



PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN RWANDA

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:	PPPs in Rwanda are regulated by Law N° 14/2016 of 02/05/2016 governing public private partnerships (hereinafter the PPP Law). Pursuant to Article 4 of the PPP Law: This Law does not apply to: 1° contracts subject to the law governing public procurement. The analysis will consequently consider the PPP and public procurement regulations separated, therefore this study will be based on the PPP Law.
and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:	http://www.minijust.gov.rw/fileadmin/Laws_and_Regulations/Leta__n_Abikorera.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:	Law N° 14/2016 of 02/05/2016 governing public private partnerships
2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?	Yes
Please describe:	Guidelines for PPP competitive Procurement Procedure
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	No

of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the 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 regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Other	Yes
If yes, specify and provide the relevant legal/regulatory provisions:	<p>No sector in particular is excluded, however the PPP Law indicates a list of sectors and any other would have to be provided for in an Order of Prime Minister.</p> <p>Article 5 of the PPP Law indicates: Potential sectors for PPPs in infrastructure and services are the following:</p> <ul style="list-style-type: none"> 1° transportation, including roads, railways, airports, bridges, tunnels, waterways and inland ports; 2° energy including water energy, gas energy, solar energy, wind energy, geothermal energy, biogas energy and peat; 3° social affairs, including those related to education, culture, health, sports and leisure; 4° tourism, including tourism related to history, hotels, parks and tourism

	<p>attractions;</p> <p>5° natural resources and environment, including those related to forestry, oil and oil products, minerals, water sanitation and waste disposal;</p> <p>6° telecommunication and information technology;</p> <p>7° any other sectors as may be determined by an Order of Prime Minister.</p>
4. Does the regulatory framework provide for a specific tax regime for PPP transactions (i.e. tax incentives, special tax depreciation treatment, etc.)?	No
If yes, please specify and provide the relevant legal/regulatory provision (if any):	n/a
5. Please identify the PPP procuring authorities in Rwanda and provide their website(s) (if available):	Article 2 of the PPP Law defines a Contracting Authority as “a public institution in charge of PPP agreement” with no further details. In practice, these may be decentralized entities, public institutions and government ministries - RDB is the lead negotiator for all 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):	<p>Article 6 of the PPP Law indicates: Public institutions playing role in PPP are the following:</p> <p>1° Steering Committee;</p> <p>2° Contracting Authority;</p> <p>3° Rwanda Development Board.</p> <p>The Steering Committee has the responsibility to approve and oversee PPP projects (article 8).</p> <p>Pursuant to Article 10, Rwanda Development Board plays the following role:</p> <p>1° to issue general guidelines applicable to the competitive procurement procedures for PPP Projects;</p> <p>2° to be the lead negotiator during negotiations relating to a PPP agreement;</p> <p>3° to advise Government on matters relating to PPP.</p> <p>The RDB website is: www.rdb.rw</p>
6.1 If yes, what are the main responsibilities of the PPP Unit (check all that apply): PPP regulation and policy guidance.	Yes
6.2 PPP capacity building for other public authorities.	Yes
6.3 PPP promotion among the public and/or private	Yes

sectors in national and international forums.	
6.4 Technical support in implementing PPP projects.	No
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	Yes
6.11 please specify:	RDB acts as a lead negotiator for Government in relation to PPP legal agreements.
Please provide the relevant legal/regulatory provisions:	Pursuant to Article 10, Rwanda Development Board plays the following role: 1 ^o to issue general guidelines applicable to the competitive procurement procedures for PPP Projects; 2 ^o to be the lead negotiator during negotiations relating to a PPP agreement; 3 ^o to advise Government on matters relating to PPP.
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):	No regulatory basis
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):	No regulatory basis
8.2. Does the Ministry of Finance (or government more broadly) have a specific system of:	No

Budgeting for PPP projects.	
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):	No regulatory basis
Reporting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
8.3. If yes to question 8.2, which of the following alternatives best describes the regulation?: Accounting and reporting according to International Public Sector Accounting Standards (IPSAS).	No
Accounting and reporting according to other international standard (e.g. European System of Accounts).	No
Please specify:	n/a
Other.	Yes
Please specify:	National accountability system.
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	The steering Committee in a PPP Project has to approve the PPP Project specifically the feasibility study and hence authorizes commencement of a competitive procurement procedure for a PPP project.

and provide the relevant legal/regulatory provisions (if any):	Article 14 of the PPP Law
9.1. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before signing the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>The steering Committee in a PPP Project has to approve the preferred bidder for a PPP project (Article 8 of the PPP Law).</p> <p>Ministerial instructions no 612/08.11 of 16/04/2014 setting up modalities for drafting, negotiating, requesting for opinions, signing and managing contracts indicates: “the Cabinet in its session of 20/07/2011 decided that any contract or agreement in which the Government of Rwanda is a party shall be submitted to the Minister of Justice/Attorney General for the legal opinion before they are signed”. Article 46: All investment contracts have to be approved and monitored by Rwanda Development Board. All investment contracts in which the Rwanda Development Board is involved have to be countersigned by it. Article 47: All contracts related to construction works at national level have to be countersigned by the Minister in charge of infrastructure.</p> <p>Ministry of Justice and Cabinet approve PPP contract prior to signing in practice.</p>
10. Does the procuring authority use transaction advisors during the PPP project cycle?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
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	No

<p>system/medium term budgetary framework and details a specific procedure to ensure the consistency of PPPs with other public investment priorities.</p>	
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p>	n/a
<p>The regulatory framework prescribes the need for PPPs to be consistent with all other investment priorities without establishing a specific procedure to achieve that goal.</p>	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>	Yes
<p>If yes, please elaborate:</p>	<p>In practice the Rwanda Development Board cater for that. Indeed the RDB promotes and coordinates at the national level development investments, including public and private investments (see the missions of the RDB, the article 4 of the law n° 46/2013 of 16/06/2013 establishing Rwanda Development Board (RDB) and determining its mission, organization and functioning). It appears that the contemplated PPP project falling under Rwanda's priority sectors such as energy the same will be considered with a higher likelihood of approval.</p>
<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 framework described above?</p>	Yes

If yes, please specify:	Prioritization is done based on the budget of that financial year and Government prioritization of PPPs under that budget
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)	Pursuant to article 13 of the PPP Act: prior to a tender notice, the Contracting Authority must conduct a feasibility study in connection with the PPP project. The feasibility study of the project must comprise at least the following: 5º economic and social impact;
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	Socio-economic impacts are in practice included in the prefeasibility analysis.
12.2. Affordability assessment, including the identification of the required long term public commitments (explicit and implicit, direct and contingent liabilities)	Yes
Relevant legal/regulatory provision (if any)	Pursuant to article 13 of the PPP Act: Prior to a tender notice, the Contracting Authority must conduct a feasibility study in connection with the PPP project. The feasibility study of the project must comprise at least the following: 7º the budget of the project and a financial analysis of projected revenues and costs in the implementation of the PPP project.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	In practice, the affordability is assessed before launching a PPP project.
12.3. Risk identification, allocation and assessment (risk matrix)	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:	Risks are in practice assessed and allocated.
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?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	In practice, procuring authorities compare different procurement options.
12.5. Financial viability or bankability assessment	Yes
Relevant legal/regulatory provision (if any)	Pursuant to article 13 of the PPP Act: Prior to a tender notice, the Contracting Authority must conduct a feasibility study in connection with the PPP project. The feasibility study of the project must comprise at least the following: 7 ^o the budget of the project and a financial analysis of projected revenues and costs in the implementation of the PPP project.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No
Details:	n/a
12.6. Market sounding and/or assessment (showing evidence of investors' interest in the market for the project)	Yes
Relevant legal/regulatory provision (if any)	Pursuant to article 13 of the PPP Act: Prior to a tender notice, the Contracting Authority must conduct a feasibility study in connection with the PPP project. The feasibility study of the project must comprise at least the following: 1 ^o a market study.

Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No
Details:	n/a
12.7. Environmental impact assessment	Yes
Relevant legal/regulatory provision (if any)	Pursuant to article 13 of the PPP Act: Prior to a tender notice, the Contracting Authority must conduct a feasibility study in connection with the PPP project. The feasibility study of the project must comprise at least the following: 4 ^o environmental impact based on an environmental impact assessment made according to relevant laws.
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	<p>Pursuant to Organic Law 2005 – article 67: every project shall be subjected to environmental impact assessment, before obtaining authorization for its implementation. This applies to programmes and policies that may affect the environment. An order of the Minister having environment in his or her attributions shall determine the list of projects mentioned in this organic law. More specifically, construction and repair of international roads require automatically a full EIA. It is made through 10 steps:</p> <ul style="list-style-type: none"> ` Public involvement ` Scoping ` Screening ` Impact analysis ` Mitigation measures ` Environmental statement ` Review ` Decision making ` Implementation and follow up <p>Details are provided by Ministerial Order N° 003/2008 of 15/08/2008 relating to the requirements and procedure for environmental impact assessment.</p>
Is the assessment done in practice?	No
Details:	n/a
12.8. Consultation process with affected communities on potential impact of the PPP project	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology for the assessment?	n/a
If yes, please elaborate	n/a

Is the assessment done in practice?	n/a
Details:	n/a
13. Does the procuring authority include the assessments (indicated in Question 12 above) in the request for proposals and/or tender documents (for example, as part of an Information Memorandum to the bidders)?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and specify which of the assessments are included in the request for proposals and/or tender documents:	n/a
13.1. Are the assessments published online?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
specify the website	n/a
please specify which of the assessments are published online:	n/a
14. Does the procuring authority include a draft PPP contract in the request for proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to article 19 of the PPP Law, The Contracting Authority releases the bidding documents to the shortlisted bidders. The bidding documents shall include at least the following: 2 ^o the draft PPP agreement.
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):	No regulatory basis
and please specify the website:	www.rppa.gov.rw http://rdb.rw/home.html
15. In a case comparable to the case study assumptions, have standardized PPP model	No

contracts and/or transaction documents been developed?	
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	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
16.2. Obtaining the required environmental permits: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
16.3. Obtaining the required operational permits: Procuring authority (or other Government entity)	No
Private Partner	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)	No regulatory basis
16.4. Obtaining the required land: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
16.5. Obtaining the required right of way: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
PPP Procurement	
18. Which of the following options best describes the required qualifications of the bid evaluation committee members? (Please select only one): The membership of the bid evaluation committee is specified and/or its members are required to meet detailed qualifications.	No

If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The bid evaluation committee members require sufficient qualification without specific details.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The bid evaluation committee members are not required to have any specific qualifications.	Yes
Please elaborate and provide examples:	The bid evaluation committee is usually composed of representatives from the Government authorities that oversee the relevant sector of the project under consideration and a representative from the RDB SID (PPP Unit). Article 21 of the PPP Law referring to evaluation of bids do not provide for qualification requirement.
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 16 of the PPP Law, The Contracting Authority requests for expressions of interest in connection with a PPP project through an advertisement published at least in two widely read national newspapers and one international newspaper or through information technology.
19.1. If yes, is the public procurement notice published online?	Yes
If yes, please specify the website:	www.rdb.rw
20. Are foreign companies prohibited from participating in the bidding process?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
21. In a case comparable to the case study assumptions, does the procuring authority grant the potential bidders a minimum period of time to submit their bids?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a

and the time in calendar days:	n/a
22.1. In a case comparable to the case study assumptions, which are the procurement procedures available and/or set as default for PPP projects? Open tendering: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.2. Restricted tendering (with pre-qualification stage): Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	Article 16 and 18 of the PPP Law mentions a request for proposals and shortlisting of bidders before inviting candidates to submit bids.
22.3 Multi-stage tendering (with shortlisting of final candidate(s)): Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	Article 20 of the PPP Law indicates: Where the Contracting Authority elects to use a two-stage competitive procurement procedure, the Authority conducts it as follows: 1 ^o submit bidding documents to the shortlisted bidders for their review; 2 ^o convene meetings with the shortlisted bidders for the purpose of consultation on the content of the bidding documents; 3 ^o prepare minutes of the meeting and submit it to all shortlisted bidders. The Contracting Authority may revise the bidding documents and re-submit them to the shortlisted bidders.
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):	<p>Pursuant to article 16 of the PPP Law, The advertisement requesting for expressions of interest in connection with a PPP project must indicate at least the following: 1^o the Contracting Authority and its address;</p> <p>2^o the PPP project summary;</p> <p>3^o the requirements for the bidder proving his/her ability to be considered for shortlisting him/her on the list of bidders;</p> <p>4^o the place and deadline for submitting bids;</p> <p>5^o the place and date for opening bids.</p> <p>Article 19 furthermore indicates The bidding documents shall include at least the following:</p> <p>1^o all key information on the PPP project necessary to the bidders for the preparation and submission of bids;</p> <p>3^o the deadline and venue for submission of bids;</p> <p>4^o the date and venue for bids opening;</p> <p>5^o required bid security and its maximum quantity;</p>
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):	<p>Pursuant to Article 16 of the PPP Law, The advertisement requesting for expressions of interest in connection with a PPP project must indicate at least the following: 3^o the requirements for the bidder proving his/her ability to be considered for shortlisting him/her on the list of bidders.</p>
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):	Specified criteria indicated in the request for proposals are in practice followed.
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):	No regulatory basis
23.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose those questions and clarifications to all potential bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
23.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	Yes
If yes, please specify:	In practice, clarifications would be disclosed if it is in the interest of other bidders
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	n/a

disclosure of information is done in practice?	
If yes, please specify:	n/a
If no, please elaborate:	n/a
25. In a case comparable to the case study assumptions, does the procuring authority require the bidders to prepare and present a financial model with their proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
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):	Pursuant to Article 21 of the PPP Law, The Contracting Authority reviews and evaluates each of the bids submitted by the bidders and ranks it on the basis of the evaluation criteria set forth in the bidding documents.
Evaluation criteria is not set in the tender documents	No
27. In the case where only one proposal is submitted (sole proposals), which of the following options best describes the way the procuring authority deals with them? (Please select only one?): The procuring authority follows a specific procedure before awarding a PPP contract where only one proposal is submitted.	Yes
Please specify and provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 21 of the PPP Law, Where a competitive procurement procedure results in the submission of only one bid, the Contracting Authority may, in case the bidder fulfils the evaluation criteria set forth in the bidding documents, make a report recommending the bidder to execute the PPP project and submit it to the Steering Committee for approval.
The procuring authority considers sole proposals valid as long as they meet	No

the conditions outlined in the tender documents.	
Please provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority does not award a PPP contract if only one proposal is submitted.	No
Please provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework does not include any provisions.	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):	No regulatory basis
28.1. If yes, is the public procurement award notice published online?	Yes
If yes, please specify the website:	www.rdb.rw
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):	Pursuant to Article 22 of the PPP Law, A written complaint is sent to the Steering Committee within seven (7) days after such bidder was informed about the decision by the Steering Committee.
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?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
30. Is there a standstill (or pause) period after the contract award and before the signing of the contract in order to allow	No

unsuccessful bidders to challenge the award decision?	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and the time in calendar days:	n/a
30.1. Is the standstill period set out in the notice of intention to award?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
31. Does the regulatory framework restrict negotiations with the selected bidder between the award and the signature of the PPP contract in order to prevent an unfair disadvantage to the other bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
31.1. Based on your experience, is it always the case that this restriction is respected in practice?	Yes
If yes, please specify:	Contributors confirm
If no, please elaborate:	n/a
32. Does the procuring authority publish the PPP contract?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
32.1. If yes, which of the following options best describes this publication (choose only one)?: Publication of the full PPP contract including all its annexes and appendixes	n/a
Publication of the full PPP contract without including all its annexes and appendixes	n/a

Publication of a summary of the PPP contract without publishing the full PPP contract	n/a
Publication of a summary of the PPP contract along with the full PPP contract including all its annexes and appendixes	n/a
Publication of a summary of the PPP 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 management tools)?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 49 of ministerial instructions no 612/08.11 of 16/04/2014 setting up modalities for drafting, negotiating, requesting for opinions, signing and managing contracts: However, the Rwanda Development Board shall be responsible for monitoring the execution of all investment contracts. The Ministry in charge of Infrastructure shall be responsible for monitoring the execution of all construction contracts. Article 50 provides Actions to be performed by the persons involved in Contracts management
41.1. If yes, which of the following tools does it include (check all that apply)?: Establishment of a PPP contract management team	Yes

Relevant legal/regulatory provisions (if any):	No regulatory basis
Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa	No
Relevant legal/regulatory provisions (if any):	n/a
Elaboration of a PPP implementation manual or an equivalent document	Yes
Relevant legal/regulatory provisions (if any):	Article 9 of the PPP Law indicates: The responsibilities of Contracting Authority are the following: 6 ^o prepare a plan for PPP agreement management.
Establishment of personnel training programs (i.e. initial training and continued training throughout the course of the project)	No
Relevant legal/regulatory provisions (if any):	n/a
Establishment of a risk mitigation mechanism which considers the evolving nature of risks throughout the project lifecycle (guidelines, specific processes, insurance regime, etc.)	No
Relevant legal/regulatory provisions (if any):	n/a
41.2. Which of the following options best describes the required qualifications of the PPP contract management team members? (Please select only one): The membership of the PPP contract management team is specified and/or its members are required to meet detailed qualifications.	No
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a

The PPP contract management team members are required to meet sufficient qualification without specific details.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
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):	<p>Article 50 of ministerial instructions no 612/08.11 of 16/04/2014 setting up modalities for drafting, negotiating, requesting for opinions, signing and managing contracts: While fulfilling their responsibilities, the persons involved in Contracts management shall especially pay attention to the following:</p> <ul style="list-style-type: none"> 1° Ensuring that the contractor respects all timeframes and reporting schedules and fulfills all contract obligations on time and in an adequate manner; 2° Sending notices of delays, defects to be cured to the contractor as soon as any of those events occurs; 3° Ensuring that a Public Institution fulfils its contract obligations and takes all necessary decisions with no delays and in an adequate manner; 4° Monitoring contractor activity on a specified frequency to identify problem areas; 5° Meeting with the contractor on a regular basis to review progress, discuss problems and consider necessary changes. 6° Providing access to state facilities, equipment, data, staff, materials and information; 7° Establishing scope of authority, clear lines of communication and reporting and specific individuals who will interact directly with the contractor; 8° Establishing control of correspondence, data and reports; 9° Ensuring that all communications related to the contract are done through authorized persons and through the authorized channels; 10° Identifying potential problems and solutions; 11° Ensuring quality, facilitating problem resolution, and reporting to program manager; 12° Coordinating actions with the relevant procurement officer of the Public Institution.

42.1. If yes, is the PPP contract construction performance information made available to the public?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
42.2. If yes, is the PPP contract construction performance information made publicly available online?	n/a
If yes, please specify the website:	n/a
43. Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract implementation after construction?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Article 50 of ministerial instructions no 612/08.11 of 16/04/2014 setting up modalities for drafting, negotiating, requesting for opinions, signing and managing contracts: While fulfilling their responsibilities, the persons involved in Contracts management shall especially pay attention to the following:</p> <ul style="list-style-type: none"> 1° Ensuring that the contractor respects all timeframes and reporting schedules and fulfills all contract obligations on time and in an adequate manner; 2° Sending notices of delays, defects to be cured to the contractor as soon as any of those events occurs; 3° Ensuring that a Public Institution fulfils its contract obligations and takes all necessary decisions with no delays and in an adequate manner; 4° Monitoring contractor activity on a specified frequency to identify problem areas; 5° Meeting with the contractor on a regular basis to review progress, discuss problems and consider necessary changes. 6° Providing access to state facilities, equipment, data, staff, materials and information; 7° Establishing scope of authority, clear lines of communication and reporting and specific individuals who will interact directly with the contractor; 8° Establishing control of correspondence, data and reports; 9° Ensuring that all communications related to the contract are done through authorized persons and through the authorized channels; 10° Identifying potential problems and solutions; 11° Ensuring quality, facilitating problem resolution, and reporting to program manager; 12° Coordinating actions with the relevant procurement officer of the Public Institution. <p>Article 51 is related to report on contract management.</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 documents and the PPP contract	<p>Yes</p>
Relevant legal/regulatory provisions (if any)	<p>Article 50 of ministerial instructions no 612/08.11 of 16/04/2014 setting up modalities for drafting, negotiating, requesting for opinions, signing and managing contracts: While fulfilling their responsibilities, the persons involved in Contracts management shall especially pay attention to the following: Ensuring that the contractor respects all timeframes and reporting schedules and fulfills all contract obligations on time and in an adequate manner.</p>
The procuring or contract management authority can abate (reduce) payments for non-performance of operating obligations under the PPP contract	<p>Yes</p>
Relevant legal/regulatory provisions (if any)	<p>No regulatory basis</p>
The private partner must provide the procuring or contract management authority with periodic operational and financial data	<p>Yes</p>
Relevant legal/regulatory provisions (if any)	<p>No regulatory basis</p>
The procuring or contract management authority must periodically gather information on the performance of the PPP contract	<p>Yes</p>
Relevant legal/regulatory provisions (if any)	<p>Article 50 of ministerial instructions no 612/08.11 of 16/04/2014 setting up modalities for drafting, negotiating, requesting for opinions, signing and managing contracts: While fulfilling their responsibilities, the persons involved in Contracts management shall especially pay attention to the following: Ensuring that a Public Institution fulfils its contract obligations and takes all necessary decisions with no delays and in an adequate manner.</p> <p>Article 9 of the PPP Law indicates: The responsibilities of Contracting Authority are the following: 4^o [...] deliver reports to the Steering Committee regarding steps taken during the procurement procedure.</p> <p>8^o provide to the Steering Committee monthly and annual progress reports on the implementation of PPP agreement.</p>
The PPP contract performance information	<p>No</p>

must be available to the public	
Relevant legal/regulatory provisions (if any)	n/a
43.2. Is PPP contract performance information made publicly available online?	No
If yes, please specify the website:	n/a
44. Are foreign companies prohibited from repatriating the income resulting from the operation of a PPP project?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
45. Does the regulatory framework (including standard contractual clauses) expressly regulate changes in the ownership structure (i.e. stakeholder composition) of the private partner and/or assignment of the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	No regulatory basis
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).	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	No regulatory basis
Changes of ownership/contract assignment, at any time during the contract, must	Yes

preserve the same technical qualifications as the original operator.	
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	No regulatory basis
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):	No regulatory basis
46. Does the regulatory framework (including standard contractual clauses) expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
46.1. If yes, is an approval from a government authority, other than the procuring authority, required?	n/a
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
46.2. If yes to question 46, which of the following circumstances are specifically regulated? (check all that apply): A change in the scope and/or object of the contract.	n/a
If yes, please provide the relevant legal/regulatory/standard	n/a

contractual provisions (if any):	
A change in the risk allocation of the contract.	n/a
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the financial and/or economic balance of the contract.	n/a
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the duration of the contract.	n/a
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the agreed price or tariff.	n/a
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
46.3. Can the procuring authority unilaterally modify a PPP contract?	n/a
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
47. Does the regulatory framework (including standard contractual clauses) expressly regulate the following circumstances that may occur during the life of the PPP contract? (check all that apply): Force Majeure	No
If yes, please provide the relevant legal/regulatory/standard	n/a

contractual provisions (if any):	
Material Adverse government action .	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Change in the Law.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Refinancing.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Subcontracting and replacement of the subcontractors.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
48. Does the regulatory framework (including standard contractual clauses) allow for administrative and/or contractual complaint review mechanisms to address disputes arising from the implementation of PPP contracts?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>Pursuant to article 11 of ministerial instructions no 612/08.11 of 16/04/2014 setting up modalities for drafting, negotiating, requesting for opinions, signing and managing contracts, While drafting Contracts, parties shall include a dispute resolution clause using as the case may be, the amicable settlement, mediation, arbitration or litigation clause in annex I. The Parties may opt for litigation or arbitration without resorting to mediation.</p> <p>While drafting a dispute settlement clause, any government official or legal officer shall first propose the litigation as a mechanism for dispute settlement in case the amicable settlement or mediation fails. In that case, a litigation clause to be applied in the contract is in Annex I of these Instructions.</p> <p>However, parties shall be informed that they may opt for arbitration if they wish.</p>

	<p>Article 12 of the PPP Law indicates: The PPP agreement must comprise the following: 9^o dispute resolution mechanisms.</p> <p>The following articles provide details.</p>
<p>48.1. If yes, please specify which of the following options are available (check all that apply): Local administrative review body</p>	No
<p>If yes, please specify:</p>	n/a
<p>Local courts</p>	Yes
<p>Domestic arbitration</p>	Yes
<p>International arbitration</p>	Yes
<p>Investor-State Dispute Settlement (ISDS)</p>	Yes
<p>Mediation</p>	Yes
<p>Please provide the relevant legal/ regulatory/standard contractual provisions (if any)</p>	<p>Pursuant to article 11 of ministerial instructions no 612/08.11 of 16/04/2014 setting up modalities for drafting, negotiating, requesting for opinions, signing and managing contracts, While drafting Contracts, parties shall include a dispute resolution clause using as the case may be, the amicable settlement, mediation, arbitration or litigation clause in annex I. The Parties may opt for litigation or arbitration without resorting to mediation.</p> <p>While drafting a dispute settlement clause, any government official or legal officer shall first propose the litigation as a mechanism for dispute settlement in case the amicable settlement or mediation fails. In that case, a litigation clause to be applied in the contract is in Annex I of these Instructions.</p> <p>However, parties shall be informed that they may opt for arbitration if they wish.</p>
<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>	<p>Article 50 of the Law N 005/2008 of 14/02/2008 on arbitration and conciliation in commercial matter: An arbitral award, irrespective of the country in which it was made, shall be recognized as binding and without prejudice to provisions of this Article as well as Article 51 of this Law. However, this shall not be respected if the country in which the award was issued does not respect the provisions of this paragraph with reference to cases decided in Rwanda.</p>
<p>International arbitration</p>	Yes
<p>If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):</p>	<p>Article 50 of the Law N 005/2008 of 14/02/2008 on arbitration and conciliation in commercial matter: An arbitral award, irrespective of the country in which it was made, shall be recognized as binding and without prejudice to provisions of this Article as well as Article 51 of this Law. However, this shall not be respected if the country in which the award was issued does not respect the provisions of this paragraph with reference to cases decided in Rwanda.</p> <p>Rwanda accessed the New-York convention on 31 Oct 2008.</p>
<p>Investor-State arbitration</p>	Yes

<p>If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):</p>	<p>Rwanda is a member of the ICSID convention</p>
<p>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?</p>	<p>No</p>
<p>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>n/a</p>
<p>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?</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>n/a</p>
<p>50.1. If yes, which of the following options best describes the lender step-in right? (Please select only one): The regulatory framework expressly regulates the lender step-in rights.</p>	<p>n/a</p>
<p>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>n/a</p>
<p>The regulatory framework prescribes that a direct agreement should be signed with the lenders.</p>	<p>n/a</p>

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 grounds for termination of a PPP contract?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to Article 12 of the PPP Law, The PPP agreement must comprise the following: 10 ⁹ modalities for termination of PPP agreement.
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 Rwanda: (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>Chapter V of the PPP Law is related to PPP procurement procedure for unsolicited proposal.</p> <p>According to article 25, The Contracting Authority may engage in procurement procedure with a partner through an unsolicited proposal where:</p> <p>1º there is an urgent need to ensure continuity in the provision of an infrastructure facility or service and it is clear that engaging in a competitive procurement procedure may cause delay or is not in national's best interest;</p> <p>2º the implementation of a PPP project involves matters pertaining to national security;</p> <p>3º the required service is a monopoly;</p> <p>4º it is clear that there is little interest of the private sector in investing in infrastructure sector or services that the Government considers to be of national interest.</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>Article 27 of the PPP Law:</p> <p>In case of an unsolicited proposal for a PPP project, the partner, on its own initiative or upon proposal by the contracting Authority, conducts a feasibility study.</p> <p>The content of the feasibility study complies with the provisions of Article 13 of this Law.</p> <p>The Contracting Authority and the partner decide who conducts the study. Where the Contracting Authority conducts the feasibility study, it submits the study to the Steering Committee for approval.</p> <p>Where the feasibility study is conducted by the partner, it is submitted to the Contracting Authority prior to submission to the Steering Committee for a decision thereon.</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 27 of the PPP Law:</p> <p>In case of an unsolicited proposal for a PPP project, the partner, on its own initiative or upon proposal by the contracting Authority, conducts a feasibility study.</p> <p>The content of the feasibility study complies with the provisions of Article 13 of this Law.</p> <p>The Contracting Authority and the partner decide who conducts the study.</p>

	<p>Where the Contracting Authority conducts the feasibility study, it submits the study to the Steering Committee for approval.</p> <p>Where the feasibility study is conducted by the partner, it is submitted to the Contracting Authority prior to submission to the Steering Committee for a decision thereon.</p> <p>Article 26 of the PPP Law also provides that: On its own initiative or upon proposal by the Contracting Authority, the partner prepares a PPP project and submits it to the Contracting Authority for consideration.</p> <p>After consideration, the Contracting Authority submits the report to Steering Committee for approval.</p> <p>The Contracting Authority informs the partner of the decision of the Steering Committee.</p>
<p>36. Which of the following options best describe how the procuring authority ensures that unsolicited proposals are consistent with existing government priorities? (Please select only one): The procuring authority follows a specific procedure to ensure the consistency of PPPs with other government investment priorities.</p>	<p>No</p>
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Under article 25 of the PPPs Act unsolicited proposals are accepted only if there is an urgent need to ensure continuity in the provision of an infrastructure facility or service and it is clear that engaging in a competitive procurement procedure may cause delay or is not in national's best interest; the implementation of a PPP project involves matters pertaining to national security; the required service is a monopoly; or it is clear that there is little interest of the private sector in investing in infrastructure sector or services that the Government considers to be of national interest.</p>
<p>The procuring authority does not evaluate unsolicited proposals against existing government priorities.</p>	<p>No</p>

Please elaborate and provide examples:	n/a
37. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?	No
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 and final offer (BAFO) process and/or automatic shortlisting.	No
39.2 Developer's fee (reimbursing the original proponent for the project development cost).	No
39.3 Bid Bonus.	No
39.4 Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).	No
39.5 Other.	No
Please specify:	n/a
Please provide the relevant legal/regulatory provisions (if any):	n/a

