

PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN ZAMBIA

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:	In 2008, the Zambian government approved a policy framework for the implementation of PPPs covering stakeholder roles, protection of public interest, value for money and service quality. The Public Private Partnership Act No. 14 was passed by the parliament on August 26, 2009 (hereinafter the PPP Act). PPP processes for projects in the transport, water and sanitation sectors have been following this framework. This Act is completed by the Public Procurement Act No.12 of September 23, 2008, amended by the Bill of 2011 (hereinafter the PPA), according to Section 20 of the PPP Act that provides that “(ii) where this Act or the bidding documents do not specifically provide for a process, commission, omission, offence or penalty in relation to any aspect of the procurement process relating to public-private partnerships, the Public Procurement Act, 2008, shall apply”.
and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:	PPP Act: https://www.zambialii.org/zm/legislation/act/2009/14/ppa2009295.pdf PP Act: https://www.zppa.org.zm/documents/20182/21181/Public_Procurement_Act_2008.PDF/2e47ad9f-ac97-404c-ace4-252314880ff6
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?	No
Please describe:	n/a
2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?	Yes
Please describe:	Review of the Water Supply and Sanitation Act and the development of a water supply and sanitation policy is ongoing
3.1 Besides national defense and other matters of national	No

<p>security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Transportation.</p>	
<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:</p>	n/a
<p>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.</p>	No
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	n/a
<p>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</p>	No
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	n/a
<p>3.5 Besides national defense and other</p>	No

matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Other	
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.)?	No
If yes, please specify and provide the relevant legal/regulatory provision (if any):	n/a
5. Please identify the PPP procuring authorities in Zambia and provide their website(s) (if available):	<p>The PPP procuring authority will vary depending on the nature of the project. Under Section 2 of the PPP Act, a public authority has the power to enter into an agreement for the implementation of an infrastructure project or infrastructure facility or the provision of any social sector services under any law, including any Ministry, Government department, local authority or statutory body. We can add in this context a reference to the Zambia Public Procurement Authority at: https://www.zppa.org.zm/home</p>
6. In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?	Yes
If yes, please indicate its name, and its website (if available):	<p>Section 4 of the PPP Act provides for its primary implementing organ: the Public-Private Partnership Unit (the “PPP Unit”), part of the department of finance and under its supervision. Section 5 lists the roles of this Unit, one of its main duties being the responsibility of identifying projects which may be implemented under the auspices of the PPP Act.</p> <p>The primary implementing organ under the PPP Act is the Public-Private Partnership Unit (the “PPP Unit”), provided for in Section 4 of the PPP Act. Among the PPP Unit’s duties is the responsibility of identifying projects which may be implemented under the auspices of the PPP Act. The PPP Unit is housed in the Ministry of Finance and is under the control and supervision of the Minister of Finance. In addition to the PPP Unit other implementing organs under the PPP Act are the Public-Private Partnership Technical Committee (the “PPP Technical Committee”) which evaluates projects for approval and the Public-Private Partnership Council (the “PPP Council”) that is</p>

	<p>responsible for approving the implementation of projects under the Act.</p> <p>Note: The Zambia Development Agency (ZDA) also plays a critical role in marketing and facilitating PPP projects between various key players and Contracting Authorities in Zambia.</p> <p>The Zambia Development Agency website: http://www.zda.org.zm/?q=content/public-private-partnership-ppp-projects</p>
6.1 If yes, what are the main responsibilities of the PPP Unit (check all that apply): PPP regulation and policy guidance.	Yes
6.2 PPP capacity building for other public authorities.	Yes
6.3 PPP promotion among the public and/or private sectors in national and international forums.	Yes
6.4 Technical support in implementing PPP projects.	Yes
6.5 Identification and selection of PPP projects from the pipeline.	Yes
6.6 Revision of fiscal risks born by the Government.	Yes
6.7 Consultation with affected communities on potential impact of PPP projects.	No
6.8 Approval of PPP projects.	Yes
6.9 Undertaking the procurement of PPPs.	No
6.10 Oversight of PPP implementation.	Yes
6.11 Other	No
6.11 please specify:	n/a
Please provide the relevant legal/regulatory provisions:	<p>According to Section 5 of the PPP Act: The functions of the PPP Unit are to: (a) promote the participation of the private sector in the financing, construction, maintenance and operation of any project irrespective of its cost;</p> <p>(b) advise Government on administrative procedures in relation to project development and on all matters of policy relating to public-private partnerships;</p> <p>(c) conceptualize, identify and categorize projects for purposes of this Act and prepare a project register as may be prescribed;</p>

	<p>(d) co-ordinate with contracting authorities in respect of any project;</p> <p>(e) develop technical and best practice guidelines in relation to all aspects of public-private partnerships, standardized bidding documents and public-private partnership agreement provisions for purposes of this Act and as may be prescribed;</p> <p>(f) receive and make an assessment of any proposed project submitted to it and give its recommendations to the contracting authority as to whether the project or facility(i) is affordable to a contracting authority;</p> <p>(ii) provides value for money; and</p> <p>(iii) presents optimum transfer of technical, operational and financial risks to the concessionaire;</p> <p>(g) examine the request for proposals to ensure conformity with the approved feasibility study and as may be prescribed;</p> <p>(h) monitor the competitive selection process and provide for review of the process if so required, under this Act;</p> <p>(i) monitor progress of implementation of public-private partnerships;</p> <p>(j) facilitate the internal and external auditing of projects and prepare a road map for project development;</p> <p>(k) in liaison with the Zambia Development Agency, facilitate and market investment in public-private partnerships;</p> <p>(l) identify inter-sectoral linkages and facilitate approvals from the Ministry responsible for finance required under this Act;</p> <p>(m) approve terms of reference for consultancy assignments for a project and the consultant selection process for such assignment in liaison with the Technical Committee;</p> <p>(n) determine financial support and approve the allocation of contingent liability for any project, as prescribed by the Minister;</p> <p>(o) monitor issues pertaining to user levies and recommend to the Council, in liaison with the appropriate regulatory agency, mechanisms and procedures for setting, revising and collecting user levies and the settlement of disputes relating to user levies, notwithstanding any other law to the contrary;</p> <p>(p) train, and provide advisory services to, project officers; and</p> <p>(q) promote public-private partnership awareness and advocacy in Zambia.</p> <p>(2) The Unit shall be responsible for ensuring the proper implementation, management, enforcement and monitoring of any agreement and the reporting by a concessionaire on an agreement.</p> <p>(3) The Unit shall exercise and perform such other powers and functions as are conferred or imposed on it by, or under, this Act or any other written law.</p>
PPP Preparation	
8. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>The PPP Unit (which is a department of the Ministry of Finance pursuant to section 4(2) of the PPP Act, is charged with, inter alia, assessing projects submitted to it by public authorities wishing to enter into a PPP. According to Section 19(1) of the PPP Act, when formulating a proposal for a PPP, the relevant public authority must take</p>

	into account the advice of the PPP Unit (i.e. Ministry of Finance). However, ultimate approval of a project proposal lies with the Council pursuant to Section 19(2) of the PPP Act, which is not a part of the Ministry of Finance but is comprised of ministers and other persons appointed by the President and chaired by the Minister of Finance.
8.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before signing the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Section 38 (3) of the PPP Act provides that: A contracting authority shall not award any project or sign any agreement unless the- (a) award of the project has been approved by the Unit; and (b) agreement relating to the project has been approved by the Council.
8.2. Does the Ministry of Finance (or government more broadly) have a specific system of: Budgeting for PPP projects.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Accounting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Reporting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
8.3. If yes to question 8.2, which of the following alternatives best describes the regulation?: Accounting and reporting according to International Public Sector Accounting Standards (IPSAS).	n/a

Accounting and reporting according to other international standard (e.g. European System of Accounts).	n/a
Please specify:	n/a
Other.	n/a
Please specify:	n/a
9. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before launching the procurement process (e.g. Cabinet, Cabinet Committee, Parliament, Supreme Audit Office, etc.)?	Yes
If yes, please specify the relevant authority	The ultimate approval of a project proposal lies with the Council pursuant to Section 19(2) of the PPP Act, which is not a part of the Ministry of Finance but is comprised of ministers and other persons appointed by the President and chaired by the Minister of Finance. Additionally, under Section 7(1)(b) of the PPP Act, the functions of the council include approval of the projects.
and provide the relevant legal/regulatory provisions (if any):	(1) Section 19(2) of the PPP Act provides that: a contracting authority shall, after undertaking a feasibility study and in accordance with the advice of the Unit, submit a project proposal together with the proposed agreement to the Technical Committee for evaluation. The Technical Committee shall consider the project proposal and the proposed agreement submitted under subsection (1) and submit the feasibility study, the project proposal and the proposed agreement to the Council which shall- (a) accept the project proposal and agreement with or without amendments, within the prescribed time; (b) return the project proposal and agreement to the contracting authority for re-consideration and re submission for approval, within the prescribed time; or (c) reject the project proposal and agreement, within the prescribed time. If at any time, after the Council has approved a feasibility study for a project, any assumption in the feasibility study is materially revised, including any assumption concerning affordability, value for money and substantial technical, operational and financial risk transfer, the contracting authority shall immediately (a) provide the Technical Committee with details of the intended revision including a statement regarding the purpose and impact of the intended revision on the affordability, value for money and risk transfer evaluation contained in the feasibility study; and (b) ensure that the Technical Committee is provided with a revised feasibility study for submission to the Council for consideration in accordance with subsection (2). Finally, Section 7(1)(b) of the PPP

	Act provides that: (l) The functions of the Council are to-(b) approve projects for purposes of this Act
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?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Section 38(3) of the PPP Act provides that: A contracting authority shall not award any project or sign any agreement unless the- (b) agreement relating to the project has been approved by the Council.
10. Does the procuring authority use transaction advisors during the PPP project cycle?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
11. In a case comparable to the case study assumptions, please select the option that best describes the way your government integrates the prioritization of PPP projects with other public investment project prioritization? (e.g. in the context of a national public investment system, multi-year perspective plans, medium-term budgetary framework): The regulatory framework provides for the inclusion of PPPs in the national public investment system/medium term budgetary framework and details a specific procedure to ensure the consistency of PPPs	No

with other public investment priorities.	
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
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.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework does not include any provisions but the procuring authority evaluates the consistency of PPPs with other government investment priorities in practice.	No
If yes, please elaborate:	n/a
The procuring authority does not evaluate PPPs against existing government priorities.	Yes
Please elaborate and provide examples:	According to the vast majority of our contributors in Zambia, the procuring authority does not evaluate PPPs against existing government priorities
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?	n/a
If yes, please specify:	n/a
If no, please elaborate:	n/a
12.1 Which of the following assessments are conducted when identifying and	Yes

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)	
Relevant legal/regulatory provision (if any)	No regulatory basis
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	In practice, the socio-economic assessment is done in practice when identifying and preparing a PPP in Zambia, and the PPP Unit, the PPP Technical Committee and the PPP Council then look into such assessment as well
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)	Section 5(1)(f) of the PPP Act provides that the functions of the PPP Unit include the responsibility to receive and make an assessment of any proposed project submitted to it and give its recommendations to the contracting authority as to whether the project or facility (i) is affordable to a contracting authority
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	The affordability assessment, including the identification of the required long term public commitments (explicit and implicit, direct and contingent liabilities) is always done in practice in Zambia when identifying and preparing a PPP
12.3. Risk identification, allocation and assessment (risk matrix)	Yes
Relevant legal/regulatory provision (if any)	Sections 5(1)(f)(iii) of the PPP Act provides that: The functions of the Unit are to receive and make an assessment of any proposed project submitted to it and give its recommendations to the contracting authority as to whether the project or facility:

	... (iii) presents optimum transfer of technical, operational and financial risks to the concessionaire. Furthermore, Section 18(d) of the PPP Act provides that The Minister may, by statutory instrument, make regulations to provide for-... any other matter to ensure that agreements provide value for money and afford the optimum transfer of appropriate technical, operational or financial risk to concessionaires.
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	The risk identification, allocation and assessment is always done in practice in Zambia when identifying and preparing a PPP
12.4. Comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives (i.e. value for money analysis, public sector comparator)	Yes
Relevant legal/regulatory provision (if any)	Sections 5(1)(f) of the PPP Act provides that: The functions of the Unit are to receive and make an assessment of any proposed project submitted to it and give its recommendations to the contracting authority as to whether the project or facility: (ii) provides value for money; ...
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	A comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives is always done in practice in Zambia when evaluating and preparing a PPP
12.5. Financial viability or bankability assessment	Yes
Relevant legal/regulatory provision (if any)	Section 5 of the PP Law provides that (1) The functions of the Unit are to; ... (n) determine financial support and approve the allocation of contingent liability for any project, as prescribed by the Minister; Furthermore, Section 31 of the PP Law provides that (2) The criteria for evaluating financial and commercial proposals shall include, as appropriate: ... (c) the costs for design and construction activities, annual operation and maintenance costs, present value of capital costs and operating and maintenance costs; ... (e) the soundness of the proposed financial arrangements; ...

Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	In practice, the financial viability or bankability assessment is always done in Zambia when evaluating and preparing a PPP
12.6. Market sounding and/or assessment (showing evidence of investors' interest in the market for the project)	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology for the assessment?	n/a
If yes, please elaborate	n/a
Is the assessment done in practice?	n/a
Details:	n/a
12.7. Environmental impact assessment	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology for the assessment?	n/a
If yes, please elaborate	n/a
Is the assessment done in practice?	n/a
Details:	n/a
12.8. Consultation process with affected communities on potential impact of the PPP project	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology for the assessment?	n/a
If yes, please elaborate	n/a
Is the assessment done in practice?	n/a

Details:	n/a
13. Does the procuring authority include the assessments (indicated in Question 12 above) in the request for proposals and/or tender documents (for example, as part of an Information Memorandum to the bidders)?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
and specify which of the assessments are included in the request for proposals and/or tender documents:	According to our contributors, the assessments that are included in the tender documents are the financial viability, the affordability and the risk assessments
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):	Section 22(5)(c) of the PPP Act provides that the invitation to submit expressions of interest for participation in pre-selection proceedings shall include, where already known, a summary of the main required terms of the agreement to be entered into. In addition, when requesting technical proposals from pre-selected bidders a procuring authority must include proposed contractual terms, including an indication of which terms are considered to be non-negotiable (section 28(c) of the PPP Act).
If no, please elaborate	n/a
14.1. Are the tender documents published online?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Section 22 of the PPP Act provides that (4) The invitation for submission of expressions of interest shall be published in accordance with regulations issued under it.

and please specify the website:	different websites depending on the procuring authority in charge
15. In a case comparable to the case study assumptions, have standardized PPP model contracts and/or transaction documents been developed?	No
If yes, please specify and provide a government- supported website where the mentioned standards are available or provide an electronic copy of them:	n/a
16.1 In a case comparable to the case study assumptions, who is the responsible party for each of the following requirements? Obtaining the required urban permits: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	Yes
To be established in the contract	No
Relevant legal/regulatory provision (if any)	Section 43 of the PPP Act provides that: “An agreement shall provide for such matters as the parties consider appropriate, but shall include: ...(c) the assistance that a contracting authority may provide to the concessionaire in obtaining licenses and permits to the extent necessary for the implementation of the project; ...”
16.2. Obtaining the required environmental permits: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role	Yes

assigned to the procuring authority (or other Government entity)	
To be established in the contract	No
Relevant legal/regulatory provision (if any)	Section 43 of the PPP Act provides that: "An agreement shall provide for such matters as the parties consider appropriate, but shall include: ...(c) the assistance that a contracting authority may provide to the concessionaire in obtaining licenses and permits to the extent necessary for the implementation of the project; ..."
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)	Section 43 of the PPP Act provides that: "An agreement shall provide for such matters as the parties consider appropriate, but shall include: ...(c) the assistance that a contracting authority may provide to the concessionaire in obtaining licenses and permits to the extent necessary for the implementation of the project; ..."
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)	According to Section 46 of the PPP Act, (1) A contracting authority or other public authority, under the terms of any relevant law and an agreement, shall make available to the concessionaire or, as appropriate, shall assist the concessionaire in obtaining such rights related to the project site, including title thereto, as may be necessary for the implementation of the project. (2) Any compulsory acquisition of land that may be required for the implementation

	of a project shall be carried out in accordance with the Land Acquisition Act.
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)	According to Article 47 of the PPP Act, "A contracting authority or other public authority, under the terms of any law and an agreement, shall make available to the concessionaire or, as appropriate, shall assist the concessionaire to enjoy the right to enter upon, transit through or do work or fix installations upon, property of third parties, as appropriate and required for the implementation of the project."
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):	Section 10 of the PPP Act prescribes which holders of office should be appointed: It provides that the Public-Private Partnership Technical Committee shall consist of the following part-time members appointed by the Minister:(a) the Secretary to the Treasury, as Chairperson; (b) a representative of the Attorney-General; (c) the Permanent Secretary of the Ministry responsible for works and supply; (d) the Permanent Secretary of the Ministry responsible for industry; (e) the Permanent Secretary of the Ministry responsible for land; (f)that Permanent Secretary of the Ministry responsible for local government; (g) a representative of the Engineering Institution of Zambia; (h) a representative of the National Council for Construction; (i) a representative of the Environmental Council of Zambia; (j) a representative of the Zambia Public Procurement Authority; (k) a representative of the Economic Association of Zambia, nominated by that Association; and (l)two persons appointed by the Minister. (2) The Minister shall appoint the Vice-Chairperson from among the members.

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 26 of the PP Act provides that: (5) Where a procuring authority uses an open international bidding- (a) a bid notice shall, in addition to the national media, be published in any regional or international media
19.1. If yes, is the public procurement notice published online?	No
If yes, please specify the website:	0
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	Section 22(5)(d) of the PPP Act provides that: the manner and place for the submission of applications for pre-selection and the deadline for the submission,

legal/regulatory provisions (if any):	expressed as a specific date and time, allowing sufficient time for bidders to prepare and submit their expressions of interest
and the time in calendar days:	n/a
22.1. In a case comparable to the case study assumptions, which are the procurement procedures available and/or set as default for PPP projects? Open tendering: Available	No
Default	Yes
Relevant legal/regulatory provision (if any)	According to Section 25 of the PP Act, (under Part IV titled Methods of Procurement), (2) except as provided for in this Act, a procuring entity shall use open bidding for the procurement of all goods, works and non-consulting services
22.2. Restricted tendering (with pre-qualification stage): Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	According to Section 29 of the PP Act, the objectives of the limited bidding is to obtain competition and value for money to the extent possible where the circumstances do not justify or permit the use of open bidding. (20 the limited bidding may be used where: (the works, goods or services are only available from a limited number of suppliers; or (b) there is an urgent need for the consulting services and engaging in open bidding would be impractical”
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	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
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?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
If no, please elaborate:	There is no explicit requirement under the PPP Act or the PP Act for tender documents to detail the stages of the procurement process.
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):	Sections 22(6)(a) of the PPP Act provides that the pre-selection bidding documents shall include at least the following information: (a) the pre-selection criteria in accordance with section twenty-three; and Section 23 regulates the preselection criteria: Any person who meets the criteria stated in the pre selection bidding documents shall qualify for the pre selection proceedings which criteria shall include the following: (a) adequate professional and technical qualifications, human resources and equipment and other physical facilities as may be necessary to carry out all the phases of the project; and (b) appropriate managerial and organizational capability, reliability and experience, including previous experience in operating similar infrastructure facilities.
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	The prequalification criteria specified in the tender documents are always respected in practice in Zambia

relevant legal/regulatory provisions (if any):	
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):	Section 27(3)(b) of the PPP Act provides that: the contracting authority may convene meetings and hold discussions with any of the bidders to clarify questions concerning the initial request for technical proposals or the initial technical proposals and accompanying documents submitted by the bidders which shall be recorded in minutes of the meeting or discussion. Furthermore, Section 30(1) provides that: A contracting authority may, whether on its own initiative or as a result of a request for clarification by a bidder, review and, as appropriate, revise any element of the request for technical proposals as set out in section twenty eight.
23.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose those questions and clarifications to all potential bidders?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
23.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	n/a
If yes, please specify:	n/a
If no, please elaborate:	n/a
24. Besides questions and clarifications, can the procuring authority conduct pre-bidding conference?	Yes
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	Section 27 of the PPP Act provides that (3) where a two stage procedure is used, ... (b) the contracting authority may convene meetings and hold discussions with any of the bidders to clarify questions concerning the initial request for technical proposals

	or the initial technical proposals and accompanying documents submitted by the bidders which shall be recorded in minutes of the meeting or discussion; ...”
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):	No regulatory basis
24.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	Yes
If yes, please specify:	Notwithstanding confidential information pertaining to the bidders, the procuring authority in Zambia discloses the content and the results of the pre-bid conference to all bidders in practice
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):	Section 31 provides that the criteria for evaluating technical proposals shall include the following: (a) technical soundness; (b) compliance with environmental standards under any law; (c) operational feasibility; (d) quality of services and measures to ensure their continuity; and (e) any other prescribed criteria. (2) The criteria for evaluating financial and commercial proposals shall include, as appropriate: (a) the present value of proposed user levies, unit prices, and other charges over the agreement period; (b) the present value of proposed direct payments by the contracting authority, if any; (c) the costs for design and construction activities, annual operation and maintenance costs, present value of capital costs and operating and maintenance costs; (d) the extent of financial support, if any, expected from a public authority in Zambia; (e) the soundness of the proposed financial arrangements; (f) the extent of acceptance of the negotiable contractual terms proposed by the contracting authority in the request for technical proposals; (g) the social and economic development potential offered by the technical proposals; and (h) any other prescribed criteria.

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):	Section 28 of the PPP Act provides that: To the extent not required by, or under, the Public Procurement Act, 2008, a request for technical proposals shall include the following: ... (d) criteria for evaluating technical proposals, and the thresholds, if any, set by the contracting authority for identifying non responsive proposals, the relative weight to be accorded to each evaluation criterion and the manner in which the criteria and thresholds are to be applied in the evaluation and rejection of proposals. Section 32 of the PPP Act provides that (1) A contracting authority shall evaluate each technical proposal in accordance with the evaluation criteria, the relative weight accorded to each such criterion and the evaluation process set out in the request for technical proposals. Additionally, Section 32 of the PPP Act provides that: (1) A contracting authority shall evaluate each technical proposal in accordance with the evaluation criteria, the relative weight accorded to each such criterion and the evaluation process set out in the request for technical proposals.
Evaluation criteria is not set in the tender documents	No
27. In the case where only one proposal is submitted (sole proposals), which of the following options best describes the way the procuring authority deals with them? (Please select only one)?: The procuring authority follows a specific procedure before awarding a PPP contract where only one proposal is submitted.	No
Please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority considers sole proposals valid as long as they meet the conditions outlined in the tender documents.	No

Please provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority does not award a PPP contract if only one proposal is submitted.	No
Please provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework does not include any provisions.	Yes
28. Does the procuring authority publish the award notice?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	According to Section 38 of the PPP Act, the contracting authority shall cause a notice of the contract award to be published in the prescribed manner.
28.1. If yes, is the public procurement award notice published online?	No
If yes, please specify the website:	n/a
29. Does the procuring authority provide all the bidders with the result of the PPP procurement process?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
If no, please elaborate:	There are no provisions in the legal/regulatory framework in Zambia requiring the procuring authority to provide all the bidders with the result of the procurement process.
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?	n/a
If yes, please provide the relevant	n/a

legal/regulatory provisions (if any):	
30. Is there a standstill (or pause) period after the contract award and before the signing of the contract in order to allow unsuccessful bidders to challenge the award decision?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and the time in calendar days:	n/a
30.1. Is the standstill period set out in the notice of intention to award?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
31. Does the regulatory framework restrict negotiations with the selected bidder between the award and the signature of the PPP contract in order to prevent an unfair disadvantage to the other bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Section 34 of the PPP Act provides that a contracting authority shall rank all responsive technical proposals on the basis of the evaluation criteria and invite, for final negotiation of the agreement, the bidder that has attained the best rating, except that the final negotiations shall not include those contractual terms, if any, that were stated as non negotiable in the final request for technical proposals. (2) A contracting authority shall, where it becomes apparent to the contracting authority that the negotiations with the bidder invited will not result in an agreement, inform the bidder of its intention to terminate the negotiations and give the bidder reasonable time to formulate its best and final offer. (3) Where a bidder puts forward its best and final offer and the contracting authority does not find that offer acceptable, it shall terminate the negotiations with the bidder concerned. (4) Where a contracting authority terminates negotiations under subsection (3), the contracting authority shall invite the other bidders for negotiations, in the order of their ranking, until the parties conclude an agreement or the contracting party rejects all the remaining proposals. (5) A contracting authority shall not resume negotiations with a bidder with whom negotiations have been terminated in accordance with this section.

31.1. Based on your experience, is it always the case that this restriction is respected in practice?	Yes
If yes, please specify:	In practice, the restrictions on negotiations with the selected bidder between the award of the PPP contract and its signature are respected in Zambia
If no, please elaborate:	n/a
32. Does the procuring authority publish the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Section 38(2) of the PPP Act, a summary of the essential terms of the contract is published
32.1. If yes, which of the following options best describes this publication (choose only one)?: Publication of the full PPP contract including all its annexes and appendixes	No
Publication of the full PPP contract without including all its annexes and appendixes	No
Publication of a summary of the PPP contract without publishing the full PPP contract	Yes
Publication of a summary of the PPP contract along with the full PPP contract including all its annexes and appendixes	No
Publication of a summary of the PPP contract along with the full PPP contract without including all its annexes and appendixes	No
32.2. If yes, is it published online?	No
If yes, please specify the website:	n/a
32.3. If yes, does the procuring authority also publish any	No

subsequent amendment made to the PPP contract?	
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):	Section 62 of the PPP Act provides that a contracting authority shall be responsible for ensuring that the agreement is properly implemented, managed, enforced, monitored and reported on by the concessionaire
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):	Section 57 of the PP Act provides that (1) A procuring entity shall appoint a contract manager for every contract awarded, who shall be responsible for-(a) managing the obligations of the procuring entity specified in the contract; and (b) ensuring that the supplier performs the contract in accordance with the terms and conditions specified in the 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 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):	According to Section 57 of the PP Act, (2) A contract manager shall be selected in accordance with the procedure prescribed by statutory instrument, taking into account the skills, experience and functions required for management of the contract.

The PPP contract management team members are not required to meet any specific qualifications.	No
Please elaborate and provide examples:	n/a
42. Does the procuring or contract management authority establish a system for tracking progress and completion of construction works under a PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Section 62 of the PPP Act, "A contracting authority shall be responsible for ensuring that the agreement is properly implemented, managed, enforced, monitored and reported on by the concessionaire".
42.1. If yes, is the PPP contract construction performance information made available to the public?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
42.2. If yes, is the PPP contract construction performance information made publicly available online?	n/a
If yes, please specify the website:	n/a
43. Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract implementation after construction?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Section 62 of the PPP Act provides that a contracting authority shall be responsible for ensuring that the agreement is properly implemented, managed, enforced, monitored and reported on by the concessionaire
43.1. If yes, which of the following tools does it include (check all that apply)?:	No

Performance is assessed against evaluation criteria set in the tender documents and the PPP contract	
Relevant legal/regulatory provisions (if any)	n/a
The procuring or contract management authority can abate (reduce) payments for non-performance of operating obligations under the PPP contract	No
Relevant legal/regulatory provisions (if any)	n/a
The private partner must provide the procuring or contract management authority with periodic operational and financial data	No
Relevant legal/regulatory provisions (if any)	n/a
The procuring or contract management authority must periodically gather information on the performance of the PPP contract	No
Relevant legal/regulatory provisions (if any)	n/a
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/stand and contractual provisions (if any):	Section 51 of the PPP Act provides that: (1) Except as otherwise provided in an agreement, a controlling interest in the concessionaire's company shall not be transferred to third parties without the consent of the appropriate contracting authority. (2) An agreement shall set forth the conditions under which the consent of a contracting authority shall be given.
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/stand and contractual provisions (if any):	n/a
Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.	No

If yes, please provide the relevant legal/regulatory/stand and contractual provisions (if any):	n/a
In other cases, flexibility to change the ownership structure and/or assign the contract.	Yes
If yes, please provide the relevant legal/regulatory/stand and contractual provisions (if any):	<p>According to Section 50 of the PPP Act, (1) Except as otherwise provided in section forty-nine, the rights and obligations of the concessionaire under an agreement may not be assigned to a third party without the prior written consent of the appropriate contracting authority.</p> <p>(2) An agreement shall set out the conditions under which a contracting authority shall give its consent to an assignment of the rights and obligations of the concessionaire under the agreement, including the acceptance by the new concessionaire of all obligations there under and evidence of the new concessionaire’s technical and financial capability as shall be necessary for providing the service or undertaking the project.</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)?	Yes
If yes, please provide the relevant legal/regulatory/stand and contractual provisions (if any):	<p>Section 54 of the PPP Act provides that: Without prejudice to section sixty three, an agreement shall set out the extent to which a concessionaire is entitled to a revision of the agreement with a view to providing compensation in the event that the cost of the concessionaire’s performance of the agreement has substantially increased or that the value that the concessionaire receives for such performance has substantially diminished, as compared with the costs and the value of performance originally foreseen, as a result of- (a) changes in economic or financial conditions; or (b) changes in legislation or regulations not specifically applicable to the project or the services it provides: Provided that the economic, financial, legislative or regulatory changes- (i) occur after the conclusion of the agreement; (ii) are beyond the control of the concessionaire; and (iii) are of such a nature that the concessionaire could not reasonably be expected to have taken them into account at the time the agreement was negotiated or have avoided or overcome their consequences. (2) An agreement shall establish procedures for revising the terms of the agreement following the occurrence of any changes.</p>
46.1. If yes, is an approval from a government authority, other than the procuring authority, required?	No

If yes, please provide the relevant legal/regulatory/stand and contractual provisions (if any):	n/a
46.2. If yes to question 46, which of the following circumstances are specifically regulated? (check all that apply): A change in the scope and/or object of the contract.	No
If yes, please provide the relevant legal/regulatory/stand and contractual provisions (if any):	n/a
A change in the risk allocation of the contract.	No
If yes, please provide the relevant legal/regulatory/stand and contractual provisions (if any):	n/a
A change in the financial and/or economic balance of the contract.	Yes
If yes, please provide the relevant legal/regulatory/stand and contractual provisions (if any):	According to Section 54 of the PPP Act, (1) Without prejudice to section sixty three, an agreement shall set out the extent to which a concessionaire is entitled to a revision of the agreement with a view to providing compensation in the event that the cost of the concessionaire’s performance of the agreement has substantially increased or that the value that the concessionaire receives for such performance has substantially diminished, as compared with the costs and the value of performance originally foreseen, as a result of— (a) changes in economic or financial conditions; or ...
A change in the duration of the contract.	Yes
If yes, please provide the relevant legal/regulatory/stand and contractual provisions (if any):	According to Section 57 of the PPP Act, “The duration of a public private partnership shall be set forth in an agreement and the contracting authority may not agree to extend its duration except as a result of the following circumstances: (a) delay in completion or interruption of operation due to circumstances beyond the reasonable control of either party; (b) project suspension brought about by acts of the Unit or a contracting authority or other public authority; (c) increase in costs arising from requirements of the Unit or a contracting authority not originally foreseen in the agreement, if the concessionaire would not be able to

	recover such costs without such extension; or (d) on agreement with the concessionaire, for reasons of national or public interest, as justified in the record to be kept by the Unit.
A change in the agreed price or tariff.	Yes
If yes, please provide the relevant legal/regulatory/stand and contractual provisions (if any):	According to Section 54 of the PPP Act, (1) Without prejudice to section sixty three, an agreement shall set out the extent to which a concessionaire is entitled to a revision of the agreement with a view to providing compensation in the event that the cost of the concessionaire's performance of the agreement has substantially increased or that the value that the concessionaire receives for such performance has substantially diminished, as compared with the costs and the value of performance originally foreseen ...
46.3. Can the procuring authority unilaterally modify a PPP contract?	No
If yes, please provide the relevant legal/regulatory/stand and 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/stand and contractual provisions (if any):	Article 58. of the PPP Act provides that a contracting authority or the Unit may terminate an agreement (a) in the event that it can no longer be reasonably expected that the concessionaire will be able or willing to perform its obligations, owing to insolvency, material default or otherwise; or (b) for compelling reasons of national or public interest, subject to payment of compensation to the concessionaire as agreed in the agreement. Furthermore, Article 60 provides that either party has the right to terminate an agreement by mutual consent or if the performance of its obligations is rendered impossible by circumstances beyond either party's reasonable control
Material Adverse government action .	No
If yes, please provide the relevant legal/regulatory/stand and contractual provisions (if any):	n/a
Change in the Law.	Yes
If yes, please provide the relevant legal/regulatory/stand	Section 53 of the PPP Act provides that: An agreement shall set out the extent to which a concessionaire is entitled to compensation in the event that the cost of the concessionaire's performance of the agreement has substantially increased or that

ard contractual provisions (if any):	the value that the concessionaire receives for such performance has substantially diminished, as compared with the costs and the value of performance originally foreseen, as a result of changes in legislation or regulations specifically applicable to the project or the services it provides. Additionally, Section 54 regulates, among others, the change in the law that may occur during the life of the PPP contract.
Refinancing.	No
If yes, please provide the relevant legal/regulatory/stand ard contractual provisions (if any):	n/a
Subcontracting and replacement of the subcontractors.	No
If yes, please provide the relevant legal/regulatory/stand ard 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/stand ard contractual provisions (if any):	Section 64 of the PPP Act provides: Any disputes between the Unit or a contracting authority and the concessionaire shall be settled through the dispute settlement mechanisms agreed by the parties in the agreement or, failing such agreement, in accordance with the Arbitration Act, 2000
48.1. If yes, please specify which of the following options are available (check all that apply): Local administrative review body	No
If yes, please specify:	n/a
Local courts	Yes
Domestic arbitration	Yes
International arbitration	Yes
Investor-State Dispute Settlement (ISDS)	Yes

Mediation	Yes
Please provide the relevant legal/regulatory/standard contractual provisions (if any)	According to Section 64 of the PPP Act, "Any disputes between the Unit or a contracting authority and the concessionaire shall be settled through the dispute settlement mechanisms agreed by the parties in the agreement or, failing such agreement, in accordance with the Arbitration Act, 2000".
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):	According to Article 27 of the Arbitration Act in Zambia, (1) A foreign award shall, subject to the provisions of this Part, be enforceable in the Court either by action or under the provisions of section sixteen of Part II. Effect of foreign awards (2) Any foreign award which would be enforceable under this Part shall be treated as binding for all purposes on the persons as between whom it was made, and may accordingly be relied on by any of those persons by way of defence, set-off or otherwise in any legal proceedings, and any references in this Part to enforcing a foreign award shall be construed as including references to relying on an award.
International arbitration	Yes
If yes, please provide the relevant legal/regulatory provisions/standard contractual provisions (if any):	Foreign arbitral awards are recognized and enforced in Zambia under the Arbitration Act, Section 27 of which provides for the recognition and enforcement of foreign arbitral awards. Zambia is party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958, which entered into force on June 7, 1959, and party to the Convention of the Settlement of Investment Disputes between States and Nationals of Other States of 1965 and entered into force on October 14, 1966. These are being enforced through the Investment Dispute Convention Act Cap 42 of the Laws of Zambia. Finally, Zambia is a member state to the International Centre for the Settlement of Investment Disputes (ICSID Convention) and a signatory to the United Nations Commission of International Trade Law (UNCITRAL Model Law).
Investor-State arbitration	Yes
If yes, please provide the relevant legal/regulatory provisions/standard contractual provisions (if any):	Zambia is part of the ICSID Convention
49. Does the regulatory framework (including standard contractual clauses) allow for the restructuring of a PPP private partner (SPV) in financial difficulty prior to insolvency?	No
If yes, please specify and provide the	n/a

relevant legal/regulatory/standard contractual provisions (if any):	
50. Does the regulatory framework (including standard contractual clauses) allow for the lenders to take control of the PPP project (lender step-in rights) if either the private partner defaults or if the PPP contract is under threat of termination for failure to meet service obligations?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Section 56(1) of the PPP Act provides that: The Unit may agree with any entity extending financing for a project and a concessionaire to provide for the substitution of the concessionaire with another person appointed to perform under the existing agreement, upon a material default by the concessionaire or other event that could otherwise justify the termination of the agreement.
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.	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	Section 56(1) of the PPP Act provides that: The Unit may agree with any entity extending financing for a project and a concessionaire to provide for the substitution of the concessionaire with another person appointed to perform under the existing agreement, upon a material default by the concessionaire or other event that could otherwise justify the termination of the agreement.
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	No

rights should be regulated in the contract.	
If yes, please specify and provide the relevant legal/regulatory/stand and 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/stand and contractual provisions (if any):	insolvency, national or public interest, material default, financial unbalance, and failure to agree on a revision of the agreement (after the conditions of revision were met) Section 58 of the PPP Act provides that: A contracting authority or the Unit may terminate an agreement (a) in the event that it can no longer be reasonably expected that the concessionaire will be able or willing to perform its obligations, owing to insolvency, material default or otherwise; or (b) for compelling reasons of national or public interest, subject to payment of compensation to the concessionaire as agreed in the agreement. Furthermore, Section 59 provides that a concessionaire shall not terminate an agreement except under the following circumstances: (a) in the event of material default by the Unit or a contracting authority or other public authority of its obligations under the agreement; (b) if the conditions for a revision of the agreement are met but the parties have failed to agree on a revision of the agreement; or (c) if the cost of the concessionaire's performance of the agreement has substantially increased or the value that the concessionaire receives for such performance has substantially diminished as a result of acts or omissions of the Unit or a contracting authority or other public authority and the parties have failed to agree on a revision of the agreement.
51.1. If yes, does the regulatory framework (including standard contractual clauses) establish the consequences for the termination of the PPP contract?	Yes
If yes, please specify and provide the relevant legal/regulatory/stand and contractual provisions (if any):	Section 60 of the PPP Act provides that either party has the right to terminate an agreement by mutual consent or if the performance of its obligations is rendered impossible by circumstances beyond either party's reasonable control. Furthermore, Section 61 provides that an agreement shall stipulate how compensation due to either party shall be calculated in the event of termination of the agreement and shall provide, where appropriate, for compensation for the fair value of works

	performed under the agreement, costs incurred or losses sustained by either party, including, as appropriate, lost profits.
Unsolicited Proposals	
34. Are unsolicited proposals in Zambia: (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	Section 42 of the PPP Act regulates the submission of unsolicited proposals. In fact, Section 42(1) provides that a contracting authority may receive, consider, evaluate and accept an unsolicited proposal for a public private partnership ...
35. Does the procuring authority conduct an assessment to evaluate unsolicited proposals? (if not, skip to question 37)	Yes
If yes, please specify and provide the relevant legal/regulatory provisions (if any)	Section 42 of the PPP Act provides that: (2) A contracting authority shall, within fourteen days after receiving an unsolicited proposal, undertake a preliminary evaluation of the unsolicited proposal to determine if the proposal complies with the requirements of subsection (1). the following subsections provide that if such proposals are not compliant with the requirements, the procuring authority should return it. If it is compliant, then the procuring authority continues to evaluate the proposal in accordance with this section.
35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Section 42 of the PPP Act provides that: (1) A contracting authority may receive, consider, evaluate and accept an unsolicited proposal for a public private partnership if the proposal — (a) is independently originated and developed by the proposer;

	<p>(b) shall be beneficial to the public;</p> <p>(c) has been prepared without the supervision of the Unit or a contracting authority; and</p> <p>(d) includes sufficient detail and information for a contracting authority to evaluate the proposal in an objective and timely manner.</p> <p>(2) A contracting authority shall, within fourteen days after receiving an unsolicited proposal, undertake a preliminary evaluation of the unsolicited proposal to determine if the proposal complies with the requirements of subsection (1).</p> <p>(3) A contracting authority or the Unit shall take appropriate action to protect confidential or proprietary information that a person provides as part of an unsolicited proposal.</p> <p>(4) A contracting authority shall, where an unsolicited proposal does not comply with subsection (1), return the proposal without further action.</p> <p>(5) A contracting authority may, if an unsolicited proposal complies with subsection (1), continue to evaluate the proposal in accordance with this section. ...</p>
<p>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.</p>	<p>No</p>
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>The procuring authority does not evaluate</p>	<p>No</p>

unsolicited 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?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Section 42(6) of the PPP Act provides that a contracting authority shall, if an unsolicited proposal complies with subsection (1), advertise the unsolicited proposal for the purpose of receiving competitive proposals for the same project.
38. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Section 42(8) of the PPP Act provides that: An advertisement, issued under subsection (6), shall specify a reasonable time period by which competitors shall submit a competing proposal to the contracting authority.
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.	Yes
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	Yes

winning bid and win the contract).	
39.5 Other.	No
Please specify:	n/a
Please provide the relevant legal/regulatory provisions (if any):	Section 42(12)(b) of the PPP Act provides: After evaluating an unsolicited proposal and any competing proposals, a contracting authority may - (b) request the originator of the proposal to match any competing proposal or make a best and final offer and if the originator of the proposal does so, the project shall be awarded to the originator of the proposal;