

## PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN TRINIDAD AND TOBAGO

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>	PPP procurement in Trinidad and Tobago is mainly governed by: (1) Government of the Republic of Trinidad and Tobago PPP Policy of 2012 (currently the policy is under revision) [hereinafter “PPP Policy”], which provides a general outline about PPP policy; and (2) Public Procurement and Disposal of Public Property Act of 2015 (last amended March 2017) [hereinafter “Public Procurement Act”] Article 7 of which provides, “This Act applies to public bodies and public-private partnership arrangements.” The previously mentioned regulations shall form the PPP regulatory framework for purposes of this analysis.
<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>	Public Procurement Act of 2015 ( <a href="http://www.finance.gov.tt/wp-content/uploads/2017/02/Public-Procurement-and-Disposal-of-Public-Property-Act-1-of-2015.pdf">http://www.finance.gov.tt/wp-content/uploads/2017/02/Public-Procurement-and-Disposal-of-Public-Property-Act-1-of-2015.pdf</a> ) PPP Policy 2012 (The 2012 version can be obtained at the World Bank’s PPP Knowledge website ( <a href="https://pppknowledgelab.org/countries/trinidad-and-tobago">https://pppknowledgelab.org/countries/trinidad-and-tobago</a> )).
<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>	Yes
<b>Please describe:</b>	In March 2017, an amendment to the Public Procurement Act was issued.
<b>2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?</b>	Yes
<b>Please describe:</b>	The PPP Policy is currently under review.
<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>	n/a
<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>	No
<b>If yes, specify and provide the relevant legal/regulatory provisions:</b>	n/a
<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 Trinidad and Tobago and</b>	<p>The PPP Policy defines a “government agency” as a partner in PPP agreements in Section 2 as, “a Ministry, a State Enterprise, a Statutory Body, or any other Government contracting authority.”</p> <p>Section 4 of the Public Procurement Act defines PPPs as, ““public-private</p>

<p><b>provide their website(s) (if available):</b></p>	<p>partnership arrangement” includes an arrangement between a public body and a private party...” A “public body” is defined in the same Section as,</p> <p>“(a) the Office of the President;</p> <p>(b) the Parliament;</p> <p>(c) the Judiciary;</p> <p>(d) a Ministry or a department or division of a Ministry;</p> <p>(e) the Tobago House of Assembly, or a division of the Tobago House of Assembly;</p> <p>(f) a Municipal Corporation established under the Municipal Corporations Act;</p> <p>(g) a Regional Health Authority established under the Regional Health Authorities Act;</p> <p>(h) a statutory body, responsibility for which is assigned to a Minister of Government;</p> <p>(i) a State-controlled enterprise;</p> <p>(j) a Service Commission established under the Constitution or other written law; or</p> <p>(k) a body corporate or unincorporated entity—</p> <p>(i) in relation to any function which it exercises on behalf of the State; or</p> <p>(ii) which is established by virtue of the President’s prerogative, by a Minister of Government in his capacity as such or by another public authority; or</p> <p>(l) a body corporate or unincorporated entity in relation to any function, project, scheme or arrangement which involves the use by it, of public money.”</p> <p>For purposes of the case study assumption, the Ministry of Works and Transport <a href="http://www.mowt.gov.tt/general/homepage.aspx">http://www.mowt.gov.tt/general/homepage.aspx</a> with the Central Tenders Board shall be the relevant procuring authorities.</p>
<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></p>	<p>Yes</p>
<p><b>If yes, please indicate its name, and its website (if available):</b></p>	<p>Two government bodies are defined in the PPP Policy to facilitate the development of PPPs:</p> <p>(1) The PPP Ministerial Committee [hereinafter “PPP Committee], comprised by the ministries with the following portfolios Finance, Planning and the Economy, Education, Health, Housing and the Environment, Public Utilities, Transport, Works and Infrastructure, provide direction, and oversee the development and implementation of PPP projects (Section 7.1).</p> <p>(2) The Public Private Partnership Unit within the Ministry of Finance [hereinafter “PPP Unit”] (<a href="http://www.finance.gov.tt/about-us/divisions/public-private-partnership-unit/">http://www.finance.gov.tt/about-us/divisions/public-private-partnership-unit/</a>) acts as a “Secretariat” of the PPP Committee (Section 7.2).</p> <p>The PPP Unit shall be the main PPP Unit, as confirmed by contributors.</p>
<p><b>6.1 If yes, what are the main responsibilities of the PPP Unit (check all that apply):</b></p>	<p>Yes</p>

<b>PPP regulation and policy guidance.</b>	
<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>	Yes
<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>Section 7.1 of the PPP Policy provides,          “The responsibilities of the PPP Ministerial Committee are as follows: - Guide the development of PPP policy, - Review candidate projects and select those to be developed as a PPP, - Hold PPP execution teams accountable for developing and implementing PPP projects, following an agreed project timeline, and - Guide Contract Management Teams as needed to manage change during the lifetime of the PPP Contract.</p> <p>And Section 7.2 of the same Policy provides,          “(...) the responsibilities of the PPP Unit are as follows: - Develop and disseminate PPP policy—advise on development of PPP policy and regulation; develop guidance material and templates, and build understanding in public and private sectors of the government’s PPP program, - Regulate the PPP program—ensure that all PPP projects are developed in accordance with PPP policy, principles, and processes. This includes ensuring projects are properly reviewed against required criteria at each stage; that review processes are completed; that Cabinet submissions include all the information required for a well-informed decision; and that PPP projects are managed well, - Contribute to development of PPP projects—screen potential PPP project ideas submitted by Government agencies, for consistency with the PPP criteria at the project identification stage, to inform the PPP Ministerial Committee decision. If approved, form part of the PPP Execution Team responsible for developing the business case for each PPP project and implementing the PPP transaction, - Be a repository of skills and knowledge—continually build knowledge about managing PPPs, drawing from domestic and international experience. This</p>

	includes compiling and archive information on PPP projects in Trinidad and Tobago, and systematically analyzing the success of those projects—what has worked and what has not—to inform the development of the PPP program.”
<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>	Section 7.4 of PPP Policy states that the Ministry of Finance must review in detail and submit its revision of the Business Case to the Cabinet. The Business Case contains the Cabinet decision (of approval or not) to implement the PPP transaction. Even when it is not explicitly stated that the Ministry approves the Business Case, it is expected that the review in detail contains its opinion.
<b>8.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before signing the PPP contract?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	No regulatory basis
<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>	n/a
<b>Accounting and reporting according to other</b>	n/a

<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 Cabinet
<b>and provide the relevant legal/regulatory provisions (if any):</b>	Section 7.4 of PPP Policy: "A PPP must be approved by Cabinet at two key stages: Business Case (approval to implement the PPP transaction), and Transaction (approval to sign the PPP contract)."
<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>	Section 7.4 of PPP Policy: "A PPP must be approved by Cabinet at two key stages: Business Case (approval to implement the PPP transaction), and Transaction (approval to sign the PPP contract)."
<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>	Section 7.3 of PPP Policy: "The PPP Execution Team will be responsible for developing a Business Case for the project, and for implementing the PPP Transaction, with the support of experienced advisors."
<b>11. In a case comparable to the case study assumptions, please select the option that best describes the way your government integrates the prioritization of PPP projects with other public investment project prioritization? (e.g. in the context of a national public investment system, multi-year perspective plans, medium-term budgetary framework): The regulatory</b>	No

<p>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>	Contributors provided that if projects are aligned with the national budget and medium-term development framework, they are read into the relevant Public Appropriations Bill for that fiscal year.
<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
<p>If no, please elaborate:</p>	The Government of Trinidad and Tobago is in the process of outlining clearer policies for such prioritization as in practice there is no evident consistency with prioritization.

<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>	<p>Yes</p>
<b>Relevant legal/regulatory provision (if any)</b>	<p>Section 5 of PPP Policy provides, “the Government will ensure all PPP projects implemented in Trinidad and Tobago meet the following four criteria:</p> <ul style="list-style-type: none"> <li>- Feasibility and economic viability of the project—the underlying project makes sense, in that it is central to policy priorities and sector and infrastructure plans; technically, legally, environmentally and socially feasible; and economically cost-benefit justified (...) These criteria will form the basis of review and approval of PPP projects at each stage of developing a PPP project, as described below.”</li> </ul>
<b>Is there a specific methodology for the assessment?</b>	<p>No</p>
<b>If yes, please elaborate</b>	<p>n/a</p>
<b>Is the assessment done in practice?</b>	<p>No</p>
<b>Details:</b>	<p>Contributors provided that there is no clear evidence that this assessment is actually conducted in practice.</p>
<b>12.2. Affordability assessment, including the identification of the required long term public commitments (explicit and implicit, direct and contingent liabilities)</b>	<p>Yes</p>
<b>Relevant legal/regulatory provision (if any)</b>	<p>Section 4 of PPP Policy provides, “The aim of this PPP Policy is to ensure PPP projects are implemented in a way that: (...)</p> <p>“Is fiscally responsible—that is, the fiscal impact of PPP projects is well-understood, affordable, and that the level of fiscal risk is acceptable.”</p> <p>And Section 5 of PPP Policy provides, “the Government will ensure all PPP projects implemented in Trinidad and Tobago meet the following four criteria:</p> <ul style="list-style-type: none"> <li>- Fiscal responsibility—the project’s cost to Government is in line with fiscal priorities, and risks retained by Government would not be fiscally destabilizing. (...) These criteria will form the basis of review and approval of PPP projects at each stage of developing a PPP project, as described below.”</li> </ul>



<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>12.3. Risk identification, allocation and assessment (risk matrix)</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	Section 2 of PPP Policy provides, A “Public-Private Partnership” (PPP) is a long-term contract between a private party and a government agency, for providing a public asset or service, in which the private party bears significant risk and management responsibility. In the context of this definition: (...) The nature of a PPP contract may vary; but involves the private sector bearing significant risk and management responsibility. PPP contracts: (...) Allocate risk to the public and private parties clearly, comprehensively, and in a way that achieves value for money, by ensuring each party bears those risks they are best suited to manage.” Contributors confirm that feasibility assessments must ensure risk identification and assessment on this 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>12.4. 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>	Section 4 of PPP Policy provides, “The aim of this PPP Policy is to ensure PPP projects are implemented in a way that: (...) Achieves value for money, by capitalizing on the value drivers described above” Section 5 of PPP Policy provides, “the Government will ensure all PPP projects implemented in Trinidad and Tobago meet the following four criteria: (...) - Value for money—the proposed PPP is expected to achieve value for money, compared to the alternative of public procurement (where that would be an option); and compared to other PPP structures (that is, the PPP is structured

	well)”
<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>12.5. Financial viability or bankability assessment</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	Section 4 of PPP Policy provides, “Commercial viability—there are qualified private parties available to do the project, and the project is expected to provide a commercial rate of return sufficient to attract such parties and create competitive tension”
<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>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>Is there a specific methodology for the assessment?</b>	n/a
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	n/a
<b>Details:</b>	n/a
<b>12.7. Environmental impact assessment</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	Section 4 of PPP Policy: “Aim and Scope of the PPP Policy (...) The aim of this PPP Policy is to ensure PPP projects are implemented in a way that: (...) - Is environmentally and socially sustainable—that is, environmental and social impacts of PPP projects are carefully assessed, and are managed appropriately.” Section 5 of PPP Policy: “the Government will ensure all PPP projects implemented in Trinidad and Tobago meet the following four criteria: - Feasibility and economic viability of the project—the underlying project makes sense, in that it is central to policy priorities and sector and

	infrastructure plans; technically, legally, environmentally and socially feasible; and economically cost-benefit justified (...)"
<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>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>Is there a specific methodology for the assessment?</b>	n/a
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	n/a
<b>Details:</b>	n/a
<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</b>	No

<b>contract in the request for proposals?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>If no, please elaborate</b>	There are no regulatory provisions or standard practice to include such draft PPP contracts in request for proposals are in place.
<b>14.1. Are the tender documents published online?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>and please specify the website:</b>	n/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>	
<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>	No regulatory basis
<b>16.2. Obtaining the required environmental 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

To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
16.3. Obtaining the required operational permits: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
16.4. Obtaining the required land: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
16.5. Obtaining the required right of way: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
<b>PPP Procurement</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	No

are required to meet detailed qualifications.	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The bid evaluation committee members require sufficient qualification without specific details.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
The bid evaluation committee members are not required to have any specific qualifications.	No
Please elaborate and provide examples:	n/a
<b>19. Does the procuring authority issue a public procurement notice of the PPP project?</b>	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	No regulatory basis
<b>19.1. If yes, is the public procurement notice published online?</b>	Yes
If yes, please specify the website:	<a href="http://www.finance.gov.tt/services/central-tenders-board/">http://www.finance.gov.tt/services/central-tenders-board/</a>
<b>20. Are foreign companies prohibited from participating in the bidding process?</b>	No
If yes, please provide the relevant legal/regulatory provisions (if any):	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
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
and the time in calendar days:	n/a
<b>22.1. In a case comparable to the case study assumptions, which are the procurement procedures available and/or</b>	No

<b>set as default for PPP projects? Open tendering: Available</b>	
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>22.2. Restricted tendering (with pre-qualification stage): Available</b>	No
<b>Default</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	<p>Section 6 of PPP Policy provides, “Transaction—the PPP contractor will be selected through a transparent, competitive procurement process, consistent with Government procurement law and regulations, and designed to achieve value for money. The final PPP contract will be checked, to ensure it remains in line with the PPP criteria, before being submitted to Cabinet for approval to sign the contract and implement the PPP.”</p> <p>Section 29 of the Public Procurement Act provides, “(3) Any requirement established pursuant to this section shall be set out in the pre-qualification or pre-selection documents, if any, and in the solicitation documents and shall apply equally to all suppliers or contractors.</p> <p>(4) A procuring entity shall evaluate the qualifications of suppliers or contractors in accordance with the qualification criteria specified in subsection (1) and procedures set out in the pre-qualification or pre-selection documents, if any, and in the solicitation documents.” The restricted procedure with pre-qualification shall be the default procedure in procuring PPPs in Trinidad and Tobago.</p>
<b>22.3 Multi-stage tendering (with shortlisting of final candidate(s)): Available</b>	No
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>22.4. Competitive dialogue: Available</b>	No
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<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>	No regulatory basis
<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>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Section 29 of the Public Procurement Act provides, "(3) Any requirement established pursuant to this section shall be set out in the pre-qualification or pre-selection documents, if any, and in the solicitation documents and shall apply equally to all suppliers or contractors."
<b>22.10. Based on your experience, is it always the case that the specified criteria are respected in practice?</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>If no, please elaborate:</b>	Contributors provide there are irregularities in the tender processes.
<b>23. Can interested parties/potential bidders submit questions to clarify the public procurement notice and/or the request for proposals?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	No regulatory basis
<b>23.1. If yes, notwithstanding confidential information pertaining to the bidders,</b>	No



<b>does the procuring authority disclose those questions and clarifications to all potential bidders?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>23.2. Based on your experience, is it always the case that this disclosure of information is done in practice?</b>	n/a
<b>If yes, please specify:</b>	n/a
<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>	No regulatory basis
<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>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>24.2. Based on your experience, is it always the case that this disclosure of information is done in practice?</b>	n/a
<b>If yes, please specify:</b>	n/a
<b>If no, please elaborate:</b>	n/a
<b>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?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>If no, please elaborate:</b>	n/a

<b>26. Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<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>	The Article 36 of the Public Procurement Act states the following: “36. (1) Upon the entry into force of a procurement contract or conclusion of a framework agreement, a procuring entity shall promptly publish on its website or in any other electronic format, notice of the award of the procurement contract or the framework agreement, specifying the name of any supplier or

	contractor with whom the procurement contract or framework agreement was entered into, the goods or services to be supplied, the works to be effected and, in the case of procurement contracts, the date of the award of the contract and the contract price.”
<b>28.1. If yes, is the public procurement award notice published online?</b>	Yes
<b>If yes, please specify the website:</b>	Award notices of public procurement are published in the following link: <a href="http://www.finance.gov.tt/services/central-tenders-board/">http://www.finance.gov.tt/services/central-tenders-board/</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>	The Article 35 of the Public Procurement Act states the following: “(...) (2) A procuring entity shall promptly notify each supplier or contractor who presented submissions of its decision to accept the successful submission at the end of the standstill period.”
<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>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<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>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	The Article 35 of the Public Procurement Act states the following: “The notice (notifying those who presented submissions) (...) shall contain, at a minimum, the following information: (...) (c) the duration of the standstill period as set out in the solicitation documents.”
<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>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	The Article 35 of the Public Procurement Act states the following: “The notice (notifying those who presented submissions) (...) shall contain, at a minimum, the following information: (...) (c) the duration of the standstill period as set out in the solicitation documents.”
<b>31. Does the regulatory framework restrict negotiations with the</b>	No

<b>selected bidder between the award and the signature of the PPP contract in order to prevent an unfair disadvantage to the other bidders?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>31.1. Based on your experience, is it always the case that this restriction is respected in practice?</b>	n/a
<b>If yes, please specify:</b>	n/a
<b>If no, please elaborate:</b>	n/a
<b>32. Does the procuring authority publish the PPP contract?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Section 36(1) of the Public Procurement Act provides, "Upon the entry into force of a procurement contract or conclusion of a framework agreement, a procuring entity shall promptly publish on its website or in any other electronic format, notice of the award of the procurement contract or the framework agreement, specifying the name of any supplier or contractor with whom the procurement contract or framework agreement was entered into, the goods or services to be supplied, the works to be effected and, in the case of procurement contracts, the date of the award of the contract and the contract price."
<b>32.1. If yes, which of the following options best describes this publication (choose only one)?:</b> <b>Publication of the full PPP contract including all its annexes and appendixes</b>	No
<b>Publication of the full PPP contract without including all its annexes and appendixes</b>	No
<b>Publication of a summary of the PPP contract without publishing the full PPP contract</b>	Yes
<b>Publication of a summary of the PPP contract along with the full PPP contract including all its annexes and appendixes</b>	No
<b>Publication of a summary of the PPP contract along with the full PPP contract without including all its annexes and appendixes</b>	No

<b>32.2. If yes, is it published online?</b>	No
<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>	No
<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>	Section 7.3 of PPP Policy provides, "When the PPP transaction reaches financial close, a Contract Management Team will be appointed by the responsible Ministry or Government agency, to manage the PPP contract for its duration. The Contract Management Team may refer to the PPP Ministerial Committee to provide guidance as needed to manage change over the contract lifetime."
<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>	Section 7.3 of PPP Policy provides, "When the PPP transaction reaches financial close, a Contract Management Team will be appointed by the responsible Ministry or Government agency, to manage the PPP contract for its duration. The Contract Management Team may refer to the PPP Ministerial Committee to provide guidance as needed to manage change over the contract lifetime."
<b>Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa</b>	No
<b>Relevant legal/regulatory provisions (if any):</b>	n/a
<b>Elaboration of a PPP implementation manual or an equivalent document</b>	No
<b>Relevant legal/regulatory provisions (if any):</b>	n/a

Establishment of personnel training programs (i.e. initial training and continued training throughout the course of the project)	No
Relevant legal/regulatory provisions (if any):	n/a
Establishment of a risk mitigation mechanism which considers the evolving nature of risks throughout the project lifecycle (guidelines, specific processes, insurance regime, etc.)	No
Relevant legal/regulatory provisions (if any):	n/a
41.2. Which of the following options best describes the required qualifications of the PPP contract management team members? (Please select only one): The membership of the PPP contract management team is specified and/or its members are required to meet detailed qualifications.	No
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The PPP contract management team members are required to meet sufficient qualification without specific details.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
The PPP contract management team members are not required to meet any specific qualifications.	No
Please elaborate and provide examples:	n/a
42. Does the procuring or contract management authority establish a system for tracking progress and completion of construction works under a PPP contract?	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>	Section 6 of the PPP Policy provides, “Contract management—the PPP contract will be monitored and managed to ensure all parties’ obligations are met, and services are delivered as expected. Project risks will be monitored, and changing circumstances responded to in a way that achieves value for money over the project lifetime.”
<b>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</b>	No
<b>Relevant legal/regulatory provisions (if any)</b>	n/a
<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 the private partner and/or assignment of the PPP contract?</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<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>	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>n/a</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>No regulatory basis</p>
<p>46.1. If yes, is an approval from a government authority, other than the procuring authority, required?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>No regulatory basis</p>
<p>46.2. If yes to question 46, which of the following circumstances are specifically regulated? (check all that</p>	<p>Yes</p>

<b>apply): A change in the scope and/or object of the contract.</b>	
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	No regulatory basis
<b>A change in the risk allocation of the contract.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	No regulatory basis
<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>	No regulatory basis
<b>A change in the duration of the contract.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	No regulatory basis
<b>A change in the agreed price or tariff.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	No regulatory basis
<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>	No

If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Material Adverse government action .	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Change in the Law.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Refinancing.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Subcontracting and replacement of the subcontractors.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
48. Does the regulatory framework (including standard contractual clauses) allow for administrative and/or contractual complaint review mechanisms to address disputes arising from the implementation of PPP contracts?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	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

<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>	No regulatory basis
<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>	Arbitration (Foreign Arbitral Awards) Act No. 35 of 1996 provides in Section 4 referring to, "4. (1) Subject to this Act, a convention award (the New York Convention) is enforceable in Trinidad and Tobago either by action or in the same manner as the award of an arbitrator is enforceable by section 20 of the Arbitration Act." This moreover implies that local arbitral awards are also enforceable and confirmed by contributors.
<b>International arbitration</b>	Yes
<b>If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):</b>	Arbitration (Foreign Arbitral Awards) Act No. 35 of 1996 provides in Section 4 referring to, "4. (1) Subject to this Act, a convention award (the New York Convention) is enforceable in Trinidad and Tobago either by action or in the same manner as the award of an arbitrator is enforceable by section 20 of the Arbitration Act." Trinidad and Tobago is also signatory to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958), which permits the enforcement of foreign arbitral awards amongst its signatories.
<b>Investor-State arbitration</b>	Yes
<b>If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):</b>	Arbitration (Foreign Arbitral Awards) Act No. 35 of 1996 provides in Section 4 referring to, "4. (1) Subject to this Act, a convention award (the New York Convention) is enforceable in Trinidad and Tobago either by action or in the same manner as the award of an arbitrator is enforceable by section 20 of the Arbitration Act." Trinidad and Tobago is also signatory to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958), which permits the enforcement of foreign arbitral awards amongst its signatories. It is also signatory to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID Convention), which allows for the enforcement of investor-state arbitral awards in the same manner.
<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>	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>n/a</p>
<p>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>n/a</p>
<p>The regulatory framework prescribes that a direct agreement should be signed with the lenders.</p>	<p>n/a</p>
<p>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>n/a</p>
<p>The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.</p>	<p>n/a</p>
<p>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>n/a</p>

<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 termination of the PPP contract?</b>	No
<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 Trinidad and Tobago: (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>	No
<b>Not regulated by the legal framework, but do happen in practice?</b>	Yes
<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>	n/a
<b>35. Does the procuring authority conduct an assessment to evaluate</b>	Yes

<b>unsolicited proposals? (if not, skip to question 37)</b>	
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any)</b>	No regulatory basis
<b>35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<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>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	No regulatory basis
<b>The procuring authority does not evaluate unsolicited proposals against existing government priorities.</b>	No
<b>Please elaborate and provide examples:</b>	n/a
<b>37. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?</b>	No

<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<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