



PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN POLAND

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:	Act of 19 December 2008 on Public-Private Partnership (Journal of Laws of 2015 item 696, as amended) (from hereinafter referred to as “PPP Act”), Act of 29 January 2004 - Public Procurement Law (Journal of Laws of 2015 item 2164, as amended) (from hereinafter referred to as “PPL Act”), Act of 21 October 2016 on Concession Contracts for Works or Services (Journal of Laws of 2016 item 1920) (from hereinafter referred to as the “Concession Law”)
and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:	PPP Law: http://www.ppp.gov.pl/English/Documents_and_publications/Documents/2013_05_10_ACT_on_PPP_ENG.pdf PPL Act: http://www.ppp.gov.pl/English/Documents_and_publications/Documents/Public_Procurement_Law_2014_consolidated_text_19.10.2014.pdf Concession Law: http://www.ppp.gov.pl/English/Documents_and_publications/Documents/20121212_Act_on_Concession_for_Works_or_Services.pdf
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:	A new Act on Concession for Construction Works or Services has been adopted in 2016. PPL Act has been amended due to implementation of the Directive 2014/24/EU on public

	procurement and the Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors
2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?	Yes
Please describe:	<p>A draft amendment of the PPP Law is now being discussed. The most significant solutions in the draft are:</p> <ol style="list-style-type: none"> 1) strengthening the competences of the Minister of Finance and Development regarding support for PPP projects (establishment of the PPP unit as a department within Ministry of Economic Development); 2) introduction of two procedures: (i) voluntary assessment of small projects and (ii) obligatory approval for execution of the projects (of value higher than 300 million PLN from the state budget) not involving PPP, 3) introduction of an obligation to monitor and evaluate the effectiveness of implementation of the PPP contracts, 4) introduction of regulations facilitating monitoring of the PPP market, 5) introduction of possibility to execute the PPP project on the basis of existing public companies 6) introduction of explicit conditions for concluding direct contracts.
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	No

following sectors?: Water and Irrigation	
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	No

regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Other	
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):	<p>The Polish tax law foresees several tax benefits for both corporate and personal income taxpayers. The Polish Corporate Income Tax Act stipulates that CIT exempt is:</p> <ol style="list-style-type: none"> 1. The value of things or rights received for no consideration, which were the subject of a public-private partnership agreement, transferred to a public entity (or a state or local authority legal person or a commercial company in which local authorities or the State Treasury has a majority share), by either a private partner or one of the following forms of companies: a capital company, a limited partnership or a limited joint-stock partnership, formed by the contracting authority and the private partner for the purpose of performing the public-private partnership agreement (Article 12.4.18 of the Corporate Income Tax Act). 2. Revenue equivalent to nominal value of shares taken in exchange for a contribution in-kind (crystallizing at the moment of the contribution-in kind), the subject of which were the tangible or intangible assets (buildings, construction structures, land, perpetual usufruct rights, machines and other devices, know-how, patents and many other types of tangible and intangible assets) made by a public entity for a capital company, a limited partnership or a limited joint-stock partnership mentioned above (Article 12.4.19 of the Corporate Income Tax Act). Subject to CIT taxation are capital gains, crystallizing upon alienation of shares. 3. Own contribution (as referred to in Article 2.5 of the Public-Private Partnership Act - incurring part of the expenses of project implementation, including financing subsidies to services provided by the private partner within the framework of the project/ contribution of an asset), received by the private partner or one of the companies mentioned above, and designated for purposes specified in the public-private partnership agreement (Article 17.1.42 of the Corporate Income Tax Act). This exemption shall not apply to the funds forming a refund of expenditures incurred for the completion of a public task or undertaking being the subject matter of the public and private partnership agreement, by or through a private partner and the funds assigned for the acquisition of shares in a company (partnership) formed for the purpose of implementing public-private

	partnership agreement (Article 17.7 of the Corporate Income Tax Act).The Personal Income Tax Act foresees tax benefits for natural persons, analogous to the ones provided to corporate income taxpayers.
5. Please identify the PPP procuring authorities in Poland and provide their website(s) (if available):	Pursuant to art. 2.1 of the PPP Act, the following entities can carry out PPP projects as public partners: 1) Public finance sector units (among them: government authorities, courts, regional authorities, public health institutions, universities);2) Legal persons established for the purpose of satisfying general needs that are not of industrial or commercial nature, if the entities specified in this provision and under (a), individually or jointly, directly or indirectly through another entity: - finance it in over 50%, or - hold more than half of the shares, or - supervise its managing body, or - have the right to appoint more than half of the members of the supervisory or managing body; 3) Unions of entities referred to in points 1 and 2.
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):	Ministry of Development - https://www.mr.gov.pl/ . The said Ministry administers the PPP Platform (available at: https://www.ppp.gov.pl/Strony/home.aspx).
6.1 If yes, what are the main responsibilities of the PPP Unit (check all that apply): PPP regulation and policy guidance.	No
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.	No
6.6 Revision of fiscal risks born by the Government.	No
6.7 Consultation with affected communities on potential impact of PPP projects.	No
6.8 Approval of PPP projects.	No
6.9 Undertaking the procurement of PPPs.	No
6.10 Oversight of PPP implementation.	No
6.11 Other	No
6.11 please specify:	n/a
Please provide the relevant legal/regulatory provisions:	Pursuant to Article 3 of the PPP Law, the tasks of the minister responsible for regional development in terms of the Law must, in particular, disseminate and promote public-private partnerships, carrying out analyses and assessments of the functioning of public-private partnerships, including the state of and prospects for the financial involvement of the private sector.
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):	Art. 18 of Act on public-private partnership - the financing of a project from the State budget in excess of PLN 100,000,000 requires the consent of the minister in charge of public finances, excluding funds allocated for financing the operational programmes referred to in the Act on Development Policy Principles of 6 December 2006 (J.L. no. 227, item 1658, of 2007 no. 140, item 984 and of 2008 no. 216, item 1370). When giving consent, the minister in charge of public finances considers the impact of the planned budget expenditures on security of public finances. 2. The consent referred to in item 1 is given on the contracting authority's application containing: 1) description of the

	contracting authority; 2) description of the planned project; 3) projected amount of State budget funds allocated in individual budgeting periods for project implementation. 3. The minister in charge of public finances gives or refuses to give the consent within 6 weeks of receiving the application. The consent or refusal to give consent is not an administrative decision. 4. The contracting authority may file another application for the consent referred to in item 1 to implement the same project in the case of a change in the data specified in item 2 point 3. Item 3 applies to the new application.
8.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before signing the PPP contract?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
8.2. Does the Ministry of Finance (or government more broadly) have a specific system of: Budgeting for PPP projects.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Accounting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 18a of the PPP Law and secondary legislation, liabilities under the PPP Agreement shall not affect the level of public debt (i.e. shall be accounted off-balance sheet) if majority of the construction risk and either availability or demand risk is borne by the private partner.

Reporting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Regulation of the Minister of Finance of January 16, 2014 on budgetary reporting and Regulation of the Minister of Finance of March 4, 2010 on the reporting of public finance sector units regarding financial operations include the specific provisions on how the liabilities arising out of a PPP project shall be presented in the financial statements.
8.3. If yes to question 8.2, which of the following alternatives best describes the regulation?: Accounting and reporting according to International Public Sector Accounting Standards (IPSAS).	No
Accounting and reporting according to other international standard (e.g. European System of Accounts).	Yes
Please specify:	ESA 2010
Other.	Yes
Please specify:	Polish National Accounting Standards Resolution - No. 3/2016 of the Accounting Standards Committee of April 26, 2016, on the adoption of National Accounting Standard No. 10 "Public-private partnership agreements and concession agreements for construction works or services.
9. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other	Yes

authority(s) approve the PPP project before launching the procurement process (e.g. Cabinet, Cabinet Committee, Parliament, Supreme Audit Office, etc.)?	
If yes, please specify the relevant authority	Conditions of the tender should be agreed upon with the Ministry of Transportation, and planned financial obligation of the National Treasury should be agreed upon with the minister competent for public finances.
and provide the relevant legal/regulatory provisions (if any):	Article 61 of the Act on Toll Motorways and National Road Fund
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?	Yes
If yes, please provide the relevant legal/regulatory	No regulatory basis

provisions (if any):	
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>No</p>
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	<p>n/a</p>
The regulatory framework prescribes the	<p>No</p>

<p>need for PPPs to be consistent with all other investment priorities without establishing a specific procedure to achieve that goal.</p>	
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>The regulatory framework does not include any provisions but the procuring authority evaluates the consistency of PPPs with other government investment priorities in practice.</p>	<p>Yes</p>
<p>If yes, please elaborate:</p>	<p>The only regulation that refers to this issue is Article 17 of the PPP Law which states that the total amount up to which government administration bodies can contract financial liabilities on the basis of public-private partnership agreements in a given year shall be specified in the Budget Act.</p>
<p>The procuring authority does not evaluate PPPs against existing government priorities.</p>	<p>No</p>
<p>Please elaborate and provide examples:</p>	<p>n/a</p>
<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>	<p>n/a</p>

framework described above?	
If yes, please specify:	n/a
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)	No regulatory basis
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	No regulatory provision but done in practice
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)	No regulatory basis

Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	n/a
12.3. Risk identification, allocation and assessment (risk matrix)	Yes
Relevant legal/regulatory provision (if any)	Regulation of the Minister of Economy of 11 February 2015 on risks and factors taken into account in their assessment
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Comparator PPP and risk analysis - risk assessment methodology with a tool supporting the analysis and risk factors allocation for PPP projects.
Is the assessment done in practice?	Yes
Details:	n/a
12.4. Comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives (i.e. value for money analysis, public sector comparator)	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Comparator PPP and risk analysis - economic model methodology that allows verification of the validity of the PPP project in the context of project cycle. The methodology includes the set of analytical tools, developed in a spreadsheet.
Is the assessment done in practice?	Yes
Details:	n/a

12.5. Financial viability or bankability assessment	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	n/a
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)	No regulatory basis
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	n/a
12.7. Environmental impact assessment	Yes
Relevant legal/regulatory provision (if any)	Act on Making Available Information about Environment and Its Protection, Public Participation in the Environmental Protection and Environmental Impact Assessment of 3 October 2008 (J.L. itepm 353 of 2016)
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Article 51 of Act on Making Available Information about Environment and Its Protection, Public Participation in the Environmental Protection and Environmental Impact Assessment contains detailed steps on what the environmental impact assessment needs to measure, and what it needs to contain.
Is the assessment done in practice?	Yes

Details:	Generally conducted in practice
12.8. Consultation process with affected communities on potential impact of the PPP project	Yes
Relevant legal/regulatory provision (if any)	Act on Making Available Information about Environment and Its Protection, Public Participation in the Environmental Protection and Environmental Impact Assessment of 3 October 2008 (J.L. itepm 353 of 2016)
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	n/a
13. Does the procuring authority include the assessments (indicated in Question 12 above) in the request for proposals and/or tender documents (for example, as part of an Information Memorandum to the bidders)?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and specify which of the assessments are included in the request for proposals and/or tender documents:	n/a
13.1. Are the assessments published online?	No

If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
specify the website	n/a
please specify which of the assessments are published online:	n/a
14. Does the procuring authority include a draft PPP contract in the request for proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 36 (1) (16) of the PPL Act, the specification of essential terms of the contract shall include provisions of essence to the parties which will be introduced into the concluded public procurement contract, general terms of the contract or model contract, if the contracting authority requires the economic operator to conclude a public procurement contract with it on these terms. Pursuant to the Article 2 (1) of the Concession Law - concession documentation, created by the contracting authority, intends to describe or determine elements of the concession contract or concession proceeding.
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):	<p>Pursuant to Article 37 (2) of the PPL Act, The awarding entity shall, in proceedings conducted under the open procedure or restricted procedure, and may, in proceedings conducted otherwise, make the contract available on the website from the date of publication of the contract notice in the Official Journal of the European Union or from the date of dispatch of the invitation to confirm interest in the case of contracts or contests whose value is equal to or exceeds the EU thresholds, or from the date of placement of the contract notice in the official journal - Biuletyn Zamówień Publicznych (the Public Procurement Bulletin) in the case of contracts or contests whose value is less than the EU thresholds. Pursuant to Article 24 (1) of the Concession Law, the contracting authority shall make the concession documentation available on its website.</p> <p>Furthermore, according to Article 5 of the PPP Law, the public entity, following publication of the announcement in the Public Procurement Bulletin or publishing of the announcement in the Official Journal of the European Union, shall additionally publish information about the planned public-private partnership in the Public Information Bulletin.</p>

and please specify the website:	https://bzp.uzp.gov.pl/In/Search.aspx
15. In a case comparable to the case study assumptions, have standardized PPP model contracts and/or transaction documents been developed?	<p>Yes</p>
If yes, please specify and provide a government-supported website where the mentioned standards are available or provide an electronic copy of them:	<p>Reference Documentation on the PPP Platform website: http://www.ppp.gov.pl/Publikacje/Strony/Dokumentacja_wzorcowe.aspx</p>
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)	<p>No</p>
Private Partner	<p>No</p>
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	<p>No</p>

To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis but done in practice
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 but done in practice
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 but done in practice

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 but done in practice
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 but done in practice
PPP Procurement	
18. Which of the following options best describes the required qualifications of the bid evaluation committee	No

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>Pursuant to Article 17 of the PPL Act:</p> <ol style="list-style-type: none"> 1. Persons who perform activities in connection with contract award proceedings shall be subject to exclusion, if: <ol style="list-style-type: none"> 1) they compete for the award of this contract; 2) they are married, are relatives by blood or affinity in direct line or relatives by blood or affinity in the collateral line up to the second degree, or relatives by adoption, guardianship or curatorship with the contractor, his legal agent or members of managing or supervisory bodies of contractors competing for the award of a contract; 3) before the lapse of three years from the date of the initiation of the contract award proceedings they have been in a relationship of employment or mandate with the contractor or were members of managing or supervisory bodies of contractors competing for the award of a contract;

	<p>4) they remain in such legal or actual relationship with the contractor which may raise justified doubts as to their impartiality;</p> <p>5) they have been validly sentenced for an offence committed in connection with contract award proceedings, for bribery, offence against economic trading or any other offence committed for material benefit.</p> <p>Furthermore, According to Article 21 of the PPL Act, the head of contracting committee determines the organisation and composition of a tender committee.</p>
19. Does the procuring authority issue a public procurement notice of the PPP project?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 5 of the PPP Act and Article 18 of the Concession Law and Article 11 of the PPL Act, the public entities publish announcements in the Public Procurement Bulletin and/or in the Official Journal of the European Union. Additionally, they also publish information about the planned public-private partnership projects in the Bulletin of Public Information.
19.1. If yes, is the public procurement notice published online?	Yes
If yes, please specify the website:	The Public Procurement Bulletin http://bzp2.portal.uzp.gov.pl/ The Bulletin of Public Information https://www.bip.gov.pl/ or/ andThe Official Journal of European Union http://eur-lex.europa.eu/oj/direct-access.html?locale=pl
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	Yes

bidders a minimum period of time to submit their bids?	
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Pursuant to Article 43 of the PPL Act, in cases where the contract value is lower than EU thresholds, the time-limit for the submission of tenders cannot be shorter than 7 days (services) or 14 days (construction works) from the date of notice placement in the official journal "Biuletyn Zamówień Publicznych". Where the contract value is equal to or exceeds the EU thresholds, the time limit for submission of tenders shall not be less than 35 days from the date of dispatch of the contract notice to the Publications Office of the European Union. In case of a restricted procedure, pursuant to the Article 52 of the PPL Act, where the contract value is equal to or exceeds the EU thresholds, the time limit for submission of tenders shall not be less than 30 days from the date of dispatch of the invitation to submit tenders. Where the contract value is equal to or exceeds the EU thresholds, and the information concerning this contract was included in a prior information notice, if the prior information notice included all the information required for this notice, to the extent such information was available at the time of publication of that notice and was dispatched to the Publications Office of the European Union for publication at least 35 days and not more than 12 months before the date of dispatching of the contract notice, the awarding entity may set a time limit for submission of tenders which shall not be less than 10 days. Pursuant to Article 31 (3) of the Concession Law - open and restricted procedure - at least 30 days. If the procedure is organised in stages - at least 22 days.</p>
and the time in calendar days:	30
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 39 of the PPL Act in connection with Article 4.2 of the PPP Act / Article 29.1.1) of the Concession Law in connection with Article 4.1 of the PPP Act
22.2. Restricted tendering (with pre-qualification stage): Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	Article 47 of the PPL Act in connection with Article 4.2 of the PPP Act / Article 29.1.2) of the Concession Law in connection with Article 4.1 of the PPP Act.
22.3 Multi-stage tendering (with	Yes

shortlisting of final candidate(s): Available	
Default	No
Relevant legal/regulatory provision (if any)	Article 54 of the PPL Act
22.4. Competitive dialogue: Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	According to Article 60a of the PPL Act, a competitive dialogue can be employed. Furthermore, according to Article 60b of the PPL Law contracting authorities can apply a competitive dialogue procedure where the circumstances specified in Article 55.1 occur.
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:	Request for quotations (a procedure whereby the contracting entity addresses a request for quotations to the economic operators of his choice and invites them to submit tenders); An innovation partnership (a contract award procedure in which the contracting authority, in response to a public contract notice, invites economic operators admitted to participation in the procedure to submit initial tenders, negotiates with them, and subsequently invites them to submit tenders for the development of an innovative product or service or innovative construction works that are unavailable on the market and for the purchase of those products, services, or works);
Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	Article 66 of the PPL Act; Article 69 of the PPL Act; Article 73a of the PPL Act;
22.8. Do the tender documents detail the procedure of	Yes

the procurement process providing the same information to all the bidders?	
If yes, please provide the relevant legal/regulatory provisions (if any):	Articles 36 and 41 of the PPL Act, specify the content of the specification of essential terms of the contract and the contract notice. Pursuant to the Article 42 of the PPL Act, the specification of the essential terms of the contract shall be made available on the procuring authority website from the date of placement of the notice of the contract in the Public Procurement Bulletin and/or in the Official Journal of the European Union until the expiry of the time limit for the submission of tenders. According to Article 21 - 24 of the Concession Law, the concession notice shall contain certain information and shall be available on the procuring authority website from the date of placement of the notice in the Public Procurement Bulletin and/or in the Official Journal of the European Union.
If no, please elaborate:	n/a
22.9. Do the tender documents specify the prequalification/s hortlisting criteria (when applicable) in order to make them available to all the bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 36 (1) (5) of the PPL Act, conditions for the participation in the procedure and description of the method used for the evaluation of the fulfillment of those conditions will be specified in the essential terms of the contract. Furthermore, Article 48 (2) (6) of the PPL Act states that the contract notice, in the case of a restricted procedure, should include the conditions for the participation in the procedure. Pursuant to Article 21 (1) (3) of the Concession Law, the procuring authority shall specify the prequalification criteria.
22.10. Based on your experience, is it always the case that the specified criteria are respected in practice?	Yes
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	The specified criteria are usually respected in practice in order to avoid the risk of being excluded from the procurement process.
If no, please elaborate:	n/a
23. Can interested	Yes

<p>parties/potential bidders submit questions to clarify the public procurement notice and/or the request for proposals?</p>	
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Pursuant to Article 38 of the PPL Act, the private entity may request the contracting authority to explain the wording of the essential terms of contract. The contracting authority is required to provide explanations within specified time limit, as specified within Article 38.</p> <p>Pursuant to Article 25 of the Concession Law, the bidder may request the procuring authority to provide additional information concerning the concession.</p>
<p>23.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose those questions and clarifications to all potential bidders?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Pursuant to Article 38 (2) of the PPL Act, the contracting authority shall provide the text of the queries along with the explanations at the same time to all the economic operators who have received the specification of essential terms of contract, without disclosing the source of the query, and shall post it on its website if the specification is available on this website. Pursuant to Article 25 of the Concession Law, the procuring authority is obliged to provide the additional information requested by the bidder to all bidders and, if the information concerns the document of concession available before entering the tender, to publish it online, providing that the information was requested before the lapse of half of the term for submission of bids.</p>
<p>23.2. Based on your experience, is it always the case that this disclosure of information is done in practice?</p>	<p>Yes</p>
<p>If yes, please specify:</p>	<p>Since non-disclosure may result in the cancellation of the procurement process, such a disclosure is usually done in practice.</p>
<p>If no, please elaborate:</p>	<p>n/a</p>
<p>24. Besides questions and clarifications, can the procuring authority conduct</p>	<p>Yes</p>

pre-bidding conference?	
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	Article 38 (3) of the PPL Act, the procuring authority may convene a meeting of all contractors in order to clarify the doubts regarding the contents of the specification of essential terms of the contract. The information on the meeting date and time shall be made available on the website.
24.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose the content and the results of the pre-bid conference to all bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to the Article 38 (3a) of the PPL Act the procuring authority shall prepare the information containing the questions regarding the clarification of the contents of the specification of essential terms of the contract which were asked at the meeting and the answers thereto, without naming the sources of questions. The information from the meeting shall be made available on the website.
24.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	Yes
If yes, please specify:	In most cases done in practice.
If no, please elaborate:	n/a
25. In a case comparable to the case study assumptions, does the procuring authority require the bidders to prepare and present a financial model with their proposals?	Yes

If yes, please provide the relevant legal/regulatory provisions (if any):	<p>The financial model is not expressly specified as a document which needs to be provided, however pursuant to article 35 section 2 of the Concession Law the procuring authority may request the bidders to provide documents confirming their compliance with the eligibility criteria. This may include a financial model.</p>
If no, please elaborate:	<p>n/a</p>
26. Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Pursuant to Article 6 of the PPP Law, the criteria for evaluation of the offers shall be: 1) the division of tasks and risks related to the project between the public entity and the private partner; 2) dates and amounts of projected payments or other considerations by the public entity, if such are planned. The criteria for evaluation of the offers can also include in particular: 1) the division of proceeds from the project between the public entity and the private partner; 2) the ratio of public entity contribution to private partner contribution; 3) the effectiveness of project implementation, including the effectiveness of asset use; 4) criteria referring directly to the project subject, in particular its quality, functionality, technical parameters, level of technologies offered, operational costs, servicing. Furthermore, Article 37 of the Concession Law and Article 91 of the PPL Act further reiterate the criteria of evaluation for the proposals. Pursuant to Article 37 of the Concession Law the contracting authority shall specify the criteria for evaluation of offers directly related to the subject of the concession agreement, starting from the most important criteria and ending with the least important. The criteria for evaluation of offers should cover in particular environmental, social or innovative aspects of the subject of a concession agreement. In exceptional cases, when an offer contains an innovative solution, constituting implementation of a new or considerably improved product, service or process, including production or construction process, a new marketing method or a new organizational method of activity, works organization or external relationships, in particular aimed at resolving social problems or supporting social strategies, which the contracting authority was unable to predict despite due diligence, the contracting authority can change the sequence of the criteria for evaluation of offers in order to consider such solution. The contracting authority shall notify all contractors of a change of sequence of the criteria for evaluation of offers and shall submit a new invitation to submit offers, subject to the terms referred to in art. 31 (3) and (4) of the Concession Law. If the criteria for evaluation of offers were published in the concession announcement, a change of sequence of the criteria for evaluation of offers shall require publication of a new concession announcement. The contracting authority shall not have the right to reject an offer due to the fact that the offered construction works or services do not meet technical and functional parameters specified in the description of the subject of the concession,</p>

	unless the contractor proves in the offer that the proposed solution meets these requirements to the same extent.
Evaluation criteria is not set in the tender documents	No
27. In the case where only one proposal is submitted (sole proposals), which of the following options best describes the way the procuring authority deals with them? (Please select only one)?: The procuring authority follows a specific procedure before awarding a PPP contract where only one proposal is submitted.	No
Please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority considers sole proposals valid as long as they meet the conditions outlined in the tender documents.	Yes
Please provide the relevant legal/regulatory provisions (if any):	Under Article 39 of the Concession Law and Article 40 of the PPL Act the contracting authority shall invalidate the procedure for the conclusion of a concession agreement if: an offer or a motion for admission to the procedure for conclusion of a concession agreement has not been submitted; all offers or motions for admission to the procedure for conclusion of a concession agreement have been rejected. Therefore one submitted offer is not basis for invalidation of the procedure 2. The contracting authority shall have the right to invalidate the procedure for conclusion of a concession agreement, if: 1) objective prerequisites exist, in particular a material change of circumstances has occurred, which caused that the conduct of the procedure for conclusion of a concession agreement or

	<p>performance of the subject thereof is not in the public interest; 2) the contracting authority has not been awarded the funds which it intended to allocate for the financing of the whole or a part of a concession agreement, and the possibility to invalidate the procedure for conclusion of a concession agreement on these grounds has been stipulated in a concession announcement or an initial informational announcement or an invitation to apply for conclusion of the concession agreement; the procedure for conclusion of a concession agreement bears an irremovable defect which makes it impossible to conclude a concession agreement which is not subject to invalidation .The contracting authority shall conclude a concession agreement with the selected contractor on the basis of the criteria for evaluation of offers, if the following conditions are jointly met: 1) the offer meets the minimum requirements specified by the contracting authority, if any; 2) the contractor is not subject to exclusion; 3) the contractor meets the qualification criteria.</p>
The procuring authority does not award a PPP contract if only one proposal is submitted.	No
Please provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework does not include any provisions.	No
28. Does the procuring authority publish the award notice?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	Pursuant to the Article 95 of the PPL Act, the award notice is published in the Public Procurement Bulletin (for projects with a value below the EU thresholds) or in the Official Journal of the EU (if the value of the project exceeds the EU thresholds). Furthermore, pursuant to the Article 23 (1) of the Concession Law, the procuring authority shall, within 48 days since the date of conclusion of the concession contract, publish the award notice in the Official Journal of the EU or publish a notice of concession in the Public Procurement Bulletin.
28.1. If yes, is the public procurement award notice published online?	Yes
If yes, please specify the website:	The Public Procurement Bulletin http://bzp2.portal.uzp.gov.pl/ or/ andThe Official Journal of European Union http://eur-lex.europa.eu/oj/direct-access.html?locale=pl
29. Does the procuring authority provide	Yes

all the bidders with the result of the PPP procurement process?	
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Pursuant to Article 92 (1) of the PPL Act, the procuring authority shall immediately notify all contractor of (1) the choice of the most advantageous tender, providing the name, or name and surname, seat or place of residence and address if it is the place of pursuit of activity by the contractor whose tender has been selected, as well as the names and surnames, seats or places of residence and addresses provided that they are the places of pursuit of activity by the contractors who submitted tenders and the number of points received by the tenders under each tender evaluation criterion and the total number of points achieved; (2) the contractors which have been excluded; (3) the contractors whose tenders were rejected, the reasons for tender rejection (4) the contractors who submitted admissible tenders but were not invited to the next stage of negotiations or dialogue; (5) cancellation of the proceedings - providing factual and legal grounds. Pursuant to Article 38 (1) of the Concession Law, the procuring authority shall inform immediately about (1) the choice of the most advantageous tender, providing the name and surname or business name and the address of the contractor whose tender has been selected; (2) the reasons for rejecting the offer or requesting permission to participate in the proceedings for concluding the concession contract and for the remedies available to the contractor; (3) cancellation of the proceeding; (4) recommence the procedure.</p>
If no, please elaborate:	<p>n/a</p>
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?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Pursuant to Article 92 (1) (1) of the PPL Act, after selection of the best (most advantageous) tender, the contracting authority shall forthwith inform the economic operators who submitted tenders about the selection of the best tender, stating the name (company name) or name and surname, seat or place of residence and address of the economic operator, whose tender was selected, justification for its selection, as well as names (company names) or names and surnames, seats or places of residence and addresses of the economic operators who submitted their tenders, as well as the scoring of tenders in every tender evaluation criterion and the total score.</p>
30. Is there a standstill (or pause) period after the contract award and before the signing of the contract in order to allow unsuccessful	<p>Yes</p>

bidders to challenge the award decision?	
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Pursuant to Article 41 of the Cocession Law the contracting authority shall conclude a concession agreement after the lapse of 10 days from the date of provision of information on the selection of the best offer if such information was provided by way of electronic communication means or 15 days, if it was provided otherwise. In the particular situation it may be shortened. The contracting authority shall have the right to conclude a concession agreement before the lapse of the above deadlines. Pursuant to Art. 94 of the PPL Act the contracting authority shall generally conclude a public procurement contract within: 1) not shorter than 10 days from sending a notification of selection of the best offer, if the notification was sent by way of electronic communication means or 15 days, if it was sent otherwise - in the event of contracts whose value are equal or higher than the amounts specified in other regulations 2) not shorter than 5 days from sending a notification of selection of the best offer, if the notification was sent by way of electronic communication means, or 10 days, if it was sent otherwise - for contracts whose value is lower than the amounts specified in other regulations</p>
and the time in calendar days:	<p>10</p>
30.1. Is the standstill period set out in the notice of intention to award?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Pursuant to Article 46 (2) (a) of the EU Directive, a contract may not be concluded following the decision to award a contract falling within the scope of Directive 2014/24/EU or Directive 2014/23/EU before the expiry of a period of at least 10 calendar days with effect from the day following the date on which the contract award decision is sent to the tenderers and candidates concerned if fax or electronic means are used or, if other means of communication are used, before the expiry of a period of either at least 15 calendar days with effect from the day following the date on which the contract award decision is sent to the tenderers and candidates concerned or at least 10 calendar days with effect from the day following the date of the receipt of the contract award decision.';</p>
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?	<p>Yes</p>

If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 13 of the PPP Act, it is forbidden to amend the provisions of the public-private partnership agreement in relation to the contents of the offer on the basis of which the private partner selection had been made, unless the public entity provided for the possibility of making such amendments in the partnership announcement or in the documentation of the procedure of selecting a private partner and defined the terms of such amendment. Moreover, Article 144 of the PPL Act and Article 46 of the Concession Law strictly define circumstances in which amendment of the agreement is allowed.
31.1. Based on your experience, is it always the case that this restriction is respected in practice?	Yes
If yes, please specify:	Yes, since the amendment of the public-private partnership agreements are typically made within the framework permitted by law.
If no, please elaborate:	n/a
32. Does the procuring authority publish the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 44 of the Concession Law: 1. Concession contracts are public and shall be made available on the terms and conditions set forth in the regulations on access to public information. 2. The contracting authority may refuse to make available the contract if there are reasons for defense or the security of the State.
32.1. If yes, which of the following options best describes this publication (choose only one)?: Publication of the full PPP contract including all its annexes and appendixes	n/a
Publication of the full PPP contract without including all its annexes and appendixes	n/a
Publication of a summary of the PPP contract without publishing the full PPP contract	n/a

Publication of a summary of the PPP contract along with the full PPP contract including all its annexes and appendixes	n/a
Publication of a summary of the PPP contract along with the full PPP contract without including all its annexes and appendixes	n/a
32.2. If yes, is it published online?	n/a
If yes, please specify the website:	n/a
32.3. If yes, does the procuring authority also publish any subsequent amendment made to the PPP contract?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
PPP Contract Management	
41. Has the procuring or contract management authority established a system to manage the implementation of the PPP contract (e.g. attributing responsibilities or establishing specific	Yes

management tools)?	
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>The Ministry for Economic Development (formerly the Ministry of Infrastructure and Development and the Ministry of Economy) have developed a number of publications / studies dedicated to the issues of preparation and implementation of PPP projects. These publications have no legal force, but nevertheless they present the best practices in managing PPP contracts. The studies recommend creating project teams, their participation in the award of the contract, the using of PPP advisory services and also elaborating of the manual on PPP project implementation. The Ministry for Economic Development clearly communicates the importance of these actions for the success of the effective preparation and implementation of PPP project. Moreover the Ministry itself also provides advisory services of experts on PPP for the selected projects (in terms of legal, financial and technical issues).</p> <p>Furthermore, according to Article 8 of the PPP Law, The public entity has the right to control the current implementation of the project by the private partner. The principles and detailed procedures for conducting controls are specified in the agreement for public-private partnership.</p>
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	No

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.	No
Please elaborate and provide examples:	n/a
42. Does the procuring or contract management authority establish a system for tracking progress and completion of construction works under a PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to the Article 8 of the PPP Law, the procuring authority is entitled to regularly monitor the private partner's implementation of the project. The inspection rules and precise procedure are laid down in the public-private partnership contract.

42.1. If yes, is the PPP contract construction performance information made available to the public?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>No regulatory basis</p>
42.2. If yes, is the PPP contract construction performance information made publicly available online?	<p>No</p>
If yes, please specify the website:	<p>n/a</p>
43. Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract implementation after construction?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Pursuant to Article 8 of the PPP Law, the public entity shall have the right to current control of project implementation by the private partner. The principles and detailed procedure of conducting the controls shall be specified in the public-private partnership agreement.</p>
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	<p>No</p>

documents and the PPP contract	
Relevant legal/regulatory provisions (if any)	n/a
The procuring or contract management authority can abate (reduce) payments for non-performance of operating obligations under the PPP contract	No
Relevant legal/regulatory provisions (if any)	n/a
The private partner must provide the procuring or contract management authority with periodic operational and financial data	No
Relevant legal/regulatory provisions (if any)	n/a
The procuring or contract management authority must periodically gather information on the performance of the PPP contract	No
Relevant legal/regulatory provisions (if any)	n/a
The PPP contract performance information must be available to the public	No
Relevant legal/regulatory provisions (if any)	n/a

43.2. Is PPP contract performance information made publicly available online?	<p>No</p>
If yes, please specify the website:	<p>n/a</p>
44. Are foreign companies prohibited from repatriating the income resulting from the operation of a PPP project?	<p>No</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>n/a</p>
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?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>Pursuant to Article 46(1) (4) of the Concession Law, it is prohibited to amend the concession agreement, unless at least one of the following circumstances occurs: inter alia when the existing concessionaire is replaced by a new concessionaire: a) pursuant to the contractual provisions included in the concession agreement, b) as a result of merger, transformation, division, bankruptcy, restructuring or acquisition of the existing concessionaire or its enterprise, as long as the new concessionaire meets the qualification criteria, provided it does not lead to any material amendment of a concession agreement and is not aimed at evasion of application of the provisions of the act, c) as a result of the contracting authority's takeover of the concessionaire's obligations towards its subcontractors. This issue is also subject to contractual provisions. In practice, the changes in the ownership structure or assignment of the PPP contract may be subject to the procuring authority's approval or be expressly forbidden (except for mergers or</p>

	<p>transformation of the company).</p> <p>Pursuant to Article 144 sec. 1 item 4 of the PPL Act it is permissible to change the concluded contract if a new contractor is to replace the one to which the procuring authority has awarded the contract:</p> <p>a) pursuant to the contractual provisions,</p> <p>b) as a result of a merger, de-merger, transformation, bankruptcy, restructuring or acquisition of the economic operator or its enterprise, provided that the new economic operator fulfils the conditions of participation in the procedure, no grounds for exclusion provided that this does not entail other substantial modifications to the contract</p>
<p>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>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>n/a</p>
<p>Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>Article 144 section 1 point 4 provides that a new economic operator can replace the one to which the contracting authority has awarded the contract (i) pursuant to the contractual provisions provided for in the contract notice or in the terms of reference, (ii) as a result of a merger, de-merger, transformation, bankruptcy, restructuring or acquisition of the economic operator or its enterprise, provided that the new economic operator fulfils the conditions of participation in the procedure, no grounds for exclusion provided that this does not entail other substantial modifications to the contract or (iii) in the event that the contracting authority itself assumes the economic operator's obligations towards its subcontractors.</p>

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):	n/a
46. Does the regulatory framework (including standard contractual clauses) expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>Pursuant to Article 13 of the PPP Law, It shall be forbidden to amend the provisions of the public-private partnership agreement in relation to the contents of the offer on the basis of which the private partner selection had been made, unless the public entity provided for the possibility of making such amendments in the partnership announcement or in the documentation of the procedure of selecting a private partner and defined the terms of such amendment. Pursuant to Article 144 of the PPL Act, changes in the contract with regard to the offer are not allowed, unless one of several exceptions occurs (among which are: changes were foreseen in the tender or essential terms specification, changes relate to additional indispensable services of the same bidder, changes are necessary and could not be foreseen and do not exceed 50% of the contract value, changes are not significant, etc.) Furthermore, Pursuant to Article 46 of the Concession Law, It shall be forbidden to make any changes of the contractual provisions of concession, with certain exceptions provided (the changes were foreseen in the tender, the necessity to make such changes stems from the circumstances which could not have been foreseeable, small value of change, etc.)</p>
46.1. If yes, is an approval from a government authority, other than the procuring authority, required?	No

If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
46.2. If yes to question 46, which of the following circumstances are specifically regulated? (check all that apply): A change in the scope and/or object of the contract.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to Article 13 of the PPP Law, It shall be forbidden to amend the provisions of the public-private partnership agreement in relation to the contents of the offer on the basis of which the private partner selection had been made, unless the public entity provided for the possibility of making such amendments in the partnership announcement or in the documentation of the procedure of selecting a private partner and defined the terms of such amendment. Pursuant to Article 144 of the PPL Act, changes in the contract with regard to the offer are not allowed, unless one of several exceptions occurs (among which are: changes were foreseen in the tender or essential terms specification, changes relate to additional indispensable services of the same bidder, changes are necessary and could not be foreseen and do not exceed 50% of the contract value, changes are not significant, etc.) Furthermore, Pursuant to Article 46 of the Concession Law, It shall be forbidden to make any changes of the contractual provisions of concession, with certain exceptions provided (the changes were foreseen in the tender, the necessity to make such changes stems from the circumstances which could not have been foreseeable, small value of change, etc.)
A change in the risk allocation of the contract.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	No regulatory basis
A change in the financial and/or economic balance of the contract.	Yes
If yes, please provide the	Pursuant to Article 43 of the EU Directive

relevant legal/regulatory/standard contractual provisions (if any):	
A change in the duration of the contract.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	No regulatory basis
A change in the agreed price or tariff.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to Article 43 of the EU Directive
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	No

that may occur during the life of the PPP contract? (check all that apply): Force Majeure	
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Material Adverse government action .	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Change in the Law.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Refinancing.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Subcontracting and replacement of the subcontractors.	Yes
If yes, please provide the relevant legal/regulatory/	Pursuant to Article 36a of the PPL Act, the economic operator may subcontract a part of the contract. Pursuant to Article 36b section 2, where an economic operator replaces or stops using the services of a subcontractor which is an entity whose resources were claimed by the economic operator, in order to demonstrate the fulfilment of the

standard contractual provisions (if any):	conditions of participation in a procedure or selection criteria, the economic operator shall be obliged to prove to the contracting authority that another subcontractor proposed or the economic operator itself fulfils them to a degree not smaller than the subcontractor whose resources were claimed by the economic operator during the contract award procedure. This issue is also regulated by Article 48 of the Concession Law.
48. Does the regulatory framework (including standard contractual clauses) allow for administrative and/or contractual complaint review mechanisms to address disputes arising from the implementation of PPP contracts?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to Article 22 of the Concession Law, the concession contract shall contain: the manner and terms of settling disputes connected with performance of concession contract
48.1. If yes, please specify which of the following options are available (check all that apply): Local administrative review body	No
If yes, please specify:	n/a
Local courts	Yes
Domestic arbitration	Yes
International arbitration	Yes
Investor-State Dispute Settlement (ISDS)	No
Mediation	No

Please provide the relevant legal/regulatory/standard contractual provisions (if any)	<p>No regulatory basis</p>
48.2. If applicable, are arbitration awards enforceable by the local courts?: Domestic Arbitration	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions/standard contractual provisions (if any):	<p>Pursuant to Article 1212 of the Code of Civil Procedure of 17 November 1964 (unified text: Journal of Laws of 2016, item 1822), a judgment of an arbitration court or a settlement reached before an arbitration court have the same legal effect as a court judgment or a settlement reached before a court upon their recognition or confirmation of their enforcement by the court.</p>
International arbitration	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions/standard contractual provisions (if any):	<p>According to Article 1212 of the Code of Civil Procedure a judgment of an arbitration court or a settlement reached before an arbitration court have the same legal effect as a court judgment or a settlement reached before a court upon their recognition or confirmation of their enforcement by the court. Furthermore, Poland is also a signatory to "The Convention on the Recognition and Enforcement of Foreign Arbitral Award"</p>
Investor-State arbitration	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions/standard contractual provisions (if any):	<p>Poland is a member of the New York Convention.</p>
49. Does the regulatory framework (including standard contractual clauses) allow for the restructuring of a PPP private partner (SPV) in	<p>Yes</p>

financial difficulty prior to insolvency?	
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to Article 16 of the PPP Law: 1. The public entity shall have the pre-emptive right to the shares in the private partner in the company. 2. The public entity may exercise the pre-emptive right within two months as of being notified by the private partner about the content of the contract made with a third party, unless the public-private partnership agreement provides for a longer time. 3. Disposal of shares by the private partner in violation of Paragraphs 1 or 2 shall be null and void.
50. Does the regulatory framework (including standard contractual clauses) allow for the lenders to take control of the PPP project (lender step-in rights) if either the private partner defaults or if the PPP contract is under threat of termination for failure to meet service obligations?	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
50.1. If yes, which of the following options best describes the lender step-in right? (Please select only one): The regulatory framework expressly regulates the	n/a

lender step-in rights.	
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
The regulatory framework prescribes that a direct agreement should be signed with the lenders.	n/a
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.	n/a
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Other.	n/a
Please Specify:	n/a
51. Does the regulatory framework (including standard contractual clauses) expressly establish the	Yes

grounds for termination of a PPP contract?	
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	In principle, each PPP contract should specify its own termination events. Furthermore, pursuant to the Article 145a of the PPL Act and Article 47 of the Concession Law the procuring authority may terminate the procurement agreement where there occurs at least one of the following circumstances: (1) a modification of the procurement agreement has been made in violation of specified regulations (2) the contractor, upon entering into the agreement, was subject to exclusion from the proceedings; (3) the Court of Justice of the European Union ascertained, as part of the procedure provided for in Article 258 of the Treaty on the Functioning of the European Union, that the Polish state was in default of the obligations imposed thereupon under the Treaties, Directive 2014/24/EU and Directive 2014/25/EU due to the fact that the awarding entity awarded the contract in violation of the provisions of the European Union law.
51.1. If yes, does the regulatory framework (including standard contractual clauses) establish the consequences for the termination of the PPP contract?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to Article 10 of the PPP Act, immediately after termination of the public-private partnership contract, the contracting authority selects a new private partner unless the project is to be implemented in another way. Furthermore, under Article 145 of the PPL in the event of a substantial change in circumstances leading to performance of the contract no longer being in the public interest, which was unforeseeable at the time the contract was concluded, the contracting authority may rescind the contract within 30 days of learning of those circumstances. In that case, the other party of the contract may request only the remuneration due for the part of the contract performed.
Unsolicited Proposals	
34. Are unsolicited proposals in Poland : (choose only one): Explicitly prohibited by the legal framework? (If prohibited, skip to section F)	No
Explicitly allowed by the legal framework?	No
Not regulated by the legal framework, but	No

do happen in practice?	
Not regulated by the legal framework, and do not happen in practice? (if not done in practice, skip to section F)	Yes
If the legal framework explicitly prohibits or allows unsolicited proposals, please provide the relevant legal/regulatory provisions	n/a
35. Does the procuring authority conduct an assessment to evaluate unsolicited proposals? (if not, skip to question 37)	n/a
If yes, please specify and provide the relevant legal/regulatory provisions (if any)	n/a
35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
36. Which of the following options best describe how the	n/a

<p>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>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p>	n/a
<p>The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.</p>	n/a
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	n/a
<p>The procuring authority does not evaluate unsolicited proposals against existing</p>	n/a

government priorities.	
Please elaborate and provide examples:	n/a
37. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
38. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and the time in calendar days:	n/a
39.1 Does the procuring authority use any of the following incentive mechanisms to reward/compensate the presentation of unsolicited proposals? (check all that apply): Access to the best	n/a

and final offer (BAFO) process and/or automatic shortlisting.	
39.2 Developer's fee (reimbursing the original proponent for the project development cost).	n/a
39.3 Bid Bonus.	n/a
39.4 Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).	n/a
39.5 Other.	n/a
Please specify:	n/a
Please provide the relevant legal/regulatory provisions (if any):	n/a