

PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN VIETNAM

SURVEY QUESTION	ANALYSIS
PPP Regulatory Framework	
2. Does the regulatory framework in your country allow procuring PPPs?	Yes
If yes, please specify the relevant regulatory framework and the year of adoption:	<p>The basic principles and general regulations on PPPs are set out under Decree No. 15/2015/ND-CP of the Government dated 14 February 2015 on investment in the PPP form (the “PPP Decree”).</p> <p>Following the PPP Decree, the Ministries formulated and issued the following guidelines:</p> <ul style="list-style-type: none"> (i) Circular No. 02/2016/TT-BKHDT dated 1 March, 2016 providing guidance on preliminary project selection, preparation, appraisal and approval for project proposals, and feasibility study reports on investment projects in the PPP form (“Circular No. 02”); (ii) Circular No. 06/2016/TT-BKHDT dated 28 June, 2016, guiding the implementation of a number of articles of the PPP Decree on investments in the PPP form (“Circular No. 06”); (iii) Circular No. 15/2016/TT-BKHDT was issued on September 19, 2016 guiding the preparation of prequalification dossiers, bidding dossiers for selection of investors implementing investment project in the form of public-private partnership (“Circular No. 15”); (iv) Circular No. 55/2016/TT-BTC dated 23 March, 2016 providing for certain contents of financial management of investment projects in PPP forms and expenses of investor selection (“Circular No. 55”); (v) Circular No. 38/2015/TT-BCT dated 30 October, 2015 detailing a number of contents on investments in the form of PPP under the management of the Ministry of Industry and Trade (“Circular No. 38”); (vi) Circular No. 86/2015/TT-BGTVT dated 31 December 2015 providing for guidance on investment sectors and contents of feasibility study reports of PPP investment projects in the transportation sector (“Circular No. 86”); (vii) Circular No. 21/2016/TT-BTTTT dated 30 September 2016 providing for detailed regulations on the investment in the form of PPP under the management of the Ministry of Information and Communications (“Circular No. 21”). <p>In addition to the PPP Decree and its guidelines, general laws (e.g. the Investment Law No. 67/2014/QH13 dated 26 November 2014, the Public Investment Law No. 49/2014/QH13 dated 18 June 2014, the Bidding Law No. 43/2013/QH13 dated 26 November 2013, Decree No. 30/2015/ND-CP dated 17 March 2015 guiding the Bidding Law on the investor selection (“Decree No. 30”); the Construction Law No. 50/2014/QH13 dated 18 June 2014 and the Law on Public Debt Management No. 29/2009/QH12 dated 17 June 2009) continue to be applicable to PPP projects.</p>
and provide a link to a government-supported	http://vbpl.vn/TW/Pages/vbpqen.aspx

website where the mentioned regulatory framework is available or provide an electronic copy of it:	
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?	<p>Yes</p>
Please describe:	<p>Circular No. 06/2016/TT-BKHDT of June 28, 2016 - Guiding a number of articles of the Government's Decree No. 15/2015/ND-CP of February 14, 2015, on investment in the form of public-private partnership Circular No. 55/2016/TT-BTC of March 23, 2016 Providing a number of contents on financial management of investment projects in the form of public-private partnership and investor selection expenses Circular No. 15/2016/TT-BKHDT, September 29, 2016, on guidelines for pre-qualification document, bidding documents on selection of investors carrying public-private partnership projects</p>
2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?	<p>Yes</p>
Please describe:	<p>Firstly, the revision of the two PPP Decree is being contemplated. The plan is by September 2017, the drafts will be reviewed by the Government. Secondly, the PPP Law will be considered by National Assembly by 2018. The Government is drafting an amendment to PPP Decree and Decree 30. The first draft has been made available to the public for comment. The draft is available at MPI website: http://www.mpi.gov.vn/Pages/tinbai.aspx?idTin=36673&idcm=309; http://www.mpi.gov.vn/Pages/tinbai.aspx?idTin=36675&idcm=140</p>
3.1 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Transportation.	<p>No</p>
If yes, please provide the relevant legal/regulatory provisions:	<p>n/a</p>
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	<p>No</p>

If yes, please provide the relevant legal/regulatory provisions:	n/a
3.3 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Energy generation and distribution.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.4 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Telecom	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.5 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Other	No
If yes, specify and provide the relevant legal/regulatory provisions:	n/a
4. Does the regulatory framework provide for a specific tax regime for PPP transactions (i.e. tax incentives, special tax depreciation treatment, etc.)?	Yes
If yes, please specify and provide the relevant legal/regulatory provision (if any):	Pursuant to article 55 of Decree 15: 1. Investors, the project enterprise shall be given the enterprise income tax incentives according to the laws on enterprise income tax. 2. Goods imported for the execution of projects shall have opportunities to approach incentives according to the laws on export and import tax. 3. Investors, project enterprises shall be entitled to exemption of land levies for the land allocated by the State or exemption from land rent during the execution of the project according to the laws on land. 4. Investors, project enterprises shall be also entitled to other incentives according to the law. Article 56 furthermore provides: Foreign and local contractors involved in the project shall fulfill their tax liabilities and shall be entitled to tax incentives according to the law.

5. Please identify the PPP procuring authorities in Vietnam and provide their website(s) (if available):	<p>The procuring entities are ministries, ministry-level agencies and provincial people’s committees.</p> <p>List of websites of ministries: http://chinhphu.vn/portal/page/portal/chinhphu/bonganh -</p> <p>List of websites of provinces: http://chinhphu.vn/portal/page/portal/chinhphu/cactinhvathanhpho</p>
6. In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?	<p>Yes</p>
If yes, please indicate its name, and its website (if available):	<p>The PPP steering Committee was established in 2012. In addition, each ministry/ministry level agency/provincial people’s committee may establish a PPP coordinating unit, responsible for management. Details are provided by Decision No: 369/QD-BCDPPP promulgating the regulation on activities of the public - private partnership steering committee, which replaces Decision No. 161/QD-BCDPPP dated December 11, 2012 on promulgating the regulation of the Public – Private Partnership Steering Committee.</p> <p>http://ppp.mpi.gov.vn/en/Pages/default.aspx</p>
6.1 If yes, what are the main responsibilities of the PPP Unit (check all that apply): PPP regulation and policy guidance.	<p>Yes</p>
6.2 PPP capacity building for other public authorities.	<p>Yes</p>
6.3 PPP promotion among the public and/or private sectors in national and international forums.	<p>Yes</p>
6.4 Technical support in implementing PPP projects.	<p>No</p>
6.5 Identification and selection of PPP projects from the pipeline.	<p>Yes</p>
6.6 Revision of fiscal risks born by the Government.	<p>Yes</p>
6.7 Consultation with affected communities on potential impact of PPP projects.	<p>No</p>
6.8 Approval of PPP projects.	<p>No</p>
6.9 Undertaking the procurement of PPPs.	<p>No</p>
6.10 Oversight of PPP implementation.	<p>Yes</p>
6.11 Other	<p>No</p>
6.11 please specify:	<p>n/a</p>

Please provide the relevant legal/regulatory provisions:	<p>Article 2 of Decision No. 161/QD-BCDPPP dated December 11, 2012 on promulgating the regulation of the Public – Private Partnership Steering Committee</p> <ol style="list-style-type: none"> 1. Study and suggest the orientation, plans and strategic solutions for efficient implementation of PPP model. 2. Assist the Prime Minister in directing, supervising and coordinating activities between the ministries and local governments in the implementation of PPP model. 3. Direct the relevant ministries to build and complete the legal document system on PPP including instructions on the implementation of Decree No. 15/2015/ND-CP dated February 14, 2015 on investment in the form of Public – Private Partnerships (hereinafter referred to as Decree No. 15/2015/ND-CP) and Decree No. 30/2015/ND-CP dated March 17, 2015 providing guidelines for some Articles on investor selection of the Law on Bidding (hereinafter referred to as Decree No. 30/2015/ND-CP) 4. Direct the ministries and local governments in the preparation, submission and approval of the prioritized PPP projects and the financial support mechanism for these projects. 5. Direct the assessment of PPP; propose legal policies on PPP.
PPP Preparation	
8. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
8.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before signing the PPP contract?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
8.2. Does the Ministry of Finance (or government more broadly) have a specific system of: Budgeting for PPP projects.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 65 (6) of Decree 15, refers to the Responsibilities of the Ministry of Finance: Aggregate and evaluate data and figures concerning the public debt of the projects and the financial obligations of the Government.
Accounting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	Yes

If yes, please provide the relevant legal/regulatory provisions (if any):	Article 65 (6) of Decree 15, refers to the Responsibilities of the Ministry of Finance: Aggregate and evaluate data and figures concerning the public debt of the projects and the financial obligations of the Government.
Reporting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
8.3. If yes to question 8.2, which of the following alternatives best describes the regulation?: Accounting and reporting according to International Public Sector Accounting Standards (IPSAS).	No
Accounting and reporting according to other international standard (e.g. European System of Accounts).	No
Please specify:	n/a
Other.	No
Please specify:	n/a
9. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before launching the procurement process (e.g. Cabinet, Cabinet Committee, Parliament, Supreme Audit Office, etc.)?	Yes
If yes, please specify the relevant authority	Prime minister, Ministries, ministry-level agencies and provincial People's Committees
and provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 17 of PPP Decree, Ministries, ministry-level agencies and provincial People's Committees shall carry out the appraisal and approval for group A, B and C projects. Procedures for the formation, appraisal and approval of the project proposal in terms of national importance projects shall adhere to the regulations on public investment. Furthermore, according to Article 27 of PPP Decree, 1. The Prime Minister shall approve feasibility study reports for national important projects. 2. Ministers, heads of ministerial equivalent agencies and chairmen of provincial people's committees shall approve feasibility study reports for Group A and B projects, except for projects using ODA and concessional loans from foreign donors in the national defense and security sector and/or in the religious sector. Moreover, Article 3 (3) and (4) of the 2016 Circular indicates that organizations affiliated to Ministry or Ministerial-level agencies; specialized agencies affiliated to provincial people's committees or district people's

	<p>committees shall initiatively do research on preliminary project selection as regulated in Clause 1 and Clause 2 of this Article, and request the Minister, Heads of Ministerial-level agencies and Presidents of provincial people’s committees to grant permission for establishing the project proposals. Based on approval on establishment of project proposal in the PPP form as regulated in Clause 3 of this Article, the competent authorities as regulated by the law on public investment shall allocate public investment funds or other lawful sources of capital to establish, appraise and approve the project proposals and feasibility study reports.</p>
<p>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?</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>10. Does the procuring authority use transaction advisors during the PPP project cycle?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Article 5.(1).(e) of the PPP Decree: Costs for hiring consultants to support the implementation of a number of activities under the responsibilities of the authorized state agencies in accordance with the provisions of Clause 5 of Article 8 of this Decree. Pursuant to Article 8.5, Decree No. 15, in necessary cases, the procuring authority or authority authorized by the procuring authority will select independent consultancy organizations (advisors) to support during the PPP project cycle.</p>
<p>11. In a case comparable to the case study assumptions, please select the option that best describes the way your government integrates the prioritization of PPP projects with other public investment project prioritization? (e.g. in the context of a national public investment system, multi-year perspective plans, medium-term budgetary framework): The regulatory framework provides for the inclusion of PPPs in the national public investment system/medium term budgetary framework and details a specific procedure to ensure the consistency of</p>	<p>Yes</p>

PPPs with other public investment priorities.	
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	<p>Pursuant to Article 4 (2) of PPP Decree, The projects stipulated in clause 1 of this article shall be classified in accordance with the law on public investment and comprise projects of national importance and Group A, B and C projects. Furthermore, according to Article 3 (2) (a) of the Circular no 02 : Project that is eligible for preliminary selection must ensure the following criteria:</p> <ul style="list-style-type: none"> - The project must be in conformity with sector and regional development planning and plans, and local socio-economic development plans; - The project must be in conformity with the investment sectors defined in Article 4 of the Decree No. 15/2015/ND-CP and prioritized by the Ministry, Ministerial-level agencies or provincial people’s committees. <p>Circular No. 86/2015/TT-BGTVT related to the transport sector provides in its article 9:</p> <ol style="list-style-type: none"> 1. To explain the conformity of projects with local, regional and national transport development master plans and plans and local socio-economic development plans; level of conformity with approved master plans in case of investment phasing or limitation on technical standards. 2. To explain the suitability of projects with the investment fields specified in Articles 4 and 5 of this Circular; for projects not in the specified investment fields, approval decisions of competent state agencies are required. 3. To explain the satisfaction by projects of the conditions prescribed at Points c, d and dd, Clause 1, Article 15 of Decree No. 15/2015/ND-CP. 4. When necessary to limit technical standards or phase out investment in order to reduce the complexity of projects, increase the feasibility and attractiveness of projects, to make detailed explanations based on the size of the projects and general plans on project implementation in order to analyze difficulties in the project implementation.
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>No</p>
If yes, please elaborate:	<p>n/a</p>
The procuring authority does not evaluate PPPs against	<p>No</p>

existing government priorities.	
Please elaborate and provide examples:	n/a
11.1. Based on your experience, is it always the case that this prioritization is done in practice in accordance with the provisions of the regulatory framework described above?	Yes
If yes, please specify:	This process is implemented in practice. The level of application in practice may vary depending specific projects and involved authorities.
If no, please elaborate:	n/a
12.1 Which of the following assessments are conducted when identifying and preparing a PPP in order to inform the decision to proceed with it? (check all that apply): Socio-economic analysis (cost-benefit analysis of the socio-economic impact of the PPP project)	Yes
Relevant legal/regulatory provision (if any)	<p>Pursuant to Articles 16 (l) and 25.1 (m) of the PPP Decree, A project proposal shall comprise a preliminary analysis of socio-economic effectiveness of the project, and its impact on the environment, society, and national defense and security, while a feasibility study report shall contain the socio-economic effectiveness of the project and its impact on the environment, society, national defense and security.</p> <p>Circular No. 86/2015/TT-BGTVT related to the transport sector provides furthermore in its article 7. 3. Objectives of investment in the project include:</p> <p>a/ General objectives: benefits brought about by the project for the national and local socio-economic development; contributions of the project to the achievement of the general objectives of the transport sector and the whole country;</p>
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	<p>Item I.1 of Section C of Appendix 1 (guiding the preparation of the proposal for PPP projects) of the Circular no 2 provides the general required content to be included in the proposal of the project regarding the socio-economic analysis: Explanations on the socio-economic situation of the region where the proposed project will be implemented; general assessment of the sector of the proposed project; the direct and indirect impact of the current regulatory framework on the proposed project; analysis of the consistency of the project with the applicable socio-economic planning (national, regional and local).</p> <p>Besides, item V of the same Section C of Appendix 1 mentions some detailed</p>

	guidance on how to analyze the socio-economic impacts of the project. The other Appendices also contain indications about the socio-economic analysis.
Is the assessment done in practice?	Yes
Details:	A socio-economic impact assessment is organized in practice
12.2. Affordability assessment, including the identification of the required long term public commitments (explicit and implicit, direct and contingent liabilities)	Yes
Relevant legal/regulatory provision (if any)	<p>Pursuant to Article 16.2 (h) and 25.1 (h) of PPP Decree, a project proposal shall comprise a preliminary analysis of the project's financial plan comprising the following items: total investment capital, capital sources and plan for raising them; State investment capital (if any) participating in project implementation; expenses; revenue, charges and fees for goods and services; and the time required for capital recovery and generation of profit; while a feasibility study report shall contain the project's financial plan comprising the items prescribed in article 16.2(h) of this Decree.</p> <p>Annex 3 (IX, 1.) of the Circular no 02 requires in case of state funding to the project that based on results of financial analysis, selected type of project contract, and the approved plan for mid-term public investment, the feasibility study report must contain detailed explanation about the following contents: value of state funding; balance and allotment of state funding; methods, plans and progress of disbursement of state funding for the investor and other contents (if any). If the project applies BT contract, the feasibility study report must contain explanation about value of BT project, land fund that the investor will use to perform other project, time of land allocation, methods of land allocation and other conditions for project performance.</p>
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Annex 3 (IX, 1.) of the Circular no 02 requires in case of state funding to the project that based on results of financial analysis, selected type of project contract, and the approved plan for mid-term public investment, the feasibility study report must contain detailed explanation about the following contents: value of state funding; balance and allotment of state funding; methods, plans and progress of disbursement of state funding for the investor and other contents (if any). If the project applies BT contract, the feasibility study report must contain explanation about value of BT project, land fund that the investor will use to perform other project, time of land allocation, methods of land allocation and other conditions for project performance.
Is the assessment done in practice?	No

Details:	Affordability assessment, including the identification of the required long term public commitments is done in practice.
12.3. Risk identification, allocation and assessment (risk matrix)	Yes
Relevant legal/regulatory provision (if any)	Pursuant to Article 16.2 (i) and 25.1 (k) of PPP Decree, a project proposal shall comprise a preliminary analysis of risks during the project implementation process and risk sharing as between the authorized State agency and the investor; while a feasibility study report shall contain an analysis of the risks and responsibilities of the parties for risk management during project implementation.
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Annex 3 (VIII) of the Circular no 02 requires within the feasibility study report a risk analysis during project performance, including an analysis of primary risks of project, of responsibilities of the parties for risk management and a scheme for risk management.
Is the assessment done in practice?	Yes
Details:	Risk identification, allocation and assessment is done in practice.
12.4. Comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives (i.e. value for money analysis, public sector comparator)	Yes
Relevant legal/regulatory provision (if any)	Pursuant to Article 16.2 (a) and 25.1 (a) of PPP Decree: A project proposal shall comprise the necessity of the investment; advantages of delivering the project in the PPP form as compared to other investment forms; and type of project contract; while a feasibility study report shall contain a detailed analysis of the necessity for the investment and the advantages of delivering it in the PPP investment form as compared to other investment forms; and the type of project contract.
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Pursuant to Annex 3 (C. I. 5.) of the Circular no 02, the feasibility study report must contain analysis on the advantages of the investment in the PPP form over other investment forms with the following contents: ability for attracting sources of capital, technology, and managing experience of private sector; results of practical survey on ability for project performance of private sector; plans for dividing risks between relevant parties and other contents.
Is the assessment done in practice?	Yes
Details:	Comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives is done in practice

12.5. Financial viability or bankability assessment	Yes
Relevant legal/regulatory provision (if any)	Pursuant to Article 16.2 (h) and 25.1 (h) of PPP Decree, a project proposal shall comprise a preliminary analysis of the project's financial plan comprising the following items: total investment capital, capital sources and plan for raising them; State investment capital (if any) participating in project implementation; expenses; revenue, charges and fees for goods and services; and the time required for capital recovery and generation of profit, while a feasibility study report shall contain the project's financial plan comprising the items prescribed in article 16.2(h) of this Decree.
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Appendix I (IV) of the Circular no 02 related to preparation of a project proposal requires a project financial analysis including input parameters used in financial model (Total costs during the project life cycle ; Total revenue; Other input parameters); financial criteria for considering the feasibility of project (Net Present Value, Internal Rate of Return) and preliminary conclusion of financial feasibility of project. The project proposal must contain preliminary conclusion of financial feasibility of project on the grounds of analysis in item 1 and item 2 stated above, and state preliminary financial plan with the following contents: <ul style="list-style-type: none"> - Total investment capital; - Structure of source of capital and presumptive capital mobilization plan; - The state funding to the project (if any); - Requirements on price, costs of products and services; - Financial criteria (NPV, IRR).
Is the assessment done in practice?	Yes
Details:	Financial viability is assessed in practice.
12.6. Market sounding and/or assessment (showing evidence of investors' interest in the market for the project)	Yes
Relevant legal/regulatory provision (if any)	Pursuant to Article 25(1)(i) of PPP Decree, A feasibility study report shall contain the ability to raise capital to implement the project; assessment of market demand and market payment [affordability]; a survey of the concern of the investor and lender in the project.
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Pursuant to Article 3.2 b) of the Circular no 02, in addition to criteria stated in Point a of this Clause, based on level of provided information of each project, the preliminary selection may base on the following supplemental criteria: <ul style="list-style-type: none"> - The project receives the consideration of the investors; - The project has huge demand for services; - The project has convenient factors for performing the investment (such as the site clearance has been finished; the construction of auxiliary works and connection works has been finished; it's easy to acquire raw materials, fuels,

	machines and technologies on the market); - Other relevant factors (if any).
Is the assessment done in practice?	Yes
Details:	Market sounding and/or assessment is done in practice.
12.7. Environmental impact assessment	Yes
Relevant legal/regulatory provision (if any)	Pursuant to Article 16 (l) and 25.1 (m) of PPP Decree, A project proposal shall comprise a preliminary analysis of socio-economic effectiveness of the project, and its impact on the environment, society, and national defense and security, while a feasibility study report shall contain the socio-economic effectiveness of the project and its impact on the environment (...). Article 20 2. of Circular No. 86/2015/TT-BGTVT on transport projects provides: Environmental impacts of the project: The feasibility study report must include an environmental impact assessment report made, appraised and approved in accordance with the law on environment.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	An assessment of environmental impacts is to be prepared according the regulatory framework
12.8. Consultation process with affected communities on potential impact of the PPP project	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology for the assessment?	n/a
If yes, please elaborate	n/a
Is the assessment done in practice?	n/a
Details:	n/a
13. Does the procuring authority include the assessments (indicated in Question 12 above) in the request for proposals and/or tender documents (for example, as part of an Information Memorandum to the bidders)?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to article 16 of the PPP Decree, 2. A project proposal shall include the following required information: a) The need of the investment; the advantages of the Public-Private Partnership in comparison with other forms

	<p>of investment; the type of project contract;</p> <p>h) The preliminary financial analysis containing information such as the total investment capital, the capital structure and mobilization plan; the State funding for the project (if any); expenditures; revenues, price and fee of commodities or services; capital recovery and profit generation duration;</p> <p>i) The proposed anticipation of potential risks incurred from the execution of the project and the risk allocation between the regulatory agency and the investor;</p> <p>l) The preliminary forecast of socio-economic effect of the project; the impacts of the project on environment, society and national defense and security;</p>
and specify which of the assessments are included in the request for proposals and/or tender documents:	Comparison with other methods of procurement, financial analysis, risk allocation, socio-economic effects of the project.
13.1. Are the assessments published online?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
specify the website	n/a
please specify which of the assessments are published online:	n/a
14. Does the procuring authority include a draft PPP contract in the request for proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to general guidelines for content of project contracts in accordance with law on PPP investment, and nature, scope, and field of each specific project, the Competent Person, the Procuring Entity shall make a Draft Contract attached to the Bidding Documents. The Draft Contract specifies terms and conditions of the contract serving as bases for preliminary negotiation, negotiation, finalization, and signing of investment agreement, signing and execution of contract in conjunction with clear division of responsibilities, risks, rights and legal interests of contracting parties in accordance with applicable law (Circular No. 15/2016/TT-BKHDT on guidelines for pre-qualification document, bidding documents on selection of investors carrying public-private partnership projects).
If no, please elaborate	n/a
14.1. Are the tender documents published online?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and please specify the website:	n/a
15. In a case comparable to the case study assumptions, have standardized PPP model	Yes

contracts and/or transaction documents been developed?	
If yes, please specify and provide a government-supported website where the mentioned standards are available or provide an electronic copy of them:	Standard documents for PPPs are included in Circular No. 15/2016/TT-BKHDT, Circular No. 06/2016/TT-BKHDT, Circular No. 02/2016/TT-BKHDT and other circulars of ministries guiding the implementation of PPPs in respective fields.
16.1 In a case comparable to the case study assumptions, who is the responsible party for each of the following requirements? Obtaining the required urban permits: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
16.2. Obtaining the required environmental permits: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
16.3. Obtaining the required operational permits: Procuring authority (or other Government entity)	No
Private Partner	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)	Yes
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	No
Relevant legal/regulatory provision (if any)	Pursuant to Article 45 (1) of the PPP Decree, the provincial people's committee is responsible for site clearance and for completing procedures for allocation or lease of land to implement the project in accordance with the law on land, the project contract and related contracts. However, the provincial people's committee is not necessarily the procuring entity.
16.5. Obtaining the required right of way: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
PPP Procurement	
18. Which of the following options best describes the required qualifications of the bid evaluation committee members? (Please select only one): The membership of the bid evaluation committee is specified and/or its members are required to meet detailed qualifications.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 14 of Decree 30, the members of the expert group must have a practicing certificate for tendering activities or must satisfy the following conditions: (i) possess a certificate of tendering training; (ii) have professional expertise relevant to the project; (iii) have foreign language expertise which satisfies the requirements of the project; (iv) have a good understanding of the relevant specific contents of the project; and (v) have a minimum 5 years working experience in the relevant project sector. Subject to each circumstance, the evaluating unit will be the (i) Ministry of Planning and Investment or (ii) Department of Planning and Investment or (iii) agency/organization which is delegated with authority by a minister/head of a

	ministerial equivalent or Government agency or other central agency or (iv) section at the district level with the function of planning and finance.
The bid evaluation committee members require sufficient qualification without specific details.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The bid evaluation committee members are not required to have any specific qualifications.	No
Please elaborate and provide examples:	n/a
19. Does the procuring authority issue a public procurement notice of the PPP project?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	Article 18 of PPP Decree provides that a ministry, branch or provincial people's committee shall, within seven (7) business days after approval of a project proposal, announce the project and a list of projects on the national tendering network in accordance with the Law on Tendering. Furthermore, article 8 in the Public Procurement Law provides that the following information shall be published on the national e-procurement system and the Public Procurement Review newspaper: (i) plan for selection of contractors/investors; (ii) request for expression of interest and invitation for prequalification; (iii) invitation for bids; (iv) shortlist; (v) results of the selection of contractors/investors.
19.1. If yes, is the public procurement notice published online?	Yes
If yes, please specify the website:	http://muasamcong.mpi.gov.vn/
20. Are foreign companies prohibited from participating in the bidding process?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
21. In a case comparable to the case study assumptions, does the procuring authority grant the potential bidders a minimum period of time to submit their bids?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 6 (5) and (6) of Decree 30, the time-limit for formulation of a set of proposals is within a minimum thirty (30) days from the first date of issuing the set of requirements before tender closing time. Investors must lodge their sets of proposals before tender closing time. The time-limit for formulation of tenders is within a minimum sixty (60) days for domestic

	tendering and ninety (90) days for international tendering as from the first date of issuing the tender invitation documents before tender closing time. Investors must lodge their tenders before tender closing time.
and the time in calendar days:	90
22.1. In a case comparable to the case study assumptions, which are the procurement procedures available and/or set as default for PPP projects? Open tendering: Available	No
Default	Yes
Relevant legal/regulatory provision (if any)	Article 29 of PPP Decree states the selection of the investor may be either through open bidding or direct appointment. Article 20 of the Tender Law provides: 1. Open bidding is form of selection of contractors, investors in which the number of participating tenders, investors shall be unrestricted.
22.2. Restricted tendering (with pre-qualification stage): Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	Article 16.1 of Decree 30 provides that pre-qualification shall be applied prior to preparing the plan on selection of investor in order to identify investors with sufficient capacity and experience to satisfy the project requirements.
22.3 Multi-stage tendering (with shortlisting of final candidate(s)): Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.4. Competitive dialogue: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.5. Direct negotiation with more than one candidate: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.6. Direct negotiation with only one candidate: Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	Article 22 of the Law on Tender provides: 4. Direct appointment of contractor for investor shall apply in the following cases: a) There is only one investor registering implementation; b) There is only one investor able to perform due to concerning intellectual

	property, commercial secret, technologies or capital arrangement; c) Investor proposing project satisfy requirements of implementation project with feasibility and highest efficiency in accordance with regulations of Government.
22.7 Other. Specify:	No
Available	n/a
Default	n/a
Relevant legal/regulatory provision (if any)	n/a
22.8. Do the tender documents detail the procedure of the procurement process providing the same information to all the bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 26.2(b) of Decree 30, the bidding documents must contain sufficient information for investors to make their bid-envelopes, including instructions for investors including the bidding procedures and the bidding data table.
If no, please elaborate:	n/a
22.9. Do the tender documents specify the prequalification/shortlisting criteria (when applicable) in order to make them available to all the bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 17.1 of Decree 30: 1. Formulation of pre-qualification invitation documents: Pre-qualification invitation documents shall comprise the following contents: (b) Requirements for eligibility of tenderers as prescribed in article 5 of the Law on Tendering, and in the case of a project using land, the requirements set out in article 58.3(c) of the Law on Land; (c) Requirements on capacity and experience of an investor in order to implement the project namely requirements on financial-commercial capacity, on ability to arrange finance and capacity [resources] to implement the project; requirements regarding experience implementing similar projects; requirements on a preliminary method for implementing the project and commitments to implement the project; and requirements on declaring any disputes or litigation arising from current or earlier contracts. The capacity and experience of an investor shall be determined either as those of the investor participating as an independent tenderer or of an investor participating in partnership with others jointly participating in the project comprising the lender, contractors, manufacturers, insurers and/or other relevant parties; (d) Assessment criteria and assessment method: Pre-qualification shall be conducted on the basis of the assessment criteria set out in the pre-qualification invitation documents. Capacity and experience of a tenderer shall be assessed by the method of giving a points score (of up to 100 or 1,000

	points). Assessment criteria must be formulated so that the assessment criteria of capacity and experience must achieve a minimum stipulated figure in order to satisfy the requirements which must be no less than 60% of the total points, and there must be a requirement that a tenderer achieve a minimum 50% of the [maximum possible] points for each item as the criteria for satisfying basic requirements of each item.
22.10. Based on your experience, is it always the case that the specified criteria are respected in practice?	Yes
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	Prequalification criteria provided to the bidders are in practice applied by the procuring authority.
If no, please elaborate:	n/a
23. Can interested parties/potential bidders submit questions to clarify the public procurement notice and/or the request for proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Article 18(2)(c) Decree 30 : An investor wishing to clarify pre-qualification invitation documents must send a written request to the party calling for tenders at least 5 business days prior to tender closing time, and the party calling for tenders shall clarify such documents by one or more of the following methods:</p> <ul style="list-style-type: none"> - By sending a letter of clarification to all the investors/tenderers who purchased or received the pre-qualification invitation documents; - Clarified contents must not be contrary to the items in the approved pre-qualification invitation documents; if the clarification results in a necessary amendment to the pre-qualification invitation documents, then such amendment must be conducted in accordance with sub-clause (b) above; - In necessary cases, by holding a pre-tendering meeting in order to discuss the contents of the documents which are unclear to tenderers. All issues discussed at such meeting must be recorded in minutes and a letter of clarification of the pre-qualification invitation documents sent to all investors who purchased same. <p>Article 30(3) of Decree 30 : An investor wishing clarification of the tender invitation documents must send a letter to the party calling for tenders at least seven (7) business days (in the case of domestic tendering) or fifteen (15) business days (in the case of international tendering) prior to tender closing time. The party calling for tenders shall clarify the tender invitation documents in accordance with one or more of the following methods:</p> <ul style="list-style-type: none"> - By sending a letter of clarification to all the investor/tenderers who purchased the tender invitation documents; - Clarified contents must not be contrary to the items in the approved tender invitation documents; if clarification results in a necessary amendment to the

	tender invitation documents, then such amendment must be conducted in accordance with clause 2 above
23.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose those questions and clarifications to all potential bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 18(2) (d) and Article 30(3) of Decree 30, any decision amending and any letter clarifying pre-qualification invitation documents shall form an integral part of such pre-qualification invitation documents and any decision amending and any letter clarifying the tender invitation documents shall form an integral part of such tender invitation documents.
23.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	Yes
If yes, please specify:	Clarifications requested are provided by the procuring authority to all potential bidders.
If no, please elaborate:	n/a
24. Besides questions and clarifications, can the procuring authority conduct pre-bidding conference?	Yes
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	Article 30(3) of Decree 30: An investor wishing clarification of the tender invitation documents must send a letter to the party calling for tenders at least seven (7) business days (in the case of domestic tendering) or fifteen (15) business days (in the case of international tendering) prior to tender closing time. The party calling for tenders shall clarify the tender invitation documents in accordance with one or more of the following methods: - In necessary cases, by holding a pre-tendering meeting in order to discuss the contents of the documents which are unclear to tenderers. All issues discussed at such meeting must be recorded in minutes and a letter of clarification of the tender invitation documents sent to all investors who purchased same.
24.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose the content and the results of the pre-bid conference to all bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 30(3) of Decree 30: An investor wishing clarification of the tender invitation documents must send a letter to the party calling for tenders at least seven (7) business days (in the case of domestic tendering) or fifteen (15) business days (in the case of international tendering) prior to tender closing time. The party calling for tenders shall clarify the tender invitation documents

	<p>in accordance with one or more of the following methods:</p> <ul style="list-style-type: none"> - In necessary cases, by holding a pre-tendering meeting in order to discuss the contents of the documents which are unclear to tenderers. All issues discussed at such meeting must be recorded in minutes and a letter of clarification of the tender invitation documents sent to all investors who purchased same.
24.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	Yes
If yes, please specify:	Minutes of meetings are provided to all bidders.
If no, please elaborate:	n/a
25. In a case comparable to the case study assumptions, does the procuring authority require the bidders to prepare and present a financial model with their proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 26.2(b) of Decree 30 describes the Commercial-financial requirements: plan on organizing investment and business [commercial operation]; financial plan, total investment capital, structure of capital sources and plan on mobilizing capital; State investment capital (if any) participating in project implementation; expenses; revenue, charges and fees for goods and services; time required for capital recovery [payback period] and generation of profit; and specific requirements regarding allocation of risks.
If no, please elaborate:	n/a
26. Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 33 (1) of Decree 30, assessment of tenders must be based on the criteria for assessment of tenders and other requirements stipulated in the tender invitation documents, and based on the tender submitted and any explanatory or clarifying data about such tender which an investor has provided, in order to ensure selection of an investor with adequate capacity and experience, technical aspects, and commercial-financial aspects in order to implement the project.
Evaluation criteria is not set in the tender documents	No
27. In the case where only one proposal is submitted (sole proposals), which of the following options best describes the way the procuring authority deals with them? (Please select	Yes

only one)?: The procuring authority follows a specific procedure before awarding a PPP contract where only one proposal is submitted.	
Please specify and provide the relevant legal/regulatory provisions (if any):	Pursuant to article 9.3 of Decree 30, Cases of appointment of investors in projects according to Clause 4 Article 22 of the Law on Bidding [direct appointment]: a) Only one investor registers and satisfies requirements of the pre-qualification documents; only one investor passes the pre-qualification.
The procuring authority considers sole proposals valid as long as they meet the conditions outlined in the tender documents.	No
Please provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority does not award a PPP contract if only one proposal is submitted.	No
Please provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework does not include any provisions.	No
28. Does the procuring authority publish the award notice?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 42 (6) of Decree 30, the party calling for tenders must publish information about the results of selection of investor after the same has been improved in accordance with article 4.1(dd) and clauses 1(c) or 2(b) of article 5 of this Decree, and send a notice of such results to all investors who participated within the time-limit prescribed in article 6.13, such notice to comprise [...].
28.1. If yes, is the public procurement award notice published online?	Yes
If yes, please specify the website:	www.muasamcong.mpi.gov.vn
29. Does the procuring authority provide all the bidders with the result of the PPP procurement process?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 42 (6) of Decree 30, the party calling for tenders must (...) send a notice of such results to all investors who participated within the time-limit prescribed in article 6.13, such notice to comprise [...].
If no, please elaborate:	n/a

29.1. If yes, does the notification of the result of the PPP procurement process include the grounds for the selection of the winning bid?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Pursuant to Article 42 (6) (b) of Decree 30 the notice shall comprise a list of unsuccessful investors and a summary of the reasons why each investor was unsuccessful.</p>
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?	<p>No</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>n/a</p>
and the time in calendar days:	<p>n/a</p>
30.1. Is the standstill period set out in the notice of intention to award?	<p>n/a</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>n/a</p>
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?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Article 43 of Decree 30.</p> <p>1. The competent State authority shall arrange negotiation and finalization of a contract with the selected investor based on the results of selection of investor and the results of preliminary negotiations.</p> <p>2. Negotiation and finalization of the contract shall comprise the following:</p> <p>(a) This round of negotiation must not change the fundamental matters already preliminarily negotiated in accordance with article 40.4 of this Decree and/or the results of selection of investor, but shall comprise:</p> <ul style="list-style-type: none"> - Detailing the matters which were preliminarily negotiated; - The bases for signing the project contract; - Any changes to special conditions of the contract. <p>(b) In addition to the items prescribed in sub-clause (a) above, the party calling for tenders shall report to the authorized person to make a decision on any other items which require to be negotiated and finalized for consistency with the particular type of project contract.</p> <p>3. If this round of negotiations is unsuccessful, the party calling for tenders</p>

	shall report to the authorized person to make a decision cancelling selection of investor and inviting the next ranking investor to conduct preliminary negotiations and implement the steps prescribed in articles 40, 41 and 42 and in clause 1 and 2 above.
31.1. Based on your experience, is it always the case that this restriction is respected in practice?	Yes
If yes, please specify:	Restrictions to negotiation provided by Article 43 of Decree 30 are applied in practice.
If no, please elaborate:	n/a
32. Does the procuring authority publish the PPP contract?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
32.1. If yes, which of the following options best describes this publication (choose only one)?: Publication of the full PPP contract including all its annexes and appendixes	n/a
Publication of the full PPP contract without including all its annexes and appendixes	n/a
Publication of a summary of the PPP contract without publishing the full PPP contract	n/a
Publication of a summary of the PPP contract along with the full PPP contract including all its annexes and appendixes	n/a
Publication of a summary of the PPP contract along with the full PPP contract without including all its annexes and appendixes	n/a
32.2. If yes, is it published online?	n/a
If yes, please specify the website:	n/a
32.3. If yes, does the procuring authority also publish any subsequent amendment made to the PPP contract?	n/a

If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
PPP Contract Management	
41. Has the procuring or contract management authority established a system to manage the implementation of the PPP contract (e.g. attributing responsibilities or establishing specific management tools)?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Article 47 of PPP Decree. :</p> <p>1. The investor [and/or] project enterprise is responsible for the quality of the works [of the facility and/or] services of the project; and may itself manage and supervise, or else hire an independent consultancy organization to manage and supervise execution of the building works and check and acceptance of various work items and of the whole facility in accordance with the design [and/or] business plan prescribed in the project contract.</p> <p>2. The authorized State agency shall supervise compliance by the investor [and] project enterprise with their obligations prescribed in the project contract.</p> <p>3. In necessary cases, the authorized State agency may hire a qualified consultancy organization to support performance of the duties stipulated in clause 2 above.</p>
41.1. If yes, which of the following tools does it include (check all that apply)?: Establishment of a PPP contract management team	Yes
Relevant legal/regulatory provisions (if any):	Pursuant to Article 8.4 of PPP Decree, an authorized State agency or an authorized agency as prescribed in clause 2 of this article shall establish or assign a project management unit ["PMU"] to carry out activities within the scope of its responsibility, but in all cases must be liable for discharge of the obligations undertaken in the project contract.
Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa	No
Relevant legal/regulatory provisions (if any):	n/a
Elaboration of a PPP implementation manual or an equivalent document	No
Relevant legal/regulatory provisions (if any):	n/a
Establishment of personnel training programs (i.e. initial	No

training and continued training throughout the course of the project)	
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.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The PPP contract management team members are not required to meet any specific qualifications.	Yes
Please elaborate and provide examples:	The regulatory framework does not contain any provision regarding the qualifications of the management team.
42. Does the procuring or contract management authority establish a system for tracking progress and completion of construction works under a PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 47 of PPP Decree : 1. The investor [and/or] project enterprise is responsible for the quality of the works [of the facility and/or] services of the project; and may itself manage

	<p>and supervise, or else hire an independent consultancy organization to manage and supervise execution of the building works and check and acceptance of various work items and of the whole facility in accordance with the design [and/or] business plan prescribed in the project contract.</p> <p>2. The authorized State agency shall supervise compliance by the investor [and] project enterprise with their obligations prescribed in the project contract.</p> <p>3. In necessary cases, the authorized State agency may hire a qualified consultancy organization to support performance of the duties stipulated in clause 2 above.</p> <p>Article 48 of PPP Decree :</p> <p>1. When supervising the quality of the project transferred to the State upon completion, in addition to the duties specified in Article 47 of this Decree, any regulatory agencies shall be required to:</p> <ul style="list-style-type: none"> a) Inspect the construction supervisor’s performance according to the requirements defined in the project contract; b) Inspect the compliance with procedures, standards and norms for the management and operation of project as agreed upon in the project contract; c) Carry out the inspection of the quality of a part or all of works when there is any suspicion of the quality or any request of a regulatory agency; d) Ask the investors to request the contractor to adjust or suspend the project execution whenever the quality of the execution does not meet the statutory requirements. <p>2. The supervision of the quality of the BT project shall adhere to the regulated procedures that a public investment project must follow.</p> <p>3. Ministry of Construction shall provide guidance on the implementation of the regulations laid down in this Article.</p>
42.1. If yes, is the PPP contract construction performance information made available to the public?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
42.2. If yes, is the PPP contract construction performance information made publicly available online?	n/a
If yes, please specify the website:	n/a
43. Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract implementation after construction?	Yes

<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Article 49 of the PPP Decree indicates:</p> <ol style="list-style-type: none"> 1. Investors, project enterprises shall carry out the management, operation of the project or carry out the other projects under the terms of the project contracts. 2. During the operation of the project or the rendering of project-related services, the project enterprises are required to: <ol style="list-style-type: none"> a) Supply products, services and fulfill other duties according to the requests, conditions defined in the project contract; b) Ensure that the use of the project shall conform to the terms and conditions of the project contract; c) Treat all users of products and services provided by the project enterprises with fairness; avoid misusing the right to operate the project to refuse to provide services for customers; d) Periodically repair, maintain the project, and ensure that the project shall be safely operated in accordance with the design or processes specified in the project contract. <p>Article 52 furthermore indicates; 1. The supervision and evaluation of projects shall be carried out according to the laws on the monitoring and evaluation of the investment and the agreement defined in the project contract.</p> <p>2. Investors, project enterprises shall carry out the disclosure of financial reports, audit reports in accordance with the law and the agreements specified in the project contract.</p>
<p>43.1. If yes, which of the following tools does it include (check all that apply)?: Performance is assessed against evaluation criteria set in the tender documents and the PPP contract</p>	<p>No</p>
<p>Relevant legal/regulatory provisions (if any)</p>	<p>n/a</p>
<p>The procuring or contract management authority can abate (reduce) payments for non-performance of operating obligations under the PPP contract</p>	<p>No</p>
<p>Relevant legal/regulatory provisions (if any)</p>	<p>n/a</p>
<p>The private partner must provide the procuring or contract management authority with periodic operational and financial data</p>	<p>No</p>
<p>Relevant legal/regulatory provisions (if any)</p>	<p>n/a</p>
<p>The procuring or contract management authority must periodically gather</p>	<p>Yes</p>

information on the performance of the PPP contract	
Relevant legal/regulatory provisions (if any)	<p>In accordance with Articles 69 and 70 of PPP Decree, the Ministries, ministerial-level agencies and people’s committees are responsible for gathering information on the implementation of the PPP projects under the management of corresponding authority.</p> <p>Article 48 1. furthermore indicates: When supervising the quality of the project transferred to the State upon completion, in addition to the duties specified in Article 47 of this Decree, any regulatory agencies shall be required to:</p> <p>a) Inspect the construction supervisor’s performance according to the requirements defined in the project contract;</p>
The PPP contract performance information must be available to the public	No
Relevant legal/regulatory provisions (if any)	n/a
43.2. Is PPP contract performance information made publicly available online?	No
If yes, please specify the website:	n/a
44. Are foreign companies prohibited from repatriating the income resulting from the operation of a PPP project?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
45. Does the regulatory framework (including standard contractual clauses) expressly regulate changes in the ownership structure (i.e. stakeholder composition) of the private partner and/or assignment of the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>Pursuant to Article 34 of the PPP Decree: 1. Investors may transfer a part or all of the rights and obligations under the project agreement to the lender or another investor.</p> <p>2. The transfer of a part or all of the rights and obligations under the project agreement shall not affect the target, scope, technical standards, and progress of the project and must meet the conditions for investment and operation according to the regulations defined in the law on investment and other agreed requirements specified in the project contract.</p> <p>3. A written agreement on the transfer prescribed in Clause 1 of this Article</p>

	shall be made between the parties in the project contract and the transferee. Lender shall negotiate the concession agreement under the terms of the loan agreement.
45.1. If yes, which of the following circumstances are specifically regulated? (check all that apply): Any change in the private partner during an initial period (e.g. construction and first five years of operation).	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to Article 34 of the PPP Decree: 2. The transfer of a part or all of the rights and obligations under the project agreement shall not affect the target, scope, technical standards, and progress of the project and must meet the conditions for investment and operation according to the regulations defined in the law on investment and other agreed requirements specified in the project contract.
In other cases, flexibility to change the ownership structure and/or assign the contract.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
46. Does the regulatory framework (including standard contractual clauses) expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to Article 35 of PPP Decree, the project contract may be amended or supplemented due to a change of scale [size], or of technical specifications of the facility, or change of the total investment capital already agreed, or due to a force majeure event, or due to an amendment of the feasibility study report

	pursuant to article 28 of this Decree, or due to other circumstances as stipulated in the project contract.
46.1. If yes, is an approval from a government authority, other than the procuring authority, required?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>In case of the amendment to the project contract results from the amendment to the feasibility study report, such amendment must be approved by procuring authority as below:</p> <ul style="list-style-type: none"> - The Prime Minister shall approve feasibility study reports of national importance projects; and - Ministers, heads of ministerial-level agencies and chairpersons of provincial-level People’s Committees shall approve feasibility study reports of group A and group B projects, except projects funded by ODA or concessional loans of foreign donors in the fields of security, national defense and religion. <p>Pursuant to Article 28. of the PPP Decree: 1. The feasibility study report shall be adjusted in the following cases:</p> <ul style="list-style-type: none"> a) The project is affected by natural disasters or other force-majeure events; b) There are elements that may make the project more effective; c) There is any change in the planning that directly entails changes to the target, location and scope of the project; d) The project fails to attract the investor after the survey, initial selection or bidding; dd) Other cases according to the regulations by the Prime Minister. <p>2. Procedures for the appraisal, approval and feasibility study report adjustment shall be carried out according to the regulation in Article 26 and 27 of this Decree.</p> <p>Article 27. 1.: The Prime Minister shall be responsible for the approval for feasibility study report of the projects of national importance.</p>
46.2. If yes to question 46, which of the following circumstances are specifically regulated? (check all that apply): A change in the scope and/or object of the contract.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 28.1(c) of PPP Decree regarding causes for adjustment of the feasibility study, which could lead to amendment of project contract according to Article 35 of PPP Decree: There is any change in the planning that directly entails changes to the target, location and scope of the project.
A change in the risk allocation of the contract.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a

A change in the financial and/or economic balance of the contract.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the duration of the contract.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the agreed price or tariff.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
46.3. Can the procuring authority unilaterally modify a PPP contract?	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
47. Does the regulatory framework (including standard contractual clauses) expressly regulate the following circumstances that may occur during the life of the PPP contract? (check all that apply): Force Majeure	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	According to Article 35 of PPP Decree, the project contract may be amended or supplemented (...) due to a force majeure event.
Material Adverse government action .	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Change in the Law.	Yes

<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>Article 13 of the Law on Investment :</p> <ol style="list-style-type: none"> 1. Where a new legal instrument which is promulgated provides greater investment incentives than those which the investor currently is enjoying, the investor is entitled to enjoy the investment incentives in accordance with the new legal instrument for the remaining duration in which the project is entitled to incentives. 2. Where a new legal instrument which is promulgated provides lower investment incentives than those which the investor has previously enjoyed, the investor shall continue to be entitled to the investment incentives in accordance with the previous regulations for the remaining duration in which the project is entitled to incentives. 3. The provisions of clause 2 of this article shall not apply in the case of change in the provisions of a legal instrument for the reason of national defense and security, social order and safety, social morals, the health of the community or environmental protection. 4. Where the investor is not permitted to continue to enjoy the investment incentives as prescribed in clause 3 of this article, [the investor] shall be considered for resolution by any one or more of the following measures: <ol style="list-style-type: none"> (a) Deduct actual loss and damage suffered by the investor from taxable income; (b) Change the operational objectives of the investment project; (c) Support the investor to remedy loss and damage. 5. The measures of investment guarantees prescribed in clause 4 of this article shall only become effective if the investor so requests in writing in the period of three years from the effective date of the new legal instrument.
<p>Refinancing.</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>n/a</p>
<p>Subcontracting and replacement of the subcontractors.</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>Article 44 of PPP Decree regarding selection of contractor for performance of the project: Investors, project enterprises shall promulgate the regulations on the selection of contractor as a consultant, goods supplier, constructor and other contractors on the basis of ensuring the fairness, the transparency and the economic effect that shall then be applied consistently in the project execution process.</p>
<p>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?</p>	<p>Yes</p>

<p>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>Article 63 of PPP Decree :</p> <ol style="list-style-type: none"> 1. Any dispute between the authorized State agency on the one hand and an investor or project enterprise on the other, and any dispute between a project enterprise and other economic organizations participating in project implementation must first of all be resolved by negotiation and conciliation. If the dispute is unable to be resolved by negotiation and conciliation, the parties may refer the dispute for resolution at a Vietnamese arbitration organization or court in accordance with the law of Vietnam, except for the cases prescribed in clauses 2 and 3 below. 2. Any dispute between the authorized State agency and a foreign investor or project enterprise established by a foreign investor in accordance with article 42 of this Decree during the process of implementation of the project contract and guarantee contracts prescribed in article 57 of this Decree shall be resolved by Vietnamese arbitration or court or by an arbitration tribunal the parties agree to establish. 3. Any dispute between a project enterprise and a foreign individual or organization, or between [a project enterprise] and a Vietnamese economic organization, and any dispute between investors shall be resolved in accordance with provisions of the Law on Investment. 4. Disputes to be settled by arbitration in accordance with provisions in a project contract or in related contracts are deemed to be commercial disputes. Foreign arbitral awards shall be recognized and enforced in accordance with the law on recognition and enforcement of foreign arbitral awards.
<p>48.1. If yes, please specify which of the following options are available (check all that apply): Local administrative review body</p>	<p>No</p>
<p>If yes, please specify:</p>	<p>n/a</p>
<p>Local courts</p>	<p>Yes</p>
<p>Domestic arbitration</p>	<p>Yes</p>
<p>International arbitration</p>	<p>Yes</p>
<p>Investor-State Dispute Settlement (ISDS)</p>	<p>No</p>
<p>Mediation</p>	<p>No</p>
<p>Please provide the relevant legal/ regulatory/standard contractual provisions (if any)</p>	<p>Article 63 of PPP Decree :</p> <ol style="list-style-type: none"> 1. Any dispute between the authorized State agency on the one hand and an investor or project enterprise on the other, and any dispute between a project enterprise and other economic organizations participating in project implementation must first of all be resolved by negotiation and conciliation. If the dispute is unable to be resolved by negotiation and conciliation, the parties may refer the dispute for resolution at a Vietnamese arbitration organization or court in accordance with the law of Vietnam, except for the cases prescribed in clauses 2 and 3 below. 2. Any dispute between the authorized State agency and a foreign investor or project enterprise established by a foreign investor in accordance with article 42 of this Decree during the process of implementation of the project contract

	<p>and guarantee contracts prescribed in article 57 of this Decree shall be resolved by Vietnamese arbitration or court or by an arbitration tribunal the parties agree to establish.</p> <p>3. Any dispute between a project enterprise and a foreign individual or organization, or between [a project enterprise] and a Vietnamese economic organization, and any dispute between investors shall be resolved in accordance with provisions of the Law on Investment.</p> <p>4. Disputes to be settled by arbitration in accordance with provisions in a project contract or in related contracts are deemed to be commercial disputes. Foreign arbitral awards shall be recognized and enforced in accordance with the law on recognition and enforcement of foreign arbitral awards.</p>
48.2. If applicable, are arbitration awards enforceable by the local courts?: Domestic Arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	Pursuant to Article 2.1(d) of the Law on Civil Judgment Execution, decisions and awards of commercial arbitration are enforceable.
International arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	<p>Article 63 of PPP Decree : 4. Disputes to be settled by arbitration in accordance with provisions in a project contract or in related contracts are deemed to be commercial disputes. Foreign arbitral awards shall be recognized and enforced in accordance with the law on recognition and enforcement of foreign arbitral awards.</p> <p>Vietnam accessed the New-York convention on 12 Sept 1995.</p>
Investor-State arbitration	No
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	n/a
49. Does the regulatory framework (including standard contractual clauses) allow for the restructuring of a PPP private partner (SPV) in financial difficulty prior to insolvency?	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
50. Does the regulatory framework (including standard contractual clauses) allow for the lenders to take	Yes

<p>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>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>Article 33 of PPP Decree:</p> <ol style="list-style-type: none"> 1. Lenders are entitled to take over or appoint a competent organization to take over a part or all of the rights and obligations of investors, project enterprises (hereinafter referred to as the take-over right) in case the investor or project enterprise fails to fulfill the obligations specified in the project contract or loan agreement. 2. A written agreement on the project must be made between the lenders and regulatory agencies or the contracting parties. Lenders and regulatory agencies are entitled to decide the time to sign the agreement on the project take-over. 3. After taking over the project, the lender or his/her authorized organization shall assume all of the obligations as an investor, project business as prescribed in the project contract and agreement on the project take-over right. <p>Article 34 of PPP Decree:</p> <ol style="list-style-type: none"> 1. The investor has right to transfer a portion or the whole rights and obligations in the project contract to the lender or other investors. 2. The transfer of a portion or the whole rights and obligations in the project contract shall not impact the objective, scope, technical specifications, implementation progress of the project and shall meet the conditions on investment, business in accordance with relevant laws on investment and other conditions agreed in the project contract. 3. The agreement on the transfer stipulated in Item 1 this Article shall be made in writing properly signed by the parties to the project contract and the transferee. The lender shall participate in transfer negotiations in accordance with the lending contract.
<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>Yes</p>
<p>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>Article 33 of PPP Decree:</p> <ol style="list-style-type: none"> 1. Lenders are entitled to take over or appoint a competent organization to take over a part or all of the rights and obligations of investors, project enterprises (hereinafter referred to as the take-over right) in case the investor or project enterprise fails to fulfill the obligations specified in the project contract or loan agreement. 2. A written agreement on the project must be made between the lenders and

	<p>regulatory agencies or the contracting parties. Lenders and regulatory agencies are entitled to decide the time to sign the agreement on the project take-over.</p> <p>3. After taking over the project, the lender or his/her authorized organization shall assume all of the obligations as an investor, project business as prescribed in the project contract and agreement on the project take-over right.</p> <p>Article 34 of PPP Decree:</p> <p>1. The investor has right to transfer a portion or the whole rights and obligations in the project contract to the lender or other investors.</p> <p>2. The transfer of a portion or the whole rights and obligations in the project contract shall not impact the objective, scope, technical specifications, implementation progress of the project and shall meet the conditions on investment, business in accordance with relevant laws on investment and other conditions agreed in the project contract.</p> <p>3. The agreement on the transfer stipulated in Item 1 this Article shall be made in writing properly signed by the parties to the project contract and the transferee. The lender shall participate in transfer negotiations in accordance with the lending contract.</p>
The regulatory framework prescribes that a direct agreement should be signed with the lenders.	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Other.	No
Please Specify:	n/a
51. Does the regulatory framework (including standard contractual clauses) expressly establish the grounds for termination of a PPP contract?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard	Breach by one of the parties without taking effective remedial measures, force majeure or other circumstances stipulated in the project contract (Articles 36.2 and 36.3 of PPP Decree)

contractual provisions (if any):	
51.1. If yes, does the regulatory framework (including standard contractual clauses) establish the consequences for the termination of the PPP contract?	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Unsolicited Proposals	
34. Are unsolicited proposals in Vietnam: (choose only one): Explicitly prohibited by the legal framework? (If prohibited, skip to section F)	No
Explicitly allowed by the legal framework?	Yes
Not regulated by the legal framework, but do happen in practice?	No
Not regulated by the legal framework, and do not happen in practice? (if not done in practice, skip to section F)	No
If the legal framework explicitly prohibits or allows unsolicited proposals, please provide the relevant legal/regulatory provisions	<p>Pursuant to article 20.1 of PPP Decree, an investor may propose implementation of a project outside the projects and lists of projects approved and announced by ministries, branches and provincial people's committees pursuant to Section 1 of this Chapter.</p> <p>Article 9(3)(c) of Decree 30 provides that an investor shall be directly appointed without open tendering procedures if: the project is one which an investor proposes and it satisfies the requirements for project implementation with the highest feasibility and efficiency, comprising a PPP project or project using land with the object of protecting national sovereignty, national borders or islands as prescribed in article 22.4(c) of the Law on Tendering. The Prime Minister of the Government shall consider and make a decision on the highest project feasibility and efficiency on satisfaction of the following conditions:</p> <ul style="list-style-type: none"> - There is an approved feasibility study report for a PPP project, or an approved project proposal for a Group C PPP project; - The investor has proposed a reasonable service price, [reasonable] State contributed capital, or [reasonable] social benefits and State benefits; - The requirements for protection of national sovereignty, national borders or islands have been satisfied.
35. Does the procuring authority conduct an	Yes

assessment to evaluate unsolicited proposals? (if not, skip to question 37)	
If yes, please specify and provide the relevant legal/regulatory provisions (if any)	Pursuant to Article 20 (2) (a) of PPP Decree, the projects shall satisfy the requirements defined in the regulation in Clause 1 Article 15 of this Decree [Article 15 is related to Requirements for the selection of projects proposed by ministries, provincial people's committees and regulatory bodies]. According to Article 22 (1) of PPP Decree, investor-proposed projects shall be evaluated and approved as prescribed in article 17 of this Decree within thirty (30) days after receipt of a complete application file. [Article 17 is related to Appraisal and approval for project proposed by ministries, provincial people's committees and regulatory bodies]
35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
36. Which of the following options best describe how the procuring authority ensures that unsolicited proposals are consistent with existing government priorities? (Please select only one): The procuring authority follows a specific procedure to ensure the consistency of PPPs with other government investment priorities.	No
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 15(1) of Decree 15, A project must satisfy all the following conditions to be eligible for selection for development in the PPP investment form: (a) Conformity with the developmental master plan and developmental plans of the branch and region and with the local socio-economic developmental plan;
The procuring authority does not evaluate unsolicited	No

proposals against existing government priorities.	
Please elaborate and provide examples:	n/a
37. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
38. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and the time in calendar days:	n/a
39.1 Does the procuring authority use any of the following incentive mechanisms to reward/compensate the presentation of unsolicited proposals? (check all that apply): Access to the best and final offer (BAFO) process and/or automatic shortlisting.	No
39.2 Developer's fee (reimbursing the original proponent for the project development cost).	No
39.3 Bid Bonus.	No
39.4 Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).	No
39.5 Other.	No
Please specify:	n/a
Please provide the relevant legal/regulatory provisions (if any):	n/a