public Investment Projects. Aiming for Efficiency, Sustainability and Greater Impact socio/economic. The cycle of the Investment Project is divided in four phases: Multi-annual Programming, Formulation and Evaluation, Implementation, and Operation. In the second phase the entity shall undertake the evaluation of the project in order to determine its pertinence, social profitability and sustainability. All projects classified as co-financed require satisfy all the requirements of the INVIERTE.PE. This system substituted the previously in place Public Investment National System (SNIP). For self-financed projects: Directorial Resolution 005-2016-EF/68.01 on the guidance for the development of the creation and structuring in PPP projects.
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	The “Guidelines for the identification, formulation, and social evaluation of public investment projects” approved by Resolution 003-2011-EF/68.01 have been replaced by the “General Guidelines for the identification, formulation, and social evaluation of public investment projects – Profile stage” approved by Resolution N° 001-2015-EF-63.01. The aforementioned guidelines were approved as part of the regulations of the National System of Public Investment (SNIP). However, the SNIP has been replaced the INVIERTE.PE created by Legislative Decree 1252.

	Under the INVIERTE.PE, the identification, formulation, and social evaluation of public investment projects are regulated by: (i) Directive N° 001-2017-EF/63.01 approved by Resolution N° 001-2017-EF/63.01, and (ii) Directive N° 002-2017-EF/63.01 approved by Resolution N° 002-2017-EF/63.01. In any case, according to the Third Complementary Transitory of the Legislative Decree N° 1252, the guidelines approved by Resolution N° 001-2015-EF-63.01 would still be applicable only to the projects which formulation started before the SNIP was replaced by the INVIERTE.PE.
Is the assessment done in practice?	Yes
Details:	All contributors answering the question did so positively, but since the new national investment system was only recently enacted it is on the process of full implementation
12.2. Affordability assessment, including the identification of the required long term public commitments (explicit and implicit, direct and contingent liabilities)	Yes
Relevant legal/regulatory provision (if any)	The Evaluation Report required by Article 16.2 of the PPP Regulation to incorporate a project to the PPP promotion process must include: “ (...) l) analysis of the budgetary capacity of the commitments to be assumed by the corresponding public entity (...)”; and “m) in the case of co-financed projects, the declaration of viability and an annual projection of co-financing and revenue.
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Ministerial Resolution No. 048-2015-EF that regulates the assessment of public commitments resulting from PPPs. (https://www.mef.gob.pe/contenidos/inv_privada/normas/RM048_2015EF_52.pdf)
Is the assessment done in practice?	Yes
Details:	All contributors answering the question did so positively, but since the new PPP law was only recently enacted point out that the evaluation report referred above has not been uses for many projects yet
12.3. Risk identification, allocation and assessment (risk matrix)	Yes
Relevant legal/regulatory provision (if any)	Article 16.2 of the PPP Regulations requires the Evaluation Report to incorporate a project to the PPP promotion process to include: “(...) i) preliminary identification and allocation of the risks”.
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Ministerial Resolution No. 167-2016-EF/15 on the guidelines for the allocation of risks in PPP contracts. (https://www.mef.gob.pe/contenidos/inv_privada/normas/anexo_RM167_2016_E)

	F15.pdf). Complementary provisions were also adopted by Directive N° 004-2012-Proinversion
Is the assessment done in practice?	Yes
Details:	All contributors answering this question answer it positively
12.4. Comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives (i.e. value for money analysis, public sector comparator)	Yes
Relevant legal/regulatory provision (if any)	The Evaluation Report required by Article 16.2 of the PPP Regulations to incorporate a project to the PPP promotion process must include for self-sustainable projects: (...) advantages of developing the project through a PPP”; and for co-financed projects “(...) comparative analysis evaluation. Also, article 17.3 of the PPP Regulations establishes eligibility criteria (a qualitative tool) to assess whether a PPP is the best option compared to traditional public procurement.
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Directorial Resolution 004-2016-EF/68.01, which approves the Guideline for the application of eligibility criteria for PPP projects (https://www.mef.gob.pe/contenidos/archivos-descarga/Lineamientos_Formulacion_Estructuracion_APP.pdf)
Is the assessment done in practice?	Yes
Details:	Most contributors answering to this question answered positively but also expressed the view that experience is limited given the relatively recent approval of the new methodologies.
12.5. Financial viability or bankability assessment	Yes
Relevant legal/regulatory provision (if any)	Article 16.2 of the PPP Regulations requires Evaluation Reports to include: “(...) h) preliminary economic and financial evaluation as a PPP”
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Directorial Resolution 005-2016-EF/68.01, which approves the Guidelines for the development of the formulation and structuring phases of PPP projects. (https://www.mef.gob.pe/contenidos/archivos-descarga/Lineamientos_Formulacion_Estructuracion_APP.pdf)
Is the assessment done in practice?	Yes
Details:	Most contributors answering to this question answered positively but also expressed the view that experience is limited given the relatively recent approval of the new methodologies.
12.6. Market sounding and/or assessment	Yes

(showing evidence of investors' interest in the market for the project)	
Relevant legal/regulatory provision (if any)	Article 19.1 of the PPP Regulations establishes that the Private Investment Promoting Organism (such as PROINVERSION) will assess the interest of potential bidders and financial institutions in the project (i.e. market sounding).
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Directorial Resolution 005-2016-EF/68.01, which approves the Guidelines for the development of the formulation and structuring phases of PPP projects (see: Anexo A, Subsección N 3.5: Strategy for the financial structuring of the project).
Is the assessment done in practice?	No
Details:	Because Legislative Decree 1224 was recently enacted, there is limited experience with the application of these guidelines.
12.7. Environmental impact assessment	Yes
Relevant legal/regulatory provision (if any)	The Evaluation Report required by Article 16.2 of the PPP Regulation to incorporate a project to the PPP promotion process must include: "(...) n) Description and evaluation of the relevant environmental aspects (...) for the development of the project, identifying possible problems that can delay it". However, the environmental impact assessment has not been expressly regulated.
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	The Evaluation Report must include the description and assessment of environmental aspects of the project. SENACE (https://www.senace.gob.pe/) is the government entity in charge of reviewing and approving detailed environmental impact assessments (EIA) for large investment projects, including PPP.
Is the assessment done in practice?	Yes
Details:	Contributors confirm that environmental assessments for PPPs are mandatory and they are conducted in practice before the execution of the project. SENACE has already experience approving EIA for mining and energy projects, as well as PPP.
12.8. Consultation process with affected communities on potential impact of the PPP project	Yes
Relevant legal/regulatory provision (if any)	Regulatory provisions to conduct consultation with affected communities are stated in Prior Consultation Law (approved by Law N° 29785) and its regulations (approved by Supreme Decree N° 001-2012-MC) when the project affects indigenous communities' lands. In the rest of cases, the consultation of affected communities will be implemented as part of the environmental assessments that are develop according sectorial regulations.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a

Is the assessment done in practice?	Yes
Details:	According to contributors, in the aforementioned, the consultation happens in practice, but there is not specific regulations related to include such consultation in the PPP Evaluation Report. However, according to current law, when the project affects indigenous communities, the project will not be approved until prior consultation is applied
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):	According to article 20 of the PPP Regulations, the request for proposals (“convocatoria”) must include the tender rules (“Bases”) and a draft PPP contract (“proyecto de contrato”). The “convocatoria” must be published online and in the Official Gazette and two major newspapers for two consecutive days, including the link to the online version.
If no, please elaborate	n/a
14.1. Are the tender documents published online?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 20.3 states that when the launching of the procurement process occurs, it has to be published online at Proinversión’s webpage. Further, it has to be

	published in the official gazette and in two national newspapers which must include the link from Proinversion webpage where the tender documents and PPP Draft Contract can be found.
and please specify the website:	http://www.proyectosapp.pe/
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)	PPP law implies that the private partner is the one required to get the necessary urban permits. For example, fourth final complimentary disposition of PPP law states that public entities have to give priority to PPP projects in the process of obtaining the required permits for the project. Further, the seventh Final Complementary Disposition of the PPP Law sets forth that the public administration is obliged to avoid passing resolutions that could create barriers to get the necessary permits for PPP projects. Similarly, Ministerial Resolution 167-2016-EF/15 establishes that, in general, the obtaining of relevant permits is part of the responsibilities and risks assumed by the private party.
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)	PPP law implies that the private partner is the one required to get the necessary urban permits. For example, fourth final complimentary disposition of PPP law states that public entities have to give priority to PPP projects in the process of obtaining the required permits for the project. Further, the seventh Final Complementary Disposition of the PPP Law sets forth that the public administration is obliged to avoid passing resolutions that could create barriers to get the necessary permits for PPP projects. Similarly, Ministerial Resolution 167-2016-EF/15 establishes that, in general, the obtaining of relevant permits is part of the responsibilities and risks assumed by the private party. Also, more in general and according to Law 27446 the environmental permit shall be obtained by the party carrying out the project (the private party in the case of a PPP).
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)	PPP law implies that the private partner is the one required to get the necessary urban permits. For example, fourth final complimentary disposition of PPP law states that public entities have to give priority to PPP projects in the process of obtaining the required permits for the project. Further, the seventh Final Complementary Disposition of the PPP Law sets forth that the public administration is obliged to avoid passing resolutions that could create barriers to get the necessary permits for PPP projects. Similarly, Ministerial Resolution 167-2016-EF/15 establishes that, in general, the obtaining of relevant permits is part of the responsibilities and risks assumed by the private party. Also, more in general and according to Law 27446 the environmental permit shall be obtained by the party carrying out the project (the private party in the case of a PPP).
16.4. Obtaining the required land: Procuring authority (or other Government entity)	Yes
Private Partner	No
Private partner with facilitation role assigned	No

to the procuring authority (or other Government entity)	
To be established in the contract	No
Relevant legal/regulatory provision (if any)	Article 14.3 of PPP law states that the public partner is in charge to obtain the necessary areas for project. Ministerial Resolution 167-2016-EF/15 establishing the guidelines for the allocation of risk among the parties of a PPP contract establishes that the risk of obtaining the land should be generally assigned to the public partner.
16.5. Obtaining the required right of way: Procuring authority (or other Government entity)	Yes
Private Partner	No
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 14.3 of PPP law states that the public partner is in charge to obtain the necessary areas for project. Ministerial Resolution 167-2016-EF/15 establishing the guidelines for the allocation of risk among the parties of a PPP contract establishes that the risk of obtaining the land should be generally assigned to the public partner.
PPP Procurement	
18. Which of the following options best describes the required qualifications of the bid evaluation committee members? (Please select only one): The membership of the bid evaluation committee is specified and/or its members are required to meet detailed qualifications.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The bid evaluation committee members require sufficient qualification without specific details.	No

If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The bid evaluation committee members are not required to have any specific qualifications.	Yes
Please elaborate and provide examples:	Articles 4 and 8 of the PPP Law foresee the establishment of Special Committees to support the activities of the relevant Promoting Organism of private Investment (OPIP) when granting PPPs. However, the membership of this committee is not established by the regulatory framework. Contributors indicated that there are no detailed rules regarding specific qualification of committee members. In Proinversion, the equivalent to the bid evaluation committee would be the Investments Special Committees (“Comités Especiales de Inversiones”). According to article 38 of the PPP Law, these committees are named by the “Consejo Directivo” in the case of PROINVERSION. While this provision does not include any specific requirement in terms of qualifications, in practice, Proinversion appoints members considering their financial, technical and legal capabilities.
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):	According to article 20 of the PPP Regulations, the request for proposals (“convocatoria”) must be published online and in the Official Gazette and two major newspapers for two consecutive days, including the link to the online version.
19.1. If yes, is the public procurement notice published online?	Yes
If yes, please specify the website:	http://www.proyectosapp.pe/default.aspx
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):	No regulatory basis
and the time in calendar days:	n/a

22.1. In a case comparable to the case study assumptions, which are the procurement procedures available and/or set as default for PPP projects? Open tendering: Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	Article 14 defines the different phases of the PPP project cycle. Article 14.1.d. especially determines that in the “Transaction” phase, Proinversion will determine the mechanism applicable for procurement, which can be public tendering, comprehensive project bid, and other types of competitive mechanisms.
22.2. Restricted tendering (with pre-qualification stage): Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	Articles 23.2, 46.1.b and 51.4 of PPP regulations expressly introduce the possibility to include a prequalification stage in PPP selection processes
22.3 Multi-stage tendering (with shortlisting of final candidate(s)): Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.4. Competitive dialogue: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.5. Direct negotiation with more than one candidate: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.6. Direct negotiation with only one candidate: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.7 Other. Specify:	No
Available	n/a
Default	n/a

Relevant legal/regulatory provision (if any)	n/a
22.8. Do the tender documents detail the procedure of the procurement process providing the same information to all the bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 20 of PPP regulations sets forth that tender documents must contain the procedure of the procurement process, and article 20-A establishes that the tender documents, the drafts of the contract and the answers to consultations has to be published, so the bidders will receive the same information.
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 20 of the PPP Regulations states that the tender documents must at least contain (a) the applicable criteria for the selection process, (b) time for the presentation of questions and comments about the project, (c) the mechanism to evaluate bids, (d) the technical and financial requirements that bidders must fulfill, (e) the procedure to challenge the adjudication awards. Article 23.2 of the PPP Regulations expressly states the obligation 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):	All contributors answered positively
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 20.1.b. of the Supreme Decree 410-2015-EF establishes that the tender rules must include a time for bidders to submit questions and comments to the draft contract.
23.1. If yes, notwithstanding	Yes

confidential information pertaining to the bidders, does the procuring authority disclose those questions and clarifications to all potential bidders?	
If yes, please provide the relevant legal/regulatory provisions (if any):	According to article 20-A of Supreme Decree 410-2015-EF, comments and questions are published by the Organism for Private Investment Promotion. In this sense, Proinversion issues and publish online “circulares” where it clarifies the questions submitted by bidders.
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:	Most contributors answered positively. The “circulares” are posted on PROINVERSION’s website.
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	Yes

require the bidders to prepare and present a financial model with their proposals?	
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 22.2 of the PPP Regulations establishes that the winner of the bidding process will have to present a financial model before signing the contract.
If no, please elaborate:	n/a
26. Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Article 23.1 of the PPP Regulations the most favorable bid for the government will be selected and the selection criteria is established in the tender rules.
Evaluation criteria is not set in the tender documents	No
27. In the case where only one proposal is submitted (sole proposals), which of the following options best describes the way the procuring authority deals with them? (Please select only one)?: The procuring authority follows a specific procedure before awarding a PPP contract where only one proposal is submitted.	No
Please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority considers sole proposals valid as long as they meet the conditions outlined in the tender documents.	No
Please provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority does not award a PPP	No

contract if only one proposal is submitted.	
Please provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework does not include any provisions.	Yes
28. Does the procuring authority publish the award notice?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	No regulatory basis
28.1. If yes, is the public procurement award notice published online?	Yes
If yes, please specify the website:	http://www.proyectosapp.pe/default.aspx
29. Does the procuring authority provide all the bidders with the result of the PPP procurement process?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Article 22.1 of the PPP Regulations the awarding is announced in a public event in presence of a Public Notary.
If no, please elaborate:	n/a
29.1. If yes, does the notification of the result of the PPP procurement process include the grounds for the selection of the winning bid?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
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?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
31. Does the regulatory framework restrict negotiations with the selected bidder between the award and the signature of the PPP contract in order to prevent an unfair disadvantage to the other bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	The regulatory framework does not expressly include any restrictions to negotiate with the selected bidder between the award and the signature of the PPP contract. However, entering into additional negotiations with the selected bidders and, hence, affecting the interests of the other bidders would contravene: (i) the competition principle, which states that the processes for the promotion of private investment foster competition, equal treatment among bidders and avoid anti-competitive or collusive behavior (article 4 of Legislative Decree 1224).
31.1. Based on your experience, is it always the case that this restriction is respected in practice?	Yes
If yes, please specify:	According to our contributors such restrictions are usually respected in practice. The issue with renegotiations usually becomes prevalent after the signature of the contract
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):	The signed version of the PPP contract is available on the PPP public Registry which is managed by the Ministry of Economy and Finance (please note that this registry is in implementation stage) and in the website of the procuring authority (this is available in practice (Article 82 of the PPP Regulations)
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	No

including all its annexes and appendixes	
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:	http://www.proyectosapp.pe/default.aspx
32.3. If yes, does the procuring authority also publish any subsequent amendment made to the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 82 of the PPP Regulations: Besides the signed PPP contract, the National Registry of PPP Contracts also contains the contract modifications.
PPP Contract Management	
41. Has the procuring or contract management authority established a system to manage the implementation of the PPP contract (e.g. attributing responsibilities or establishing specific management tools)?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 7.2 of the PPP Law establishes that “the Ministry, Regional Government or Local Government should allocate their functions indicated in this article regarding to the contract execution phase to an organ inside their organizational structure or assign these functions to the Investment Promotion Committee (OPIP).
41.1. If yes, which of the following tools does it include (check all that apply)?: Establishment of a PPP contract management team	Yes
Relevant legal/regulatory provisions (if any):	Article 7.2 of the PPP Law establishes that “the Ministry, Regional Government or Local Government should allocate their functions indicated in this article regarding

	<p>to the contract execution phase to an organ inside their organizational structure or assign these functions to the Investment Promotion Committee (OPIP). Complementing this provision, article 6 of the PPP Regulations establish that the Investment Promotion Committee (OPIP) can perform the necessary duties regarding the PPP contract execution, among its other responsibilities (that include the procurement process).</p>
Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa	Yes
Relevant legal/regulatory provisions (if any):	Article 6.2.c. of the PPP Regulations: the Committee for the Promotion of Private Investment (which is involved in the procurement process) can assume the functions of the procuring entity during the contract execution phase.
Elaboration of a PPP implementation manual or an equivalent document	No
Relevant legal/regulatory provisions (if any):	n/a
Establishment of personnel training programs (i.e. initial training and continued training throughout the course of the project)	No
Relevant legal/regulatory provisions (if any):	n/a
Establishment of a risk mitigation mechanism which considers the evolving nature of risks throughout the project lifecycle (guidelines, specific processes, insurance regime, etc.)	Yes
Relevant legal/regulatory provisions (if any):	Directoral Resolution 005-2016-EF/68.01 on the Guidelines for the development and structuring of PPP projects specifies in subsection 7.3 on contract management the need to prepare a risk management plan that establishes criteria for decision making related to handling, preventing and mitigating project risks.
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	No

its members are required to meet detailed qualifications.	
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The PPP contract management team members are required to meet sufficient qualification without specific details.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The PPP contract management team members are not required to meet any specific qualifications.	Yes
Please elaborate and provide examples:	According to article 6 of the PPP Regulations, in the case of Ministries, the Committee for Private Investment Promotion is composed of three public officers from the Upper Management or heads of line units or advisory level within the entity. In the case of regional and local governments, the functions of the Committee for Private Investment Promotion are performed by the unit designated for such purpose. This implies that Article 6.1 of PPP Regulations sets forth that the Investment Committee of ministries should be highly public servants, none other requirement is specified. In case of regional and local governments not a single requirement is established.
42. Does the procuring or contract management authority establish a system for tracking progress and completion of construction works under a PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Directoral Resolution 005-2016-EF/68.01 on the Guidelines for the development and structuring of PPP projects specifies in its guidelines (subsection 7.3 on contract management) the need to prepare a cost management plan that allows to track the physical and financial progress of the project. In addition, article 83.1 of Supreme Decree 410-2015-EF establishes that PROINVERSION must periodically inform about the progress in the execution of the projects' investment plans.
42.1. If yes, is the PPP contract construction performance information made available to the public?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 83.1 of the PPP Regulations establishes that PROINVERSION must periodically inform about the progress in the execution of the projects' investment

	plans. However, information is not readily available for all projects. Also, regulatory bodies like OSITRAN publish update reports for the transportation sector.
42.2. If yes, is the PPP contract construction performance information made publicly available online?	Yes
If yes, please specify the website:	INFOBRAS offers information about the construction stage of projects in Peru and includes PPP, according to article 5.3 of Directive N° 007-2013-CG/OEA approved by Resolution of National Audit Office N° 324-2013-CG. The INFOBRAS was created by Law 29812 and 29951. It is managed by the National Audit Office.
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):	Law 27332 on the regulatory agencies of private investment in public services establishes and regulates a monitoring and evaluation system for private investment projects including PPP. Article 9 of the PPP Regulations includes a specific reference to this evaluation and monitoring system that was applicable before. Also, article 82.4 of the PPP Regulations establishes that the Ministry of Economy and Finance may request to the entities information regarding the progress and implementation of the PPP contracts, who shall submit the information no later than ten (10) working days. Finally, article 10 of the PPP Law and article 9 of its Regulations set forth the obligation of supervision of the PPP project during implementation, mandating that the PPP contracts must establish the obligations of the investor that allow the exercise of supervision activities, and the obligations of the private supervisor linked to the supervision of service levels.
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	No
Relevant legal/regulatory provisions (if any)	n/a
The PPP contract performance information must be available to the public	Yes
Relevant legal/regulatory provisions (if any)	No regulatory basis
43.2. Is PPP contract performance information made publicly available online?	Yes
If yes, please specify the website:	https://www.ositran.gob.pe/nosotros/ositran-en-cifras.html
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/standar	Article 59 of the PPP Regulations provides the rules for PPP contract assignment or transfer.

d 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).	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 59 of the PPP Regulations provide that changes in the private partner structure will preserve the technical, legal and financial capacity and will be regulated in the PPP contract.
In other cases, flexibility to change the ownership structure and/or assign the contract.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Changes in the private partner are not prohibited by the regulatory framework and such changes are regulated at a contractual level, except for the requirement to preserve the technical capacity established in article 59 of the PPP Regulations
46. Does the regulatory framework (including standard contractual clauses) expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Renegotiation of PPP contracts is regulated in Article 22 of the PPP Law and articles 53 to 57 of the PPP Regulations.
46.1. If yes, is an approval from a	Yes

government authority, other than the procuring authority, required?	
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	In order to modify the PPP contract, different opinions should be obtained: (i) Article 57.1 of the PPP Regulations establishes the need of getting the non-binding opinion of the regulatory entity for projects under its scope. (ii) Articles 57.2 and 57.3 establish the need of getting the binding opinion of the Ministry of Economy and Finance.
46.2. If yes to question 46, which of the following circumstances are specifically regulated? (check all that apply): A change in the scope and/or object of the contract.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 56.2 of the PPP Regulations establishes that in case the PPP contract modification implies (i) the object modification and / or (ii) additional costs over 15% of the original price, the grantor is allowed to negotiate the PPP contract with a new third party instead of renegotiating it with the concessionaire.
A change in the risk allocation of the contract.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 53.1 of the PPP Regulations establishes that any contract modification should aim to preserve the original risk allocation.
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 53.1 of the PPP Regulations establishes that the parties could agree to modify the contract, preserving the economic and financial balance and the competition terms of the promotion process.
A change in the duration of the contract.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 61.2 of the PPP Regulations sets forth that PPP contract terms can be extended until 60 years.
A change in the agreed price or tariff.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a

46.3. Can the procuring authority unilaterally modify a PPP contract?	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	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	The article 61.3 of the PPP Regulations establishes that the existence of force majeure events would allow the extension of the term of the PPP contract.
Material Adverse government action .	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 61.3 of the PPP Regulations establishes that the PPP Contract term will be extended in case of the initial term is not fulfilled because of the procuring authority actions or omissions
Change in the Law.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 58 of the PPP Regulations requires to compensate the private partner if the financial-economic equilibrium is greatly affected due to change in law.
Refinancing.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Subcontracting and replacement of the subcontractors.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
48. Does the regulatory framework (including	Yes

standard contractual clauses) allow for administrative and/or contractual complaint review mechanisms to address disputes arising from the implementation of PPP contracts?	
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	Participation of a third neutral party (the “amiable compositeur”) for the dispute resolution through direct contact between the parties. In case it does not work, the parties will submit their controversy before a Dispute Resolution Board which will be formed by 1 up to 3 experts. Also, the parties will rely on arbitration following the guidelines included in the PPP Regulations (Article 23 of the new PPP Law and section VIII of the PPP Regulations).
48.1. If yes, please specify which of the following options are available (check all that apply): Local administrative review body	No
If yes, please specify:	n/a
Local courts	No
Domestic arbitration	Yes
International arbitration	Yes
Investor-State Dispute Settlement (ISDS)	Yes
Mediation	Yes
Please provide the relevant legal/regulatory/standard contractual provisions (if any)	Article 23 of the PPP Law and Section VIII of the PPP Regulations.
48.2. If applicable, are arbitration awards enforceable by the local courts?: Domestic Arbitration	Yes
If yes, please provide the relevant legal/regulatory provisions/standard contractual provisions (if any):	Article 80 of the PPP Regulations regulates arbitral clauses and refers to Articles 67 (arbitration enforcement) and 68 (judicial enforcement) of Legislative Decree N 1071
International arbitration	Yes
If yes, please provide the relevant legal/regulatory provisions/standard	Article 80 of the PPP Regulations regulates arbitral clauses and refers to Articles 67 (arbitration enforcement) and 68 (judicial enforcement) of Legislative Decree N 1071

contractual provisions (if any):	
Investor-State arbitration	Yes
If yes, please provide the relevant legal/regulatory provisions/standard contractual provisions (if any):	14th Complementary Disposition of Law Decree No. 1071, ICSID Convention (ratified by Peru) and article 63 of the Political Constitution.
49. Does the regulatory framework (including standard contractual clauses) allow for the restructuring of a PPP private partner (SPV) in financial difficulty prior to insolvency?	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
50. Does the regulatory framework (including standard contractual clauses) allow for the lenders to take control of the PPP project (lender step-in rights) if either the private partner defaults or if the PPP contract is under threat of termination for failure to meet service obligations?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 64 of the PPP Regulations regulates the rights of intervention in favor of allowed creditors and states that contracts can establish rights for the permitted private creditors. Also, articles 24 and 25 of Legislative Decree 1224 regulates assurances and guarantees in favor of the investor.
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

d contractual provisions (if any):	
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.	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 64.1 of the PPP Regulations expressly mention the possibility of establishing rights in favor of allowed creditors in the PPP contract
Other.	No
Please Specify:	n/a
51. Does the regulatory framework (including standard contractual clauses) expressly establish the grounds for termination of a PPP contract?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 63 of the PPP Regulations: (i) expiration of the PPP contract term; (ii) material breach of the PPP contract by the private partner; (iii) material breach of the PPP contract by the Authority; (iv) mutual agreement; (v) public interest; (vi) complete destruction of public infrastructure.
51.1. If yes, does the regulatory framework (including standard contractual clauses) establish the consequences for the termination of the PPP contract?	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Unsolicited Proposals	

34. Are unsolicited proposals in Peru: (choose only one): Explicitly prohibited by the legal framework? (If prohibited, skip to section F)	No
Explicitly allowed by the legal framework?	Yes
Not regulated by the legal framework, but do happen in practice?	No
Not regulated by the legal framework, and do not happen in practice? (if not done in practice, skip to section F)	No
If the legal framework explicitly prohibits or allows unsolicited proposals, please provide the relevant legal/regulatory provisions	<p>Unsolicited proposals (“Iniciativas Privadas”) are regulated starting in article 33 of the Legislative Decree 1224 and starting in article 32 of the Supreme Decree 410-2015-EF.</p>
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)	<p>The process for evaluating unsolicited proposal is regulated starting in article 33 of the PPP Law and starting in article 32 of the PPP Regulation. In general, the evaluation of unsolicited proposals has the following stages: (i) Submission of the unsolicited proposal to the Organism for the Promotion of Private Investment, which is PROINVERSION at the national level. There is a specific timeframe to submit unsolicited proposals; (ii) Admissibility and evaluation of the unsolicited proposal by the Organism for the Promotion of Private Investment and other competent public entities; (iii) Statement of Interest (“Declaración de Interés”) of the project declared by PROINVERSION; (iv) Selection and award of the project.</p>
35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Article 33 of PPP Regulations creates a pre-feasibility stage or admissibility stage in which Proinversion assesses the fulfillment of the requirements established in article 32 for the presentation of unsolicited proposals, as well as the technical and financial capacities of the proponent. Those unsolicited proposals admitted according to article 33 continue the process of evaluation and are subject to an assessment of their relevance and approval according to article 34 and following of the PPP Regulations.</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>Yes</p>
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p>	<p>For self-financed unsolicited proposals, article 34 of the Supreme Decree 410-2015-EF requires the opinion from the competent entities regarding the relevance of the unsolicited proposal with the national, regional or local priorities. For co-financed unsolicited proposals, Article 43 of the Supreme Decree 410-2015-EF indicates that PROINVERSION will submit to the entities all the unsolicited proposals under their scope for them to issue an opinion about the consistency between them and their strategic objectives. The entities will indicate the order of priority of the unsolicited proposals they deem consistent with their priorities.</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>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</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>According to article 47 of the PPP Regulations, interested parties have a period of one hundred fifty (150) calendar days from the day following the publication of the Statement of the Importance of the project to submit expressions of interest regarding the execution of the investment project. After this period of time and as</p>

	long as there are other interested parties, Promoting Organism of Private Investment will initiate a competitive PPP procurement procedure (if not other parties showed interest direct awarding is permitted).
38. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 47 of the PPP Regulations
and the time in calendar days:	150
39.1 Does the procuring authority use any of the following incentive mechanisms to reward/compensate the presentation of unsolicited proposals? (check all that apply): Access to the best and final offer (BAFO) process and/or automatic shortlisting.	No
39.2 Developer's fee (reimbursing the original proponent for the project development cost).	Yes
39.3 Bid Bonus.	No
39.4 Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).	Yes
39.5 Other.	No
Please specify:	n/a
Please provide the relevant legal/regulatory provisions (if any):	The PPP Regulations regulate both the right to a developer fee (article 49.4) and the Swiss challenge (article 51.4).