

PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN ZIMBABWE

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 PPP regulatory framework is comprised of several laws. The first is the Joint Ventures Act (Chapter 22:22), which was enacted in 2016, and the second is the Procurement Act (Chapter 22:14), which was adopted in 2001.</p> <p>The Joint Ventures Act contains details regulating various procedures, such as, but not limited to: BT, BLT, BOT, BOO, BOOT, BTO, CAO, DOT, ROT, ROO, BOOM, and etc.</p> <p>However, it should be pointed out that the Procurement Act (Chapter 22:14) was recently repealed and replaced by the Public Procurement And Disposal of Public Asset's Act (Chapter 22:23), which was published in the Official Gazette on the 4th of August, 2017.</p> <p>Given the date of the repeal of the Procurement Act (22:14), more specifically since it was repealed after 1st of June 2017, our analysis will be based on the Joint Ventures Act (Chapter 22:22) and the Procurement Act (Chapter 22:14).</p>
and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:	<p>Procurement Act (22:14): http://www.parlzim.gov.zw/acts-list/procurement-act-22-14</p> <p>Joint Ventures Act (22:22): http://www.zimlil.org/zw/legislation/num-act/2016/6/2015/Joint%20Ventures%20Act%20%5BChapter%2022-22%5D.pdf</p>
2.1. Are you aware of any reforms (in the regulatory frameworks – laws, regulations, policies, etc.- or in generally followed practices) related to PPPs that: Took place in 2016, are ongoing and/or are planned to be adopted BEFORE June 1, 2017?	Yes
Please describe:	The Joint Ventures Act [Chapter 22:22] was gazetted on the 12th of February, 2016 and came into force in May 27, 2016 following the passage of Statutory Instrument 53 of 2016 to operationalise it.

2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?	Yes
Please describe:	Public Procurement and Disposal of Public Assets Act, which repeals the Procurement Act (22:14) was published in the Official Gazette on the 4th of August, 2017.
3.1 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Transportation.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.2 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Water and Irrigation	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.3 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Energy generation and distribution.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.4 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Telecom	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.5 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Other	No

If yes, specify and provide the relevant legal/regulatory provisions:	n/a
4. Does the regulatory framework provide for a specific tax regime for PPP transactions (i.e. tax incentives, special tax depreciation treatment, etc.)?	Yes
If yes, please specify and provide the relevant legal/regulatory provision (if any):	<p>Tax exemptions are given by the Minister of Finance and Economic Development to certain projects which are classified as national priority projects. The specific concessions are dependent on the project; and stipulated in a statutory instrument which is gazetted for that purpose. Examples include Income Tax (Exemption from Non Resident Tax on Fees) Salini Impregilo Employees Notice, 2012 which was published in Statutory Instrument 347 of 2012 for an exemption in respect of the Tokwe- Mukosi Dam Project as a National Project.</p> <p>For instance, Income Tax for Build Own Operate and Transfer (BOOT) and BOT Arrangements: Contractors may enter into contracts with state or Statutory Corporation under which he undertakes to construct infrastructure for the state or statutory corporation. This will be in consideration for the right to operate or control for a specified period after which the contractor will transfer ownership or control of the item to the state or statutory corporation. Enjoys tax holiday for first 5 years. Taxed at 15% for the second five years</p>
5. Please identify the PPP procuring authorities in Zimbabwe and provide their website(s) (if available):	The Joint Ventures Act provides for 3 structures. The JV Unit - made up of officials .The JV Committee - made up of permanent secretaries.Cabinet - made up of The President , Vice Presidents and Ministers .Prior to the JV Act , there existed the State and Regulatory Authority , (SARE) which advised on privatisations and on PPP. However, to date no website has been created for the JV structures. State Procurement Board also procures for Government general and is set up by the Public Procurement Act
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):	Joint Ventures Unit in the Ministry of Finance and Economic Development, which reports to the Joint Venture Committee.
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.	No

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.	No
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	Yes
6.11 please specify:	According to Section 6 of the Joint Ventrue Act, one of the responsibilities of the Joint Venture committee is to ensure that all projects are consistent with the national priorities specified in the relevant policy on joint ventures.
Please provide the relevant legal/regulatory provisions:	<p>Pursuant to Section 3 of the Jont Venture Act:</p> <p>(1) There is hereby established for the purpose of this Act a unit to be known as the Joint Venture Unit, which shall be a department of the Ministry and shall be under the control and supervision of the Secretary.</p> <p>(2) The functions of the Unit shall be:</p> <p>(a) to consider project proposals submitted to it and assess whether or not they:</p> <p>(i) are affordable to the contracting authority; and</p> <p>(ii) provide value for money; and</p> <p>(iii) provide for the optimum transfer of technical, operational and financial risks to the counterparty; and</p> <p>(iv) are competitive: and to make recommendations on such proposals to the Committee;</p> <p>(b) to examine requests for project proposals to ensure they conform with the approved feasibility studies; and</p> <p>(c) to advise Government on joint venture projects gerrerally; and</p> <p>(d) to develop best practice guidelines in relation to all aspects of joint ventures: and</p> <p>(e) to assist the Committee to formulate policy in relation to joint venture projects; and</p> <p>(f) to develop awareness of joint ventures in Zimbabwe as a vehicle for economic development and delivery of public services; and</p> <p>(g) to make recommendations on project proposals submitted by contracting authorities to the Cornmittee as to whether to approve or reject project proposals; and</p>

	<p>(h) to undertake monitoring and evaluation of joint venture projects and where necessary, to make appropriate recommendations concerning such projects to the Committee and contracting authority.</p> <p>Furthermore, Pursuant to Section 6 of the Joint Venture Act, the functions of the Committee shall be:</p> <p>(a) to assist the Minister to formulate policy guidelines on joint ventures; and</p> <p>(b) to ensure that all projects are consistent with the national priorities specified in the relevant policy on joint ventures; and</p> <p>(c) to make recommendations to Cabinet as to whether to approve or reject project proposals submitted to it by the Unit; and</p> <p>(d) to perform any other function as may be conferred on it by the Minister in terms of this Act or any other law.</p>
PPP Preparation	
8. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
8.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before signing the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
8.2. Does the Ministry of Finance (or government more broadly) have a specific system of: Budgeting for PPP projects.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Accounting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Reporting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a

8.3. If yes to question 8.2, which of the following alternatives best describes the regulation?: Accounting and reporting according to 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 Cabinet
and provide the relevant legal/regulatory provisions (if any):	Section 8(3) (d) (i) and (ii) of the Joint Ventures Act [Chapter 22:22] provides that Cabinet may direct a procuring authority to receive tenders in accordance with the Procurement Act [Chapter 22:14] Furthermore, according to Section 13 (1) Joint Ventures Act [Chapter 22:22] provides that a procuring authority shall not sign a joint venture agreement unless it has been approved by Cabinet.
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 13 (1) Joint Ventures Act [Chapter 22:22] provides that a procuring authority shall not sign a joint venture agreement unless it has been approved by Cabinet.
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):	According to Section 11 (1)(a) of the Joint Ventures Act (Chapter 22:22) the Joint Venture Unit may retain consultants assist and advise during the PPP Project Cycle.

<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 PPPs with other public 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 prescribes the need for PPPs to be consistent with all other investment priorities without establishing a specific procedure to achieve that goal.</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Section 6 (b) of the Joint Ventures Act states that the Joint Venture Committee has to ensure that all projects submitted for approval by Cabinet (which members include Ministry of Finance and sectorial ministers) are consistent with the national priorities specified in any policy pertaining to joint venture projects.</p>
<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>	<p>No</p>
<p>If yes, please elaborate:</p>	<p>n/a</p>
<p>The procuring authority does not evaluate PPPs against existing government priorities.</p>	<p>No</p>
<p>Please elaborate and provide examples:</p>	<p>n/a</p>

11.1. Based on your experience, is it always the case that this prioritization is done in practice in accordance with the provisions of the regulatory framework described above?	No
If yes, please specify:	n/a
If no, please elaborate:	The JV Act is yet to be implemented through specific rules.
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)	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:	Contributors provided that this is generally conducted 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 Section 3 (2) (a) of the Joint Ventures Act, one of the functions of the JV Unit is to consider project proposals submitted to it and assess whether or not they:</p> <ul style="list-style-type: none"> (i) are affordable to the contracting authority; and (ii) provide value for money; and (iii) provide for the optimum transfer of technical, operational and financial risks to the counterparty; and (iv) are competitive: <p>Furthermore, according to Section 9 (2) (c) of the Joint Ventures Act, a feasibility study shall demonstrate that the project will:</p> <ul style="list-style-type: none"> (i) be affordable to the contracting authority; and (ii) provide value for money; and (iii) optimally transfer technical, operational or financial risk to the counterparty;

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
12.3. Risk identification, allocation and assessment (risk matrix)	Yes
Relevant legal/regulatory provision (if any)	<p>Pursuant to Section 3 (2) (a) of the Joint Ventures Act, one of the functions of the JV Unit is to consider project proposals submitted to it and assess whether or not they:</p> <ul style="list-style-type: none"> (i) are affordable to the contracting authority; and (ii) provide value for money; and (iii) provide for the optimum transfer of technical, operational and financial risks to the counterparty; and (iv) are competitive: <p>Furthermore, according to Section 9 (2) (c) of the Joint Ventures Act, a feasibility study shall demonstrate that the project will:</p> <ul style="list-style-type: none"> (i) be affordable to the contracting authority; and (ii) provide value for money; and (iii) optimally transfer technical, operational or financial risk to the counterparty;
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	Majority of our contributors indicated that this occurs 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 Section 9 (2) (a) of the Joint Venture Act, the feasibility study shall demonstrate the advantages of implementing the project under a joint venture agreement. Furthermore, Section 9 (2) (b) (iii) of the Joint Ventrue Act states that a feasibility study shall also describe, in specific terms, the most appropriate form by which the contracting authority may implement the project under an agreement.
Is there a specific methodology for the assessment?	No

If yes, please elaborate	n/a
Is the assessment done in practice?	No
Details:	n/a
12.5. Financial viability or bankability assessment	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	No
Details:	n/a
12.6. Market sounding and/or assessment (showing evidence of investors' interest in the market for the project)	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology for the assessment?	n/a
If yes, please elaborate	n/a
Is the assessment done in practice?	n/a
Details:	n/a
12.7. Environmental impact assessment	Yes
Relevant legal/regulatory provision (if any)	According to Section 97 of the Environmental Management Act, a broad list of types of projects (including highway projects) require environmental assessments.
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Section 99 of the Environmental Management Act contains the requirements for the content of the environmental impact assessment report.
Is the assessment done in practice?	Yes
Details:	Majority of our contributors indicated that this happens in practice
12.8. Consultation process with affected communities on potential impact of the PPP project	Yes
Relevant legal/regulatory provision (if any)	According to Section 2 of the Environmental Management Act, "environment" includes the people and communities affected. Additionally, according to Article 100, in order to approve the environmental assessment, the Director General may opt for consultation with communities.

Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	Majority of our contributors indicated that this happens in practice
13. Does the procuring authority include the assessments (indicated in Question 12 above) in the request for proposals and/or tender documents (for example, as part of an Information Memorandum to the bidders)?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and specify which of the assessments are included in the request for proposals and/or tender documents:	n/a
13.1. Are the assessments published online?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
specify the website	n/a
please specify which of the assessments are published online:	n/a
14. Does the procuring authority include a draft PPP contract in the request for proposals?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
If no, please elaborate	Section 31 (1) (b) and (c) of the Procurement Act (Chapter 22:14) provides the information that is provided in the solicitation documents, and it does not include a draft PPP contract. The following information is provided;(i) the nature, quantity and quality of the goods or construction work required; and(ii) the manner and time in which tenders are to be prepared and submitted; and(iii) the criteria and procedures by which the successful tender will be determined; and(iv) the manner in which the tender price is to be formulated and expressed; and(v) any tender security required; and(vi) the date, time and place for the opening of tenders and the procedure to be followed at such opening; and(vii) any right on the part of the procuring entity to reject all tenders;

14.1. Are the tender documents published online?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and please specify the website:	n/a
15. In a case comparable to the case study assumptions, have standardized PPP model contracts and/or transaction documents been developed?	No
If yes, please specify and provide a government-supported website where the mentioned standards are available or provide an electronic copy of them:	n/a
16.1 In a case comparable to the case study assumptions, who is the responsible party for each of the following requirements? Obtaining the required urban permits:	No
Procuring authority (or other Government entity)	
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)	Pursuant to Section 10 (2) (a) of the Joint Venture Act, every joint venture agreement (contract) shall: identify the responsibilities of the contracting authority and the counterparty.
16.2. Obtaining the required environmental permits:	No
Procuring authority (or other Government entity)	
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)	Pursuant to Section 10 (2) (a) of the Joint Venture Act, every joint venture agreement (contract) shall: identify the responsibilities of the contracting authority and the counterparty.

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)	Pursuant to Section 10 (2) (a) of the Joint Venture Act, every joint venture agreement (contract) shall: identify the responsibilities of the contracting authority and the counterparty.
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)	Pursuant to Section 10 (2) (a) of the Joint Venture Act, every joint venture agreement (contract) shall: identify the responsibilities of the contracting authority and the counterparty.
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)	Pursuant to Section 10 (2) (a) of the Joint Venture Act, every joint venture agreement (contract) shall: identify the responsibilities of the contracting authority and the counterparty.
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	Yes

are required to meet detailed qualifications.	
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Pursuant to Section 6 of the Public Procurement Act, the Composition of State Procurement Board is as follows:</p> <p>(1) The State Procurement Board shall consist of a chairman and not fewer than seven nor more than ten other members appointed, subject to this section and section seven, by the President.</p> <p>(2) Members shall be chosen for their ability and experience in administration or their professional qualifications or their suitability otherwise for appointment: Provided that at least one of the members shall be a person who has held a post or posts of a senior grade in the Public Service for periods which in the aggregate amount to at least three years, and at least three members shall be appointed from a list submitted by recognised chambers of business, industry, commerce and other professional bodies.</p> <p>(3) Members shall be appointed after consultation with the Public Service Commission.</p> <p>(4) The Minister shall ensure that the appointment of every member is notified in the Gazette.</p>
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):	<p>Section 31 of the Procurement Act (Chapter 22:14) states that the invitation will be published (i) in the Gazette, where the procuring entity is the State; and (ii) in a newspaper circulating in the area in which the procuring entity has jurisdiction or carries on business, where the procuring entity is not the State; and (iii) in a newspaper of wide international circulation or in a relevant trade or technical or professional journal of wide international circulation, where tenders are invited from suppliers who are not nationals or residents of Zimbabwe. However there is no explicit mention of it being published online (even though one contributor said that the Gazettes have an online portal)</p>
19.1. If yes, is the public procurement notice published online?	No
If yes, please specify the website:	n/a

20. Are foreign companies prohibited from participating in the bidding process?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
21. In a case comparable to the case study assumptions, does the procuring authority grant the potential bidders a minimum period of time to submit their bids?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Section 9 (1) of the Public Procurement Regulations defines a minimum of 30 days for formal tenders.
and the time in calendar days:	30
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:	Yes
Available	
Default	No
Relevant legal/regulatory provision (if any)	No regulatory basis
22.2. Restricted tendering (with pre-qualification stage):	Yes
Available	
Default	No
Relevant legal/regulatory provision (if any)	Pursuant to Section 31 (1) (c) of the Procurement Act, an invitation to prequalify shall be published in the manner prescribed in paragraph (a) and shall contain the information referred to in subparagraphs (i) to (iv) of paragraph (b), together with the following information: (i) the manner in which prequalification documents may be obtained and their price; and (ii) the deadline for the submission of prequalification documents and the place where they are to be submitted; and (iii) such other information as may be prescribed in procurement regulations;
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:	No
Available	
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)	Section 8 (1) (b) of the Joint Ventures Act states that “ whenever a contracting authority wishes to enter into a joint venture agreement in relation to the exercise of any of its functions or responsibilities, it shall invite expressions of interest in a project where appropriate by means of a public advertisement in the print, electronic or broadcast media or in any other transparent manner: Provided that it may dispense with this requirement where it has already identified a proposed project with an identified counterparty and has disclosed that fact to the Unit”
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 Section 31 (b) of the Public Procurement Act, the invitation to suppliers to tender shall contain the following information: (i) the procuring entity’s name and address; and (ii) a comprehensive description of the goods to be supplied or, as the case may be, of the construction work to be effected; and (iii) the time within which the goods are to be supplied or, as the case may be, the construction work is to be completed; and (iv) the criteria by which, subject to section thirty-four, suppliers will be evaluated; and (v) the manner in which solicitation documents may be obtained and their price; and (vi) the deadline for the submission of tenders and the place where they are to be submitted; and (vii) such other information as may be prescribed in procurement regulations;
If no, please elaborate:	n/a
22.9. Do the tender documents specify the prequalification/shortlisting criteria (when applicable) in	Yes

order to make them available to all the bidders?	
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Section 31 (c) of the Public Procurement Act, an invitation to prequalify shall be published in the manner prescribed in paragraph (a) and shall contain the information referred to in subparagraphs (i) to (iv) of paragraph (b), together with the following information: (i) the manner in which prequalification documents may be obtained and their price; and (ii) the deadline for the submission of prequalification documents and the place where they are to be submitted; and (iii) such other information as may be prescribed in procurement regulations;
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):	Pursuant to Section 31 (2) of the Public Procurement Act, subject to subsection (1), a procuring entity shall conduct its tendering proceedings in accordance with procurement regulations or, in regard to any matter that is not prescribed in such regulations or this Act, in accordance with such procedure as the procuring entity may fix: Provided that any procedure so fixed shall be such as to ensure that all suppliers are treated fairly and impartially and shall be communicated without delay to all suppliers concerned.
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):	No regulatory basis
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):	No regulatory basis
23.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	No
If yes, please specify:	n/a
If no, please elaborate:	Contributors stated that the party needing the information requests it.

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 11 (1) (k) of the Procurement Regulations, 2002, provides that the procuring entity may provide for a bidding conference in the tender documents.
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?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
24.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	n/a
If yes, please specify:	n/a
If no, please elaborate:	n/a
25. In a case comparable to the case study assumptions, does the procuring authority require the bidders to prepare and present a financial model with their proposals?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
If no, please elaborate:	No legal requirement specifically for a financial model to be presented with proposals.
26. Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>According to section 31 (1) (m) of the Public Procurement Act, the procuring entity shall accept whichever valid tender offers the lowest price, unless other criteria are specified in the solicitation documents, in which event those criteria shall be followed.</p> <p>Furthermore, Section 11 (1) (c) of the Procurement Regulations states that tenders will not be considered unless they comply fully with the specifications and Section 19 (1) states that in evaluating tenders, the procuring entity shall</p>

	<p>assess the tenderer's capability to perform the contract satisfactorily.</p> <p>Lastly, it should be noted that according to Section 31 (c), the documents shall contain:</p> <p>ii) the criteria and procedures by which, subject to section thirty-four, the qualifications of suppliers will be evaluated; and</p> <p>v) the criteria and procedures by which the successful proposal will be ascertained;</p>
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):	No regulatory basis

28.1. If yes, is the public procurement award notice published online?	No
If yes, please specify the website:	n/a
29. Does the procuring authority provide all the bidders with the result of the PPP procurement process?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Pursuant to Section 22 of the Procurement Regulations:</p> <p>(1) The procuring entity shall be advised of the Board's decision within 10 working days after sending the recommendations to the Board to enable it to enter into the necessary formal procuring contract with the successful tenderer.</p> <p>(2) The successful tenderer shall be notified promptly in writing, by the Board of the tender acceptance.</p> <p>(3) Unsuccessful tenderers shall be advised in writing, of the name of the successful tenderer and the amount of his tender by the Board.</p>
If no, please elaborate:	n/a
29.1. If yes, does the notification of the result of the PPP procurement process include the grounds for the selection of the winning bid?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
30. Is there a standstill (or pause) period after the contract award and before the signing of the contract in order to allow unsuccessful bidders to challenge the award decision?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and the time in calendar days:	n/a
30.1. Is the standstill period set out in the notice of intention to award?	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	Yes

disadvantage to the other bidders?	
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Section 31 (1) (n) of the Procurement Act, Subject to this Act, in any tendering proceedings conducted by a procuring entity, no negotiations shall take place between the procuring entity and a supplier with respect to a tender submitted by the supplier;
31.1. Based on your experience, is it always the case that this restriction is respected in practice?	Yes
If yes, please specify:	Most contributors indicated that the restriction is respected 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):	Pursuant to Section 3 (2) (h) of the Joint Venture Act, the Joint Venture Unit has the authority of monitoring and evaluation of joint venture projects and where necessary, to make appropriate recommendations concerning such projects to the Committee and contracting authority. Furthermore Section 10 (2) (c) states that every JV Agreement (contract) shall ensure the management of performance of the counterparty.
41.1. If yes, which of the following tools does it include (check all that apply)?: Establishment of a PPP contract management team	No
Relevant legal/regulatory provisions (if any):	n/a
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,	No

specific processes, insurance regime, etc.)	
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.	n/a
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.	n/a
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.	n/a
Please elaborate and provide examples:	n/a
42. Does the procuring or contract management authority establish a system for tracking progress and completion of construction works under a PPP contract?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
42.1. If yes, is the PPP contract construction performance information made available to the public?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
42.2. If yes, is the PPP contract construction performance information	n/a

made publicly available online?	
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 10 (2) (c) states that every JV Agreement (contract) shall ensure the management of performance of the counterparty. Furthermore according to Section 3 (2) (h) of the Joint Venture Act, the Joint Venture Unit has the authority of monitoring and evaluation of joint venture projects and where necessary, to make appropriate recommendations concerning such projects to the Committee and contracting authority. However its not clear whether this is after construction.
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	No
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?	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
45.1. If yes, which of the following circumstances are specifically regulated? (check all that apply): Any change in the private partner during an initial period (e.g. construction and first five years of operation).	n/a
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	n/a

qualifications as the original operator.	
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
In other cases, flexibility to change the ownership structure and/or assign the contract.	n/a
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)?	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
46.1. If yes, is an approval from a government authority, other than the procuring authority, required?	n/a
If yes, please provide the relevant legal/regulatory/standard 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.	n/a
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the risk allocation of the contract.	n/a
If yes, please provide the relevant	n/a

legal/regulatory/standard contractual provisions (if any):	
A change in the financial and/or economic balance of the contract.	n/a
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the duration of the contract.	n/a
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the agreed price or tariff.	n/a
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?	n/a
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):	Section 31 of the procurement Regulations, 2002 as read with Clause 21 of the First Schedule to the Procurement Regulations relates to the issue of Force Majeure.
Material Adverse government action .	No
If yes, please provide the relevant legal/regulatory/standard	n/a

contractual provisions (if any):	
Change in the Law.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Refinancing.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Subcontracting and replacement of the subcontractors.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
48. Does the regulatory framework (including standard contractual clauses) allow for administrative and/or contractual complaint review mechanisms to address disputes arising from the implementation of PPP contracts?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	According to Section 10 (4) of the Joint Ventures Act all agreements shall provide to settle disputes through arbitration following either the Arbitration Act (1996) or rules defined in the agreement. Furthermore Section 10 (3) states that every joint venture agreement shall be governed by and construed in accordance with the laws of Zimbabwe.
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	No
Domestic arbitration	Yes
International arbitration	Yes
Investor-State Dispute Settlement (ISDS)	Yes
Mediation	No

<p>Please provide the relevant legal/ regulatory/standard contractual provisions (if any)</p>	<p>According to Section 10 (4) of the Joint Ventures Act all agreements shall provide to settle disputes through arbitration following either the Arbitration Act (1996) or rules defined in the agreement. Furthermore Section 10 (3) states that every joint venture agreement shall be government by and construed in accordance with the laws of Zimbabwe.</p> <p>Furthermore, Zimbabwe is a member of both the New York Convention and ICSID.</p> <p>Lastly, Clause 9 of the special conditions of contract states that the dispute resolution mechanism to be applied pursuant to Clause 22 of the General Conditions shall be as follows:</p> <p>(a) in the case of a dispute between the Purchaser and a supplier which is a national of the Purchaser’s country, the dispute shall be referred to adjudication/arbitration in accordance with the laws of the Purchaser’s country; and</p> <p>(b) in the case of a dispute between the Purchaser and a foreign Supplier, the dispute shall be settled by arbitration in accordance with the provisions of the UNCITRAL Arbitration Rules”.</p>
<p>48.2. If applicable, are arbitration awards enforceable by the local courts?: Domestic Arbitration</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):</p>	<p>Art. 35 of the Schedule to the Arbitration Act[Chapter 7:15] provides that the High Court may recognise and enforce an arbitral award.</p>
<p>International arbitration</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):</p>	<p>Zimbabwe is a member of the New York Convention. Furthermore, Article 35 of the Schedule to the Arbitration Act[Chapter 7:15] provides that the High Court may recognise and enforce an arbitral award.</p>
<p>Investor-State arbitration</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):</p>	<p>Zimbabwe is a member of ICSID</p>
<p>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?</p>	<p>No</p>
<p>If yes, please specify and provide the relevant legal/regulatory/standard</p>	<p>n/a</p>

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?	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
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.	n/a
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
The regulatory framework prescribes that a direct agreement should be signed with the lenders.	n/a
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.	n/a
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Other.	n/a
Please Specify:	n/a

51. Does the regulatory framework (including standard contractual clauses) expressly establish the grounds for termination of a PPP contract?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	Sections 20, 21, and 22 of the First Schedule of the Procurement Regulations 2002 discuss this issue. Section 20 is related to termination due to default. Section 21 is related to Fore Majeure and Section 22 is related to Termination due to Insolvency.
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/standard contractual provisions (if any):	Sections 20, 21, and 22 of the First Schedule of the Procurement Regulations 2002 discuss this issue. Section 20 is related to termination due to default. Section 21 is related to Fore Majeure and Section 22 is related to Termination due to Insolvency.
Unsolicited Proposals	
34. Are unsolicited proposals in Zimbabwe : (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 12 of the Joint Ventures Act contains conditions and procedure for unsolicited proposals.
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	Pursuant to Section 12 (4) of the Joint Venture Act, If the assessment and consultation in terms of subsection (3) determines that the joint venture

legal/regulatory provisions (if any)	<p>proposed by the unsolicited bid or expression of interest is of a type that is acceptable, the unit shall seek the approval of the Committee for the contracting authority to conduct a feasibility study at the cost of the unsolicited bidder.</p> <p>Note that Section 12(3) states that once the Unit receives the unsolicited bid or expression of interest it shall consult with the relevant contracting authority for a preliminary assessment, within a period of fourteen days , as to whether the joint venture of the type proposed is acceptable or not.</p>
35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Section 12(3) states that once the Unit receives the unsolicited bid or expression of interest it shall consult with the relevant contracting authority for a preliminary assessment, within a period of fourteen days , as to whether the joint venture of the type proposed is acceptable or not.</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>No</p>
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	<p>n/a</p>
The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Section 6(b) states a part of the function of the Joint Venture Unit, is to assure all projects are consistent with national priorities and specified in the relevant joint venture regulations.</p>
The procuring authority does not evaluate unsolicited proposals against existing government priorities.	<p>No</p>
Please elaborate and provide examples:	<p>n/a</p>

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?	No
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