

## PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN TIMOR-LESTE

SURVEY QUESTION	ANALYSIS
<b>PPP Regulatory Framework</b>	
<b>2. Does the regulatory framework in your country allow procuring PPPs?</b>	Yes
<b>If yes, please specify the relevant regulatory framework and the year of adoption:</b>	<p>PPPs are regulated by Decree-Law no. 42/2012 of September 7 (as amended by Decree Law no. 2/2014 of 15 January 2014) regulating the Legal Regime on Public-Private Partnerships [hereinafter “PPP Law”], Decree-Law no. 8/2014 of 14 March 2014 Regulation the Legal Regime of Public Private Partnerships [hereinafter “PPP Regulation”]. The Public Contracts Legal Regime (Decree-Law no. 11/2005 of 8 November 2005) and the Procurement Legal Regime (Decree-Law no. 10/2005 of 8 November 2005, as amended by Decree-Law no. 14/2006 of 22 September 2006, Decree-Law no. 24/2008 of 23 July 2008, Decree-Law no. 1/2010 of 18 February 2010, Decree-Law no. 14/2011, of March 30 and Decree-Law no. 15/2011 of March 30, and Decree-Law no. 38/2011, of August 17) [hereinafter the “Procurement Regime”] shall apply to PPPs only on a subsidiary basis according to Article 6(2) of the PPP Law (as amended by Law no. 2/2014), which provides that the methods and procedures for selecting private partners, awarding contracts and signing public-private partnership contracts, as well as for identifying public-private partnership advisors, are subjected to the regime included in this Decree- Law and respective regulations, the Legal Regime on Procurement shall apply on a subsidiary basis. This shall be the framework regulating PPPs in Timor-Leste for purposes of this analysis.</p>
<b>and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:</b>	<p><a href="http://www.jornal.gov.tl">www.jornal.gov.tl</a>  <a href="https://www.mof.gov.tl/category/documents-and-forms/procurement-documents/procurement-law/?lang=en...">https://www.mof.gov.tl/category/documents-and-forms/procurement-documents/procurement-law/?lang=en...</a>  <a href="http://www.mj.gov.tl/jornal/?q=node/13">http://www.mj.gov.tl/jornal/?q=node/13</a></p>
<b>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?</b>	No
<b>Please describe:</b>	n/a
<b>2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?</b>	Yes

<b>Please describe:</b>	Some contributors provide that there is a Public Procurement Law reform - policy paper approved in Council of Ministers, 13 June 2017 - interministerial consultation and public consultation will follow.
<b>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.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>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</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>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.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>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</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>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</b>	Yes
<b>If yes, specify and provide the relevant legal/regulatory provisions:</b>	According to Article 2(2) of the PPP Law, its scope does not cover the licensing, renting, or other rights in relation to forests, mining, minerals, hydrocarbons including oil and gas, air space, and any other subject covered by specific legislation or licensing procedures.

<b>4. Does the regulatory framework provide for a specific tax regime for PPP transactions (i.e. tax incentives, special tax depreciation treatment, etc.)?</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory provision (if any):</b>	n/a
<b>5. Please identify the PPP procuring authorities in Timor-Leste and provide their website(s) (if available):</b>	<p>The Ministries responsible for the relevant public sector. According to amended Article 3(2) of the PPP Law, “the minister of the public sector body responsible for supervising the project shall sign the relevant public-private partnership contracts and other direct arrangements, after being authorized by the Council of Ministers, which may approve other additional signatories representing the State. “Nonetheless, contributors point out that the National Procurement Commission carries out the procurement procedures on behalf of the signatory ministry in certain conditions. According to Article 3 of the Decree/Law no. 2011 Establishing the National Procurement Commission,” The NPC has the following tasks: (a) Carry out procurement procedures worth at least \$1,000,000 (one million dollars); (b) Provide technical assistance and advisory to procurement procedures up to \$1,000,000 (one million dollars); (c) Collaborate with the National Development Agency, the Large Projects Secretariat, ministries and other public entities according to the law; (d) Any other tasks given to it by law.” And according to Point 11 of Annex 1 to the PPP Regulation, PAT drafts the procurement procedure for this stage, which is led by the National Procurement Commission.</p>
<b>6. In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?</b>	Yes
<b>If yes, please indicate its name, and its website (if available):</b>	The Public-Private Partnership Unit (PPP).
<b>6.1 If yes, what are the main responsibilities of the PPP Unit (check all that apply): PPP regulation and policy guidance.</b>	Yes
<b>6.2 PPP capacity building for other public authorities.</b>	Yes
<b>6.3 PPP promotion among the public and/or private sectors in national and international forums.</b>	Yes
<b>6.4 Technical support in implementing PPP projects.</b>	Yes

<b>6.5 Identification and selection of PPP projects from the pipeline.</b>	No
<b>6.6 Revision of fiscal risks born by the Government.</b>	No
<b>6.7 Consultation with affected communities on potential impact of PPP projects.</b>	No
<b>6.8 Approval of PPP projects.</b>	No
<b>6.9 Undertaking the procurement of PPPs.</b>	No
<b>6.10 Oversight of PPP implementation.</b>	Yes
<b>6.11 Other</b>	No
<b>6.11 please specify:</b>	n/a
<b>Please provide the relevant legal/regulatory provisions:</b>	<p>According to Articles 3 and 4 of the PPP Regulation, Article 3 provides, "Subject to the provisions contained in the diploma regulating the Organic Structure of the Ministry of Finance, the PPPU performs the following tasks:</p> <ul style="list-style-type: none"> <li>(a) Managing and implementing the public-private partnership project cycle, in coordination with the public sector bodies and with CAFI;</li> <li>(b) Mobilizing consultants and advisors to assist with the implementation of the public-private partnership project cycle;</li> <li>(c) In collaboration with the relevant entities, drafting arrangements and other standard documents to be used in public-private partnership arrangements;</li> <li>(d) Drafting guidelines on Public-Private Partnerships and keeping them up to date, including all the laws, regulations, instructions, directives and guidelines, namely templates, standardized documents and document samples on Public-Private Partnership arrangements, along with an easy-to-use guide on their application and implementation;</li> <li>(e) Requesting a public sector body or a private partner to supply information, details, documents and data related with a public-private partnership arrangement, so as to monitor the project's cost-efficiency;</li> <li>(f) Providing training to public sector entities on public-private partnership arrangements and sharing good practices and knowledge with public sector entities and with the private sector.</li> <li>(g) Any others given to it by law."</li> </ul> <p>Article 4 moreover provided the PPP Unit's role as a technical Unit in relation to providing assistance to the Major Projects Secretariat on the following:</p> <ul style="list-style-type: none"> <li>(a) Reviewing Public-Private Partnership policy and programmes;</li> <li>(b) Reviewing and assessing bids in relation to projects and providing opinions to CAFI in order to determine whether a public-private partnership is the best way for implementing a project;</li> <li>(c) Issues concerning the policy, prices and regulations that are likely to have impact on Public-Private Partnership arrangements, after consulting with the proper entities;</li> <li>(d) Options and reforms, including regulatory reforms, so as to simplify procedures and increase the efficiency of Public-Private Partnership arrangements;</li> <li>(e) Mechanisms for funding investments in Public-Private Partnership</li> </ul>

	arrangements; (f) Better means for funding and structuring public investment projects; (g) Any others given to it by law.”
<b>PPP Preparation</b>	
<b>8. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	According to Article 3(3) of the PPP Law, the Ministry of Finance is responsible for the financial evaluation of any public-private partnership agreement. And according to Article 7(1) of the PPP Law, the list of infrastructure projects shall be submitted to the Ministry of Finance, which will assess and study them and issue its opinion.
<b>8.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before signing the PPP contract?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>8.2. Does the Ministry of Finance (or government more broadly) have a specific system of: Budgeting for PPP projects.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Accounting liabilities (explicit and implicit, direct and contingent) arising from PPPs.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Reporting liabilities (explicit and implicit, direct and contingent) arising from PPPs.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>8.3. If yes to question 8.2, which of the following alternatives best describes the regulation?: Accounting and reporting according to International Public Sector Accounting Standards (IPSAS).</b>	No
<b>Accounting and reporting according to other</b>	No

<b>international standard (e.g. European System of Accounts).</b>	
<b>Please specify:</b>	n/a
<b>Other.</b>	No
<b>Please specify:</b>	n/a
<b>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.)?</b>	Yes
<b>If yes, please specify the relevant authority</b>	The Council of Ministers, in addition to the Board of the Infrastructure Fund.
<b>and provide the relevant legal/regulatory provisions (if any):</b>	According to Article 3(1) of the PPP Law, Public Private Partnership Agreements are approved by the Council of Ministers. And According to Article 7(3) of the same Law, should a project be classified as to be funded by way of public-private partnership, the project - including the respective funding modality - will be submitted to the Board of Directors of the Infrastructure Fund for approval.
<b>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?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	According to Point 17 of Annex 1 to the PPP Regulation, the Board of Infrastructure Fund would decide whether to sign a contract with the private partner after previously approving the feasibility stage.
<b>10. Does the procuring authority use transaction advisors during the PPP project cycle?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 5 of the PPP Regulation provides, “2. The PPP Project Assessment Team members may vary depending of the project stage, with each of the following entities appointing one member: (a) Initial Stage and Feasibility Stage: i. Public-Private Partnership Unit; ii. The public sector body responsible for the project area; iii. External consultants specialized in PPPs, if necessary; and iv. Other relevant entities.” The same applies to other stages including: the procurement and negotiation stage and implementation and operation stage.
<b>11. In a case comparable to the case study assumptions,</b>	No

<p><b>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.</b></p>	
<p><b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b></p>	n/a
<p><b>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.</b></p>	No
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	n/a
<p><b>The regulatory framework does not include any provisions but the procuring authority evaluates the consistency of PPPs with other government investment priorities in practice.</b></p>	Yes
<p><b>If yes, please elaborate:</b></p>	<p>By looking into the regulatory framework provided, no explicit reference is actually made. The Strategic Development Plan 2011-2030 and Infrastructure Fund Decree-Law (DL08/2011) or PPP's Cycle as per Decree-Law 8/2014 are mere guidelines; the Government is free to analyze and approve a PPP project at any time. The Development Plan is a political instrument and the Infrastructure's Fund a budgetary instrument. Contributors confirm the overall interest in using PPP schemes to develop sectors such as transportation and health by Government, even with a lack of PPP projects.</p>
<p><b>The procuring authority does not evaluate PPPs against</b></p>	No

<b>existing government priorities.</b>	
<b>Please elaborate and provide examples:</b>	n/a
<b>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?</b>	n/a
<b>If yes, please specify:</b>	Even with a low number of pipeline of projects, contributors provided that such prioritization is in place in practice.
<b>If no, please elaborate:</b>	n/a
<b>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)</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	No regulatory basis
<b>Is there a specific methodology for the assessment?</b>	No
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	Yes
<b>Details:</b>	This is done in application of regulatory provisions.
<b>12.2. Affordability assessment, including the identification of the required long term public commitments (explicit and implicit, direct and contingent liabilities)</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	In addition to Articles 6(1) of the PPP and 6(2) of the PPP Regulation, Article 8 of the PPP Law provides that the financial feasibility study for public-private partnership projects should include:(a) Forecast future payments and revenues for the next 25 years, including fees for a concession or operating lease;(b) Detailed forecasts regarding payments or revenues, including shadow tolls, profit-sharing and the estimated value of these payments and revenues, as well as events that may cause an agreement to be renegotiated;..(d) The impact of public private partnership agreements on the budget deficit and public debt, as well as the identification of the assets resulting from the agreements;



<b>Is there a specific methodology for the assessment?</b>	No
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	Yes
<b>Details:</b>	This is done in application of regulatory provisions.
<b>12.3. Risk identification, allocation and assessment (risk matrix)</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	According to Article 6(2) of the PPP Regulation, the PPP Project Cycle consists of the initial stage, the feasibility stage, the procurement and negotiation stage and the implementation and operation stage, as described in Annex I to the Regulation. And Annex 1 to the Regulation provides in Point 8 that Project Assessment Team conducts a Feasibility Study and the Ministry of Finance assesses the projects budget risks.
<b>Is there a specific methodology for the assessment?</b>	No
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	n/a
<b>Details:</b>	n/a
<b>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)</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	No regulatory basis
<b>Is there a specific methodology for the assessment?</b>	No
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	Yes
<b>Details:</b>	Contributors provided that this assessment is conducted in practice.
<b>12.5. Financial viability or bankability assessment</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	According to Article 8 of the PPP Law, the financial feasibility study for public-private partnership projects should include:(c) Amount and terms of financing for public private partnership agreements directly or indirectly provided by or in representation of the State;...(e) Information on any security provided by the State or in representation of the State, including a description of the security's nature, intended purpose, beneficiaries, expected duration, financial

	exposition of the State and estimated financial cost of the securities, security fee revenues or other revenues.
<b>Is there a specific methodology for the assessment?</b>	No
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	No
<b>Details:</b>	Contributors provided that there is no clear evidence that this assessment is actually conducted in practice.
<b>12.6. Market sounding and/or assessment (showing evidence of investors' interest in the market for the project)</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	No regulatory basis
<b>Is there a specific methodology for the assessment?</b>	No
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	No
<b>Details:</b>	Contributors provided that there is no clear evidence that this assessment is actually conducted in practice.
<b>12.7. Environmental impact assessment</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	<p>Article 1 of the Decree Law No. 5/2011 on Environmental Licensing Dated February 9 <a href="http://www.anp-tl.org/webs/anptlweb.nsf/vwAll/Resource-Environmental%20Licensing-Decree%20Law%20No.5-2011/\$File/DECREE%20LAW%205-2011-ENVIRONMENTAL%20LICENSING.pdf?openelement">http://www.anp-tl.org/webs/anptlweb.nsf/vwAll/Resource-Environmental%20Licensing-Decree%20Law%20No.5-2011/\$File/DECREE%20LAW%205-2011-ENVIRONMENTAL%20LICENSING.pdf?openelement</a> (Environmental Licensing Law) provides, "d) Environmental Assessment: a generic concept of the procedure for deciding on the environmental feasibility of executing certain projects based on the environmental assessment and management tools defined in this statute comprising the following:</p> <p>l – Environmental Impact Assessment: the procedure for the environmental assessment of category A projects.</p> <p>u) Project: under the control of the laws in force in the East Timor, it consists of the design and the interventions in the natural habitat or in the landscape, of a public or private nature (including the construction works and the interventions designed to exploit natural resources."</p> <p>The Law furthermore provides the procedures for such assessment.</p>
<b>Is there a specific methodology for the assessment?</b>	No
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	No

<b>Details:</b>	Contributors provided that there is no clear evidence that this assessment is actually conducted in practice.
<b>12.8. Consultation process with affected communities on potential impact of the PPP project</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	<p>Article 11 of the Environmental Licensing Law provides,</p> <p>“Public Consultation</p> <p>1) It is incumbent on the Assessment Committee to promote a public consultation whose goals are the following:</p> <p>a) Provide public access to the documents referred to in article 8 of this statute;</p> <p>b) Inform and provide clarifications on the project to the public, including the potential environmental impacts and their mitigation;</p> <p>c) Promote a debate on the DIA and PGA.</p> <p>2. The timeframe for holding the public consultation is 24 days and commences 10 days after the Assessment Committee is set up.</p> <p>3. Any individual from the public can send the Assessment Committee informed recommendations or proposals on the DIA and PGA, within the timeframe defined in item 2 of this article.</p> <p>4. The requirements and procedures for the participation by the public are defined in the appropriate statute.</p> <p>5. A Public Consultation for Definition of the scope needs to discuss the Terms of Reference (TOR) of the project, and the opinion of the stakeholders must be reflected in the TOR.”</p>
<b>Is there a specific methodology for the assessment?</b>	No
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	No
<b>Details:</b>	Contributors provided that there is no clear evidence that this assessment is actually conducted in practice.
<b>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)?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>and specify which of the assessments are included in the request for proposals and/or tender documents:</b>	n/a

<b>13.1. Are the assessments published online?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>specify the website</b>	n/a
<b>please specify which of the assessments are published online:</b>	n/a
<b>14. Does the procuring authority include a draft PPP contract in the request for proposals?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	No regulatory basis
<b>If no, please elaborate</b>	n/a
<b>14.1. Are the tender documents published online?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	No regulatory basis
<b>and please specify the website:</b>	<a href="http://www.cna.gov.tl/en/">http://www.cna.gov.tl/en/</a>
<b>15. In a case comparable to the case study assumptions, have standardized PPP model contracts and/or transaction documents been developed?</b>	No
<b>If yes, please specify and provide a government-supported website where the mentioned standards are available or provide an electronic copy of them:</b>	n/a
<b>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:</b>	No
<b>Procuring authority (or other Government entity)</b>	No
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</b>	No
<b>To be established in the contract</b>	Yes

<b>Relevant legal/regulatory provision (if any)</b>	Annex II (k) of the PPP Law concerns contents of a PPP agreement and specifically states that in addition to the issues that the parties consider to be appropriate, a PPP shall also provide for, “the support agreements and assistance that the State may provide to the private partner in obtaining licenses and permits to the extent necessary for the implementation of the Public Private Partnership Project, incentives.”
<b>16.2. Obtaining the required environmental permits: Procuring authority (or other Government entity)</b>	No
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</b>	No
<b>To be established in the contract</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	<p>Annex II (k) of the PPP Law concerns contents of a PPP agreement and specifically states that in addition to the issues that the parties consider to be appropriate, a PPP shall also provide for, “the support agreements and assistance that the State may provide to the private partner in obtaining licenses and permits to the extent necessary for the implementation of the Public Private Partnership Project, incentives.”</p> <p>Moreover, in reference to the aforementioned Environmental Licensing Law, it confirms that an application to obtain such permit must be undertaken, but such application may be from the public entity or private party, which is to be established in the contract. This Law provides the following clarifications:</p> <p>Article 1 provides, “p) Environmental License: The written decision that grants the applicant the right to carry out the project, so as to ensure the integrated prevention and control of the environment;</p> <p>v) Applicant: individuals or legal entities, be they public or private, that apply for the environmental licensing of a project;”</p> <p>Article 3 of this Law also provides, “2. The beginning of the environmental licensing process is considered to be the time when the project documents are submitted to the Environmental Authority in order to comply with the provision of sub-item b) of the previous item.”</p> <p>Article 8 provides, “For environmental licensing purposes, the projects classified under Category A are subject to the Environmental Impact Assessment (AIA) and the granting of the Environmental License, comprising the following phases:</p> <p>a) Submission of the project for evaluation and request for the environmental license;</p> <p>b) Public consultation;</p> <p>c) Analysis and Technical Opinion by the Assessment Committee;</p> <p>d) Decision on the procedure for the Environmental Impact Assessment and granting of the Environmental License.”</p>
<b>16.3. Obtaining the required operational permits:</b>	No

<b>Procuring authority (or other Government entity)</b>	
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</b>	No
<b>To be established in the contract</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	Annex II (k) of the PPP Law concerns contents of a PPP agreement and specifically states that in addition to the issues that the parties consider to be appropriate, a PPP shall also provide for, "the support agreements and assistance that the State may provide to the private partner in obtaining licenses and permits to the extent necessary for the implementation of the Public Private Partnership Project, incentives."
<b>16.4. Obtaining the required land: Procuring authority (or other Government entity)</b>	No
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</b>	No
<b>To be established in the contract</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	Annex II (k) of the PPP Law concerns contents of a PPP agreement and specifically states that in addition to the issues that the parties consider to be appropriate, a PPP shall also provide for, "the support agreements and assistance that the State may provide to the private partner in obtaining licenses and permits to the extent necessary for the implementation of the Public Private Partnership Project, incentives."
<b>16.5. Obtaining the required right of way: Procuring authority (or other Government entity)</b>	No
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</b>	No
<b>To be established in the contract</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	Annex II (k) of the PPP Law concerns contents of a PPP agreement and specifically states that in addition to the issues that the parties consider to be appropriate, a PPP shall also provide for, "the support agreements and assistance that the State may provide to the private partner in obtaining licenses and permits to the extent necessary for the implementation of the Public Private Partnership Project, incentives."
<b>PPP Procurement</b>	

<b>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.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The bid evaluation committee members require sufficient qualification without specific details.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>According to Article 5(2) of the PPP Regulation, the PPP Project Assessment Team members may vary depending of the project stage, with each of the following entities appointing one member:</p> <p>Stage 2 – Tender Procedure and Bid Evaluation</p> <ul style="list-style-type: none"> <li>i. National Procurement Commission;</li> <li>ii. External consultants specialized in PPPs, if necessary;</li> <li>iii. The Public-Private Partnership Unit, the public sector body responsible for the project area and other relevant entities will act in this stage only as observers, seeking to ensure that the procedure is transparent.</li> </ul>
<b>The bid evaluation committee members are not required to have any specific qualifications.</b>	No
<b>Please elaborate and provide examples:</b>	n/a
<b>19. Does the procuring authority issue a public procurement notice of the PPP project?</b>	Yes
<b>If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):</b>	<p>In Accordance with Article 6(2) of the PPP Law, Article 61 of the Procurement Regime provides that, 2. The publication of announcements is subject to the following rules: a. all announcements referred in number 1 shall be published in the press; b. the announcement for national public tender shall be published in at least one nation-wide distribution newspaper, in Portuguese or Tetum; c. the announcement for an international public tender shall be published at least in two international distribution newspapers of recognized prestige, in English and other foreign language used in international business as well as in one nation-wide distribution newspaper, in Portuguese or Tetum;</p>
<b>19.1. If yes, is the public procurement notice published online?</b>	Yes
<b>If yes, please specify the website:</b>	www.mof.gov.tl; www.cna.gov.tl

<b>20. Are foreign companies prohibited from participating in the bidding process?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>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?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	No explicit provision is available in the PPP Law or Regulation. However, Article 65 of the Procurement Regime provides that, 1. The time frame for the submission of bids shall be set up accordingly to the type of procedure used and within the deadline established in the complementary rules, accordingly to the type of procedure applied. 2. The Public Service shall prorogate the initial deadline for an adequate period when there are justifiable reasons. Thus, the regulatory framework does not detail a specific minimum yet the procuring authorities retain such discretion and provide minimum periods as the contributors have pointed out.
<b>and the time in calendar days:</b>	n/a
<b>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</b>	Yes
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	Article 11(3) PPP Law stipulates that the procedure described in the previous paragraph may consist of the following: (a) Open competitive tender through which any interested economic operator may submit a bidding proposal; (b) Restricted competitive tender through which any economic operator may express interest or submit a response to a request for qualifications, but only those that satisfy objective selection criteria and are short-listed and invited by the Government may submit a bidding proposal;
<b>22.2. Restricted tendering (with pre-qualification stage): Available</b>	Yes
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	Article 11(3) PPP Law stipulates that the procedure described in the previous paragraph may consist of the following: (a) Open competitive tender through which any interested economic operator may submit a bidding proposal; (b) Restricted competitive tender through which any economic operator may express interest or submit a response to a request for qualifications, but only those that satisfy objective selection criteria and are short-listed and invited by the Government may submit a bidding proposal;



<b>22.3 Multi-stage tendering (with shortlisting of final candidate(s)): Available</b>	Yes
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	Article 11.4 of PPP Law stipulates that there will be multi-stage tendering and that the shortlisting of final candidates will be made. In full, the Article states that “4. A two-stage procedure may be applied when it is not considered to be feasible to describe fully the characteristics of the public private partnership project in the initial Request for Proposals.”
<b>22.4. Competitive dialogue: Available</b>	Yes
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	Article 11.5 of the PPP Law addresses this issue and states that, “5. In exceptional circumstances where a project is particularly complex, a competitive dialogue process may be applied seeking to enable various approaches that meet the project requirements.”
<b>22.5. Direct negotiation with more than one candidate: Available</b>	No
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>22.6. Direct negotiation with only one candidate: Available</b>	No
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>22.7 Other. Specify:</b>	No
<b>Available</b>	No
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>22.8. Do the tender documents detail the procedure of the procurement process providing the same information to all the bidders?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	According to Article 62 of the Procurement Regime, depending on the program established and during the period defined in the announcement, the Public Service shall provide a set of documents to each bidder. The minimal requisites of the Tender Documents are described in the Annex 6 of the present decree. Annex 6 provides in Point 10 that such minimum requirements shall include methods and procedure to assess the bidders’ qualification, as foreseen in the present Procurement Regime and applicable rules and procedures.
<b>If no, please elaborate:</b>	n/a

<b>22.9. Do the tender documents specify the prequalification/shortlisting criteria (when applicable) in order to make them available to all the bidders?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Article 51 of the Procurement Regime provides: 1. In the prequalification procedure, the pre-qualification documents shall be provided to each bidder, so that they present the necessary data for decision. 2. The prequalification documents shall include, as a minimum, the information established in the Annex 4 of the present Decree Law. 3. The pre-qualified bidders shall maintain the fulfillment of the prequalification requisites and provide them in the ways and opportunities requested by the Public Service. 4. The price of the prequalification documents shall reflect only the cost of their printing and its distribution to the bidders.</p>
<b>22.10. Based on your experience, is it always the case that the specified criteria are respected in practice?</b>	<p>No</p>
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	<p>n/a</p>
<b>If no, please elaborate:</b>	<p>No particular evidence is provided for such conclusion.</p>
<b>23. Can interested parties/potential bidders submit questions to clarify the public procurement notice and/or the request for proposals?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>In the context of pre-qualification, Article 53 of the Procurement Regime provides: 1. The bidders have the right to request to the Public Service by writing, information on the pre-qualification documents, in the period established in the prequalification documents. 2. After having received the request in the terms of the previous number (53/1), the Public Service shall reply in the shortest possible period. 3. The reply to any request that may be of the interest of all bidders, shall be communicated to all of those who have received prequalification documents by the Public Service, without the source of the request being identified.</p>
<b>23.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose those questions and clarifications to all potential bidders?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>According to Article 53(3) of the Procurement Regime the reply to any request that may be of the interest of all bidders, shall be communicated to all of those who have received prequalification documents by the Public Service, without the source of the request being identified.</p>

<b>23.2. Based on your experience, is it always the case that this disclosure of information is done in practice?</b>	Yes
<b>If yes, please specify:</b>	This is in application of fair and equal treatment principles that are upheld. Contributors provide that usually the National Procurement Commission shares clarifications to requests/queries with all bidders by means of an official document, by e-mail and without identifying the bidder(s) who made the queries.
<b>If no, please elaborate:</b>	n/a
<b>24. Besides questions and clarifications, can the procuring authority conduct pre-bidding conference?</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	Article 63 of the Procurement Regime provides, "1. As established in the Tender Documents, the Public Service shall conduct in the date, time and place set up a Pre Bid Conference in order to clarify all the details relative to the procedure in progress. 2. The Pre Bid Conference has a public character. 3. In the Pre Bid Conference not entailing the verbal instructions, the content of the bidding document can be changed. 4. When as the result of the conference it is necessary to amend or change any terms of the tender, this decision shall be done after by the Public Service and sent out in writing to all bidders. 5. When necessary, the Pre Bid conference can include a visit to the place where goods are to be provided, the construction executed or the service delivered."
<b>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?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 63(4) of the Procurement Regime provides, "4. When as the result of the Conference it is necessary to amend or change any terms of the tender, this decision shall be done after by the Public Service and sent out in writing to all bidders".
<b>24.2. Based on your experience, is it always the case that this disclosure of information is done in practice?</b>	Yes
<b>If yes, please specify:</b>	This is in application to the aforementioned regulatory provisions. Contributors provide that if a pre-bid conference is held, the National Procurement Commission discloses the content and the results of the meeting to all bidders
<b>If no, please elaborate:</b>	n/a
<b>25. In a case comparable to the case study assumptions,</b>	No

<b>does the procuring authority require the bidders to prepare and present a financial model with their proposals?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>If no, please elaborate:</b>	Financial models are not explicitly mentioned in the regulatory framework. The required documents are defined in each tender process.
<b>26. Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 86(1) of the Procurement Regime provides that bidders are evaluated and classified according to the requisites in the Tender Documents.
<b>Evaluation criteria is not set in the tender documents</b>	No
<b>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.</b>	No
<b>Please specify and provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The procuring authority considers sole proposals valid as long as they meet the conditions outlined in the tender documents.</b>	No
<b>Please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The procuring authority does not award a PPP contract if only one proposal is submitted.</b>	No
<b>Please provide the relevant legal/regulatory provisions (if any):</b>	n/a

<b>The regulatory framework does not include any provisions.</b>	Yes
<b>28. Does the procuring authority publish the award notice?</b>	Yes
<b>If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):</b>	According to Article 89(1) of the Procurement Regime, the award notice is published in the common locations of the ministry responsible for the relevant sector.
<b>28.1. If yes, is the public procurement award notice published online?</b>	Yes
<b>If yes, please specify the website:</b>	In the different electronic portals of the relevant ministries, including: <a href="http://www.transparency.gov.tl/english.html">http://www.transparency.gov.tl/english.html</a> ; <a href="http://mj.gov.tl/jornal/public/docs/2015/serie_1/SERIE_I_NO_49A.pdf">http://mj.gov.tl/jornal/public/docs/2015/serie_1/SERIE_I_NO_49A.pdf</a>
<b>29. Does the procuring authority provide all the bidders with the result of the PPP procurement process?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	According to Article 7 of the Procurement Regime, the principles of transparency and publicity are major components of the Regime, this would include that the awarding criteria shall be well defined ahead of the proceedings and information guaranteed to the interested parties starting from the date of opening. Article 96 of the same Regime implies that prior information would be provided in order for the bidders that are considered to be affected during the course of the procurement procedures have the right to present a claim to the Public Entity.
<b>If no, please elaborate:</b>	n/a
<b>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?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	According to Article 7(2) of the Procurement Regime, the choice of proposals shall always be substantiated in writing. Contributors provided that such writing includes the grounds for selecting the winning bid.
<b>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?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>and the time in calendar days:</b>	n/a

<b>30.1. Is the standstill period set out in the notice of intention to award?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>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?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	According to Article 8 of the Procurement Regime, (1) The relevant documents that constitute the basis to the procedure shall be maintained unchanged during all the process, until the end. (2) In the procedures wherein any negotiation is not foreseen, the bids presented by the bidders are unchangeable until the respective award. (3) After the award, the parties can introduce, by mutual agreement, any adjustments of accessory or functional character as long as it is clearly observes the principle of public interest. (4) After receiving the bids, the Public Service can only withdraw unilaterally in the cases foreseen in this decree.
<b>31.1. Based on your experience, is it always the case that this restriction is respected in practice?</b>	No
<b>If yes, please specify:</b>	n/a
<b>If no, please elaborate:</b>	Contributors provide that in practice, the concept of “accessory” or “functional” matters is not clear and the project owner may be open to negotiate other matters of the bidding documents, provided that it does not imply material changes to the document, an example of which was in one case where the Project owner was willing to negotiate certain aspects of the payment schedule, notably the terms for advance payment of a certain percentage of the contract price. It does not generally happen in a PPP tender though.
<b>32. Does the procuring authority publish the PPP contract?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>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</b>	n/a

<b>Publication of the full PPP contract without including all its annexes and appendixes</b>	n/a
<b>Publication of a summary of the PPP contract without publishing the full PPP contract</b>	n/a
<b>Publication of a summary of the PPP contract along with the full PPP contract including all its annexes and appendixes</b>	n/a
<b>Publication of a summary of the PPP contract along with the full PPP contract without including all its annexes and appendixes</b>	n/a
<b>32.2. If yes, is it published online?</b>	n/a
<b>If yes, please specify the website:</b>	n/a
<b>32.3. If yes, does the procuring authority also publish any subsequent amendment made to the PPP contract?</b>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>PPP Contract Management</b>	
<b>41. Has the procuring or contract management authority established a system to manage the implementation of the PPP contract (e.g. attributing responsibilities or establishing specific management tools)?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	According to Article 5(2) of the PPP Regulation, the PPP Project Assessment Team members may vary depending of the project stage, with each of the following entities appointing one member:(c) Implementation and Operation Stage:i. The public sector body responsible for the project area;ii. Other relevant entities.
<b>41.1. If yes, which of the following tools does it include (check all that apply)?: Establishment of a PPP contract management team</b>	Yes
<b>Relevant legal/regulatory provisions (if any):</b>	According to Article 5(2) of the PPP Regulation, the PPP Project Assessment Team members may vary depending on the project stage, with each of the

	following entities appointing one member:(c) Implementation and Operation Stage:i. The public sector body responsible for the project area;ii. Other relevant entities.
<b>Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa</b>	Yes
<b>Relevant legal/regulatory provisions (if any):</b>	According to Article 5(2) of the PPP Regulation the public sector body responsible for the project area and other relevant entities who participate in the implementation stage of the PPP project may also participate in the bid evaluation and negotiation stage.
<b>Elaboration of a PPP implementation manual or an equivalent document</b>	No
<b>Relevant legal/regulatory provisions (if any):</b>	n/a
<b>Establishment of personnel training programs (i.e. initial training and continued training throughout the course of the project)</b>	No
<b>Relevant legal/regulatory provisions (if any):</b>	n/a
<b>Establishment of a risk mitigation mechanism which considers the evolving nature of risks throughout the project lifecycle (guidelines, specific processes, insurance regime, etc.)</b>	No
<b>Relevant legal/regulatory provisions (if any):</b>	n/a
<b>41.2. Which of the following options best describes the required qualifications of the PPP contract management team members? (Please select only one): The membership of the PPP contract management team is specified and/or its members are required to meet detailed qualifications.</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The PPP contract management team members are required to meet</b>	Yes



<b>sufficient qualification without specific details.</b>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	According to Article 5 (2) of the PPP Regulation provides, “2. The PPP Project Assessment Team members may vary depending on the project stage, with each of the following entities appointing one member: (c) Implementation and Operation Stage: i. PPP unit; ii. The Public sector body responsible for the project area; ii. Other relevant entities.”
<b>The PPP contract management team members are not required to meet any specific qualifications.</b>	No
<b>Please elaborate and provide examples:</b>	n/a
<b>42. Does the procuring or contract management authority establish a system for tracking progress and completion of construction works under a PPP contract?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>42.1. If yes, is the PPP contract construction performance information made available to the public?</b>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>42.2. If yes, is the PPP contract construction performance information made publicly available online?</b>	n/a
<b>If yes, please specify the website:</b>	n/a
<b>43. Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract implementation after construction?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	According to Article 5(1) of the PPP Regulation, task forces or committees may be set up for monitoring or supervising PPP projects.
<b>43.1. If yes, which of the following tools does it include (check all that apply)?: Performance is assessed against evaluation criteria set</b>	Yes

<b>in the tender documents and the PPP contract</b>	
<b>Relevant legal/regulatory provisions (if any)</b>	No regulatory basis
<b>The procuring or contract management authority can abate (reduce) payments for non-performance of operating obligations under the PPP contract</b>	No
<b>Relevant legal/regulatory provisions (if any)</b>	n/a
<b>The private partner must provide the procuring or contract management authority with periodic operational and financial data</b>	No
<b>Relevant legal/regulatory provisions (if any)</b>	n/a
<b>The procuring or contract management authority must periodically gather information on the performance of the PPP contract</b>	No
<b>Relevant legal/regulatory provisions (if any)</b>	n/a
<b>The PPP contract performance information must be available to the public</b>	No
<b>Relevant legal/regulatory provisions (if any)</b>	n/a
<b>43.2. Is PPP contract performance information made publicly available online?</b>	No
<b>If yes, please specify the website:</b>	n/a
<b>44. Are foreign companies prohibited from repatriating the income resulting from the operation of a PPP project?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>45. Does the regulatory framework (including standard contractual clauses) expressly regulate changes in the ownership structure (i.e. stakeholder composition) of</b>	Yes

<b>the private partner and/or assignment of the PPP contract?</b>	
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	<p>According to Annex II of the PPP Act, the PPP agreement shall address, L) the right to pledge and transfer shares in the project company. And U) established the need to have in place provisions for managing changes over the period of the agreement. Additionally, according to Article 39 of the Public Contracts Regime, in a signed a contract, the Public Service can only exceptionally accept the cession in favor of another natural or juridical person, even when based on justified reasons concerning the impossibility to fulfill the contract due to unforeseen reasons, inevitable and insoluble.</p>
<b>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).</b>	<p>No</p>
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	<p>n/a</p>
<b>Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	<p>According to Article 39 of the Public Contracts Legal Regime, it is the responsibility of the cessionary to prove its capacity to perform the public contract ceded to his favor and give the guarantees of execution and quality in the same terms required to the original assignee.</p>
<b>In other cases, flexibility to change the ownership structure and/or assign the contract.</b>	<p>No</p>
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	<p>n/a</p>
<b>46. Does the regulatory framework (including standard contractual clauses) expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?</b>	<p>Yes</p>

<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	According to Annex II Point (u) to the PPP Law, amongst the minimum requirements of the PPP agreement are, provisions for managing change over the period of the agreement, mechanisms to deal with additional costs and other consequences that might result from any order issued by the Government or a regulatory agency, including any compensation to which the private partner may be entitled and the circumstances under which the public private partnership agreement may be modified in order to maintain economic and financial balance between the parties.
<b>46.1. If yes, is an approval from a government authority, other than the procuring authority, required?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	No regulatory basis
<b>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.</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>A change in the risk allocation of the contract.</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>A change in the financial and/or economic balance of the contract.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	According to Annex II Point (u) to the PPP Law, amongst the minimum requirements of the PPP agreement are, provisions for managing change over the period of the agreement, mechanisms to deal with additional costs and other consequences that might result from any order issued by the Government or a regulatory agency, including any compensation to which the private partner may be entitled and the circumstances under which the public private partnership agreement may be modified in order to maintain economic and financial balance between the parties.
<b>A change in the duration of the contract.</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard</b>	n/a

<b>contractual provisions (if any):</b>	
<b>A change in the agreed price or tariff.</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>46.3. Can the procuring authority unilaterally modify a PPP contract?</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>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</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Force majeure is not explicitly regulated, but the minimum requirements of the PPP agreement according to Annex II (o) of the PPP Act shall include, the extent to which either party may be exempt from responsibility for failure or delay in complying with any obligation under the agreement for circumstances beyond their reasonable control. Contributors confirmed that the PPP agreement contains such clauses.
<b>Material Adverse government action .</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>Change in the Law.</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>Refinancing.</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a

<b>Subcontracting and replacement of the subcontractors.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Article 23 of the Public Contracts Legal Regime provides, "1. The contractors may subcontract the goods, the works or the services to the accomplishment of the principal purpose of the contract any time they have that possibility included in the contract, and without additional costs to the awarding entity. 2. The contractor party answer before the awarding entity by which has subcontracted with third parties, as they are his own acts."
<b>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?</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Annex II in Point (y) of the PPP Law provides that amongst the minimum contract requirements are identifying dispute resolution mechanisms.
<b>48.1. If yes, please specify which of the following options are available (check all that apply): Local administrative review body</b>	No
<b>If yes, please specify:</b>	n/a
<b>Local courts</b>	Yes
<b>Domestic arbitration</b>	Yes
<b>International arbitration</b>	Yes
<b>Investor-State Dispute Settlement (ISDS)</b>	Yes
<b>Mediation</b>	Yes
<b>Please provide the relevant legal/ regulatory/standard contractual provisions (if any)</b>	Annex II in Point (y) of the PPP Law provides that amongst the minimum contract requirements are identifying dispute resolution mechanisms. Article 42 of the Public Contracts Legal Regime provides, "The disputes related to the public contracts are submitted to the court of law of the competent court of Timor-Leste without prejudice to the submission of the cause to arbitral tribunal when the same will be allowed in the terms of the law and the contract." Articles 239 & 242 of the Civil Procedures Code (Decree-Law 1/2006) also provide that arbitration is an available option and would be agreed upon within an arbitration agreement.
<b>48.2. If applicable, are arbitration awards enforceable by the local courts?: Domestic Arbitration</b>	Yes

<b>If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):</b>	<p>Article 671 of the Timor-Leste Civil Procedures Code provides, Feasibility of disputes and arbitration awards</p> <ol style="list-style-type: none"> <li>1. They shall be treated in the same way as judgments, decisions and any other decisions or acts of the judicial authority which obligation.</li> <li>2. Decisions rendered by the arbitral tribunal are enforceable on the same terms as are the decisions of the courts judicial.</li> </ol>
<b>International arbitration</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):</b>	<p>Article 672 of the Timor-Leste Civil Procedures Code provides, Feasibility of judgments and titles in a country foreign without prejudice to what is established in treaties and special laws, judgments handed down by courts or by arbitrators in a foreign country can only serve as a basis for execution after reviews and confirmed by the Supreme Court Of Justice.</p>
<b>Investor-State arbitration</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):</b>	<p>Timor-Leste is a party to the Convention on the settlement of investment disputes between states and nationals of other states (ratified through Parliament’s resolution no. 14 /2016, of August 31), which permits enforcing such rewards that have been issued through investor-state arbitration disputes.</p> <p>Additionally, Article 672 of the Timor-Leste Civil Procedures Code provides, Feasibility of judgments and titles in a country foreign without prejudice to what is established in treaties and special laws, judgments handed down by courts or by arbitrators in a foreign country can only serve as a basis for execution after reviews and confirmed by the Supreme Court Of Justice.</p>
<b>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?</b>	<p>No</p>
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	<p>n/a</p>
<b>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?</b>	<p>No</p>
<b>If yes, please provide the relevant legal/regulatory/standard</b>	<p>n/a</p>

<b>contractual provisions (if any):</b>	
<b>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.</b>	n/a
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>The regulatory framework prescribes that a direct agreement should be signed with the lenders.</b>	n/a
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.</b>	n/a
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>Other.</b>	n/a
<b>Please Specify:</b>	n/a
<b>51. Does the regulatory framework (including standard contractual clauses) expressly establish the grounds for termination of a PPP contract?</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>51.1. If yes, does the regulatory framework (including standard contractual clauses) establish the consequences for the</b>	n/a



<b>termination of the PPP contract?</b>	
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>Unsolicited Proposals</b>	
<b>34. Are unsolicited proposals in Timor-Leste: (choose only one): Explicitly prohibited by the legal framework? (If prohibited, skip to section F)</b>	No
<b>Explicitly allowed by the legal framework?</b>	Yes
<b>Not regulated by the legal framework, but do happen in practice?</b>	No
<b>Not regulated by the legal framework, and do not happen in practice? (if not done in practice, skip to section F)</b>	No
<b>If the legal framework explicitly prohibits or allows unsolicited proposals, please provide the relevant legal/regulatory provisions</b>	According to Article 13 of the PPP Law, Unsolicited proposals in relation to public-private partnerships can only be considered and assessed in the following cases:(a) Do not concern projects identified by the Government as strategic projects or projects being considered for admission by the Government in the public private partnership project cycle; and(b) Are created and developed independently by the candidate;(c) Are prepared without supervision or involvement by the Ministry of Finance;(d) Are submitted correctly to and accepted by the Ministry of Finance;(e) Include sufficient details and information to enable a public-private partnership feasibility study.
<b>35. Does the procuring authority conduct an assessment to evaluate unsolicited proposals? (if not, skip to question 37)</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any)</b>	According to Article 13 of the PPP Law, Unsolicited proposals in relation to public-private partnerships can only be considered and assessed in the following cases:(d) Are submitted correctly to and accepted by the Ministry of Finance;(e) Include sufficient details and information to enable a public-private partnership feasibility study.
<b>35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	According to Article 13(d) of the PPP Law, unsolicited proposals can only be considered and assessed if they are (d) submitted correctly to and accepted by the Ministry of Finance; (e) Include sufficient details and information to enable

	a public-private partnership feasibility study. Moreover, general application of the PPP Law provisions shall be undertaken with precise reference to Articles 6 of both the PPP Law and Regulation and 8 of the Law, as previously displayed.
<b>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.</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The procuring authority does not evaluate unsolicited proposals against existing government priorities.</b>	Yes
<b>Please elaborate and provide examples:</b>	There has been no evidence that unsolicited proposals are evaluated against existing government priorities.
<b>37. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Contributors point out that the general competitive bidding procedures apply to unsolicited procedures as previously detailed. No regulations have been issued yet to provide otherwise.
<b>38. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?</b>	No

<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>and the time in calendar days:</b>	n/a
<b>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.</b>	No
<b>39.2 Developer's fee (reimbursing the original proponent for the project development cost).</b>	No
<b>39.3 Bid Bonus.</b>	No
<b>39.4 Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).</b>	No
<b>39.5 Other.</b>	No
<b>Please specify:</b>	n/a
<b>Please provide the relevant legal/regulatory provisions (if any):</b>	n/a