

**PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN
SENEGAL****NOTE**

Please note that Senegal has a dual regime of PPPs and Concessions. Both regimes are evaluated and scored separately in order to ensure the accuracy of the analysis. This document contains the data for **both** regimes. For your convenience, we have specified the page numbers for when the analysis for each regime begins and ends.

PPP	Concession
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**PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN
SENEGAL (PPP)**

SURVEY QUESTION	ANALYSIS
PPP Regulatory Framework	
2. Does the regulatory framework in your country allow procuring PPPs?	Yes
If yes, please specify the relevant regulatory framework and the year of adoption:	<p>In Senegal two categories of contracts are considered as PPP according to the World Bank definition: delegation of Public services (concession of contracts) and Partnership contracts (Marchés de partenariat). They are both defined in the Administrative Obligations Code (Le Code des Obligations de l'Administration): Law No. 65-51 of July 19, 1965 including code of administration obligations as modified by Law No. 2006-16 of June 30, 2006, and each of them has its own rules. Partnership contracts are defined as contracts by which a public body entrusts a third party, for a specified period, with a global mission that includes the financing and implementation, including construction, rehabilitation or transformation, of tangible or intangible investments, as well as their maintenance, their exploitation or management and, if appropriate, other benefits, which contribute to the exercise by the concerned public authority of the public service mission entrusted to it. The duration of the partnership contract is determined based on the amortization period of investments or the terms of their funding. The other party receives staggered payment on the contract by the public party, which may be related to performance objectives assigned to him. Partnership Contracts are regulated by (1) Law No. 2014-09 of February 20, 2014 governing partnership agreement in Senegal, as amended by Law No. 2015-03 of February 12, 2015; and (2) its implementing Decree no. 2015-386 of 20 March 2015 (the "PPP Law"). We also refer to the Public Procurement Code that governs public service delegations and concession contracts.</p> <p>Finally, there is also Law n. 2013-10 of 28 December 2013 on the General Code of Local Government (http://www.au-senegal.com/IMG/pdf/code_general6119.pdf)</p>
and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:	<p>Administrative Obligations Code N.2006-16: http://www.jo.gouv.sn/spip.php?article4920</p> <p>Decree No. 2014-1212: PP Law: file:///C:/Users/WB497731/Downloads/12053233825447d5e815265%20(1).pdf</p>
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	No

to be adopted BEFORE June 1, 2017?	
Please describe:	n/a
2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?	Yes
Please describe:	<p>Implementing texts of the 2014 law governing Partnership Contracts are planned to be adopted after June 1, 2017.</p> <p>Additionally, the West African Economic and Monetary Union (UEMOA) is in the process of drawing up a Community directive that will govern PPPs. This text is expected to be adopted by the beginning of 2018 and Member States will, as part of the transposition of this Directive, adapt their legal and institutional framework if necessary in relation to this Community text.</p> <p>The Government of Senegal has a process of reforming the institutional arrangements for steering and regulating PPPs in Senegal, which could lead to the centralization of texts as well as of a priori organs and bodies</p>
3.1 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Transportation.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.2 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Water and Irrigation	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.3 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Energy generation and distribution.	Yes
If yes, please provide the relevant legal/regulatory provisions:	<p>The legal framework on PPPs in Senegal, notably the Public Procurement Code and 2014.09 does not explicitly prohibit the use of PPPs for a particular sector of activity. In fact, Law No. 2014-09, provides in its article 2 §3 that the provisions of the PP Law apply to all economic and social sectors, except for those regulated by a specific regulation, specifically the sectors of energy,</p>

	mines and telecommunication.
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	Yes
If yes, please provide the relevant legal/regulatory provisions:	Law No. 2014-09 art.2 §3 states that the provisions of the PP Law apply to all economic and social sectors, except for those regulated by a specific regulation, specifically the sectors of energy, mines and telecommunication
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>Mines.</p> <p>According to Law No. 2014-09 art.2 §3, the provisions of the PP Law apply to all economic and social sectors, except for those regulated by a specific regulation, specifically the sectors of ... mines ...</p> <p>Apart from the common legal framework on PPPs, Senegalese legislation provides for separate legal regimes for certain sectors such as energy, telecommunications and mining. In general, only the principle of public service delegation (PSD) is envisaged in these sectoral laws. For mines Law N 2003-36 of 24 November 2003 establishing the mining code defines the conditions for the granting of licenses for the exploitation and exploitation of mining concessions. For Petroleum, Law No. 98-05 of 8 January 1988 on the petroleum code defines the conditions for the award of hydrocarbon concessions</p>
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>Senegal has long referred to common tax provisions until 2004. The Law of 13 February 2004 on contracts for the construction, operation and transfer of infrastructure (the so-called CET Act) contains no precise provisions on tax matters, but specifies that tax incentives must be negotiated in the contract itself. CET shall determine the rights and obligations of the parties, including [...] the administrative, financial or fiscal advantages enjoyed by the project operator. “</p> <p>In conclusion, we can say that in practice the tax advantages of the PPP contracts are freely negotiated between the parties</p> <p>According to article 7 of Law No. 2014-09, a partnership contract necessarily includes clauses relating to: where appropriate, the tax annex specifying the</p>

	<p>facilities granted for the realization of the investment project.</p> <p>Article 12 specifies “Cannot bid for a partnership contract: Persons who, on 31 December of the year preceding the year in which the consultation was initiated, did not subscribe to their tax and social declarations or did not pay the taxes and contributions due to this date. “</p> <p>The General Tax Code has specific provisions for the treatment of depreciation expense (Article 10-2). However, depending on the projects and their status, the State may be required to grant exemptions or other facilities to PPP projects in particular. Similarly, PPP projects can benefit from the common incentives provided for in the Investment Code if they concern activities eligible under this Code.</p> <p>Concerning the practice of depreciation in the PPP projects, Senegal, taking advantage of the experience gained from the Toll Freeway Dakar Diamniadio, introduced in the last General Code of Import of 2013 specific provisions concerning the practice of depreciation amortization, is applied in particular to concessions. (Law 2012-31 of December 31, 2012)</p>
<p>5. Please identify the PPP procuring authorities in Senegal and provide their website(s) (if available):</p>	<p>According to Article 2 of PPP law n 2014-09, any public authority, including the State, public institutions, local authorities, agencies, corporations that have majority public owners, as well as national companies can be procuring authorities.</p>
<p>6. In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?</p>	<p>Yes</p>
<p>If yes, please indicate its name, and its website (if available):</p>	<p>Article 3 of the PPP Law provides for: PPP National Committee (Comité National d’Appui aux Partenariats Public-Privé or the “CNAPPP”), located in the Ministry of Investment Promotion and Partnerships and responsible for preliminary project assessment, capacity building and technical support for contracting authorities through the project lifecycle, and PPP promotion. Article 4 of the PPP Law provides for: The Infrastructure Council (Le Conseil des Infrastructures): It is an independent body with 12 members comprising 3 magistrates, 3 private sector representatives, 3 civil society and consumer associations representatives, and 3 members of Parliament. The Infrastructure Council is responsible for dispute resolution (related to the procurement or implementation of PPP contracts), regulation of procedures, and auditing. Its activities are no longer restricted to infrastructure projects since the adoption of the 2014 Law. Article 5 of the PPP Law provides for: The Commission Bidding (La Commission d’Appel d’Offres). The National Agency responsible for the promotion of investments and major projects (“APIX”): (Ministère de la Promotion des Investissements, des Partenariats et du développement des Téléservices de l’Etat): www.investinsenegal.com APIX S.A is an implementing agency located in the Ministry of Investment Promotion and Partnerships and is responsible for investment promotion, business climate improvement, development of special economic zones, and the implementation of major public works. Finally, Directorate of Finance and Public-Private Partnerships (la Direction Centrale des Marchés Publics or “DCMP”), located in the Ministry of</p>

	Investment Promotion and Partnerships, is acting as the national PPP Unit pending the effective settlement of the National PPP Committee. The Directorate is the technical arm of the Committee. It used to be a Directorate located in the Ministry of Infrastructure, Transports and Energy (2009-2012) and a PPP Division in the Ministry of Economy and Finance (2012-2013).
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.	Yes
6.6 Revision of fiscal risks born by the Government.	No
6.7 Consultation with affected communities on potential impact of PPP projects.	No
6.8 Approval of PPP projects.	Yes
6.9 Undertaking the procurement of PPPs.	No
6.10 Oversight of PPP implementation.	Yes
6.11 Other	No
6.11 please specify:	n/a
Please provide the relevant legal/regulatory provisions:	<p>Article 3 of the PPP Law provides for: PPP National Committee (Comité National d'Appui aux Partenariats Public-Privé or the "CNAPPP"), located in the Ministry of Investment Promotion and Partnerships and responsible for preliminary project assessment, capacity building and technical support for contracting authorities through the project lifecycle, and PPP promotion.</p> <p>Article 4 of the PPP Law provides for: The Infrastructure Council (Le Conseil des Infrastructures): It is an independent body with 12 members comprising 3 magistrates, 3 private sector representatives, 3 civil society and consumer associations representatives, and 3 members of Parliament. The Infrastructure Council is responsible for dispute resolution (related to the procurement or implementation of PPP contracts), regulation of procedures, and auditing. Its activities are no longer restricted to infrastructure projects since the adoption of the 2014 Law.</p> <p>The National Agency responsible for the promotion of investments and major</p>

	<p>projects (“APIX”): (Ministère de la Promotion des Investissements, des Partenariats et du développement des Téléservices de l’Etat): www.investinsenegal.com</p> <p>APIX S.A is an implementing agency located in the Ministry of Investment Promotion and Partnerships and is responsible for investment promotion, business climate improvement, development of special economic zones, and the implementation of major public works.</p>
PPP Preparation	
8. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 10 of the PPP Law provides that the procurement process for the entering into a partnership agreement is subject to the prior favorable opinion of the Ministry in charge of Finance (among others)
8.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before signing the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 22 of the PPP Law No. 2014-09 provides that: once approved by the Minister of Finance, the partnership agreement is transmitted for information to the Council of the National Infrastructures and the National Committee of Support to Public Private Partnerships.
8.2. Does the Ministry of Finance (or government more broadly) have a specific system of: Budgeting for PPP projects.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Accounting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Reporting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
8.3. If yes to question 8.2, which of the following	No

alternatives best describes the regulation?: Accounting and reporting according to International Public Sector Accounting Standards (IPSAS).	
Accounting and reporting according to other international standard (e.g. European System of Accounts).	No
Please specify:	n/a
Other.	No
Please specify:	n/a
9. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before launching the procurement process (e.g. Cabinet, Cabinet Committee, Parliament, Supreme Audit Office, etc.)?	Yes
If yes, please specify the relevant authority	Article 10 of the PPP Law provides that the procurement process for the entering into a partnership agreement is subject to the prior favorable opinion of the Council of Infrastructure, (in addition to that of the Ministry in charge of Finance) and subject to the authorization of the Prime Minister upon consultation of the CNAPPP or any deliberative body within the public entity.
and provide the relevant legal/regulatory provisions (if any):	Article 10 of the PPP Law No. 2014-09
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 provisions (if any):	No regulatory basis
11. In a case comparable to the case study assumptions,	No

<p>please select the option that best describes the way your government integrates the prioritization of PPP projects with other public investment project prioritization? (e.g. in the context of a national public investment system, multi-year perspective plans, medium-term budgetary framework): The regulatory framework provides for the inclusion of PPPs in the national public investment system/medium term budgetary framework and details a specific procedure to ensure the consistency of PPPs with other public investment priorities.</p>	
<p>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>According to our contributors, the identification and initiation of PPP projects is the responsibility of the contracting authorities. however, the Ministry of Finance, the Infrastructure Council and the CNAPPP, on the basis of the preliminary assessment, appreciate in particular the coherence of the project with the objectives of the Government, with any authorization to launch by the Prime Minister.</p> <p>The criteria on which the Ministry of Finance and the Infrastructure Council are required to give prior advice on the launch of a PPP project are in line with the priorities of the Government. Only the detachment of either PPP project</p>

	<p>planning from the national planning system limits the effectiveness of this approach. the current regulatory framework, particularly with regard to PPPs with public payment, does not guarantee that the consistency with the priorities of the Governance and the efficiency of the arbitrations carried out.</p> <p>Finally, a contributor added that the selection of PPPs must be made in accordance with the budgetary commitments of the State and on the basis of proven economic and financial profitability.</p>
The procuring authority does not evaluate PPPs against existing government priorities.	No
Please elaborate and provide examples:	n/a
11.1. Based on your experience, is it always the case that this prioritization is done in practice in accordance with the provisions of the regulatory framework described above?	Yes
If yes, please specify:	In practice, the prioritization of PPP projects is always integrated with other public investment project prioritization of the Government of Senegal
If no, please elaborate:	n/a
12.1 Which of the following assessments are conducted when identifying and preparing a PPP in order to inform the decision to proceed with it? (check all that apply): Socio-economic analysis (cost-benefit analysis of the socio-economic impact of the PPP project)	Yes
Relevant legal/regulatory provision (if any)	Article 8 of the PPP Law provides that the CNAPPP shall assess the economic, financial, legal and administrative reasons, which lead the public entity to proceed with the elaboration of a partnership agreement.
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Article 8 of the PPP Law provides: Partnership agreements involve a preliminary assessment by the contracting authority with the assistance of the National Committee of Support to Public Private Partnerships, showing the reasons of an economic, financial, legal and administrative which lead the Contracting Authority to initiate the procurement procedure of such a contract. The National Committee of Support to Public Private Partnerships develops in its area of expertise, methodology determining the criteria for developing this assessment as provided by order of the Minister of partnerships. This evaluation includes a comparative analysis of different options, particularly in

	<p>terms of overall cost, risk-sharing and performance, and in comparison with sustainable development concerns. Furthermore, Article 9. Conditions of use of partnership contracts The partnership agreements may be concluded that if, after the screening assessment, at least one of the following conditions is met: a) given the complexity of the project, the public entity is not objectively able to define one and in advance the technical means to meet their needs or establish the legal or financial package for the project; b) the project is of an emergency nature, when it comes to catching a delay prejudicial to the public interest affecting the achievement of community facilities or the exercise of a public service mission, whatever the causes of delay, or face an unpredictable situation; c) given either the characteristics of the project, the requirements of public service, the public person is charged or shortcomings and difficulties observed in the implementation of similar projects, the use of such a contract shall provide a balance between the benefits and disadvantages more favorable than other contracts of public order. The standard of deferred payment does not in itself be decisive.</p>
Is the assessment done in practice?	No
Details:	According to our contributors the socio-economic assessment is not done in practice when identifying and preparing a PPP in Senegal
12.2. Affordability assessment, including the identification of the required long term public commitments (explicit and implicit, direct and contingent liabilities)	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology for the assessment?	n/a
If yes, please elaborate	n/a
Is the assessment done in practice?	n/a
Details:	n/a
12.3. Risk identification, allocation and assessment (risk matrix)	Yes
Relevant legal/regulatory provision (if any)	Article 8 of the PPP Law provides that the evaluation of PPP projects includes a comparative analysis of different options, particularly in terms of risk-sharing and performance ...
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No

Details:	According to our contributors, the risk identification, allocation and assessment is not always done in practice in Senegal when identifying and preparing a PPP
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)	Article 8 of the PPP Law provides that the assessment consists of a comparative analysis of different options
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No
Details:	According to our contributors, a comparative assessment is not always done in practice when identifying and preparing a PPP in Senegal
12.5. Financial viability or bankability assessment	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology for the assessment?	n/a
If yes, please elaborate	n/a
Is the assessment done in practice?	n/a
Details:	n/a
12.6. Market sounding and/or assessment (showing evidence of investors' interest in the market for the project)	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology for the assessment?	n/a
If yes, please elaborate	n/a
Is the assessment done in practice?	n/a
Details:	n/a
12.7. Environmental impact assessment	Yes
Relevant legal/regulatory provision (if any)	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:	An environmental impact assessment is done in practice when identifying and preparing a PPP project in Senegal
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):	Article 17 of the PPP Law provides that the draft PPP contract shall be attached to the bidding documents. Such documents are only given to the pre-selected candidates.
If no, please elaborate	n/a
14.1. Are the tender documents published online?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and please specify the website:	n/a
15. In a case comparable to the case study assumptions, have standardized PPP model contracts and/or transaction documents been developed?	No
If yes, please specify and provide a government-supported website where the 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)	Yes
To be established in the contract	No
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	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
16.3. 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)	Yes
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	No
Relevant legal/regulatory provision (if any)	No regulatory basis
16.5. Obtaining the required right of way: 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
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	Yes

and/or its members are required to meet detailed qualifications.	
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 28 of Decree 2015-386 provides that: If the PPP contract is initiated by the State, the Bid Committee must be constituted by the followings: 2 persons representatives of the contracting authority, 1 representative of the Ministry in charge of Finance, 1 representative of the judicial agent of the State, 1 representative of the monitoring of finance, 1 representative of the Ministry in charge of PPP. If the PPP contract is initiated by the local community (i.e. municipality), the Bid Committee must be constituted by the regional surveillance of the partnership and 1 accountant of the local community.
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.	No
Please elaborate and provide examples:	n/a
19. Does the procuring authority issue a public procurement notice of the PPP project?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	Article 16 of the PPP Law provides for the issuance of a public procurement notice of the PPP that intends to inform any potential bidders on the existence of the PPP project. The publication is made in local or international newspapers or online.
19.1. If yes, is the public procurement notice published online?	Yes
If yes, please specify the website:	http://www.marchesdusenegal.com/
20. Are foreign companies prohibited from participating in the bidding process?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
21. In a case comparable to the case study assumptions, does the procuring authority grant the potential bidders a minimum period of time to submit their bids?	Yes

If yes, please provide the relevant legal/regulatory provisions (if any):	Article 17 of the PPP Law No. 2014-09 provides that the pre-qualified candidates have to submit their tenders within a period fixed by the tender dossier, which cannot be less than forty-five days.
and the time in calendar days:	45
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	Yes
Relevant legal/regulatory provision (if any)	According to Article 13 of Law 2014-09: Subject to the provisions contained in Chapter 5 (10) of this Law, the selection of the project operator is carried out by international bidding in 2 steps preceded by a pre -qualification. However, the contracting authority may opt for a 1-stage tender with prequalification. In this case, it must obtain the opinion of the Infrastructure Council on the basis of a note justifying the choice of such a procedure. It indicates the choice of the procedure in the advertisement notice. In the case of unsuccessful bidding, a restricted invitation to tender may be issued under conditions specified by decree.
22.2. Restricted tendering (with pre-qualification stage): Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	According to Article 13 of Law 2014-09: Subject to the provisions contained in Chapter 5 (10) of this Law, the selection of the project operator is carried out by international bidding in 2 steps preceded by a pre -qualification. However, the contracting authority may opt for a 1-stage tender with prequalification. In this case, it must obtain the opinion of the Infrastructure Council on the basis of a note justifying the choice of such a procedure. It indicates the choice of the procedure in the advertisement notice. In the case of unsuccessful bidding, a restricted invitation to tender may be issued under conditions specified by decree.
22.3 Multi-stage tendering (with shortlisting of final candidate(s)): Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	According to Article 13 of Law 2014-09: Subject to the provisions contained in Chapter 5 (10) of this Law, the selection of the project operator is carried out by international bidding in 2 steps preceded by a pre -qualification. However, the contracting authority may opt for a 1-stage tender with prequalification. In this case, it must obtain the opinion of the Infrastructure Council on the basis of a note justifying the choice of such a procedure. It indicates the choice of the procedure in the advertisement notice. In the case of unsuccessful bidding, a restricted invitation to tender may be issued under conditions specified by decree.

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	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.8. Do the tender documents detail the procedure of the procurement process providing the same information to all the bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 17 of the PPP Law, the tender documents shall include the draft partnership agreement and the supplementary documents to be provided such as: tender submission rules; specifications books or the templates of the schedules of the partnership agreement; templates of deposit to be paid and letters to be provided; detailed functional program; as well as the place and the deadline for the submission of the bids as well as the timeline for the review of the bids.
If no, please elaborate:	n/a
22.9. Do the tender documents specify the prequalification/shortlisting criteria (when applicable) in order to make them available to all the bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 14 of the PPP Law provides that the PPP contract is awarded to the bidder whose bid is evaluated the best bid in light of the selection criteria set out in the tender documents. Additionally, Article 15 provides that: The pre-selection of bidders is exclusively in function of their capacity to perform the agreement and according to the following criteria: (i) specific technical experience, (ii) material and human resources available to the project, and (iii)

	<p>financial capacity. Furthermore, Article 16 of the PPP Law provides that the pre-qualification file is established by the contracting authority. It contains at least the following: all the instructions for the preparation of applications for pre-qualification; A description of the contractual structure; The list of documents and other information requested candidates to confirm their ability ; The specific criteria under which the pre- qualification is done ...Finally, the contracting authority decides, after consulting the tender commission on the qualifications of each candidate who applied and it rules solely on the basis of the criteria set out in the pre-qualification application .</p>
<p>22.10. Based on your experience, is it always the case that the specified criteria are respected in practice?</p>	<p>Yes</p>
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p>	<p>The prequalification/shortlisting criteria are always respected in practice. In order to ensure that these criteria are respected, there is a control mechanism through independent bodies (Infrastructure Council, DCMP and ARMP)</p>
<p>If no, please elaborate:</p>	<p>n/a</p>
<p>23. Can interested parties/potential bidders submit questions to clarify the public procurement notice and/or the request for proposals?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>No regulatory basis</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>As a general principle, the procuring authority should ensure transparency and equality of treatment for the fairness of the procurement procedures in Senegal. In fact, Article 18 of the PPP Law provides the following: The contracting authority ensures equal treatment of all candidates. In particular, it must abstain to provide information in a discriminatory manner that would likely favor candidates over others, nor reveal solutions proposed or confidential information of a candidate without their authorization.</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>Notwithstanding confidential information pertaining to the bidders, the procuring authority always discloses in practice the questions submitted by the</p>

	bidders, as well as the clarifications provided by the procuring authority to all potential bidders.
If no, please elaborate:	n/a
24. Besides questions and clarifications, can the procuring authority conduct pre-bidding conference?	Yes
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	Article 18 of the PPP Law provides that dialogue can take place between the contracting authority and each bidder, including the possibility to be involved in discussions between the contracting authority and the bidder about the content of the tenders
24.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose the content and the results of the pre-bid conference to all bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 18 of the PPP Law provides that the results of such discussion shall be communicated to all the potential bidders by the contracting authority.
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:	Notwithstanding confidential information pertaining to the bidders, the procuring authority always discloses the content of the results of the pre-bid conference to all bidders
If no, please elaborate:	n/a
25. In a case comparable to the case study assumptions, does the procuring authority require the bidders to prepare and present a financial model with their proposals?	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):	Article 20 of the PPP Law provides that the Bid Committee shall proceed with the evaluation of all the offers on the basis of the criteria provided in the tender documents.

Evaluation criteria is not set in the tender documents	No
27. In the case where only one proposal is submitted (sole proposals), which of the following options best describes the way the procuring authority deals with them? (Please select only one)?: The procuring authority follows a specific procedure before awarding a PPP contract where only one proposal is submitted.	No
Please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority considers sole proposals valid as long as they meet the conditions outlined in the tender documents.	No
Please provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority does not award a PPP contract if only one proposal is submitted.	No
Please provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework does not include any provisions.	Yes
28. Does the procuring authority publish the award notice?	No
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	n/a
28.1. If yes, is the public procurement award notice published online?	n/a
If yes, please specify the website:	n/a
29. Does the procuring authority provide all the bidders with the result of the PPP procurement process?	Yes

If yes, please provide the relevant legal/regulatory provisions (if any):	Article 20 of the PPP Law provides that the contracting authority has to inform by writing the results to all the candidates.
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 unsuccessful bidders to challenge the award decision?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and the time in calendar days:	n/a
30.1. Is the standstill period set out in the notice of intention to award?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
31. Does the regulatory framework restrict negotiations with the selected bidder between the award and the signature of the PPP contract in order to prevent an unfair disadvantage to the other bidders?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
31.1. Based on your experience, is it always the case that this restriction is respected in practice?	n/a
If yes, please specify:	n/a
If no, please elaborate:	n/a

32. Does the procuring authority publish the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 22 of the PPP Law provides that the partnership agreements are published in the Official Gazette except for the confidential provisions.
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	No
Publication of the full PPP contract without including all its annexes and appendixes	Yes
Publication of a summary of the PPP contract without publishing the full PPP contract	No
Publication of a summary of the PPP contract along with the full PPP contract including all its annexes and appendixes	No
Publication of a summary of the PPP contract along with the full PPP contract without including all its annexes and appendixes	No
32.2. If yes, is it published online?	No
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?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
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	No

establishing specific management tools)?	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
41.1. If yes, which of the following tools does it include (check all that apply)?: Establishment of a PPP contract management team	n/a
Relevant legal/regulatory provisions (if any):	n/a
Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa	n/a
Relevant legal/regulatory provisions (if any):	n/a
Elaboration of a PPP implementation manual or an equivalent document	n/a
Relevant legal/regulatory provisions (if any):	n/a
Establishment of personnel training programs (i.e. initial training and continued training throughout the course of the project)	n/a
Relevant legal/regulatory provisions (if any):	n/a
Establishment of a risk mitigation mechanism which considers the evolving nature of risks throughout the project lifecycle (guidelines, specific processes, insurance regime, etc.)	n/a
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	n/a

members are required to meet detailed qualifications.	
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The PPP contract management team members are required to meet sufficient qualification without specific details.	n/a
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.	n/a
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):	No regulatory basis
42.1. If yes, is the PPP contract construction performance information made available to the public?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
42.2. If yes, is the PPP contract construction performance information made publicly available online?	n/a
If yes, please specify the website:	n/a
43. Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract implementation after construction?	Yes

If yes, please provide the relevant legal/regulatory provisions (if any):	Article 38 of the PPP Law provides that the PPP agreement is subject to a periodical evaluation by the National Committee Support of the PPP; and Article 39 adds that a periodical audit is provided by the “Conseil des Infrastructures”
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	Yes
Relevant legal/regulatory provisions (if any)	No regulatory basis
The procuring or contract management authority can abate (reduce) payments for non-performance of operating obligations under the PPP contract	No
Relevant legal/regulatory provisions (if any)	n/a
The private partner must provide the procuring or contract management authority with periodic operational and financial data	No
Relevant legal/regulatory provisions (if any)	n/a
The procuring or contract management authority must periodically gather information on the performance of the PPP contract	Yes
Relevant legal/regulatory provisions (if any)	Article 39 of the PPP Law adds that a periodical audit is provided by the “Conseil des Infrastructures”
The PPP contract performance information must be available to the public	No
Relevant legal/regulatory provisions (if any)	n/a
43.2. Is PPP contract performance information made publicly available online?	No
If yes, please specify the website:	n/a

44. Are foreign companies prohibited from repatriating the income resulting from the operation of a PPP project?	<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>Article 31 of the PPP law provides that any change in the private partner during the initial period shall be subject to a prior agreement between the relevant parties by an endorsement of the partnership agreement by the new stakeholder.</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>No</p>
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>n/a</p>
Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.	<p>No</p>
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>n/a</p>
In other cases, flexibility to change the ownership structure and/or assign the contract.	<p>No</p>

If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	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>Article 30 of the PPP Law provides that a partnership contract can be complemented by an additional contract passed by direct agreement by a contracting authority where a project in progress was the subject of a partnership agreement and for reasons of economic necessity, social or cultural or for reasons relating to the consistency requirements in the technical and financial management of the project, the contracting authority decides its extension. The procurement authorization of additional contract by direct agreement is given by the Prime Minister, on the referral of the National Committee of Support to Public Private Partnerships, after consulting the Board of Infrastructure and the Minister of Finance. Additional services will not change the overall nature of the contract. Reviews and prior authorization must be requested upon submission of a report justifying the appropriateness of the works, supplies or services, the extension of objects and their relationship to the original project. Finally, specific terms of additional contracting by local authorities are specified by decree. Furthermore, Article 31 details the conditions for awarding endorsements. It provides that subject to the provisions of Article 30, all changes of works, goods, services or time of the initial contract by the holder or the contracting authority should be subject to prior agreement between the parties by an amendment to the partnership agreement. These changes cannot be substantial, without need for a new award procedure. A modification is considered substantial: (1) When it introduces conditions which, had they been included in the initial award procedure, would have allowed the selection of another candidate than initially withheld; (2) When it changes the economic balance of the partner favor in partnership contract for a cost greater than or equal to thirty percent (30%) of the original amount of the withholding financial offer; or (3) When substantially alters the scope of the partnership agreement. This is particularly the case when the amendment has the effect or purpose of substituting another contract to the original contract is upsetting the economy, either by changing the subject. Finally, any amendment to the PPP contract must be authorized by the Infrastructure Council, after consulting the Minister of Finance and National Support to Public Private Partnerships Committee.</p>
46.1. If yes, is an approval from a government authority, other than the procuring authority, required?	Yes

If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>According to Article 31 of the PPP Law, any amendment must be previously authorized by the Infrastructure Council</p>
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.	<p>Yes</p>
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>Article 31 details the conditions for awarding endorsements. It provides that subject to the provisions of Article 30, all changes of works, goods, services or time of the initial contract by the holder or the contracting authority should be subject to prior agreement between the parties by an amendment to the partnership agreement. These changes cannot be substantial, without need for a new award procedure. A modification is considered substantial: (1) When it introduces conditions which, had they been included in the initial award procedure, would have allowed the selection of another candidate than initially withheld; (2) When it changes the economic balance of the partner favor in partnership contract for a cost greater than or equal to thirty percent (30%) of the original amount of the withholding financial offer; or (3) When substantially alters the scope of the partnership agreement. This is particularly the case when the amendment has the effect or purpose of substituting another contract to the original contract is upsetting the economy, either by changing the subject. Finally, any amendment to the PPP contract must be authorized by the Infrastructure Council, after consulting the Minister of Finance and National Support to Public Private Partnerships Committee.</p>
A change in the risk allocation of the contract.	<p>No</p>
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>n/a</p>
A change in the financial and/or economic balance of the contract.	<p>No</p>
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>n/a</p>
A change in the duration of the contract.	<p>Yes</p>
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>Article 30 of the PPP Law provides that a partnership contract can be complemented by an additional contract passed by direct agreement by a contracting authority where a project in progress was the subject of a partnership agreement and for reasons of economic necessity, social or cultural</p>

	or for reasons relating to the consistency requirements in the technical and financial management of the project, the contracting authority decides its extension.
A change in the agreed price or tariff.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
46.3. Can the procuring authority unilaterally modify a PPP contract?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Administrative Law: PPP contracts are administrative contracts in the sense of Law 2014-09, and therefore, they can be unilaterally modified
47. Does the regulatory framework (including standard contractual clauses) expressly regulate the following circumstances that may occur during the life of the PPP contract? (check all that apply): Force Majeure	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 35 of the PPP Law provides that the partnership contract can be terminated at the initiative of either party in case of force majeure, in the conditions provided by the contract.
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):	Article 37 of the PPP Law provides that disputes arising from the execution and interpretation of the PPP Law can be settled through the Senegalese Court or through arbitration if they are not amicably settled.
48.1. If yes, please specify which of the following options are available (check all that apply): Local administrative review body	No
If yes, please specify:	n/a
Local courts	Yes
Domestic arbitration	Yes
International arbitration	Yes
Investor-State Dispute Settlement (ISDS)	Yes
Mediation	Yes
Please provide the relevant legal/ regulatory/standard contractual provisions (if any)	Article 37 of the PPP Law provides that disputes related to the execution or interpretation of PPP contracts fall within the competence of the Senegalese courts or arbitral tribunals whenever the parties fail to reach a friendly settlement. The arbitration shall be conducted in accordance with the stipulations of the arbitration clause contained in the partnership contract
48.2. If applicable, are arbitration awards enforceable by the local courts?: Domestic Arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard	According to Article 787 of the civil procedure code provides that in civil, commercial, and administrative decisions, rendered on a contentious or graceful basis by foreign courts or arbitrators have full authority of res judicata in the territory of Senegal if they meet the following conditions:

contractual provisions (if any):	<p>a) The decision is made in a jurisdiction according to the rules concerning conflicts of competence admitted in Senegal;</p> <p>(b) The decision follows the rule of conflicts of law applicable in Senegal;</p> <p>(c) The decision is, according to law of the State where it was made, passed into res judicata and capable of execution;</p> <p>(d) The parties have been regularly represented;</p> <p>e) The decision does not contain anything contrary to the public policy of Senegal and is not contrary to a Senegalese court decision possessing res judicata</p>
International arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	According to Article 34 of the OHADA Act (Acte Uniforme sur le droit de l'arbitrage)
Investor-State arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	Senegal is member of ICSID
49. Does the regulatory framework (including standard contractual clauses) allow for the restructuring of a PPP private partner (SPV) in financial difficulty prior to insolvency?	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
50. Does the regulatory framework (including standard contractual clauses) allow for the lenders to take control of the PPP project (lender step-in rights) if either the private partner defaults or if the PPP contract is under threat of termination for failure to meet service obligations?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 34 of the PPP Law provides that: The operator of the PPP project may not transfer the contract to a third party without the prior consent of the public authority, as provided by the contract. The Partnership contract may in particular provide a transfer either to institutions that financed all or part of the project or for the benefit of a third party suggested by such lenders. The third party, to whom the partnership contract is transferred, must present sufficient

	financial, technical and legal guarantees. Furthermore, if the nature of the contract requires it, the latter must prove that he is capable of ensuring the continuity of the service as well as the equality of users before the public service.
50.1. If yes, which of the following options best describes the lender step-in right? (Please select only one): The regulatory framework expressly regulates the lender step-in rights.	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
The regulatory framework prescribes that a direct agreement should be signed with the lenders.	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 34 of the PPP Law provides that: The operator of the PPP project may not transfer the contract to a third party without the prior consent of the public authority, as provided by the contract. The Partnership contract may in particular provide a transfer either to institutions that financed all or part of the project or for the benefit of a third party suggested by such lenders. The third party, to whom the partnership contract is transferred, must present sufficient financial, technical and legal guarantees. Furthermore, if the nature of the contract requires it, the latter must prove that he is capable of ensuring the continuity of the service as well as the equality of users before the public service.
Other.	No
Please Specify:	n/a
51. Does the regulatory framework (including standard contractual clauses) expressly establish the grounds for termination of a PPP contract?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard	Article 35 of the PPP Law provides: The PPP contract may be terminated in Senegal if any of the following circumstances occur: serious failure of the

contractual provisions (if any):	procuring authority; serious misconduct of the project operator; reason of public interest; change in the financial balance of the project due to an action or decision of the procuring authority
51.1. If yes, does the regulatory framework (including standard contractual clauses) establish the consequences for the termination of the PPP contract?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 35 provides that if the PPP agreement is terminated by a serious failure of the contracting authority, the operator can claim damages to the contract authority.
Unsolicited Proposals	
34. Are unsolicited proposals in Senegal: (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	Article 24 of the PP Law provides that a private operator can address an unsolicited proposal to the contracting authority.
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	Article 24 of the PPP Law provides that unsolicited proposals shall be subject to a negotiated procedure, in which prior authorization of the Prime Minister or other competent authority (including the Public entity) upon a required prior opinion of the National Committee and the Ministry in charge of Finance. According to Article 24 of the application Decree of the PPP law (2014-09): General principle of treatment of the spontaneous Offer A private operator can submit a spontaneous offer. In this case, the operator performs the preliminary studies in order to present a coherent project with appropriate technical proposals, as well as the corresponding financing solutions.

	<p>A spontaneous offer may also relate to the realization of the study has been carried out by the competent Contracting Party when such studies are deciduous or when they have been carried out for at least 60 months before the date of submission of the unsolicited tender.</p> <p>They are the subject of a negotiated procedure with authorization given by the Prime Minister ...</p>
35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
36. Which of the following options best describe how the procuring authority ensures that unsolicited proposals are consistent with existing government priorities? (Please select only one): The procuring authority follows a specific procedure to ensure the consistency of PPPs with other government investment priorities.	No
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>According to Article 26 of the application Decree of the PPP Law n.2014-09, about the form and content of the unsolicited proposals, ... The opinion of the Minister of Finance concerns the fiscal sustainability of government commitments under the project. In particular, it must ensure that the project is financially and economically viable.</p> <p>The National Committee to Support Public-Private Partnerships and the Minister for Finance may make use of an expert independent evaluation of the projects.</p>
The procuring authority does not evaluate unsolicited proposals against existing government priorities.	No

Please elaborate and provide examples:	n/a
37. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 28 of the PPP Law provides that when the unsolicited proposal does not comply with the conditions provided at point 36 above it will be subject to a competitive PPP procurement procedure.
38. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?	No
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.	Yes
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):	Pursuant to Article 28 of the PPP Law, the proponent of the unsolicited offer participates in the tender under the same conditions as other candidates. However, in some cases, he can benefit from a margin of preference after the approval of the National Committee of Support to Public Private Partnerships (CNAPPP)

PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN SENEGAL (CONCESSION)

SURVEY QUESTION	ANALYSIS
PPP Regulatory Framework	
2. Does the regulatory framework in your country allow procuring PPPs?	Yes
If yes, please specify the relevant regulatory framework and the year of adoption:	<p>In Senegal two categories of contracts are considered as PPP according to the World Bank definition: delegation of Public services (concession of contracts) and Partnership contracts (Marchés de partenariat). They are both defined in the Administrative Obligations Code (Le Code des Obligations de l'Administration): Law No. 65-51 of July 19, 1965 including code of administration obligations as modified by Law No. 2006-16 of June 30, 2006, and each of them has its own rules. Concession contracts are defined as those by which a public person charges the concessionaire to run a public work or to make investments relating to such work and operate it to ensure a public service, or simply exploit works or public facilities to ensure a public service. In all cases the concessionaires operate the public service in their names and at their own risk by charging remuneration of users of the infrastructure or the beneficiaries of the conceded service.</p> <p>Delegation of public services (Concessions) are regulated by:</p> <p>(1) the Code of Public Services (Code des marchés publics): Decree No. 2014-1212 of September 22, 2014: hereinafter PP Law.</p> <p>(2) We will also refer to Law No.2002-23 of September 4, 2002 about the regulation for concessionaire enterprises of public services (LOI N 2002-23 DU 4 SEPTEMBRE 2002 PORTANT CADRE DE REGULATION POUR LES ENTREPRISES CONCESSIONNAIRES DE SERVICES PUBLICS), and</p> <p>(3) Decree NO. 2007-546 of April 25, 2007 about the organization and the functioning of the regulatory authority of public procurement (DECRET N 2007-546 du 25 AVRIL 2007 portant organisation et fonctionnement de l'Autorité de Régulation des Marchés Publics (ARMP)); and finally</p> <p>(4) we will also refer to Order No. 011586 of December 28, 2007 (Arrêté pris en application de l'article 35 du Code des Marchés Publics relatif aux cellules de passation des marchés des autorités contractantes); and</p> <p>(5) Law n ° 2013-10 of 28 December 2013 on the General Code of Local Government</p>
and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:	<p>www.ppp.gouv.sn</p> <p>(1) file:///C:/Users/WB497731/Downloads/12053233825447d5e815265%20(1).pdf</p> <p>(5) http://www.au-senegal.com/IMG/pdf/code_general6119.pdf</p> <p>B. (1)</p> <p>http://www.uemoa.int/sites/default/files/bibliotheque/directive_05_2005_cm_uemoa.pdf</p> <p>(2)</p>

	http://www.uemoa.int/sites/default/files/bibliotheque/directive_04_2005_cm_uemoa.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:	In 2016, UEMOA Directives 04 and 05 were transposed into the domestic legal order by Law No. 2006-16 amending Law No. 65-61 of 19 July 1965 establishing the Obligations of the Administration Code.
2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?	No
Please describe:	n/a
3.1 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Transportation.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.2 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Water and Irrigation	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.3 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the	No

following sectors?: Energy generation and distribution.	
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.4 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Telecom	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.5 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Other	No
If yes, specify and provide the relevant legal/regulatory provisions:	n/a
4. Does the regulatory framework provide for a specific tax regime for PPP transactions (i.e. tax incentives, special tax depreciation treatment, etc.)?	Yes
If yes, please specify and provide the relevant legal/regulatory provision (if any):	<p>The General Tax Code has specific provisions for the treatment of depreciation expense (Article 10-2). However, depending on the projects and their status, the State may be required to grant exemptions or other facilities to PPP projects in particular. Similarly, PPP projects can benefit from the common incentives provided for in the Investment Code if they concern activities eligible under this Code.</p> <p>Concerning the practice of depreciation in the PPP projects, Senegal, taking advantage of the experience gained from the Toll Freeway Dakar Diamniadio, introduced in the last General Code of Import of 2013 specific provisions concerning the practice of depreciation amortization, is applied in particular to concessions. (Law 2012-31 of December 31, 2012)</p>
5. Please identify the PPP procuring authorities in	Article 2 of Decree No. 2014-1212 provides a list of the procuring authorities: The State (including its decentralized services), local communities (including local public institutions), public institutions, agencies or bodies, other than public institutions,

Senegal and provide their website(s) (if available):	national or companies with a majority of public participation, (whose business is mainly financed by the state or a local authority and exercised mainly through activities of general interest), national companies and joint stock companies with majority public participation; as well as associations formed by the above mentioned persons.
6. In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?	No
If yes, please indicate its name, and its website (if available):	n/a
6.1 If yes, what are the main responsibilities of the PPP Unit (check all that apply): PPP regulation and policy guidance.	n/a
6.2 PPP capacity building for other public authorities.	n/a
6.3 PPP promotion among the public and/or private sectors in national and international forums.	n/a
6.4 Technical support in implementing PPP projects.	n/a
6.5 Identification and selection of PPP projects from the pipeline.	n/a
6.6 Revision of fiscal risks born by the Government.	n/a
6.7 Consultation with affected communities on potential impact of PPP projects.	n/a
6.8 Approval of PPP projects.	n/a
6.9 Undertaking the procurement of PPPs.	n/a
6.10 Oversight of PPP implementation.	n/a
6.11 Other	n/a
6.11 please specify:	n/a
Please provide the relevant legal/regulatory provisions:	n/a

PPP Preparation	
8. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Article 29 of the PP law, concession contracts are approved by the Minister of Finance when the amount is equal or greater than 300 million FCFA
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):	According to Article 85 of the PP Law, once the contracts are signed, they are submitted to the approval of the authorities provided for in Article 29 (depending on the value of the contract: therefore, a second approval is required from the Ministry of finance for the big contracts). We note that approval of the contracts takes place immediately after their signature by the parties. Nevertheless, the Central Public Procurement Directorate, which reports to the Ministry of Finance, examines draft contracts before signing and gives an opinion which is generally taken into account by the contracting authorities.
8.2. Does the Ministry of Finance (or government more broadly) have a specific system of: Budgeting for PPP projects.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Accounting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Reporting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
8.3. If yes to question 8.2, which of the following alternatives best describes the	No

regulation?: Accounting and reporting according to International Public Sector Accounting Standards (IPSAS).	
Accounting and reporting according to other international standard (e.g. European System of Accounts).	No
Please specify:	n/a
Other.	No
Please specify:	n/a
9. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before launching the procurement process (e.g. Cabinet, Cabinet Committee, Parliament, Supreme Audit Office, etc.)?	No
If yes, please specify the relevant authority	n/a
and provide the relevant legal/regulatory provisions (if any):	n/a
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 provisions (if any):	No regulatory basis
11. In a case comparable to the case study	No

<p>assumptions, please select the option that best describes the way your government integrates the prioritization of PPP projects with other public investment project prioritization? (e.g. in the context of a national public investment system, multi-year perspective plans, medium-term budgetary framework): The regulatory framework provides for the inclusion of PPPs in the national public investment system/medium term budgetary framework and details a specific procedure to ensure the consistency of PPPs with other public investment priorities.</p>	
<p>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

If yes, please elaborate:	The regulatory framework does not include any provisions but the procuring authority evaluates the consistency of concession projects with other government investment priorities in practice in Senegal
The procuring authority does not evaluate PPPs against existing government priorities.	No
Please elaborate and provide examples:	n/a
11.1. Based on your experience, is it always the case that this prioritization is done in practice in accordance with the provisions of the regulatory framework described above?	Yes
If yes, please specify:	Prioritization of concession projects is always done in practice in Senegal
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)	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?	Yes
Details:	In concession projects, the socio-economic analysis is generally done in practice especially when the project is accompanied by an International Financial and Technical Partner
12.2. Affordability assessment, including the identification of the required long term public commitments (explicit and implicit, direct and contingent liabilities)	No
Relevant legal/regulatory provision (if any)	n/a

Is there a specific methodology for the assessment?	n/a
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	An affordability assessment, including the identification of the required long term public commitments is done in practice when identifying and preparing a concession contract in Senegal
12.3. Risk identification, allocation and assessment (risk matrix)	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology for the assessment?	n/a
If yes, please elaborate	n/a
Is the assessment done in practice?	n/a
Details:	n/a
12.4. Comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives (i.e. value for money analysis, public sector comparator)	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology for the assessment?	n/a
If yes, please elaborate	n/a
Is the assessment done in practice?	n/a
Details:	n/a
12.5. Financial viability or bankability assessment	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology for the assessment?	n/a
If yes, please elaborate	n/a
Is the assessment done in practice?	n/a
Details:	n/a

12.6. Market sounding and/or assessment (showing evidence of investors' interest in the market for the project)	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology for the assessment?	n/a
If yes, please elaborate	n/a
Is the assessment done in practice?	n/a
Details:	n/a
12.7. Environmental impact assessment	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology for the assessment?	n/a
If yes, please elaborate	n/a
Is the assessment done in practice?	n/a
Details:	n/a
12.8. 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?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
If no, please elaborate	There is no such requirement in the PP Law. In fact, Articles 10 and 13 of the Law provide a mandatory list of provisions to be included in the request for proposals, and a draft concession contract is not part of that list.
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.marchespublics.sn
15. In a case comparable to the case study assumptions, have standardized PPP model contracts and/or transaction documents been developed?	No
If yes, please specify and provide a government-supported website where the mentioned standards are available or provide an electronic copy of them:	n/a

16.1 In a case comparable to the case study assumptions, who is the responsible party for each of the following requirements? Obtaining the required urban permits: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	Yes
To be established in the contract	No
Relevant legal/regulatory provision (if any)	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)	Yes
To be established in the contract	No
Relevant legal/regulatory provision (if any)	No regulatory basis
16.3. Obtaining the required operational permits: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis

16.4. Obtaining the required land: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
16.5. Obtaining the required right of way: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
PPP Procurement	
18. Which of the following options best describes the required qualifications of the bid evaluation committee members? (Please select only one): The membership of the bid evaluation committee is specified and/or its members are required to meet detailed qualifications.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The bid evaluation committee members require sufficient qualification without specific details.	Yes

If yes, please provide the relevant legal/regulatory provisions (if any):	According to Article 2 of the order No. 011586 of December 28, 2007, the number and composition of the procurement of such committees depends on the staff specifications and the workload of each contracting authority. In any case, it must include at least one member chosen according to its specific expertise in procurement .
The bid evaluation committee members are not required to have any specific qualifications.	No
Please elaborate and provide examples:	n/a
19. Does the procuring authority issue a public procurement notice of the PPP project?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	According to Article 56 of the PP Law, the procuring authority has to issue a public procurement notice to be published on the official portal of public procurement, and at least in one widely circulated daily newspaper (it can also be electronically published as a complementary way). In fact, §2 provides that the procuring authority has to issue a public procurement notice to be published on the official portal of public procurement, and at least in one widely circulated daily newspaper. Above the UEMOA thresholds, national publication cannot be made before UEMOA's publication. Finally, regarding international call for tenders, a notice must be inserted in a publication of wide international circulation. §3 provides that public procurement notices can also be electronically published as a complementary way.
19.1. If yes, is the public procurement notice published online?	Yes
If yes, please specify the website:	http://www.marchespublics.sn (the official portal of public procurement)
20. Are foreign companies prohibited from participating in the bidding process?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
21. In a case comparable to the case study assumptions, does the procuring authority grant the potential bidders a minimum period of time to submit their bids?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Article 63 of the PP Law, 2. for the open tender procedures, with or without pre-qualification, or restricted tenders, the minimum time limit for submission of tenders is 30 calendar days from the date of publication of the tender notice. Additionally, 3. In the tender procedures in two stages, the minimum time limit for receipt of applications or requests to participate is 45

	calendar days from the date of publication of the tender notice (A reduction of five days maximum deadlines for receipt of offers, applications or requests for participation is possible when the procuring authority sends the call for tenders by electronic means)
and the time in calendar days:	45
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	Yes
Relevant legal/regulatory provision (if any)	According to Article 82-2 of the Public Procurement Code: "Subject to the exceptions provided for in this Article, public service delegation agreements are passed by Open Tender procedure with prequalification or a Call for tender in 2 stages, depending on the complexity of the project, in accordance with the provisions of this Decree. The selection is made in a single step when the contracting Party is in a position to define the detailed techniques and performance criteria or outcome indicators that allow for the allocation of contract."
22.2. Restricted tendering (with pre-qualification stage): Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	According to Article 82-2 of the Public Procurement Code: "Subject to the exceptions provided for in this Article, public service delegation agreements are passed by Open Tender procedure with prequalification or a Call for tender in 2 stages, depending on the complexity of the project, in accordance with the provisions of this Decree. The selection is made in a single step when the contracting Party is in a position to define the detailed techniques and performance criteria or outcome indicators that allow for the allocation of contract."
22.3 Multi-stage tendering (with shortlisting of final candidate(s)): Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	According to Article 82-2 of the Public Procurement Code: "Subject to the exceptions provided for in this Article, public service delegation agreements are passed by Open Tender procedure with prequalification or a Call for tender in 2 stages, depending on the complexity of the project, in accordance with the provisions of this Decree. The selection is made in a single step when the contracting Party is in a position to define the detailed techniques and

	performance criteria or outcome indicators that allow for the allocation of contract.”
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	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.8. Do the tender documents detail the procedure of the procurement process providing the same information to all the bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 58 of the Public Procurement Code provides the Content of the tender documents, which are the following: 1. The Invitation to compete that contains all the necessary documents for consultation and informing the candidates about the chosen procedure, (a) the documents relating to the conditions of the Call for competition: the reference to the invitation to tender or to the Notice of Call for Applications or the letter of consultation, as well as the rules of procedure, ...
If no, please elaborate:	n/a
22.9. Do the tender documents specify the prequalification/shortlisting criteria (when applicable) in order to make them available to all the bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 71(3) of the PP Law provides that the prequalification criteria need to be published according to articles 56 and 63 of the Decree.

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 prequalification/shortlisting criteria specified in the tender documents are always respected in practice in Senegal for concession contracts
If no, please elaborate:	n/a
23. Can interested parties/potential bidders submit questions to clarify the public procurement notice and/or the request for proposals?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
23.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose those questions and clarifications to all potential bidders?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
23.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	n/a
If yes, please specify:	n/a
If no, please elaborate:	n/a
24. Besides questions and clarifications, can the procuring authority conduct pre-bidding conference?	No
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
24.1. If yes, notwithstanding confidential information	n/a

pertaining to the bidders, does the procuring authority disclose the content and the results of the pre-bid conference to all bidders?	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
24.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	n/a
If yes, please specify:	n/a
If no, please elaborate:	n/a
25. In a case comparable to the case study assumptions, does the procuring authority require the bidders to prepare and present a financial model with their proposals?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
If no, please elaborate:	Article 44 only states that any bidder must be able to justify its legal, technical, financial and environmental capacity required in order to execute the works / operate the services. It is different from asking bidders to submit a financial model attached to their technical proposal when answering the tender.
26. Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Article 70 of the PP Law: the commission evaluates the offers based on the criteria listed under article 59 and mentioned in the tender documents.
Evaluation criteria is not set in the tender documents	No
27. In the case where only one proposal is submitted (sole proposals), which of the following options best describes the way the procuring authority deals	No

with them? (Please select only one)?: The procuring authority follows a specific procedure before awarding a PPP contract where only one proposal is submitted.	
Please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority considers sole proposals valid as long as they meet the conditions outlined in the tender documents.	No
Please provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority does not award a PPP contract if only one proposal is submitted.	No
Please provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework does not include any provisions.	Yes
28. Does the procuring authority publish the award notice?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	According to Article 84 of the PP Law, the procuring authority needs to publish the award notice
28.1. If yes, is the public procurement award notice published online?	Yes
If yes, please specify the website:	According to Article 86 in fine of the Public Procurement Code: "Within 15 days of notification of the contract award, the Contracting Authority shall issue a Final Award Notice on the public procurement portal."
29. Does the procuring authority provide all the bidders with the result of the PPP procurement process?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Article 88 of the PP Law, 1. The procuring authority must inform in writing the candidates who so request in writing, of the reasons why they did not win the bid, within five (5) business days from receipt of the request.

If no, please elaborate:	n/a
29.1. If yes, does the notification of the result of the PPP procurement process include the grounds for the selection of the winning bid?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Article 88 of the PP Law, 2. The procuring authority must also inform in writing the candidates who so request in writing, of the reasons why they did not win the bid, within five (5) business days from receipt of the request.
30. Is there a standstill (or pause) period after the contract award and before the signing of the contract in order to allow unsuccessful bidders to challenge the award decision?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and the time in calendar days:	n/a
30.1. Is the standstill period set out in the notice of intention to award?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
31. Does the regulatory framework restrict negotiations with the selected bidder between the award and the signature of the PPP contract in order to prevent an unfair disadvantage to the other bidders?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
31.1. Based on your experience, is it always the case that this restriction is respected in practice?	n/a
If yes, please specify:	n/a
If no, please elaborate:	n/a

32. Does the procuring authority publish the PPP contract?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
32.1. If yes, which of the following options best describes this publication (choose only one)?: Publication of the full PPP contract including all its annexes and appendixes	n/a
Publication of the full PPP contract without including all its annexes and appendixes	n/a
Publication of a summary of the PPP contract without publishing the full PPP contract	n/a
Publication of a summary of the PPP contract along with the full PPP contract including all its annexes and appendixes	n/a
Publication of a summary of the PPP 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	No

responsibilities or establishing specific management tools)?	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
41.1. If yes, which of the following tools does it include (check all that apply)?: Establishment of a PPP contract management team	n/a
Relevant legal/regulatory provisions (if any):	n/a
Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa	n/a
Relevant legal/regulatory provisions (if any):	n/a
Elaboration of a PPP implementation manual or an equivalent document	n/a
Relevant legal/regulatory provisions (if any):	n/a
Establishment of personnel training programs (i.e. initial training and continued training throughout the course of the project)	n/a
Relevant legal/regulatory provisions (if any):	n/a
Establishment of a risk mitigation mechanism which considers the evolving nature of risks throughout the project lifecycle (guidelines, specific processes, insurance regime, etc.)	n/a
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	n/a

<p>select only one): The membership of the PPP contract management team is specified and/or its members are required to meet detailed qualifications.</p>	
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p>	n/a
<p>The PPP contract management team members are required to meet sufficient qualification without specific details.</p>	n/a
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	n/a
<p>The PPP contract management team members are not required to meet any specific qualifications.</p>	n/a
<p>Please elaborate and provide examples:</p>	n/a
<p>42. Does the procuring or contract management authority establish a system for tracking progress and completion of construction works under a PPP contract?</p>	Yes
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Articles 143, 144 and 145 of the PP Law provide for the control of the execution of contracts after their award and implementation. In fact, Article 143 provides: Within each contracting authority, the internal monitoring body must ensure permanently strict compliance with legal provisions and regulations applicable to public procurement.</p>
<p>42.1. If yes, is the PPP contract construction performance information made available to the public?</p>	n/a
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	n/a
<p>42.2. If yes, is the PPP contract construction performance information</p>	n/a

made publicly available online?	
If yes, please specify the website:	n/a
43. Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract implementation after construction?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>According to Article 1 of Order No.011586 of December 28, 2007, (as well as Article 35 of the PP Law), the public procurement commissions are responsible for ensuring the quality of procurement and the proper functioning of the commissions of the procuring authorities. As such, they are in particular responsible for the following activities:- achieving and maintaining dashboards on time implementation of various development stages of procurement procedures and achievement of implementation schedules steps ;- the establishment of quarterly reports on the award and performance of contracts to be submitted to the competent authorities for transmission to the Central Directorate Markets and Regulatory Authority for Public Procurement. Furthermore, Articles 143, 144 and 145 of the PP Law provide for the control of the execution of contracts after their award and implementation. In fact Article 143 provides: Within each contracting authority, the internal monitoring body must ensure permanently strict compliance with legal provisions and regulations applicable to public procurement. Additionally, Article 144 provides Each cell established before March 31 of each year for the authority governing it, the Body of the regulation of public procurement and the Directorate of control of public contracts, must provide an annual report of all public contracts awarded in the previous year. Finally, under Chapter 3 - (External audit and ex post), Article 145 states: The Public Procurement Regulation provides, in addition to its advisory role, a subsequent check of compliance with national rules and UEMOA on the award and execution of public contracts and public service delegations. As such, the Commission Regulating the Public Procurement: a) proceeds, at the end of each financial year, to an independent audit on a random basis; b) can initiate and proceed with external controls or investigations to ensure transparency and regularity conditions of the development and procurement procedures as well as the conditions of execution of the contracts; e) report to the concerned contracting authority, to the Minister of the concerned sector and to the Minister of Finance, the procedure followed during inspections and investigations, as well as any identified anomalies, and proposes appropriate solutions; d) refers to the competent authorities at national level or UEMOA about all irregularities spotted during the investigations and checks: e) maintains a list of individuals and legal entities excluded from the procurement procedures; f) reports on the checks carried out in an annual report sent to the President of the Republic, the Speaker of the National Assembly, the Prime Minister, the Minister of Finance and the President of the Court of Auditors.</p>
43.1. If yes, which of the following tools does it include (check all that	No

apply)?: Performance is assessed against evaluation criteria set in the tender 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	Yes
Relevant legal/regulatory provisions (if any)	According to Article 1 of Order No.011586 of December 28, 2007, and Article 35 of the PP Law: the public procurement commissions referred to in Article 35 of the PP Law are responsible for ensuring the quality of procurement and the proper functioning of the commissions of the procuring authorities. As such, they are in particular responsible for the following activities:...- the establishment of quarterly reports on the award and performance of contracts to be submitted to the competent authorities for transmission to the Central Directorate Markets and Regulatory Authority for Public Procurement.
The procuring or contract management authority must periodically gather information on the performance of the PPP contract	Yes
Relevant legal/regulatory provisions (if any)	Articles 143, 144 and 145 of the PP Law provide for the control of the execution of contracts after their award and implementation. In fact, Article 143 provides: Within each contracting authority, the internal monitoring body must ensure permanently strict compliance with legal provisions and regulations applicable to public procurement.
The PPP contract performance information must be available to the public	No
Relevant legal/regulatory provisions (if any)	n/a
43.2. Is PPP contract performance information made publicly available online?	No

If yes, please specify the website:	n/a
44. Are foreign companies prohibited from repatriating the income resulting from the operation of a PPP project?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
45. Does the regulatory framework (including standard contractual clauses) expressly regulate changes in the ownership structure (i.e. stakeholder composition) of the private partner and/or assignment of the PPP contract?	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
45.1. If yes, which of the following circumstances are specifically regulated? (check all that apply): Any change in the private partner during an initial period (e.g. construction and first five years of operation).	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a

In other cases, flexibility to change the ownership structure and/or assign the contract.	No
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>Article 23 of the PP Law provides for modification of the concession contract in exceptional circumstances. It states that the modification of the terms of the initial contract need to be done in writing and require the signature of both parties. Any modification to the contract cannot have the effect of changing its economical balance nor fundamentally change its object. Any changes can only modify: (a) the clauses of the initial contract that do not affect its amount, nor the volume of the services, goods or works, when these changes are necessary for the execution of the contract; (b) changes in the volumes of services, goods or works exceeding the limit stipulated for in the tender documents; (c) the addition of services, goods or works that were not provided for in the initial contract, but new unforeseen events made such modifications necessary to the realization of the contract's object; (d) extension or reduction of the deadline for contract's execution. 3. No changes can be made to the initial contract once the goods, services or works constituting the object of the contract, have been provisionally delivered.</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	Article 23 of the PP Law provides for modification of the concession contract in exceptional circumstances. It states that the modification of the terms of the initial

legal/regulatory/standard contractual provisions (if any):	contract need to be done in writing and require the signature of both parties. Any modification to the contract cannot have the effect of changing its economical balance nor fundamentally change its object. Any changes can only modify: (a) the clauses of the initial contract that do not affect its amount, nor the volume of the services, goods or works, when these changes are necessary for the execution of the contract; (b) changes in the volumes of services, goods or works exceeding the limit stipulated for in the tender documents; (c) the addition of services, goods or works that were not provided for in the initial contract, but new unforeseen events made such modifications necessary to the realization of the contract's object; (d) extension or reduction of the deadline for contract's execution. 3. No changes can be made to the initial contract once the goods, services or works constituting the object of the contract, have been provisionally delivered.
A change in the risk allocation of the contract.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the financial and/or economic balance of the contract.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the duration of the contract.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 23 of the PP Law provides for modification of the concession contract in exceptional circumstances. It states that the modification of the terms of the initial contract need to be done in writing and require the signature of both parties. Any modification to the contract cannot have the effect of changing its economical balance nor fundamentally change its object. Any changes can only modify: ... (d) extension or reduction of the deadline for contract's execution.
A change in the agreed price or tariff.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
46.3. Can the procuring authority unilaterally modify a PPP contract?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	According to Article 109 of the Code of Obligations of the Administration: "In view of the requirements of the public service to which the co-contractor participates, the Administration may exceptionally modify certain provisions of the contract unilaterally.

	<p>This power exists regardless of any legal or contractual provisions. The contract may, however, stipulate the conditions for the exercise of this prerogative. “</p>
<p>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</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>Article 89 of the Code of Obligations of the Administration provides that: “Force majeure exempts the parties from the performance of contractual obligations which are impracticable.”</p>
<p>Material Adverse government action .</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>Article 93 of the Code of Obligations of the Administration provides that “The fact of one party making the performance of the contract impossible can justify the non-fulfillment of its obligations by the other party. To be justified, the fact of a party must be external, unpredictable and irresistible. It then has the same effects as force majeure. “</p>
<p>Change in the Law.</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>Article 115 of the Code of Obligations of the Administration provides that: “Legislative or regulatory measures which directly infringe the contractual provisions may give rise to full compensation for the damage suffered.”</p>
<p>Refinancing.</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>n/a</p>
<p>Subcontracting and replacement of the subcontractors.</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>Article 65 of the Code of Obligations of the Administration provides that: “Except with the prior authorization of the Contracting Authority, transfers of subcontracts are prohibited. The Administration shall be bound by the request for assignment or subcontracting made by its co-contractor within a reasonable period of time to avoid liability.”</p>
<p>48. Does the regulatory framework (including standard contractual clauses) allow for administrative and/or contractual complaint</p>	<p>Yes</p>

review mechanisms to address disputes arising from the implementation of PPP contracts?	
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	Dispute resolution mechanisms are provided for in the following articles: Articles 18 of Decree ARMP providing that: A Dispute Resolution Committee is established to the ARMP. This Committee shall, based on the facts before it, either in the form of a Disputes Committee, training or discipline... Furthermore, Articles 90 and following of the PP Law (litigation in relation to public procurement procedures) provide that bidders are allowed to submit their case to the Dispute Resolution Committee within 3 days from the denial of their request before the procuring authority... and articles 138 (amicable settlement) provide that in case the dispute arises from the execution of the contract, the contracting party refers to the Dispute Resolution Committee that tries conciliating the parties... and finally Article 139 of the PP Law (litigation in relation to administrative contract) provides that the litigations in relation with administrative contracts should be submitted to the competent jurisdiction...
48.1. If yes, please specify which of the following options are available (check all that apply): Local administrative review body	Yes
If yes, please specify:	Articles 90 and following of the PP Law (litigation in relation to public procurement procedures) provide that bidders are allowed to submit their case to the Dispute Resolution Committee within 3 days from the denial of their request before the procuring authority... and articles 138 (amicable settlement) provide that in case the dispute arises from the execution of the contract, the contracting party refers to the Dispute Resolution Committee that tries conciliating the parties... and finally Article 139 of the PP Law (litigation in relation to administrative contract) provides that the litigations in relation with administrative contracts should be submitted to the competent jurisdiction...
Local courts	Yes
Domestic arbitration	Yes
International arbitration	Yes
Investor-State Dispute Settlement (ISDS)	Yes
Mediation	Yes
Please provide the relevant legal/regulatory/standard contractual provisions (if any)	Dispute resolution mechanisms are provided for in the following articles: Articles 18 of Decree ARMP providing that: A Dispute Resolution Committee is established to the ARMP. This Committee shall, based on the facts before it, either in the form of a Disputes Committee, training or discipline... Furthermore, Articles 90 and following of the PP Law (litigation in relation to public procurement procedures) provide that bidders are allowed to submit their case to the Dispute Resolution Committee within 3 days from the denial of their request before the procuring authority... and articles 138 (amicable settlement) provide that in case the dispute arises from the execution of the contract, the contracting party refers to the Dispute Resolution Committee that tries conciliating the

	<p>parties... and finally Article 139 of the PP Law (litigation in relation to administrative contract) provides that the litigations in relation with administrative contracts should be submitted to the competent jurisdiction...</p> <p>Additionally, regarding enforceability, Article 3 of Decree No. 2014-1653 on Mediation and Conciliation provides that any dispute can be submitted for arbitration or mediation in the conditions set by this decree. Parties to a contract can always include a clause in the contract agreeing to resort to arbitration or mediation before any other review mechanism to solve disputes arising from the formation, interpretation or execution of the contract... Unless otherwise provided, the procuring authority can be part of a conciliation or a mediation</p>
48.2. If applicable, are arbitration awards enforceable by the local courts?: Domestic Arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	<p>According to The Uniform Act on arbitration OHADA, Art.2.- Any person (natural or legal) may resort to arbitration on the rights ... States and other local and regional authorities, as well as public institutions may also be parties to an arbitration; and they do not have the right to challenge the arbitrability of a dispute, nor can they compromise the validity of the arbitration agreement.</p> <p>Also, Art.3. provides that the arbitration agreement must be made in writing, or by any other means that ensures its evidence ...</p>
International arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	<p>According to The Uniform Act on arbitration OHADA, Art.2.- Any person (natural or legal) may resort to arbitration on the rights ... States and other local and regional authorities, as well as public institutions may also be parties to an arbitration; and they do not have the right to challenge the arbitrability of a dispute, nor can they compromise the validity of the arbitration agreement.</p> <p>Also, Art.3. provides that the arbitration agreement must be made in writing, or by any other means that ensures its evidence ...</p>
Investor-State arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	Senegal is part of the ICSID Convention
49. Does the regulatory framework (including standard contractual clauses) allow for the restructuring of a PPP private partner (SPV) in financial difficulty prior to insolvency?	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a

<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>
<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 the lender step-in rights should be regulated in the contract.</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>Other.</p>	<p>n/a</p>

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):	<p>Concession contracts can be terminated in case of failure of the parties to honor their obligations, of serious breach of the concessionaire, in case of event preventing such completion, in case of death / bankruptcy / liquidation of the concessionaire, or when the contract has become unnecessary or not adapted to the needs of the public service. Articles 128 to 132 of the PP Law establish the grounds for termination of concession contracts.</p> <p>Also, Articles 131 to 138 of the Code on the Obligations of the Administration, provides for Conventional termination, judicial termination, Administrative termination, and the payable indemnity</p>
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):	<p>Article 133 of the PP Law provides establishes the consequences for the termination of the contract: If the termination was caused by the procuring authority, the contractor has the right to be compensated for any damages and indemnified (as long as the amount does not exceed his loss of benefits due to the termination of the contract... the contractor has a 2 months deadline to present his demand...</p> <p>Additionally, the Code on Obligations of the Administration provides, in its Article 137 (titled Administrative termination without fault), that the Administration may, notwithstanding the provisions of the contract, terminate it when it has become unnecessary or inadequate in the light of operational requirements, subject to compensation to the co-contractor.</p> <p>Finally, in its Article 138 (titled: Compensation), it provides that compensation due to termination should be complete. It covers loss suffered, lost profit, and, any non-pecuniary damage caused to the co-contractor by the termination of the contract.</p>
Unsolicited Proposals	
34. Are unsolicited proposals in Senegal: (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	According to Article 81 of the PP Law: 1. The Contracting Authority may carry out an unsolicited offer of supplies, services and construction works when it is part of its mission and presents a clear public interest
35. Does the procuring authority conduct an assessment to evaluate unsolicited proposals? (if not, skip to question 37)	Yes
If yes, please specify and provide the relevant legal/regulatory provisions (if any)	According to Article 81 of the PP Law: 1. The Contracting Authority may carry out an unsolicited offer of supplies, services and construction works when it is part of its mission and presents a clear public interest
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>According to Article 81 of the Public Procurement Code: there is a control procedure or pre-feasibility analysis before the full evaluation of the unsolicited offer. This text provides that when the contracting authority intends to negotiate with a candidate in a spontaneous tender procedure, it must first and necessarily seek the opinion of the Central Directorate of Public Procurement (DCMP).</p> <p>“The prior opinion of the Public Procurement Control Department shall be issued upon presentation by the Contracting Authority of a file comprising, in particular, the following documents:</p> <ul style="list-style-type: none"> • the detailed technical offer resulting from conclusive studies; • the financial offer with a detailed price structure; • The financing scheme with the terms of repayment of the loan by the State, such as the interest rate, the deferral, the loan amortization period, etc. <p>This opinion is also issued on the basis of an expert report including technical, financial and environmental aspects.</p> <p>To this end, and according to Article 81-2 of the Public Procurement Code: the Body responsible for the regulation of public procurement places at the disposal of the Public Procurement Control Authority a list of independent experts. “</p>
36. Which of the following options best	No

<p>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>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>	Yes
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Article 81-1 of the Public Procurement Code provides that “The Contracting Authority may proceed with a spontaneous offer for the provision of supplies, and the performance of services and works where as long as the offer is part of the government’s missions and it is of general interest. “</p> <p>Furthermore, Article 81-3 of the Public Procurement Code provides that “The Contracting Authority may, with the prior advice of the Public Procurement Control Department, directly negotiate with a company offering a spontaneous offer under the following cumulative conditions:</p> <p>Where the estimated amount of the contract is at least equal to CFAF 50 billion;</p> <p>Where full financing of the contract is provided by the company in accordance with Senegal’s debt rules;</p> <p>Where the undertaking, if it is a non-Community undertaking, undertakes to subcontract to nationals a market share which may not be less than 10% of the total amount;</p> <p>Where the company defines, where appropriate, a plan for transferring skills and knowledge. “</p>
<p>The procuring authority does not evaluate unsolicited proposals against existing government priorities.</p>	No
<p>Please elaborate and provide examples:</p>	n/a
<p>37. Does the procuring authority initiate a</p>	Yes

competitive PPP procurement procedure when proceeding with the unsolicited proposal?	
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>According to Article 81 of the PP Law, subject to the exceptions referred to in this article, the contracts to be concluded pursuant to unsolicited proposals, are awarded by open tender in accordance with Section 2 of this Code .The procuring authority initiates a competitive procedure (on the basis of prior studies made by the author of the unsolicited offer) Note: However, under certain circumstances detailed in article 81 §3, 47§ and 5§, the contracting authority may use direct negotiation with the company having submitted an unsolicited proposal.</p>
38. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Article 63-2 of the PP Law provides that: “In open tendering procedures, with or without qualification, or restricted invitations to tender, the minimum time limit for the submission of tenders or applications shall be 30 calendar days from the date of publication of the call for tender notice, in the case of national invitations to tender. This deadline is 45 calendar days in the case of international tenders as well as for contracts with estimated amounts higher than the community thresholds defined by the UEMOA. “</p>
and the time in calendar days:	<p>30</p>
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.	<p>No</p>
39.2 Developer’s fee (reimbursing the original proponent for the project development cost).	<p>No</p>
39.3 Bid Bonus.	<p>No</p>
39.4 Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).	<p>No</p>

39.5 Other.	No
Please specify:	n/a
Please provide the relevant legal/regulatory provisions (if any):	n/a