

BENCHMARKING INFRASTRUCTURE 2023 IN THAILAND

SURVEY QUESTION	ANALYSIS
Regulatory and Institutional Framework for PPPs	
1. 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>PPP in Thailand is regulated by the Public-Private Partnerships Promotion Act B.E. 2562 (2019) (“PPP Act”). The PPP Act came into effect on 11 March 2019. The new PPP Act replaces the existing PPP law (i.e. the PISU Act) in its entirety. The PPP Act applies to a project that: (i) involves a “Thai public entity”; (ii) deals with or involves an undertaking which a Thai public entity is authorized by law to perform; and (iii) has the nature of “joint investment”, (“Joint Investment Project”). However, the regulations and notifications previously issued under the light of the PISU Act are still in effect until the new regulations and notifications will be enacted.</p> <p>Thus, the main regulations and notifications for PPP in Thailand are, in particular:</p> <p>(i) the Notification of the Public-Private Partnership in State Undertaking Policy Committee Re: Required Details in a Project Agency’s Project Appraisal Report B.E. 2557 (2014) (“Project Appraisal Notification”);</p> <p>(ii) the Notification of the Office of State Enterprise Policy Committee Re: Details of invitation notice, document of proposal for investment participation, method for announcing the invitation, selection methods of the selection committee prescription of bidding security and performance security, B.E. 2558 (2015) (“Details of Invitation Notification”);</p> <p>(iii) the Notification of the Public-Private Partnership in State Undertaking Policy Committee Re: Strategic Plan for Public-Private Partnership in State Undertaking B.E. 2560-2564 (2017-2021) (“Strategic Plan for PPPs”);</p> <p>(iv) the Announcement of the Office of State Enterprise Policy Committee Re: Standard Provisions of an Investment Partnership Contract B.E. 2558 (2015) (“Standard Provisions”); and</p> <p>(v) the Announcement of the Public-Private Partnership in State Undertaking Policy Committee Re: Characteristics of Amendment to Investment Partnership Contract in Material Content B.E. 2558 (2015) (“Amendment to Contract Announcement”).</p> <p>The aforementioned regulations shall constitute the basis of the analysis that follows.</p>
and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:	https://ppp.sepo.go.th/contents/65
1.1. If yes, for which of the following sectors is the above-mentioned regulatory	Yes

framework applicable? Transportation	
If yes, please provide the relevant legal/regulatory provisions:	Under Section 7 of the PPP Act, the PPP project that is subject to the PPP Act must involve with the following infrastructure and public services: (1) road, highways, motorways and land transport; (2) train, electric train and rail transport; (3) airport and air transport; (4) port and water transport;
1.1. Water Supply, Sewerage, Solid Waste Management and irrigation.	Yes
If yes, please provide the relevant legal/regulatory provisions:	Under Section 7 of the PPP Act, the PPP project that is subject to the PPP Act must involve with the following infrastructure and public services: (5) water management, irrigation, waterworks and wastewater treatment;
1.1. Energy generation/transmission and distribution.	Yes
If yes, please provide the relevant legal/regulatory provisions:	Under Section 7 of the PPP Act, the PPP project that is subject to the PPP Act must involve with the following infrastructure and public services: (6) energy;
1.1. ICT	Yes
If yes, please provide the relevant legal/regulatory provisions:	Under Section 7 of the PPP Act, the PPP project that is subject to the PPP Act must involve with the following infrastructure and public services: (7) telecommunications and communications;
1.1. Social Infrastructure	Yes
If yes, please provide the relevant legal/regulatory provisions:	Under Section 7 of the PPP Act, the PPP project that is subject to the PPP Act must involve with the following infrastructure and public services: (8) hospital and public health; (9) school and education; (10) housing and facilities for low and medium income earners, elders, underprivileged or disable person; (11) exhibition center and conference center; and
1.1. Other	Yes
If yes, specify and provide the relevant legal/regulatory provisions:	Under Section 7 of the PPP Act, the PPP project that is subject to the PPP Act must involve with the following infrastructure and public services: (12) other activities to be announced by a Royal Decree.
2.1. Besides national defense and other matters of national security, does the regulatory framework explicitly prohibits or restricts PPPs in any of the following sectors? Transportation	No
If yes, please provide the relevant legal/regulatory provisions:	n/a

2.2. Water Supply, Sewerage, Solid Waste Management and irrigation	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
2.3. Energy generation, transmission and distribution	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
2.4. ICT	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
2.5. Social infrastructure, including hospitals, education, prisons, housing, etc.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
2.6. Other.	No
If yes, specify and provide the relevant legal/regulatory provisions:	n/a
3. Please identify the PPP procuring authorities in Thailand and provide their website(s) (if available):	According to Section 4 of the PPP Act, “State Agency” means government agency, state enterprise, local administrative organization and other state agencies. Therefore, the PPP procuring authorities can be any government agency, state enterprise, local administrative organization and other state agencies. Given the case study assumptions, the Department of Highways (http://www.doh.go.th/) would most likely constitute the procuring authority.
4. Is there a specialized government entity(ies) that facilitates the PPP program (PPP Unit)?	Yes
If yes, please indicate its name(s), and its website(s) (if available):	State Enterprise Policy Office (SEPO) plays the role of a PPP Unit in Thailand. https://ppp.sepo.go.th/ The main responsibilities of SEPO are set out in Sections 12 and 21 of the PPP Act; SEPO has to prepare the arrangement plan for the Joint Investment Project which is to be consistent with the master plan on the development of infrastructure and social aspects of the country prepared by the Office of the National Economic and Social Development Council. Section 12. The Office shall prepare partnership project preparation plans in a manner consistent with the national masterplan for the development of infrastructure and for social affairs as prepared by the Office of the National Economic and Social Development Council and submit the same to the Commission for consideration and approval.

	<p>Section 21. The Office shall be responsible for clerical work of the Commission and shall have the duties and powers as follows:</p> <p>(1) to prepare and submit to the Commission partnership project preparation plans for consideration and approval;</p> <p>(2) to propose to the Commission the designation of State agencies as project handling agencies;</p> <p>(3) to develop necessary databases and bodies of knowledge and provide dissemination, training, education and advice in connection with public-private partnership;</p> <p>(4) to give opinions or advice to, or lay down practices for, agencies in connection with the execution of this Act;</p> <p>(5) to report problems and obstacles in regard to the execution of this Act to the Commission;</p> <p>(6) to perform other activities under this Act or as entrusted by the Council of Ministers or the Commission.</p>
the year of establishment:	2002
and the relevant legal/regulatory basis:	<p>Reorganization of Ministry, Sub-Ministry, and Department Act, B.E. 2545 (2002) under Section 11 states:</p> <p>Section 11. The Ministry of Finance shall have the following affiliated government agencies:</p> <p>(8) State Enterprise Policy Office</p>
4. If yes, what are the main responsibilities of the agency(ies) (check all that apply): PPP regulation and policy guidance.	Yes
4. PPP capacity building for other public authorities.	Yes
4. PPP promotion among the public and/or private sectors in national and international forums.	Yes
4. Technical support in implementing PPP projects.	Yes
4. Identification and selection of PPP projects from the pipeline.	No
4. Revision of fiscal risks borne by the Government.	No
4. Consultation with affected communities on potential impact of PPP projects.	No
4. Approval of PPP projects.	Yes
4. Undertaking the procurement of PPPs.	No
4. Oversight of PPP implementation.	No
4. Post-project appraisal and audit.	No

4. Other:	No
Please specify:	n/a
Please provide the relevant legal/regulatory provisions:	<p>The main responsibilities of SEPO are set out in Sections 12 and 21 of the PPP Act; SEPO has to prepare the arrangement plan for the Joint Investment Project which is to be consistent with the master plan on the development of infrastructure and social aspects of the country prepared by the Office of the National Economic and Social Development Council.</p> <p>Section 12. The Office shall prepare partnership project preparation plans in a manner consistent with the national masterplan for the development of infrastructure and for social affairs as prepared by the Office of the National Economic and Social Development Council and submit the same to the Commission for consideration and approval.</p> <p>Section 21. The Office shall be responsible for clerical work of the Commission and shall have the duties and powers as follows:</p> <ol style="list-style-type: none"> (1) to prepare and submit to the Commission partnership project preparation plans for consideration and approval; (2) to propose to the Commission the designation of State agencies as project handling agencies; (3) to develop necessary databases and bodies of knowledge and provide dissemination, training, education and advice in connection with public-private partnership; (4) to give opinions or advice to, or lay down practices for, agencies in connection with the execution of this Act; (5) to report problems and obstacles in regard to the execution of this Act to the Commission; (6) to perform other activities under this Act or as entrusted by the Council of Ministers or the Commission.
4.1. Additionally, is there a central project development fund (support mechanism) for project preparation?	Yes
If yes, please indicate its name, and its website (if available):	Public-Private Partnership Promotion Fund
the year of establishment:	2019
and the relevant legal/regulatory basis:	<p>The Fund is regulated under PART VI of the PPP Act:</p> <p>PUBLIC-PRIVATE PARTNERSHIP PROMOTION FUND</p> <p>Section 51. There shall be established in the Ministry of Finance a fund called the “Public-Private Partnership Promotion Fund” for the purpose of supporting the execution of this Act.</p> <p>Section 53. Money of the Fund shall be expended to the extent necessary in the following cases:</p>

	<p>(1) the employment of advisers as provided in this Act;</p> <p>(2) the development of databases and bodies of knowledge as well as the dissemination, training, education and provision of advice in connection with public-private partnership;</p> <p>(3) costs of the management of the Fund.</p>
<p>5. Please provide any additional information or comments on the answers to the question(s) above and indicate which one(s) you are referring to:</p>	<p>Comments</p>
<p>Preparation of PPPs</p>	
<p>6. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	<p>Under Section 29 of the PPP Act, the proposal of a public-private partnership project must be supported with the opinion of the Budget Bureau in the case when there is government funding involved.</p> <p>Section 29. When the Office considers that the principles of the partnership project and the project feasibility study report are complete, the Office shall submit the same to the Commission for considering and approving the principles of the partnership project. The submission under paragraph one shall simultaneously be accompanied by opinions of the Office of the National Economic and Social Development Council and agencies concerned for assisting the consideration and in the case where the project in question entails the funding out of the State appropriations, there shall be opinions of the Bureau of the Budget, or in the case where it entails the funding out of a loan which constitutes a public debt, there shall be opinions of the Public Debt Management Office, for assisting the consideration.</p>
<p>6.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before signing the PPP contract?</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	<p>n/a</p>
<p>6.2. Does the Ministry of Finance (or government more broadly) have a specific system of: Budgeting for PPP projects (e.g., including the estimated total cost of the PPP project over the life of the project in the budget cycle).</p>	<p>No</p>

If yes, please provide the relevant legal/regulatory provisions:	n/a
6.2. Reporting liabilities (explicit and implicit, direct and contingent) arising from PPPs (e.g., disclosing information about the public sector commitments on the PPP project).	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
6.2. Accounting liabilities (explicit and implicit, direct and contingent) arising from PPPs (e.g., the public sector commitments to the PPP project are recorded in the national accounts).	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
6.3. If yes, please indicate which of the following alternatives best describes the regulation: International Public Sector Accounting Standards (IPSAS).	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
6.3. Other international standard (e.g. European System of Accounts).	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
6.3. Other	No
If yes, please specify and provide the relevant legal/regulatory provisions:	n/a
6.4. Does the Ministry of Finance (or government more broadly) disclose PPP liabilities (explicit and implicit, direct and contingent) on an online platform/database?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a

and specify the website:	n/a
7. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, do(es) any other authority(ies) 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 Public-Private Partnership Promotion Committee (“PPP Committee”) and the Cabinet, as applicable.
and provide the relevant legal/regulatory provisions:	<p>For the PPP project having the PPP project’s value equal to or exceeds THB 5 billion, the following Sections will apply:</p> <p>Section 29 of the PPP Act: Upon submission to the PPP Committee, the opinion of the Office of the National Economic and Social Development Board shall be concurrently applied for. If the PPP project: (i) requires expenditure from state budget, the opinion of the Bureau of the Budget shall also be submitted for the PPP Committee’s consideration; or (ii) incurs public debts, the opinion of the Public Debt Management Office shall also be submitted for the PPP Committee’s consideration.</p> <p>If the PPP Committee approves the PPP project, the PPP Committee shall inform the Responsible Minister for the further submission for the Cabinet’s approval.</p>
7.1. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(ies) approve the PPP project before signing the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions:	<p>The Attorney General and the Responsible Minister approve the PPP contract between signing, pursuant to Section 41 and 42 of the PPP Act:</p> <p>Section 41 of the PPP Act: The host agency shall submit the draft PPP contract to the Office of the Attorney General for consideration.</p> <p>Section 42 of the PPP Act: The host agency shall submit the private entity selection result, draft PPP contract reviewed by the Office of the Attorney General for the approval of the Responsible Minister. If the Responsible Minister approves, the Responsible Minister to submit the same to the Cabinet. Upon the Cabinet’s approval, the host agency shall proceed to sign the PPP contract with the private entity selected.</p>
8. Please select the option that best describes the way your government ensures that PPP projects are consistent with other government public priorities (e.g., in the context of a	Yes

<p>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>If yes, please specify and provide the relevant legal/regulatory provisions:</p>	<p>Section 12 of the PPP Act: SEPO has to prepare the Strategic Plan of PPPs which is to be consistent with the master plan on the development of infrastructure and social aspects of the country prepared by the Office of the National Economic and Social Development Council. The Strategic Plan of PPPs 2560-2564 (2017-2021) has already been issued in 2017.</p>
<p>8. 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>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	<p>n/a</p>
<p>8. The procuring authority does not evaluate PPPs against existing government priorities.</p>	<p>No</p>
<p>If yes, please elaborate and provide examples:</p>	<p>n/a</p>
<p>9. 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): 9.1. Socio-economic analysis (cost-benefit analysis of the socio-economic impact of the PPP project)</p>	<p>Yes</p>
<p>Relevant legal/regulatory provision</p>	<p>Section 22 of the PPP Act requires that a feasibility study be undertaken for each PPP project. The feasibility study includes an analysis of the impact of the project on the public as well as the economic aspect of project feasibility.</p> <p>Section 22. In submitting a project in respect of which partnership is intended</p>

	<p>to be entered into, the project-handling agency shall prepare a feasibility study report therefor in accordance with the particulars prescribed in the Notification of the Commission, which shall at least consist of:</p> <p>(3) readiness for the preparation and operation of the project, with an indication of impacts on the success of the project, including readiness in the aspect of the acquisition of ownership in and rights to use property, impacts on the public from the operation of the project and laws, by-laws, rules, notifications or orders affecting the success of the project;</p> <p>(4) feasibility of the project in the aspects of technicality, technology, environment, law, finance or economics, with an indication of the hypothesis for the study of feasibility of the project as well;</p>
Is there a specific methodology?	Yes
If yes, please elaborate	<p>Pursuant to Clause 3 (1) and (6) of the Project Appraisal Notification, a project appraisal report submitted by a project agency must contain the following details:</p> <p>(1) rationale, necessity, benefits of the project and technical suitability, including details of the project which indicate consistency with the Strategic Plan, consistency with the country's economic and social conditions, consistency with other projects in the same field and other fields, and readiness of the agency; and</p> <p>(2) impact of the project which includes both the direct and indirect impact of project implementation, as well as means of preventing, mitigating or remedying such impact, for example:</p> <p>(a) impact on the environment and communities as well as public users of the services, wherein the approaches for preparing and reporting the assessment of environmental impact shall also be shown, and in the case of a project which has a potentially serious impact on the environment, natural resources and health of a community, the approaches for preparing and reporting the assessment of public health impact on the community shall also be shown, as provided by law;</p> <p>(b) impact on national politics and security;</p> <p>(c) long-term impact on the operations of the project agency, e.g. financial standing, administration, organization and personnel and long-term operational plan; or</p> <p>(d) compliance with laws, regulations, rules other than the PPP Act.</p>
9.2. Fiscal Affordability assessment, including the identification of the required long-term public commitments (explicit and	Yes

implicit, direct and contingent liabilities)	
Relevant legal/regulatory provision	<p>Pursuant to Section 22 (2) and (4) of the PPP Act, when proposing the PPP project, the host agency must submit a project appraisal report containing the details prescribed by Notification of the PPP Committee.</p> <p>The Notification under paragraph one must at least contain the following details:</p> <p>(1) material details of the PPP project including the projection of cost and expenditure of the PPP project; and</p> <p>(2) the possibility of the of the PPP project in terms of financing aspect.</p> <p>Section 22. In submitting a project in respect of which partnership is intended to be entered into, the project-handling agency shall prepare a feasibility study report therefor in accordance with the particulars prescribed in the Notification of the Commission, which shall at least consist of:</p> <p>(1) backgrounds of the project, principles and reasons for the preparation of the project and also the consistency with the partnership project preparation plan;</p> <p>(2) key substances of the project, including the objectives, goals, scope and duration of the project as well as estimates of costs and expenses for the operation of the project;</p>
Is there a specific methodology?	Yes
If yes, please elaborate	Clause 3 (2) of the Project Appraisal Notification states that a project appraisal report submitted by a project agency must contain details on implementation cost, with comments relating to the stages and suitable time periods for project implementation, and in the case of a project which is partly funded by the state budget, the state budget or the state budget necessary for the entire duration of the project shall also be stated.
9.3. Risk identification, allocation and assessment (risk matrix)	Yes
Relevant legal/regulatory provision	<p>Pursuant to section 22 (5) of the PPP Act,</p> <p>“When proposing the PPP project, the host agency must submit a project appraisal report containing the details prescribed by Notification of the PPP Committee. The Notification under paragraph one must at least contain the details on related risks and approaches for managing the risks of the project.”</p>
Is there a specific methodology?	No
If yes, please elaborate	n/a
9.4. Comparative assessment to evaluate whether a PPP is the best option when	Yes

compared to other procurement alternatives (i.e., value for money analysis, public sector comparator)	
Relevant legal/regulatory provision	<p>Pursuant to Section 22 (6), the procuring authority must include a report on alternative options of the project in the feasibility report.</p> <p>(6) options and forms of public-private partnership, allocation of duties and responsibilities, allocation of risks and public-private profit-sharing, having regard to the application of private parties' knowledge, ability, expertise and innovations to the partnership project;</p> <p>Additionally, the Project Preparation Notice makes explicit mention of projects having to display value for money in its first section.</p>
Is there a specific methodology?	No
If yes, please elaborate	n/a
9.5. Financial viability or bankability assessment	Yes
Relevant legal/regulatory provision	<p>Pursuant to Section 22 (2) and (6) of the PPP Act: When proposing the PPP project, the host agency must submit a project appraisal report containing the details prescribed by Notification of the PPP Committee.</p> <p>The Notification under paragraph one must at least contain the details on:</p> <p>(1) material details of the PPP project including the projection of costs and expenditures; and</p> <p>(2) forms and options of private investment.</p> <p>It also requires an estimate of various forms of returns, which must at least show the financial and economic rates of return (Project Appraisal Notification, Clause 3 (3)).</p> <p>(3) estimates of return in various fields which must at least show the rate of return Financial and economic</p>
Is there a specific methodology?	No
If yes, please elaborate	n/a
9.6. Procurement Strategy (i.e., quick assessment to plan and better strategize the tendering process in advance so it is fit for purpose)	No
Relevant legal/regulatory provision	n/a
Is there a specific methodology?	No
If yes, please elaborate	n/a

9.7. Market sounding/ assessment. 9.7.1. Including the potential interest from contractors and capacity in the market for the contract	<p>Yes</p>
Relevant legal/regulatory provision	<p>Section 22 (6) of the PPP Act: When proposing the PPP project, the host agency must submit a project appraisal report containing the details prescribed by Notification of the PPP Committee. The Notification under paragraph one must at least contain the details on forms and options for private investment, including readiness of the private sector in each form of investment.</p> <p>Clause 3 (5) of the Project Appraisal Notification states that a project appraisal report submitted by a project agency must contain the details on alternative forms of private investment, including interests and readiness of the private sector in each form of investment.</p> <p>Finally, under Section 35 of the PPP Act which states that, in preparing the draft invitation tender for public and private partnership, draft selection documents of private entities and draft contract for public and private partnership, the host agency shall conduct the public hearing and also take the opinions into consideration in facilitation of the preparation of the documents as aforementioned.</p>
Is there a specific methodology?	<p>No</p>
If yes, please elaborate	<p>n/a</p>
9.7.2. Specifically designed to identify the solutions and technology available as well as the opportunities for innovation	<p>No</p>
Relevant legal/regulatory provision	<p>n/a</p>
Is there a specific methodology?	<p>No</p>
If yes, please elaborate	<p>n/a</p>
9.8. Environmental impact assessment	<p>Yes</p>
Relevant legal/regulatory provision	<p>The requirement for an environmental impact assessment may be found under Clause 3 (6) of the Project Appraisal Notification:</p> <p>a project appraisal report submitted by a host agency must contain the details on impact of the project which includes both the direct and indirect impact of project implementation, as well as means of preventing, mitigating or remedying such impact, for example: (a) impact on the environment and communities as well as public users of the services, wherein the approaches for preparing and reporting the assessment of environmental impact shall also be shown, and in the case of a project which has a potentially serious impact</p>

	on the environment, natural resources and health of a community, the approaches for preparing and reporting the assessment of public health impact on the community shall also be shown, as provided by law.
Is there a specific methodology?	Yes
If yes, please elaborate	The methodology is provided under the Announcement of the Ministry of Natural Resources and Environment on the Rules, procedures, procedures, and guidelines for the preparation of reports Environmental impact analysis Prepared for projects or businesses that may cause Severe impacts on the community, both via Environmental quality Natural resources and health - more precisely in the Guidelines provided at the end of the document.
9.8.1. Consultation process with affected communities explicitly included in the environmental impact assessment	No
Relevant legal/regulatory provision	n/a
Is there a specific methodology?	No
If yes, please elaborate	n/a
9.9. Social impact assessment	No
Relevant legal/regulatory provision	n/a
Is there a specific methodology?	No
If yes, please elaborate	n/a
9.9.1. Consultation process with affected communities explicitly included in the social impact assessment	No
Relevant legal/regulatory provision	n/a
Is there a specific methodology?	No
If yes, please elaborate	n/a
10. Does the procuring authority include the assessments in the request for proposals and/or tender documents?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
10. If yes, specify which of the assessments are included in the request for proposals and/or tender documents: and specify which of the	No

assessments are included in the request for proposals and/or tender documents: Socio-economic analysis	
10. Fiscal Affordability assessment;	No
10. Risk identification and allocation;	No
10. Comparative assessment;	No
10. Financial viability;	No
10. Procurement strategy;	No
10. Market sounding for private sector interest;	No
10. Market sounding for technological solutions;	No
10. Environmental impact assessment;	No
10. Social impact assessment;	No
10. Any other	No
Please specify	n/a
10.1. Are the assessments published online?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
specify the website:	n/a
10.1. If yes, specify which of the assessments are published online: Socio-economic analysis	No
10.1. Fiscal Affordability assessment;	No
10.1. Risk identification and allocation;	No
10.1. Comparative assessment;	No
10.1. Financial viability;	No
10.1. Procurement strategy;	No
10.1. Market sounding for private sector interest;	No
10.1. Market sounding for technological solutions;	No
10.1. Environmental impact assessment;	No
10.1. Social impact assessment;	No
10.1. Any other	No
Please specify	n/a

11. Are tender/bidding documents made available online?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
please provide the website:	n/a
11.1. Do the tender documents include a draft PPP contract?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
12. 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
and provide the relevant legal/regulatory provisions:	n/a
13. Does the procuring authority/responsible government entity have a role in either providing or facilitating any of the following requirements? 13.1. Obtaining the required environmental permits.	No
If yes, please specify the role of the procuring authority:	n/a
and provide the relevant legal/regulatory provisions:	n/a
13.2. Obtaining the possession of required land.	No
If yes, please specify the role of the procuring authority:	n/a
and provide the relevant legal/regulatory provisions:	n/a
13.3. Obtaining the required right of way.	No
If yes, please specify the role of the procuring authority:	n/a
and provide the relevant legal/regulatory provisions:	n/a
14. Please provide any additional information or comments on the answers to	Comments

<p>the question(s) above and indicate which one(s) you are referring to:</p>	
Procurement/Tendering of PPPs	
<p>15. 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.</p>	<p>Yes</p>
<p>If yes, please specify and provide the relevant legal/regulatory provisions:</p>	<p>Pursuant to Section 36 of the PPP Act, a host agency shall appoint a selection committee consisting of a representative of the host agency as chairman, a representative of responsible ministry, a representative of the State Enterprise Policy Office (SEPO), a representative of the Office of the Attorney-General and not more than two qualified persons whose possess expertise and knowledge in PPP aspect as members and there shall be a representative of the host agency as a member and secretary.</p> <p>If the case that the project required the use of national budget, there shall be a representative from the Bureau of the Budget as a selection committee or in the case that the project required the use of loan which is a public debt, there shall be a representative from Public Debt Management Office asa selection committee.</p> <p>A qualified member under paragraph one must have the qualifications and not have the disqualifications under Section 15.</p> <p>Section 15, PPP Act: A Qualified Member must have Thai nationality and not have the following disqualifications:</p> <ol style="list-style-type: none"> (1) being an incompetent or quasi-incompetent person; (2) being a bankrupt or having been a dishonest bankrupt; (3) having been sentenced to imprisonment by a final judgment, except for an offence committed negligently or a minor offence; (4) having been adjudged or ordered by a court to vest assets in the state due to unusual wealth or an unusual increase in assets; (5) having been expelled, discharged or dismissed from the government service, state agency or state enterprise, or from a private agency due to a dishonest performance of duty; (6) being or having been a member of the House of Representatives, senator, local councilor, local executive officer or holder of other political office, except where a period of not less than one year has lapsed since the vacation of office; (7) being or having been a holder of a position in a political party, except where a period of not less than one year has lapsed since the vacation of office; (8) being a person who is serving a ban from political office or has been removed or dismissed from office by a resolution of the Senate.

15. The bid evaluation committee members require sufficient qualification without specific details.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
15. The bid evaluation committee members are not required to have any specific qualifications.	No
If yes, please elaborate and provide examples:	n/a
16. Does the procuring authority issue an invitation for bids/ tender notice for the PPP project?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions:	Since there is no notification enforced under the PPP act and the notification under the previous PPP Act (PISU) is still in force until the issuance of the new notification under PPP Act, the Details of Invitation Notice (Clause 6) require a public procurement notice to be published at least 60 days before the bid submission deadline at the office of the procuring authority, announced via radio or television broadcast and published in at least one newspaper sold nationwide.
16.1. If yes, is the public procurement notice published online?	Yes
If yes, please specify the website:	The notice will be published on the website of the relevant procuring authority, e.g. the Department of Highways of the Ministry of Transportation at: http://www.mot.go.th/about.html?dsfm_lang=EN&id=10 and on the website of the PPP Unit, SEPO: https://ppp.sepo.go.th/
17. Are foreign companies subject to any of the following restrictions when participating in the bidding process (check all that apply)? Prohibition to bid in the public tender (including the possibility to discretionary use a procedure that precludes the participation of foreign firms).	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
17. Requirement to have an office or a branch in the country before being allowed to bid in the public tender.	No

If yes, please provide the relevant legal/regulatory provisions:	n/a
17. Requirement to form a joint venture with domestic firm(s) to be allowed to bid in the public tender.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
17. Requirement to have prior experience in the country to bid in the public tender.	No
If yes, please specify and provide the relevant legal/regulatory provisions:	No
17. Threshold for public tenders to be open for foreign participation/to be considered international tenders.	No
If yes, please specify and provide the relevant legal/regulatory provisions:	No
18. 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:	Clause 6 of the Details of Invitation Notice Notification requires that a host agency shall publish details of invitation notice not less than 60 days prior the open date for receiving the offer.
and the time in calendar days:	60
19. What are the procurement procedures available and/or set as default for PPP contracts?	No
19.1. Open competitive tendering/bidding: Available	
Default	Yes
Relevant legal/regulatory provision	Section 32 of the PPP Act requires the selection of private entity through open competitive bidding process.
19.2. Competitive tendering/bidding with pre-qualification stage (Restricted tendering): Available	Yes
Default	No
Relevant legal/regulatory provision	Clause 8 of Details of Invitation Notice Notification states that the tender evaluation committee may issue prequalification requirement of bidder (shortlist) prior to the issue of invitation to tender. The invitation notification shall contains the following details:

	<p>1. Term of reference consists of (a) Background of the project, (b) objectives, (c) scope of work and (d) the period that the bidder shall participate in such project;</p> <p>3. Any qualifications e.g. financial position, experience, past work or any other details of bidder which required by the host agency</p>
19.3. Multi-stage tendering/bidding (with shortlisting of final candidate(s)): Available	No
Default	No
Relevant legal/regulatory provision	n/a
19.4. Competitive dialogue: Available	No
Default	No
Relevant legal/regulatory provision	n/a
19.5. Best and Final Offer (BAFO): Available	No
Default	No
Relevant legal/regulatory provision	n/a
19.6. Direct negotiation: Available	Yes
Default	No
Relevant legal/regulatory provision	Section 34 of the PPP Act states that the selection may not be made by bidding if the host agency, the Responsible Minister and the PPP Committee are in agreement that the selection by bidding is inappropriate.
19.7. Other. Please, specify: Available	No
Default	No
Relevant legal/regulatory provision	n/a
19.8. If direct negotiation is either an available or default option, does the regulatory framework restrict this procedure to certain exceptional conditions and circumstances (including cases of single source providers or applicable to a certain threshold)?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
20. Do the tender documents detail the procedure of the procurement process, providing the same	Yes

information to all the bidders?	
If yes, please provide the relevant legal/regulatory provisions:	Clause 4 Details of Invitation Notice Notification provides requirements to be included in details of an invitation notice including stages of the procurement process.
21. Do the tender documents unambiguously specify the qualification requirements (or the prequalification requirements when applicable) making them available to all potential bidders as part of the tender notice/ invitation for bids?	Yes
If yes, please provide the relevant legal/regulatory provisions:	1. Section 33 of PPP Act states that, the PPP committee may issue the notification to prescribed the characteristics of private entities whose are not entitled to bid in PPP act. 2. Clause 8 of Details of Invitation Notice Notification states that the tender evaluation committee may issue prequalification requirement of bidder (shortlist) prior to the issue of invitation to tender.
21.1. Are there any parameters/limits to the qualification requirements to ensure that they do not unduly restrict competition of qualified bidders?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
22. Can potential bidders/tenderers submit questions to clarify the public procurement notice and/or the bidding/tender documents?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
22.1. If yes, can the bidders also suggest innovations to improve the tender documents or procurement approach, including for example the provision of value engineering and/or technologically neutral options?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a

and elaborate on the kind of innovations that are allowed:	n/a
22.2. If yes, is there a timeframe for the procuring authority to address questions and clarifications by bidders?	No
If yes, please indicate the timeframe:	n/a
and provide the relevant legal/regulatory provisions:	n/a
22.3. 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:	n/a
22.4. If yes, does the procuring authority extend the proposal submission deadline due to the modifications introduced in the bidding/tender documents?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
23. Besides questions and clarifications, can the procuring authority conduct a pre-bid conference?	No
If yes, please specify and provide the relevant legal/regulatory provisions:	n/a
23.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose the response to the queries raised by the bidders in the pre-bid conference to all bidders?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
24. Does the procuring authority require the bidders to prepare and submit a	Yes

financial model with their proposals/ bids?	
If yes, please provide the relevant legal/regulatory provisions:	Clause 5 (5) of the Details of Invitation Notification requires the potential bidders to present business model and financial model with their proposal.
If no, please elaborate:	n/a
25. Does the procuring authority evaluate the bids/tenders strictly and solely in accordance with the evaluation criteria stated in the bidding/tender documents?	Yes
If yes, please provide the relevant legal/regulatory provisions:	Pursuant to Clause 15 (4) of the Details of Invitation Notification, the procuring authority shall evaluate the bidder in accordance with the criteria stated in the tender documents.
25.1. Can criteria other than price (non-price attributes) be used when evaluating the tenders/bids of a PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions:	Clause 15 (3) of the Details of Invitation Notification: the Selection Committee must evaluate the bids based on the qualifications specified in the tender documents. Additionally, Clause 4(8)(d) of the Details of Invitation Notice Notification states that the tender evaluation committee may consider the beneficiary offer that bidder made for the state as part of evaluation.
25.2. If criteria other than price are used, do they have to be justified, objective and quantifiable?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
25.3. When price is used as one of the evaluation criteria, does the procuring authority provide a cost estimate?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
26. In the case where only one proposal is submitted, 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	Yes

where only one proposal is submitted.	
Please specify and provide the relevant legal/regulatory provisions:	Under Section 40 of the PPP Act, it is at the discretion of the Selection Committee whether to award the bid to the sole bidder in the cases when only one bidder participates in the tender, or there are several bidders but only one bidder meets the requirements listed in the tender documents. Section 40. In the course of any invitation, if only one private party submits a proposal or several private parties submit proposals but the proposal of only one private party correctly complies with the particulars in the documents for the selection of a private party, the selection committee shall proceed in accordance with the procedures provided in this Act where it considers that the State shall be benefited thereby.
26. The procuring authority considers sole proposal valid as long as it meets the conditions outlined in the tender documents.	No
Please provide the relevant legal/regulatory provisions:	n/a
26. The procuring authority does not award a PPP contract if only one proposal is submitted.	No
Please provide the relevant legal/regulatory provisions:	n/a
26. The regulatory framework does not include any provisions.	No
27. Does the procuring authority publish the contract award notice?	No
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions:	n/a
27.1. If yes, is the contract award notice published online?	No
If yes, please specify the website:	n/a
28. Does the procuring authority notify all the bidders individually about the result of the PPP tendering/bidding process?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
28.1. If yes, does the notification of the result of the PPP procurement process	No

include the grounds for the selection of the winning bid/tender?	
If yes, please provide the relevant legal/regulatory provisions:	n/a
28.2. If yes, does the procuring authority provide bidders/tenderers with the option of holding a debriefing meeting to discuss why their bid/tender was not selected?	No
If yes, please provide the relevant legal/regulatory provision:	n/a
29. Is there a standstill (or pause) period after the contract award and before the signing of the contract in order to allow aggrieved unsuccessful bidders to challenge the award decision?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
and the time in calendar days:	n/a
29.1. If yes, is the standstill period set out in the notice of intention to award?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
30. Does the regulatory framework restrict material negotiations (for example price or scope) with the winning bidder between the award and the signature of the PPP contract?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
31. Does the regulatory framework allow for complaint review mechanisms pertaining to the PPP bidding/tendering process?	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions:	n/a

31.1. If yes, is there a timeframe in which decisions on complaints are issued?	No
If yes, please elaborate the timeframe:	n/a
and provide the relevant legal/ regulatory provisions:	n/a
31.2. If yes, are decisions subject to appeal?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
31.3. If yes, is the original complaint and/or the appeal reviewed resolved by an independent administrative authority (other than the procuring authority or the courts)?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
and identify the approving authority:	n/a
32. Does the procuring authority publish the PPP contract? (notwithstanding the protection of commercially sensitive information)	Yes
If yes, please provide the relevant legal/regulatory provisions:	<p>1. According to Section 9 of the Official Information Act, B.E. 2540 (1997), state agency shall make available at least the following official information for public inspection in accordance with the rules and procedure prescribed by the Board: (6) a concession contract, agreement of a monopolistic nature or joint venture agreement with a private individual for the provision of public services (...) Further, the same article provides that a person, whether interested in the matter concerned or not, has the right to inspect or obtain a copy or a certified copy of the information under paragraph one. In an appropriate case, a State agency may, with the approval of the Board, lay down the rules on the collection of fees therefor. For this purpose, regard shall also be had to the making of concession given to persons with low incomes, unless otherwise provided by specific law.</p> <p>2. Section 60 of PPP Act states that the host agency shall disclose the summary of information of public and private project to the public by disclose such information through website of such host agency. Such disclosure must be in accordance with the Official Information Act, B.E. 2540 (1997)</p>
32. If yes, which of the following elements does the publication include? 32.1. A summary of the PPP contract:	Yes

Available (e.g. by request or in the official gazette)	
Available online	Yes
Website	https://ppp.sepo.go.th/
Relevant legal/regulatory provision	<p>1. According to Section 9 of the Official Information Act, B.E. 2540 (1997), state agency shall make available at least the following official information for public inspection in accordance with the rules and procedure prescribed by the Board: (6) a concession contract, agreement of a monopolistic nature or joint venture agreement with a private individual for the provision of public services (...) Further, the same article provides that a person, whether interested in the matter concerned or not, has the right to inspect or obtain a copy or a certified copy of the information under paragraph one. In an appropriate case, a State agency may, with the approval of the Board, lay down the rules on the collection of fees therefor. For this purpose, regard shall also be had to the making of concession given to persons with low incomes, unless otherwise provided by specific law.</p> <p>2. Section 60 of PPP Act states that the host agency shall disclose the summary of information of public and private project to the public by disclose such information through website of such host agency. Such disclosure must be in accordance with the Official Information Act, B.E. 2540 (1997). Such disclosure must be “via an information technology system of the project-handling agency”, i.e. on a website. This provision seems not to have been implemented yet given how the new PPP Act recently came into force.</p>
32.2. The full PPP contract: Available (e.g. by request or in the official gazette)	No
Available online	No
Website	n/a
Relevant legal/regulatory provision	n/a
32.3. All of the contract’s annexes and appendixes: Available (e.g. by request or in the official gazette)	Yes
Available online	No
Website	n/a
Relevant legal/regulatory provision	<p>According to Section 9 of the Official Information Act, B.E. 2540 (1997), state agency shall make available at least the following official information for public inspection in accordance with the rules and procedure prescribed by the Board: (6) a concession contract, agreement of a monopolistic nature or joint venture agreement with a private individual for the provision of public services (...) Further, the same article provides that a person, whether interested in the matter concerned or not, has the right to inspect or obtain a copy or a certified copy of the information under paragraph one. In an appropriate case, a State agency may, with the approval of the Board, lay down the rules on the collection of fees therefor. For this purpose, regard shall also be had to the making of concession given to persons with low incomes, unless otherwise provided by specific law.</p>

32.4. Any subsequent amendment made to the PPP contract: Available (e.g. by request or in the official gazette)	No
Available online	No
Website	n/a
Relevant legal/regulatory provision	n/a
33. Please provide any additional information or comments on the answers to the question(s) above and indicate which one(s) you are referring to:	Comments
Contract Management	
34. Does the procuring authority or contract management authority establish a system to manage the PPP contract (i.e., attributing responsibilities or establishing specific management tools)?	Yes
If yes, please provide the relevant legal/regulatory provisions:	Under Section 43 of the PPP Act, upon signing of the PPP contract, the Responsible Minister shall appoint a supervisory committee consisting of: (1) a representative of the responsible ministry who is an official of the responsible ministry, not the host agency, holding an executive office as the chairman; (2) a representative of the Office of the Attorney-General; (3) a representative of SEPO; and (4) a representative of the host agency, as the member and secretary.
34.1. 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	Under Section 43 of the PPP Act, upon signing of the PPP contract, the Responsible Minister shall appoint a supervisory committee consisting of: (1) a representative of the responsible ministry who is an official of the responsible ministry, not the host agency, holding an executive office as the chairman; (2) a representative of the Office of the Attorney-General; (3) a representative of SEPO; and (4) a representative of the host agency, as the member and secretary.
34.1. Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa	No

Relevant legal/regulatory provisions	n/a
34.1. Elaboration of a PPP contract management manual or an equivalent document	Yes
Relevant legal/regulatory provisions	Under Sections 44 (1) and (4) of the PPP Act, a supervisory committee shall have the following powers and duties: (1) to monitor and supervise the project to ensure that operations are conducted in accordance with the PPP contract; and (2) to report operational results, progress, problems and approaches to resolve problem to the Responsible Minister for acknowledgment and to submit a copy of the report and relevant documents to SEPO every six months. (4) to report operation results, progress, problems and directions for resolutions thereof in the operation of the partnership project as specified in the partnership agreement to the minister of the responsible ministry for information and furnish a copy of the report and relevant documents to the Office at such time as specified by the supervisory committee at least once every six months
34.1. Establishment of personnel training programs (i.e., initial training and continued training throughout the course of the project)	No
Relevant legal/regulatory provisions	n/a
34.1. 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	n/a
34.2. 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.	Yes

If yes, please specify and provide the relevant legal/regulatory provisions:	Pursuant to Section 43 of the PPP Act, upon signing the investment contract, the Responsible Minister shall appoint a supervisory committee consisting of a representative of the Responsible Ministry who is an official of the Responsible Ministry holding a higher level executive office, not being the host agency, as the chairman, a representative of the Office of the State Enterprise Policy Office and a representative of the Office of the Attorney-General as members, and a representative of the host agency shall be a member and secretary.
34.2. The PPP contract management team members are required to meet sufficient qualifications without specific details.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
34.2. The PPP contract management team members are not required to meet any specific qualifications.	No
If yes, please elaborate and provide examples:	n/a
35. Does the procuring or contract management authority establish a monitoring and evaluation system of the construction of the PPP project (i.e., system for tracking progress of construction, monitoring and evaluation of performance, etc.)?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
35.1. If yes, is the PPP contract construction performance information made available to the public (e.g. by request or published in the official gazette/bulletin board)?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
35.2. If yes, is the PPP contract construction performance information made publicly available online?	No

If yes, please specify the website:	n/a
36. 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:	Pursuant to Section 44 of the PPP Act, a supervisory committee shall have the following powers and duties: (1) to monitor and supervise the project to ensure that operations are conducted in accordance with the investment contract, operational plan under the investment contract and plan for resolution of potential problems which may arise from the project implementation; (2) to consider proposing approaches to resolving problems arising from project implementation to the host agency which may involve the host agency hiring a consultant to analyze the approach to resolving potential problems which may arise from the project implementation and to prepare a plan for resolution of potential problems which may arise from project implementation; (3) to require the host agency or private contractual party to give an explanation or submit relevant documents; (4) to report operational results, progress, problems and approaches to resolving problems to the Responsible Minister for acknowledgment and to submit a copy of the report and relevant documents to the Office; (5) to consider amendments to the investment contract pursuant to Chapter 4.
36.1. If yes, which of the following tools does it include (check all that apply)? Payments are linked to performance	No
Relevant legal/regulatory provisions	n/a
36.1. Performance is assessed against output/ Key performance indicators (KPI) set in the tender documents and the PPP contract	No
Relevant legal/regulatory provisions	n/a
36.1. 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	n/a
36.1. The private partner must provide the procuring or contract management	No

authority with periodic operational and financial data	
Relevant legal/regulatory provisions	n/a
36.1. The procuring or contract management authority must periodically gather information on the performance of the PPP contract	Yes
Relevant legal/regulatory provisions	The obligation to gather information is implied in Section 44 of the PPP Act, since the supervisory committee shall monitor and supervise the project to ensure that operations are conducted in accordance with the investment contract and plans. (1) to supervise and monitor the partnership project to ensure its operation as specified in the partnership agreement; (3) to request the project-handling agency, the private contractual party or State agencies concerned with the project to give explanations or opinions or furnish relevant information or documents;
36.1. The PPP contract performance information must be available to the public (e.g. by request or in the official gazette/bulletin board)	No
Relevant legal/regulatory provisions	n/a
36.1. The PPP contract performance information must be available online.	No
If yes, please specify the website:	n/a
Relevant legal/regulatory provisions	n/a
37. Is there an economic/technical regulator to oversee the implementation of PPP contracts?	No
If yes, please provide its name and website:	n/a
and the relevant legal/regulatory provisions establishing its mandate:	n/a
37.1. If yes, does the economic regulator have (check all that apply): Political autonomy (for example, through independence of its	No

Directors' appointments of the Line Ministry or other similar mechanisms).	
If yes, please provide the relevant legal/regulatory provisions:	n/a
37.1. Managerial autonomy (freedom to determine the use of its budget and organization of resources)	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
37.1. Tariff setting authority.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
37.1. Dispute resolution authority.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
38. Are foreign companies restricted from repatriating the income resulting from the operation of a PPP project?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
39. Does the regulatory framework (including standard contractual clauses) expressly regulate changes in the ownership structure (i.e. stakeholder composition) of the private partner and/or assignment of the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions:	Clause 3 (3) of the Characteristics of Amendment to Contract Announcement: Amendment to the PPP contract in material content includes a change in entity of a contract party or organizational structure which results in inability to implement the project further.
39.1. 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 two years of commercial operation).	No

<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions</p>	<p>n/a</p>
<p>39.1. Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions:</p>	<p>n/a</p>
<p>39.1. In other cases, flexibility to change the ownership structure and/or assign the contract.</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions:</p>	<p>n/a</p>
<p>40. Does the regulatory framework (including standard contractual clauses) expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions:</p>	<p>Under Section 47 of the PPP Act, in the case where an investment contract amendment is necessary, the host agency shall submit the rationale and necessity for requesting the amendment to the supervisory committee for consideration.</p> <p>If the supervisory committee agrees with the amendment, the host agency shall submit the draft amended PPP contract to the Office of the Attorney-General for review.</p> <p>Clause 3 of the Characteristics of Amendment to Contract Announcement: amendment to the investment partnership contract in material content means amendment to any of the following characteristics:</p> <p>(1) amendment to the nature of the project, alteration to the scope of work, alteration to the service provision, or alteration to project implementation whereby the amendment to the characteristics stipulated in this Clause shall result in terms of the provision of public services under the goal which are to be changed from its original or being an increase of benefits to the private party;</p> <p>(2) amendment in relation to the state's benefits whether in any form which includes a change in benefits in return in the form of money or portion of income, a change to ownership in the project's property and a change in relation to dispute resolution;</p>

	<p>(3) a change in entity of a contract party or organizational structure which results in inability to implement the project further;</p> <p>(4) a change in the contract term;</p> <p>(5) a change in performance security; and</p> <p>(6) a change in service fee rate or service quality.</p>
<p>40.1. If yes, is an approval from a government authority, other than the procuring authority, required?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions:</p>	<p>Pursuant to Section 46 of the PPP Act, In the case the amendment of the PPP contract is essential, the host agency, prior to deliver of the PPP contract which is agreed from the contracting party, must propose the amendment of the PPP contract (including the rational, issues, impact and the other relevant details of the contract) to the supervisory committee and then deliver such contract to the Office of the Attorney-General for review. Section 47 additionally requires approval from the relevant Minister.</p> <p>Additionally, the announcement of the Public-Private Partnership in State Undertaking Policy Board Re: Characteristics of Amendment to Investment Partnership Contract in Material Content B.E. 2558 (2015) - Clause 3:</p> <p>Clause 3. Amendment to the investment partnership contract in materialcontent means amendment to any of the following characteristics:</p> <p>(1) Amendment to the nature of the project, alteration to the scope of work, alteration to the service provision, or alteration to project implementation whereby the amendment to the characteristics stipulated in this Clause shall result in terms of the provision of public services under the goal which are to be changed from its original or being an increase of benefits to the private party;</p> <p>(2) Amendment in relation to the state’s benefits whether in any form which includes a change in benefits in return in the form of money or portion of income, a change to ownership in the project’s property and a change in relation to dispute resolution;</p> <p>(3) A change in entity of a contract party or organizational structure which resultsin inability to implement the project further;</p> <p>(4) A change in the contract term;</p> <p>(5) A change in performance security;</p> <p>(6) A change in service fee rate or service quality;</p>
<p>40.2. If yes, which of the following circumstances are specifically regulated? (check all that apply): A change in the scope and/or object of the contract.</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions:</p>	<p>According to Clause 3 of the Characteristics of Amendment to Contract Announcement, amendment to the investment partnership contract in material content means amendment to any of the following characteristics:</p> <p>(1) Amendment to the nature of the project, alteration to the scope of work, alteration to the service provision, or alteration to project implementation whereby the amendment to the characteristics stipulated in this Clause shall</p>

	result in terms of the provision of public services under the goal which are to be changed from its original or being an increase of benefits to the private party.
40.2.1. If yes, is there a threshold for which a new tendering process is required?	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions:	n/a
and please elaborate:	n/a
40.2.. A change in the risk allocation of the contract.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions:	n/a
40.2. A change in the financial and/or economic balance of the contract	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions:	n/a
40.2. A change in the duration of the contract.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions:	Characteristics of Amendment to Contract Announcement, Clause 3: Amendment to the investment partnership contract in material content means amendment to any of the following characteristics: (4) A change in the contract term.
40.2. A change in the agreed price or tariff or annuity payments.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions:	Characteristics of Amendment to Contract Announcement, Clause 3: Amendment to the investment partnership contract in material content means amendment to any of the following characteristics: (2) Amendment in relation to the state's benefits whether in any form which includes a change in benefits in return in the form of money or portion of income, a change to ownership in the project's property and a change in relation to dispute resolution; (6) A change in service fee rate or service quality.
40.3. Can the procuring/contract management authority modify a PPP contract unilaterally?	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions:	n/a

41. Does the regulatory framework (including standard contractual clauses) expressly address the following circumstances that may occur during the life of the PPP contract? (check all that apply): 41.1. Force Majeure.	<p>Yes</p>
If yes, please provide the relevant legal/regulatory/standard contractual provisions:	<p>Section 35 of the PPP Act requires the draft PPP contract to contain the standard contract terms as prescribed by Notification of the PPP Committee. Clause 4 (10) of the Standard Provisions Announcement provides that the PPP contract shall comprise of details on force majeure and action taken in case of occurrence of force majeure, including payment of compensation.</p>
41.2. Material Adverse Government Action	<p>No</p>
If yes, please provide the relevant legal/regulatory/standard contractual provisions:	<p>n/a</p>
41.3. Change in the Law.	<p>No</p>
If yes, please provide the relevant legal/regulatory/standard contractual provisions:	<p>n/a</p>
41.4. Refinancing.	<p>No</p>
If yes, please provide the relevant legal/regulatory/standard contractual provisions:	<p>n/a</p>
41.5. Subcontracting and replacement of the subcontractors.	<p>No</p>
If yes, please provide the relevant legal/regulatory/standard contractual provisions:	<p>n/a</p>
42. Does the regulatory framework (including standard contractual clauses) allow for alternative dispute resolution mechanisms in case of disputes arising from the implementation of PPP contracts?	<p>Yes</p>
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions:	<p>Section 35 of the PPP Act requires the draft PPP contract to contain the standard contract terms as prescribed by Notification of the PPP Committee. Clause 4 (14) of the Standard Provisions Announcement provides that the PPP contract shall comprise of details on dispute resolution which shall not bind the host agency to use the method therefor by arbitration, except the host agency has the rationale and necessity owing to normal practice of the type of</p>

	<p>such investment partnership contract or any other unavoidable cause. Additionally, Thailand is a signatory to the ICSID Convention. Finally, Thailand's Arbitration Act would be applicable to PPP disputes if the parties agreed to it in their agreement.</p>
42.1. If yes, is arbitration available as an option? Domestic arbitration only	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions	n/a
Domestic arbitration and international arbitration	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions:	<p>As prescribed in Clause 4 of the Standard Provisions Announcement, the arbitration is an option only if the host agency has the rationale and necessity owing to normal practice of the type of such investment partnership contract or any other unavoidable cause.</p> <p>Additionally, Thailand is a signatory to the ICSID Convention. Parties to the PPP contract could also make national arbitration binding pursuant to the Thailand Arbitration Act.</p>
No	No
42.2. If applicable, are arbitration awards enforceable by local courts?	Yes
If yes, please elaborate and provide the relevant legal/regulatory/standard contractual provisions:	<p>Arbitration Act B.E. 2545, Section 41: An arbitral award, irrespective of the country in which it was made, shall be recognized as binding on the parties, and upon petition to the competent court, shall be enforced. In case where an arbitral award was made in a foreign country, the award shall be enforced by the competent court only if it is subject to an international convention, treaty, or agreement to which Thailand is a party. Such award shall be applicable only to the extent that Thailand accedes to be bound.</p>
42.3. Are other Alternative Dispute Resolution (ADR) options available (including mediation or dispute resolution boards)?	Yes
If yes, please elaborate and provide the relevant legal/regulatory/standard contractual provisions:	Mediation is allowed by general civil and commercial law.
43. 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	No

failure to meet service obligations?	
If yes, please provide the relevant legal/regulatory/standard contractual provisions:	n/a
43.1. 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.	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions:	n/a
43.1. 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:	n/a
43.1. The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions:	n/a
43.1. Other	No
please specify:	n/a
44. Does the regulatory framework (including standard contractual clauses) expressly address the grounds for termination of a PPP contract?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions:	Clause 4(11) of the Standard Provisions Announcement provides causes of contract termination, method for contract termination, effects of termination other than the case of expiration of the contract term, including details in regard to the operational method for subsequent provision of services if the project is suspended, and payment of damages in connection to contract termination.
44.1. If yes, does the regulatory framework (including standard	Yes

contractual clauses) also addresses the consequences for the termination of the PPP contract?	
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions:	Clause 4(11) of the "Standard Provisions" Announcement provides Causes of contract termination, method for contract termination, effects of termination other than the case of expiration of the contract term, including details in regard to the operational method for subsequent provision of services if the project is suspended, and payment of damages in connection to contract termination.
45. Please provide any additional information or comments on the answers to the question(s) above and indicate which one(s) you are referring to:	Comments
Unsolicited Proposals	
46. Are unsolicited proposals in Thailand (PPP): (choose only one) Explicitly prohibited by the legal framework?	No
46. Explicitly allowed by the legal framework?	No
46. Not regulated by the legal framework, but do happen in practice?	No
46. Not regulated by the legal framework, and do not happen in practice?	Yes
If the legal framework explicitly prohibits or allows unsolicited proposals, please provide the relevant legal/regulatory provisions	n/a
47. Does the procuring authority conduct an assessment to evaluate unsolicited proposals?	No
If yes, please specify and provide the relevant legal/regulatory provisions:	n/a
47.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a

<p>48. Which of the following options best describes 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:</p>	<p>n/a</p>
<p>48. 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:</p>	<p>n/a</p>
<p>48. The procuring authority does not evaluate unsolicited proposals against existing government priorities.</p>	<p>No</p>
<p>If yes, please elaborate and provide examples:</p>	<p>n/a</p>
<p>49. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	<p>n/a</p>
<p>50. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	<p>n/a</p>
<p>and the time in calendar days:</p>	<p>n/a</p>
<p>51. Does the procuring authority use any of the</p>	<p>No</p>

following incentive mechanisms to reward/compensate the submission of unsolicited proposals? (check all that apply): 51.1. Access to the best and final offer (BAFO) process and/or automatic shortlisting.	
51.2. Developer's fee (reimbursing the original proponent for the project development cost).	No
51.3. Bid Bonus.	No
51.4. Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).1	No
51.5. Other	No
please specify:	n/a
Please provide the relevant legal/regulatory provisions:	n/a
52. Please provide any additional information or comments on the answers to the question(s) above and indicate which one(s) you are referring to:	Comments