

PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN SUDAN

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>Sudan does not have a PPP-specific policy and law in place; however, existing laws in Sudan do not seem to prohibit PPPs. In the past, projects have been implemented within the current legal structure. A PPP unit was set up recently, but it will require more staffing and resources in order to become fully operational.</p> <p>In Sudan the Public Procurement, Contracting and Disposal of Public Assets Act 2010 regulates public procurement (Hereinafter Public Procurement Act). Earlier to this period public procurement was regulated by the Financial and Accounting Procedure Manual of 1978 which was amended 1995 to address the requirement of some international and regional institutions, and bilateral funding of development projects.</p> <p>A directorate within the Ministry of Finance and National Economy is responsible of supervising the implementation of the provisions of the Act, public procurement methods and procedures, formation of procurement committees in the major government units, prohibited actions, review and appeal procedures, ethical behavior, offences and penalties. Many jurisdictions are trying to develop institutional and governance framework for PPP, however, in Sudan it is immature. Sudan is recognizing PPP as a mechanism to bridge the infrastructure gap. It is adopting PPP regulatory framework and legislation. DBFOT/BOT are the most common for PPP used to operate, design, build, finance, own, and construct the facility and operate it commercially for concession period, after which the facility is transferred to authority.</p> <p>In order to complete this survey, we will also refer to the National Investment Encouragement Act of 2013 (hereinafter the Investment Act)</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.mof.gov.sd http://hlrn.org/img/documents/20130423150140234.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:	The government of Sudan is considering adopting a new PPP law in the future
3.1 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Transportation.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.2 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Water and Irrigation	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.3 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Energy generation and distribution.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.4 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or 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):	Under Chapter 6 of the Investment Act (exemption and concessions), Article 20 provides that (1) The Council of Ministers may, upon recommendation of the Minister, grant exemption of business profit tax to strategic investment project. (2) Projects' capital expenditures shall be exempted from value added tax.
5. Please identify the PPP procuring authorities in Sudan and provide their website(s) (if available):	1- Ministry of finance and economic planning/ General administration for purchasing and contracting http://mof.gov.sd/en/ 2- purchasing and contracting units 3-purchasing and contracting committees
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):	No regulatory basis
8.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before signing the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
8.2. Does the Ministry of Finance (or government more broadly) have a specific system of: 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 regulation?: Accounting and reporting according to	n/a

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

<p>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>The regulatory framework in Sudan does not include any provisions regarding the way the government integrates the prioritization of PPP projects. However, in practice, the procuring authority evaluates the consistency of PPPs with other government investment priorities.</p>
<p>The procuring authority does not evaluate PPPs against existing government priorities.</p>	No
<p>Please elaborate and provide examples:</p>	n/a
<p>11.1. Based on your experience, is it always the case that this prioritization is done in practice in accordance with the provisions of the regulatory framework described above?</p>	No
<p>If yes, please specify:</p>	n/a

If no, please elaborate:	According to our contributors, the prioritization of PPP projects is not always done in practice in Sudan.
12.1 Which of the following assessments are conducted when identifying and preparing a PPP in order to inform the decision to proceed with it? (check all that apply): Socio-economic analysis (cost-benefit analysis of the socio-economic impact of the PPP project)	Yes
Relevant legal/regulatory provision (if any)	According to Article 18 of the Investment Act, the concerned ministries , each within its jurisdictions, shall carry out the following duties: (a) Determination of priorities and setting polices related to the investment. (b) Preparation of sectional maps of the investment. (c) Initial approval, for establishing the project based on technical, economical, environmental and social feasibility study, through the commissioner of one-stop gate system in the Authority as per the period of time fixed thereto.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	The Socio-economic analysis is done in practice when identifying and preparing a PPP in Sudan
12.2. Affordability assessment, including the identification of the required long term public commitments (explicit and implicit, direct and contingent liabilities)	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No
Details:	According to our contributors, the affordability assessment is not always done in practice when identifying and preparing a PPP in Sudan
12.3. Risk identification, allocation and assessment (risk matrix)	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis

Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No
Details:	According to our contributors, a risk identification, allocation and assessment is not done in practice when identifying and preparing a PPP in Sudan
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	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?	No
Details:	According to our contributors, the financial viability or bankability assessment is not done in practice when identifying and preparing a PPP project in Sudan
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)	According to Article 18 of the Investment Act, the concerned ministries, each within its jurisdictions, shall carry out the following duties: (c) Initial approval, for establishing the project based on technical, economical, environmental and social feasibility study, through the commissioner of one-stop gate system in the Authority as per the period of time fixed thereto.
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 in Sudan, the environmental impact assessment is not done in practice when identifying and preparing a PPP
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	The procuring authority in Sudan does not include a draft PPP contract in the request for proposals
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)	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

16.2. Obtaining the required environmental permits: 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
16.3. Obtaining the required operational permits: 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
16.4. 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)	According to Article 22 of the Investment Act, (1) Notwithstanding the provisions of any other Law, the Authority may allot the land required for establishing national or strategic investment project at an encouraging rate in coordination with the states' authorities. Additionally, Article 23 provides that- The land allotted for the project shall be handed over within maximum period of one month from the date of project registration, and shall be registered forthwith project completion.
16.5. Obtaining the required right of way: Procuring authority (or other Government entity)	Yes
Private Partner	No

Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	No
Relevant legal/regulatory provision (if any)	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.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Article 10 of the Public Procurement Act, (6) The committee shall be composed of a chairman and at least four members with a representative of the general administration of the procuring authority, in addition to the head of the financial unit, the head of the procurement unit, the representative of the legal department of the unit and a representative of the internal administration.
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 19 of the Public Procurement Act provides: (1) The procuring authority that submits a call for tender shall notify the suppliers and contractors to submit their bids for the supply of goods or the execution of the project works required in the tender before closing the tender box (by the deadline for submission) ... (2) The information about the requirements for the bids shall be diffused (as provided for in this Law and the Regulations) to the greatest extent possible so as to provide an opportunity for all potential suppliers and contractors. (3) The declared date for the opening of bid envelopes shall be the date of

	submission of the offers or immediately after, and in the place specified for opening the envelopes in the publication
19.1. If yes, is the public procurement notice published online?	No
If yes, please specify the website:	n/a
20. Are foreign companies prohibited from participating in the bidding process?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
21. In a case comparable to the case study assumptions, does the procuring authority grant the potential bidders a minimum period of time to submit their bids?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>According to Article 18 of the Public Procurement Act, (3) The procuring authority announcing an public competitive call for tender shall notify all suppliers and contractors for a period of not less than one week and shall give them equal opportunities to submit their tenders ..</p> <p>Furthermore, pursuant to Article 19, (1) The procuring authority that submits a call for tender shall notify the suppliers and contractors to submit their bids for the supply of goods or the execution of the project works required in the tender before closing the tender box (by the deadline for submission) ...</p> <p>(2) The information about the requirements for the bids shall be diffused (as provided for in this Law and the Regulations) to the greatest extent possible so as to provide an opportunity for all potential suppliers and contractors.</p> <p>(3) The declared date for the opening of bid envelopes shall be the date of submission of the offers or immediately after, and in the place specified for opening the envelopes in the publication</p>
and the time in calendar days:	7
22.1. In a case comparable to the case study assumptions, which are the procurement procedures available and/or set as default for PPP projects? Open tendering: Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	<p>According to Article 13 of the Public Procurement Act, (2) All public procurements shall be done through competitive bidding using the methods specified in this law in such a manner as to enable the promotion of the values of competition, economic efficiency, financial value, transparency, fairness and accountability... (5) All individuals and companies shall have the right to submit a tender if the required conditions are met. (6) Equality between competitors is a fundamental principle of open competition, and competitors cannot be discriminated against in an irregular manner and must be given</p>

	<p>equal opportunities.</p> <p>Additionally, Article 17 of the Public procurement Act provides that</p> <p>(1) The procuring authority that wishes to contract for the purchase of goods or services or the execution of works shall use open competitive tendering and use the procurement methods mentioned in this law...</p> <p>(2) The procurement process shall be through general competition, (international competitive offers or local competitive offers), in order to achieve economic efficiency, transparency and preservation of public money.</p>
22.2. Restricted tendering (with pre-qualification stage): Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	Pursuant to Article 14 of the Public Procurement Act, (2) Restricted tendering shall be limited only to those who have already been qualified and capable of execution
22.3 Multi-stage tendering (with shortlisting of final candidate(s)): Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.4. Competitive dialogue: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.5. Direct negotiation with more than one candidate: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.6. Direct negotiation with only one candidate: Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	<p>According to Article 52 of the Public Procurement Act: (1) Notwithstanding the provisions of Article 18, procuring authorities may, with the approval of the competent authority, follow the method of direct negotiation with the contractor or supplier in the following cases:</p> <p>(A) When there is a need to add ongoing civil works carried out by a specific contractor awarded to him by competitive international offers or competitive national offers and that implementation is satisfactory to the procurement department,</p> <p>(B) In the event that the equipment is obtained from the competitive international bidding method and additional goods of the same type are required under the contract,</p> <p>(C) Where there is a specific technique that can only be obtained from a particular party possessing the patent or manufacturing rights,</p>

	<p>(D) When certain critical items are required from a single supplier to ensure that the plant is produced by the contractor responsible for the design work,</p> <p>(E) Where the standardization of equipment is necessary for economic and technical reasons and is proved to convince the public administration that the existing equipment cannot be compatible with any other type of equipment and that there is no advantage in obtaining another resource,</p> <p>(F) Where the standardization of spare parts is required to conform to existing equipment, spare parts or inventory of items for specific and specialized equipment or machines,</p> <p>(G) When certain items are needed to supplement implementation in a project under implementation.</p> <p>(2) In the case of extending the contract in paragraphs (a) and (b), the general administration shall ensure the competitiveness of prices and the absence of a clear advantage for the issue of a new tender.</p>
22.7 Other. Specify:	Local competitive bidding
Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	<p>According to Article 48 of the Public Procurement Act, (1) Notwithstanding the provisions of Article 18, the procuring authority shall, with the consent of the Competent Authority, adopt the method of local competitive bidding for the supply of goods and the execution of works in the following cases:</p> <p>(A) Lack of attractions for external offers due to the character, size or location of the business or the supply of goods and services,</p> <p>(B) A sufficient number of local suppliers and contractors to carry out business or supply goods and services.</p> <p>(2) Local competitive offers must be advertised only in local newspapers.</p> <p>(3) The declaration period must not be less than 30 days minimum.</p> <p>(4) Following this method, foreign competitors residing in or outside the Sudan may submit competitive offers.</p>
22.8. Do the tender documents detail the procedure of the procurement process providing the same information to all the bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>According to Article 14 of the Public Procurement Act, 5) when issuing a call for tender, government agencies shall provide the competitors with complete and uniform information about the work required. They shall be enabled to obtain this information at the same time and shall specify one deadline for submission of tenders.</p>
If no, please elaborate:	n/a
22.9. Do the tender documents specify the prequalification/shortlisting criteria (when applicable) in order to make them available to all the bidders?	Yes

<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>According to Article 20 of the Public Procurement Act, (3) The qualification criteria must be known and applied to all suppliers, contractors and consultants without any distinction in the qualification of any supplier, contractor or consultant.</p> <p>(4) procuring authorities may initiate pre-qualification procedures for some enterprises in order to identify the possibilities and capabilities of suppliers or contractors before or after the submission of tenders for the supply of goods, works or services.</p> <p>Additionally, Article 21 provides that (1) The procuring authority shall deliver the tender documents immediately after the first announcement to all suppliers and contractors who submitted to enter the tender after payment of the required fees, if any.</p> <p>(2) All applicants must be given project information and equal opportunities for any additional information.</p>
<p>22.10. Based on your experience, is it always the case that the specified criteria are respected in practice?</p>	<p>No</p>
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>If no, please elaborate:</p>	<p>According to our contributors, the prequalification criteria specified in the tender documents are not respected in practice in Sudan. Some explained that one of the challenges faced in Sudan is training of personnel to be well informed of the Act, as well as the proper use of standard bidding documents, and attention to capacity building programs.</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>According to Article 21 of the Public Procurement Act, (2) All applicants must be given information about the project, and equal opportunities to get any additional information.</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>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>23.2. Based on your experience, is it always the case that this disclosure of</p>	<p>No</p>

information is done in practice?	
If yes, please specify:	n/a
If no, please elaborate:	Most of our contributors provided that in practice, the questions submitted by potential bidders to clarify the public procurement notice, and the clarifications provided by the procuring authority are not disclosed to all potential bidders
24. Besides questions and clarifications, can the procuring authority conduct pre-bidding conference?	No
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
24.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose the content and the results of the pre-bid conference to all bidders?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
24.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	n/a
If yes, please specify:	n/a
If no, please elaborate:	n/a
25. In a case comparable to the case study assumptions, does the procuring authority require the 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:	The procuring authority in Sudan does not require the bidders to prepare and present a financial model with their proposals
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 13 of the Public Procurement Act, (4) The winning bidder shall be the one that meets the required specifications specified in the tender documents, which provides the lowest cost that has been evaluated.
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?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	Publication in the Sudan daily official newspaper and at the Ministry of investment
28.1. If yes, is the public procurement award notice published online?	No
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 23 of the Public Procurement Act provides that the General Directorate of purchasing must announce the winning tender. (the procuring authority requests that the competitors submit their bids and indicate the period of validity of the guarantee as specified in the tender documents provided that such period is sufficient to enable the governmental units to complete the comparison and evaluation of the offers and announce the winning bid)
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?	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	n/a

case that this restriction is respected in practice?	
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	Yes

implementation of the PPP contract (e.g. attributing responsibilities or establishing specific management tools)?	
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>According to Article 4 of the Public Procurement Act: (2) Without prejudice to the generality of the foregoing, the General Directorate shall have the following powers: ...</p> <p>(F) Control the conclusion and implementation of public contracts with a view to ensuring that:</p> <p>(I) Those contracts have been concluded with fairness,</p> <p>(Ii) the circumstances under which any contract has been concluded or terminated that have nothing to do with any suspicious transactions,</p> <p>(Iii) the implementation of each item of any contract conforming to its provisions without prejudice to the competence of any public body,</p> <p>(G) Establish a procurement control system during the bidding process, review the contract during its implementation and perform a thorough review after the completion of the contract in respect of any purchases, if necessary,</p> <p>... N) Prepare an annual report on the extent of implementation of the procurement system and general purchasing activity and submit it to the competent authority of the Ministry.</p>
41.1. If yes, which of the following tools does it include (check all that apply)?: Establishment of a PPP contract management team	<p>Yes</p>
Relevant legal/regulatory provisions (if any):	<p>No regulatory basis</p>
Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa	<p>Yes</p>
Relevant legal/regulatory provisions (if any):	<p>According to Article 9 of the Public Procurement Act, The procurement units shall have the following functions:</p> <p>(A) To study procurement plans and disposal of assets in the procuring authority to which it is affiliated and to submit proposals and recommendations thereon,</p> <p>(B) Coordination with the Procurement Committee, the General Directorate for Procurement and Government Contracting, drafting the tender declaration and its documents, preparing all documents related to the tender,</p> <p>(C) Secretarial work of the Procurement Committee,</p> <p>(D) Preparation of documents for tender contracts and issuance of orders of commission issued by the Procurement Committee or the senior management of the Government Unit of the implementing departments,</p> <p>(E) To keep all procurement documents and submit periodic reports to the General Directorate of Procurement and Government Contracting or the Appeals Board, as requested,</p> <p>(F) Any other duties or duties specified by the competent authority</p>

	<p>Article 12 provides: The procurement committees of the units shall have the following functions and competencies:</p> <p>(A) Full supervision of all stages of the tender starting with reviewing the draft declaration of tender and its documents until the conclusion of the order of the contract and issue the order of acceptance,</p> <p>(B) To develop and approve the procurement plans of the entity with the development and identification of procurement schedules, follow-up of their implementation and recommendations,</p> <p>(C) To submit and approve periodic reports on the conduct of procurement and contracting for the General Directorate,</p> <p>(D) Follow-up the implementation of all previous and ongoing contracts with the concerned administration within the government apparatus and submit proposals for any emergency amendments related to the implementation process,</p> <p>(E) Any other terms of reference established by the competent authority</p>
Elaboration of a PPP implementation manual or an equivalent document	No
Relevant legal/regulatory provisions (if any):	n/a
Establishment of personnel training programs (i.e. initial training and continued training throughout the course of the project)	Yes
Relevant legal/regulatory provisions (if any):	<p>According to Article 4 (2)c. of the Public Procurement Act, the General Directorate shall have the following powers: ...</p> <p>Setting standards for training and determining the levels of efficiency and means of professional development for employees of procurement and contracting committees in consultation with the relevant authorities...</p> <p>Additionally, according to Article 5, In order to exercise its powers provided for in this Law, the General Directorate shall have the following powers: (H)</p> <p>Organizing training courses for employees of purchasing departments and contracting with various government units to introduce the law and its means of application in order to reach a common understanding among the different units.</p>
Establishment of a risk mitigation mechanism which considers the evolving nature of risks throughout the project lifecycle (guidelines, specific processes, insurance regime, etc.)	Yes
Relevant legal/regulatory provisions (if any):	No regulatory basis
41.2. Which of the following options best describes the required qualifications of the PPP contract management team members? (Please	No

select only one): The membership of the PPP contract management team is specified and/or its members are required to meet detailed qualifications.	
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The PPP contract management team members are required to meet sufficient qualification without specific details.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 10 of the Public Procurement Act: (1) Procurement committees shall be established in each unit of the State organs. (2) The composition of the Committee and the manner of selection of members shall be as provided for in item (6). (3) The members of the Procurement Committee shall be selected with the required technical expertise and qualifications according to the type of tender.
The PPP contract management team members are not required to meet any specific qualifications.	No
Please elaborate and provide examples:	n/a
42. Does the procuring or contract management authority establish a system for tracking progress and completion of construction works under a PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	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	Yes

authority establish a monitoring and evaluation system of the PPP contract implementation after construction?	
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
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	Yes
Relevant legal/regulatory provisions (if any)	No regulatory basis
The procuring or contract management authority must periodically gather information on the performance of the PPP contract	Yes
Relevant legal/regulatory provisions (if any)	According to Article 5 of the Procurement Act: The procuring authority shall have the following powers: (A) access to all books, records, documents or other property belonging to any procuring entity or any contractor, supplier, consultant, sub-consultant, subcontractor or sub-supplier, whether in the possession or possession of any of them another person , (B) The entry of any buildings or sites where, in the course of a year, (C) Conduct the necessary investigations to ensure the application and practice of standards of justice, competition, transparency and non-discrimination in the practice of procurement and control of procurement units' compliance with the law and regulations, (D) Enter during the official working hours of any premises occupied by any person for the conduct of investigations or examination of documents, records

	<p>or property deemed necessary and necessary for the conduct of any investigation and the taking of legal proceedings in case of violation.</p> <p>(E) Request any information relating to the award of a tender, any general contract or any other information deemed necessary by the public administration,</p> <p>(F) Request any information from any public official or other person to provide it in the manner and at such times as the Administration may determine in connection with the awarding, suspension or revocation of any prescribed work and any other information related thereto.</p>
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).	n/a

<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>n/a</p>
<p>Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.</p>	<p>n/a</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>n/a</p>
<p>In other cases, flexibility to change the ownership structure and/or assign the contract.</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>n/a</p>
<p>46. Does the regulatory framework (including standard contractual clauses) expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>According to Article 29 (1) of the Public Procurement Act, contracts shall not be altered or modified in any manner after being signed by the parties unless the modification is:</p> <p>(A) for the benefit of the State or not to the detriment of its interests,</p> <p>(B) Adopted by a legally empowered authority.</p> <p>(ii) any addition to the value of the procurement contract must be assessed and approved by the competent authority.</p> <p>Additionally, Article 40 provides: Conditions stipulated in the contract between the contracting unit and the contractor may be improved in accordance with the conditions and developments facing the execution of the contract.</p>
<p>46.1. If yes, is an approval from a government authority, other than the procuring authority, required?</p>	<p>Yes</p>

If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	According to Article 29(2) of the Public Procurement Act, any addition to the value of the procurement contract must be assessed and approved by the competent authority.
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.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
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.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	According to Article 29 of the Public Procurement Act, (2) any addition to the value of the procurement contract must be assessed and approved by the competent authority.
A change in the duration of the contract.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	According to Article 68 of the Public Procurement Act, The Minister or the Head of the procuring authority unit may extend the duration of the contract if the delay is due to: (A) Assigning the contractor with new work and the remainder of the period initially agreed upon in the contract is not sufficient to perform the new assignments, (C) An order issued by the administrative authority to suspend the work for reasons not related to the contractor.
A change in the agreed price or tariff.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
46.3. Can the procuring authority unilaterally modify a PPP contract?	No

If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
47. Does the regulatory framework (including standard contractual clauses) expressly regulate the following circumstances that may occur during the life of the PPP contract? (check all that apply): Force Majeure	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	No regulatory basis
Material Adverse government action .	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Change in the Law.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Refinancing.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Subcontracting and replacement of the subcontractors.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	No regulatory basis
48. Does the regulatory framework (including standard contractual clauses) allow for administrative and/or contractual complaint review mechanisms to address disputes arising from	Yes

the implementation of PPP contracts?	
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	No regulatory basis
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)	No regulatory basis
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):	Sudan is party to the Riyadh Convention, a convention of the Arab states that addresses the enforcement of foreign arbitral awards and court judgments that arise from fellow signatory states.
International arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	Sudan is party to the Riyadh Convention, a convention of the Arab states that addresses the enforcement of foreign arbitral awards and court judgments that arise from fellow signatory states.
Investor-State arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	Sudan is member 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

<p>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>n/a</p>
<p>50. Does the regulatory framework (including standard contractual clauses) allow for the lenders to take control of the PPP project (lender step-in rights) if either the private partner defaults or if the PPP contract is under threat of termination for failure to meet service obligations?</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>n/a</p>
<p>50.1. If yes, which of the following options best describes the lender step-in right? (Please select only one): The regulatory framework expressly regulates the lender step-in rights.</p>	<p>No</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>No</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>No</p>
<p>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>n/a</p>

Other.	No
Please Specify:	n/a
51. Does the regulatory framework (including standard contractual clauses) expressly establish the grounds for termination of a PPP contract?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>Article 53 of the Public Procurement Act provides for termination of the contract if its award has been made on basis of deceit, financial incentive and an exercise of immoral acts. In fact, the Article reads as follows:</p> <p>(1) Any tender found to have been established on the basis of seduction or any fraudulent immoral practice as provided for in the preceding clauses shall be rescinded forthwith and a report shall be filed with the competent authority to take the necessary action.</p> <p>(2) Any supplier, contractor or consultant whose offer or proposal is rejected or canceled due to temptation or fraudulent practices cannot qualify or qualify in advance for any purchase procedure within the ten years following the date of such refusal or cancellation.</p> <p>(3) Any refusal or cancellation by reason of temptation or fraudulent practices shall be communicated to the Director of Public Administration and shall inform all governmental procurators and the competent authorities for the purpose of taking the procedures provided for in this Law.</p>
51.1. If yes, does the regulatory framework (including standard contractual clauses) establish the consequences for the termination of the PPP contract?	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Unsolicited Proposals	
34. Are unsolicited proposals in Sudan: (choose only one): Explicitly prohibited by the legal framework? (If prohibited, skip to section F)	No
Explicitly allowed by the legal framework?	No
Not regulated by the legal framework, but do happen in practice?	No
Not regulated by the legal framework, and do not happen in practice? (if not	Yes

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

proposals against existing government priorities.	
Please elaborate and provide examples:	n/a
37. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
38. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and the time in calendar days:	n/a
39.1 Does the procuring authority use any of the following incentive mechanisms to reward/compensate the presentation of unsolicited proposals? (check all that apply): Access to the best and final offer (BAFO) process and/or automatic shortlisting.	n/a
39.2 Developer's fee (reimbursing the original proponent for the project development cost).	n/a
39.3 Bid Bonus.	n/a
39.4 Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).	n/a
39.5 Other.	n/a
Please specify:	n/a
Please provide the relevant legal/regulatory provisions (if any):	n/a