



## BENCHMARKING INFRASTRUCTURE DEVELOPMENT 2023

### Public-Private Partnerships in Infrastructure [country\_name]

Dear Contributor,

You will access a pre-populated survey containing the answers from the previous 2020 edition. We only ask you to confirm these answers and indicate if any change should be made.

The survey will take approximately [XXX] minutes to complete. You can complete the survey in more than one session. Simply come back to the link provided in the email and continue responding where you left off.

This survey assesses the quality of the legal and regulatory framework during the PPP project cycle. It has seven sections (A-G). It starts with a brief section on the overview of the legal and institutional framework for PPPs (A). An evaluation of the key features follows it in PPP preparation (B), procurement (C), and contract management (D). Section (E) assesses the treatment of unsolicited proposals. The last two sections request your feedback (F) and acknowledgments (G).

While responding to the survey, please **note that if your answers differ by sector, type, size of the contract**, or other variables, you should refer to the **case study assumptions** below.

#### Case study assumptions

- The **Private Partner (the Project Company)** is a **Special Purpose Vehicle (SPV)<sup>1</sup>** established by a consortium of privately owned firms that operate in [country\_name].
- The procuring authority is [nat\_authority] in [country\_name] that is planning to procure the design, build, finance (full or partial), operation, and maintenance of a national/federal infrastructure project in the transportation sector (i.e., national highway). The project has an estimated investment value of **USD 150 million (or the equivalent in your local currency)** funded with availability payments and/or user fees.
- To this end, the procuring authority initiates a public call for tenders/invitation for bids/ request for proposal/ request for qualification, following a **competitive PPP procurement procedure**.

Once again, we appreciate your contribution.

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<sup>1</sup> The Special Purpose Vehicle (SPV), also Special Purpose Company (SPC) or Special Purpose Entity (SPE), is a company specifically formed to undertake a specific project (in this case the PPP project).



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## A. Regulatory and Institutional Framework for PPPs

**1. Does the regulatory framework<sup>2</sup> in your country allow procuring<sup>3</sup> PPPs?**

Yes. **If yes**, please specify the relevant regulatory framework and the year of adoption: \_\_\_\_\_ and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:

No

**1.1. If yes**, for which of the following sectors is the above-mentioned regulatory framework applicable? **Check all that apply.**

- Transportation. **If yes**, please provide the relevant legal/regulatory provisions:
- Water Supply, Sewerage, Solid Waste Management, and Irrigation. **If yes**, please provide the relevant legal/regulatory provisions:
- Energy generation/transmission and distribution. **If yes**, please provide the relevant legal/regulatory provisions:
- ICT. **If yes**, please provide the relevant legal/regulatory provisions:
- Social infrastructure, including hospitals, education, prisons, housing, etc. **If yes**, please provide the relevant legal/regulatory provisions:
- Other. **If yes**, specify and provide the relevant legal/regulatory provisions:

**2. Besides national defense and other matters of national security, does the regulatory framework explicitly prohibits or restricts PPPs in any of the following sectors?**

**2.1.**  Transportation. **If yes**, please provide the relevant legal/regulatory provisions:

**2.2.**  Water Supply, Sewerage, Solid Waste Management, and Irrigation. **If yes**, please provide the relevant legal/regulatory provisions:

**2.3.**  Energy generation, transmission, and distribution. **If yes**, please provide the relevant legal/regulatory provisions:

<sup>2</sup> The “regulatory framework” encompasses all laws, regulations, policies, binding guidelines or instructions, standard PPP contracts, other legal texts of general application, judicial decisions and administrative rulings governing or setting precedent in connection with PPPs. In this context, the term “policies” refers to other government-issued documents that are binding to all stakeholders, enforced in similar ways to laws and regulations, and provide detailed instructions for the implementation of PPPs. It should not be confused with Policy in the sense of a government’s statement of intent to use PPPs as a course of action to deliver public services. The “regulatory framework” includes but is not limited to those laws, regulations, policies, etc. dealing with PPPs (i.e. procurement of PPPs may be governed by the general procurement framework; planning and budgeting issues may be regulated instead by broader public finance related laws and regulations).

<sup>3</sup> Procurement terminology: Considering that procurement-related terminology varies across jurisdictions, depending on the type of procurement procedure and the stage of the process, the terms used in the survey should be interpreted by contributors to best fit the local naming conventions. In particular, the following non-exhaustive list of terms can be broadly understood as interchangeable in the context of the survey:

- Bidding/tendering process/selection process/procurement
- Bid/tender/proposal
- Call for tenders/tender notice/invitation for bids/request for qualifications (RFQ)/request for proposals (RFP) - in cases when there is not an RFQ
- Tender documents/bidding documents/specifications/request for proposals (RFP)

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- 2.4.  ICT. **If yes**, please provide the relevant legal/regulatory provisions:
- 2.5.  Social infrastructure, including hospitals, education, prisons, housing, etc. **If yes**, please provide the relevant legal/regulatory provisions:
- 2.6.  Other. **If yes**, specify and provide the relevant legal/regulatory provisions:

**3. Please identify the PPP procuring authorities<sup>4</sup> in [country\_name] and provide their website(s) (if available):**

**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): \_\_\_\_\_, the year of establishment \_\_\_\_\_ and the relevant legal/regulatory basis \_\_\_\_\_.
- No
- If yes**, what are the main responsibilities of the agency(ies) (**Check all that apply**):
- PPP regulation and policy guidance.
  - PPP capacity building for other public authorities.
  - PPP promotion among the public and/or private sectors in national and international forums.
  - Technical support in implementing PPP projects.
  - Identification and selection of PPP projects from the pipeline.
  - Revision of fiscal risks borne by the Government.
  - Consultation with affected communities on potential impact of PPP projects.
  - Approval of PPP projects.
  - Undertaking the procurement of PPPs.
  - Oversight of PPP implementation.
  - Post-project appraisal and audit
  - Other, please specify:

Please provide the relevant legal/regulatory provisions:

**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): \_\_\_\_\_, the year of establishment \_\_\_\_\_ and the relevant legal/regulatory basis \_\_\_\_\_.
- No

**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:**

### B. Preparation of PPPs

<sup>4</sup> The "Procuring Authority" is the Ministry, Department or Agency responsible for ensuring that the relevant assets and/or services are provided by the private partner after successful completion of the procurement/bidding process. It is the authority in charge of the PPP (i.e. identifying, preparing, procuring, awarding and managing the PPP contract).

 BENCHMARKING INFRASTRUCTURE  
DEVELOPMENT 2023**6. 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:  
 No

**6.1. 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:  
 No

**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). **If yes**, please provide the relevant legal/regulatory provisions:

Reporting liabilities (explicit and implicit, direct and contingent) arising from PPPs (e.g., disclosing information about the public sector commitments on the PPP project). **If yes**, please provide the relevant legal/regulatory provisions:

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). **If yes**, please provide the relevant legal/regulatory provisions:

**6.3. If yes**, please indicate which of the following alternatives best describes the regulation:

International Public Sector Accounting Standards (IPSAS). **If yes**, please provide the relevant legal/regulatory provisions:

Other international standard (e.g., European System of Accounts). **If yes**, please provide the relevant legal/regulatory provisions:

Other. **If yes**, please specify and provide the relevant legal/regulatory provisions:

**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?**

Yes. **If yes**, please provide the relevant legal/regulatory provisions: \_\_\_\_\_ and specify the website: \_\_\_\_\_

No

**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: \_\_\_\_\_ and provide the relevant legal/regulatory provisions: \_\_\_\_\_

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 No

**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:

 No

**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 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. **If yes**, please specify and provide the relevant legal/regulatory provisions:

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. **If yes**, please provide the relevant legal/regulatory provisions:

The procuring authority does not evaluate PPPs against existing government priorities. **If yes**, please elaborate and provide examples:

**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):**

Assessment		Relevant legal/regulatory provision	Is there a specific methodology?	If yes, please elaborate and provide link <sup>5</sup>
<b>9.1. Socio-economic analysis</b> (cost-benefit analysis of the socio-economic impact of the PPP project)	<input type="checkbox"/>		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>9.2. Fiscal Affordability assessment</b> , including the identification of the required long-term public commitments (explicit and implicit, direct and contingent liabilities)	<input type="checkbox"/>		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>9.3. Risk identification</b> , allocation and assessment (risk matrix)	<input type="checkbox"/>		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>9.4. Comparative assessment</b> to evaluate whether a PPP is the best option when compared to other procurement alternatives (i.e., value for money analysis, public sector comparator)	<input type="checkbox"/>		<input type="checkbox"/> Yes <input type="checkbox"/> No	

<sup>5</sup> If possible, please provide a link to a government-supported website where the mentioned methodology is available or provide an electronic copy of it.

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<b>9.5. Financial viability</b> or bankability assessment	<input type="checkbox"/>		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>9.6. Procurement Strategy</b> (i.e., quick assessment to plan and better strategize the tendering process in advance so it is fit for purpose)	<input type="checkbox"/>		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>9.7. Market sounding/assessment<sup>6</sup></b>	<input type="checkbox"/>		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>9.7.1</b> Including the potential interest from contractors and capacity in the market for the contract	<input type="checkbox"/>		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>9.7.2</b> Specifically designed to identify the solutions and technology available as well as the opportunities for innovation	<input type="checkbox"/>		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>9.8. Environmental impact assessment</b>	<input type="checkbox"/>		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>9.8.1</b> Consultation process with affected communities explicitly included in the environmental impact assessment	<input type="checkbox"/>		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>9.9. Social impact assessment</b>	<input type="checkbox"/>		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>9.9.1</b> Consultation process with affected communities explicitly included in the social impact assessment	<input type="checkbox"/>		<input type="checkbox"/> Yes <input type="checkbox"/> No	

### 10. Does the procuring authority include the assessments in the request for proposals and/or tender documents?

Yes. **If yes**, please provide the relevant legal/regulatory provisions: \_\_\_\_\_ and specify which of the assessments are included in the request for proposals and/or tender documents:  Socio-economic analysis;  Fiscal Affordability assessment;  Risk identification and allocation;  Comparative assessment;  Financial viability;  Procurement strategy;  Market sounding for private sector interest;  Market sounding for technological solutions;  Environmental impact assessment;  Social impact assessment;  Any other, please specify \_\_\_\_\_

No

#### 10.1. Are the assessments published online?

Yes. **If yes**, please provide the relevant legal/regulatory provisions: \_\_\_\_\_, specify the website \_\_\_\_\_ and, please specify which of the assessments are published online:  Socio-economic analysis;  Fiscal Affordability assessment;  Risk identification and allocation;  Comparative assessment;  Financial viability;  Procurement strategy;  Market sounding for private

<sup>6</sup> Market sounding and/or assessment refers to a procedure that evaluates potential interest from contractors, providing insight into the likely level of market interest and providing the procuring authority with an opportunity to adjust the project scope if necessary to ensure private sector participation and to improve competition.

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sector interest;  Market sounding for technological solutions;  Environmental impact assessment;  Social impact assessment;  Any other, please specify  
 No

**11. Are tender/bidding documents made available online?**

Yes. **If yes**, please provide the relevant legal/regulatory provisions: **If yes**, please provide the website:

No

**11.1.** Do the tender documents include a draft PPP contract?

Yes. **If yes**, please provide the relevant legal/regulatory provisions:

No

**12. Have standardized PPP model contracts and/or transaction documents been developed?**

Yes. **If yes**, please specify and provide a government-supported website where the mentioned standards are available or provide an electronic copy of them: and provide the relevant legal/regulatory provisions:

No

**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*.

Yes. **If yes**, please specify the role of the procuring authority and provide the relevant legal/regulatory provisions:

No

**13.2.** Obtaining the possession of required *land*.

Yes. **If yes**, please specify the role of the procuring authority and provide the relevant legal/regulatory provisions:

No

**13.3.** Obtaining the required *right of way*.

Yes. **If yes**, please specify the role of the procuring authority and provide the relevant legal/regulatory provisions:

No

**14. Please provide any additional information or comments on the answers to the question(s) above and indicate which one(s) you are referring to:**

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- The membership of the bid evaluation committee is specified and/or its members are required to meet detailed qualifications. **If yes**, please specify and provide the relevant legal/regulatory provisions:
- The bid evaluation committee members require sufficient qualification without specific details. **If yes**, please provide the relevant legal/regulatory provisions:
- The bid evaluation committee members are not required to have any specific qualifications. **If yes**, please elaborate and provide examples:

**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:
- No

**16.1. If yes**, is the public procurement notice published online?

- Yes. **If yes**, please specify the website:
- No

**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). **If yes**, please provide the relevant legal/regulatory provisions:
- Requirement to have an office or a branch in the country before being allowed to bid in the public tender. **If yes**, please provide the relevant legal/regulatory provisions:
- Requirement to form a joint venture with domestic firm(s) to be allowed to bid in the public tender. **If yes**, please provide the relevant legal/regulatory provisions:
- Requirement to have prior experience in the country to bid in the public tender. **If yes**, please specify \_\_\_\_\_ and provide the relevant legal/regulatory provisions:
- Threshold for public tenders to be open for foreign participation/to be considered international tenders. **If yes**, please specify \_\_\_\_\_ and provide the relevant legal/regulatory provisions:

**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: \_\_\_\_\_ and the time in calendar days:



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 No

**19. What are the procurement procedures available and/or set as default for PPP contracts? (Check only one option for each aspect)**

Procedure	Available	Default	Relevant legal/regulatory provision
19.1. Open competitive tendering/bidding	<input type="checkbox"/>	<input type="checkbox"/>	
19.2. Competitive tendering/bidding with pre-qualification stage (Restricted tendering)	<input type="checkbox"/>	<input type="checkbox"/>	
19.3. Multi-stage tendering/bidding (with shortlisting of final candidate(s))	<input type="checkbox"/>	<input type="checkbox"/>	
19.4. Competitive dialogue	<input type="checkbox"/>	<input type="checkbox"/>	
19.5. Best and Final Offer (BAFO)	<input type="checkbox"/>	<input type="checkbox"/>	
19.6. Direct negotiation	<input type="checkbox"/>	<input type="checkbox"/>	
19.7. Other. Please, specify	<input type="checkbox"/>	<input type="checkbox"/>	

**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)?**

- Yes. **If yes**, please provide the relevant legal/regulatory provisions:  
 No

**20. 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:  
 No

**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:  
 No

**21.1. Are there any parameters/limits to the qualification requirements to ensure that they do not unduly restrict competition of qualified bidders?**

- Yes. **If yes**, please provide the relevant legal/regulatory provisions:  
 No

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- Yes. **If yes**, please provide the relevant legal/regulatory provisions:  
 No

**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?

- Yes. **If yes**, please provide the relevant legal/regulatory provisions:            and elaborate on the kind of innovations that are allowed:  
 No

**22.2. If yes**, is there a timeframe for the procuring authority to address questions and clarifications by bidders?

- Yes. Please indicate the timeframe:            and provide the relevant legal/regulatory provisions:  
 No

**22.3. 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:  
 No

**22.4. If yes**, does the procuring authority extend the proposal submission deadline due to the modifications introduced in the bidding/tender documents?

- Yes. **If yes**, please provide the relevant legal/regulatory provisions:  
 No

**23. Besides questions and clarifications, can the procuring authority conduct a pre-bid conference?**

- Yes. **If yes**, please specify and provide the relevant legal/regulatory provisions:  
 No

**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?

- Yes. **If yes**, please provide the relevant legal/regulatory provisions:  
 No

**24. Does the procuring authority require the bidders to prepare and submit a financial model with their proposals<sup>7</sup>/ bids?**

- Yes. **If yes**, please provide the relevant legal/regulatory provisions:

<sup>7</sup> A financial model is an analytical tool that allows the user to assess the financial robustness of the project by representing its expected financial performance, including cash flows, returns, etc. Not to be confused with a financial proposal.

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No. **If no**, please elaborate:

**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:

No

**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:

No

**25.2. If criteria other than price are used**, do they have to be justified, objective and quantifiable?

Yes. **If yes**, please provide the relevant legal/regulatory provisions:

No

**25.3. When price is used as one of the evaluation criteria**, does the procuring authority provide a cost estimate?

Yes. **If yes**, please provide the relevant legal/regulatory provisions:

No

**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 where only one proposal is submitted. Please specify and provide the relevant legal/regulatory provisions:

The procuring authority considers sole proposal valid as long as it meets the conditions outlined in the tender documents. Please provide the relevant legal/regulatory provisions:

The procuring authority does not award a PPP contract if only one proposal is submitted. Please provide the relevant legal/regulatory provisions:

The regulatory framework does not include any provisions.

**27. Does the procuring authority publish the contract award notice?**

Yes. **If yes**, please specify the means of publication and provide the relevant legal/regulatory provisions:

No

**27.1. If yes**, is the contract award notice published online?

Yes. **If yes**, please specify the website:

No

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**28. Does the procuring authority notify all the bidders individually about the result of the PPP tendering/bidding process?**

- Yes. **If yes**, please provide the relevant legal/regulatory provisions:  
 No

**28.1. If yes**, does the notification of the result of the PPP procurement process include the grounds for the selection of the winning bid/tender?

- Yes. **If yes**, please provide the relevant legal/regulatory provisions:  
 No

**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?

- Yes. **If yes**, please provide the relevant legal/regulatory provision:  
 No

**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?**

- Yes. **If yes**, please provide the relevant legal/regulatory provisions: \_\_\_\_\_ and the time in calendar days:  
 No

**29.1. If yes**, is the standstill period set out in the notice of intention to award?

- Yes. **If yes**, please provide the relevant legal/regulatory provisions:  
 No

**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?**

- Yes. **If yes**, please provide the relevant legal/regulatory provisions:  
 No

**31. Does the regulatory framework allow for complaint review mechanisms pertaining to the PPP bidding/tendering process?**

- Yes. **If yes**, please specify and provide the relevant legal/regulatory/standard contractual provisions:  
 No

**31.1. If yes**, is there a timeframe in which decisions on complaints are issued?

- Yes. **If yes**, please elaborate the timeframe \_\_\_\_\_ and provide the relevant legal/ regulatory provisions  
 No

**31.2. If yes**, are decisions subject to appeal?

- Yes. **If yes**, please provide the relevant legal/ regulatory provisions:  
 No

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**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)?

Yes. **If yes**, please provide the relevant legal/regulatory provisions: \_\_\_\_\_ and identify the approving authority

No

**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:

No

**If yes**, which of the following elements does the publication include (**Check all that apply**)

	Available (e.g., by request or in the official gazette)	Available online	Relevant legal/regulatory provision
<b>32.1.</b> A summary of the PPP contract	<input type="checkbox"/>	<input type="checkbox"/> <b>Website:</b>	
<b>32.2.</b> The full PPP contract	<input type="checkbox"/>	<input type="checkbox"/> <b>Website:</b>	
<b>32.3.</b> All the contract's annexes and appendixes	<input type="checkbox"/>	<input type="checkbox"/> <b>Website:</b>	
<b>32.4.</b> Any subsequent amendment made to the PPP contract	<input type="checkbox"/>	<input type="checkbox"/> <b>Website:</b>	

**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:**

**D. 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:

No

**34.1. If yes**, which of the following tools does it include (**Check all that apply**)?

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Tools	Included in the PPP management system	Relevant legal/regulatory provisions
Establishment of a PPP contract management team	<input type="checkbox"/>	
Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa	<input type="checkbox"/>	
Elaboration of a PPP contract management manual or an equivalent document	<input type="checkbox"/>	
Establishment of personnel training programs (i.e., initial training and continued training throughout the course of the project)	<input type="checkbox"/>	
Establishment of a risk mitigation mechanism which considers the evolving nature of risks throughout the project lifecycle (guidelines, specific processes, insurance regime, etc.)	<input type="checkbox"/>	

**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. **If yes**, please specify and provide the relevant legal/regulatory provisions:

The PPP contract management team members are required to meet sufficient qualification without specific details. **If yes**, please provide the relevant legal/regulatory provisions:

The PPP contract management team members are not required to meet any specific qualifications. **If yes**, please elaborate and provide examples:

**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)?**

Yes. **If yes**, please provide the relevant legal/regulatory provisions:

No

**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)?

Yes. **If yes**, please provide the relevant legal/regulatory provisions:

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No

**35.2. If yes,** is the PPP contract construction performance information made publicly available online?

Yes. **If yes,** please specify the website:

No

**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:

No

**36.1. If yes, which of the following tools does it include (Check all that apply)?**

<b>Tools</b>	<b>Included in the monitoring and evaluation system</b>	<b>Relevant legal/regulatory provisions</b>
Payments are linked to performance	<input type="checkbox"/>	
Performance is assessed against output/ Key performance indicators (KPI) set in the tender documents and the PPP contract	<input type="checkbox"/>	
The procuring or contract management authority can abate (reduce) payments for non-performance of operating obligations under the PPP contract	<input type="checkbox"/>	
The private partner must provide the procuring or contract management authority with periodic operational and financial data	<input type="checkbox"/>	
The procuring or contract management authority must periodically gather information on the performance of the PPP contract	<input type="checkbox"/>	
The PPP contract performance information must be available to the public (e.g., by request or on the official gazette/bulletin board)	<input type="checkbox"/>	
The PPP contract performance information must be available online	<input type="checkbox"/> <b>If yes,</b> please specify the website:	

 BENCHMARKING INFRASTRUCTURE  
DEVELOPMENT 2023**37. Is there an economic/technical regulator to oversee the implementation of PPP contracts?**

- Yes. **If yes**, please provide its name and website and the relevant legal/regulatory provisions establishing its mandate:
- No

**37.1. If yes, does the economic regulator have? (Check all that apply):**

- Political autonomy (for example, through independence of its Directors' appointments of the Line Ministry or other similar mechanisms). **If yes**, please provide the relevant legal/regulatory provisions:
- Managerial autonomy (freedom to determine the use of its budget and organization of resources). **If yes**, please provide the relevant legal/regulatory provisions:
- Tariff setting authority. **If yes**, please provide the relevant legal/regulatory provisions:
- Dispute resolution authority. **If yes**, please provide the relevant legal/regulatory provisions:

**38. Are foreign companies restricted from repatriating the income resulting from the operation of a PPP project?**

- Yes. **If yes**, please provide the relevant legal/regulatory provisions:
- No

**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:
- No
- 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). **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:
- Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator. **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:
- In other cases, flexibility to change the ownership structure and/or assign the contract. **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:

**40. Does the regulatory framework (including standard contractual clauses) expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?**

- Yes. **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:
- No



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**40.1. If yes**, is an approval from a government authority, other than the procuring authority, required?

- Yes. **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:  
 No

**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. **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:

**40.2.1. If yes**, is there a threshold for which a new tendering process is required?

Yes. **If yes**, please provide the relevant legal/regulatory/standard contractual provisions: and please elaborate:

No

A change in the risk allocation of the contract. **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:

A change in the financial and/or economic balance of the contract. **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:

A change in the duration of the contract. **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:

A change in the agreed price or tariff or annuity payments. **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:

**40.3.** Can the procuring/contract management authority modify a PPP contract *unilaterally*?

- Yes. **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:  
 No

**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. **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:

**41.2.**  Material Adverse Government Action<sup>8</sup>. **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:

**41.3.**  Change in the Law. **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:

**41.4.**  Refinancing. **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:

<sup>8</sup> Material Adverse Government Action means any act or omission by the procuring authority or other relevant authority, which occurs during the term of the PPP Contract and which has a material adverse effect on (i) the ability of the private partner to comply with any of its material obligations under this PPP Contract and/or (ii) the cost or the profits arising from such performance.

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41.5.  Subcontracting and replacement of the subcontractors. **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:

**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?**

Yes. **If yes**, please specify and provide the relevant legal/regulatory/standard contractual provisions:

No

**42.1.** If yes, is arbitration available as an option?

Yes. Domestic arbitration only. **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:

Yes. Domestic arbitration and international arbitration. **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:

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:

No

**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:

No

**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 failure to meet service obligations?**

Yes. **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:

No

**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. **If yes**, please specify and provide the relevant legal/regulatory/standard contractual provisions:

The regulatory framework prescribes that a direct agreement should be signed with the lenders. **If yes**, please specify and provide the relevant legal/regulatory/standard contractual provisions:

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- The regulatory framework prescribes that the lender step-in rights should be regulated in the contract. **If yes**, please specify and provide the relevant legal/regulatory/standard contractual provisions:
- Other, please specify:

**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:
- No
- 44.1. If yes**, does the regulatory framework (including standard contractual clauses) also address the consequences for the termination of the PPP contract?
- Yes. **If yes**, please specify and provide the relevant legal/regulatory/standard contractual provisions:
- No

**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:****E. Unsolicited Proposals**

In **Section E** below, we would like to ask you a few questions regarding **Unsolicited Proposals**. As a result, disregard our previous case study assumptions. Instead, **and only for the purpose of Section E**, please assume that the procuring authority receives an unsolicited proposal regarding, for example, an infrastructure project in the transportation sector (e.g., national highway) with an estimated value of USD 150 million from a consortium of privately-owned firms before initiating any activities towards the procurement of the project.

**46. Are unsolicited proposals in [country\_name]: (choose only one)**

- Explicitly prohibited by the legal framework? (If prohibited, skip to section F)
- Explicitly allowed by the legal framework?
- Not regulated by the legal framework, but do happen in practice?
- Not regulated by the legal framework, and do not happen in practice? (if not done in practice, skip to section F)

**If the legal framework explicitly prohibits or allows unsolicited proposals**, please provide the relevant legal/regulatory provisions

**47. Does the procuring authority conduct an assessment to evaluate unsolicited proposals? (if not, skip to question 49)**

- Yes. **If yes**, please specify and provide the relevant legal/regulatory provisions:

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**47.1. If yes,** is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?

Yes. **If yes,** please provide the relevant legal/regulatory provisions:

No

**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. **If yes,** please specify and provide the relevant legal/regulatory provisions:

The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal. **If yes,** please provide the relevant legal/regulatory provisions:

The procuring authority does not evaluate unsolicited proposals against existing government priorities. **If yes,** please elaborate and provide examples:

**49. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?**

Yes. **If yes,** please provide the relevant legal/regulatory provisions:

No

**50. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?**

Yes. **If yes,** please provide the relevant legal/regulatory provisions: \_\_\_\_\_ and the time in calendar days:

No

**51. Does the procuring authority use any of the 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).

**51.3.**  Bid Bonus.

**51.4.**  Swiss challenge (if unsuccessful, the original proponent has the option to match the winning bid and win the contract).

**51.5.**  Other, please specify:

Please provide the relevant legal/regulatory provisions:


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**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:**

**F. Additional Information**

**53. Do you have experience working on infrastructure (transportation, energy and/or water) PPP contracts?**

- Yes  
 No

**54. What are the main areas of improvement that will enhance the participation of the private sector in PPP projects in your country? (Please select only three issues from the list below)**

- 54.1. Stronger PPP regulatory framework
- 54.2. Predictability and continuity of legal and regulatory regime
- 54.3. Better enforceability of the regulations
- 54.4. Consistent political backing on the PPP program
- 54.5. Development of a pipeline of well-prepared projects
- 54.6. Adequate project preparation (capacity and funding)
- 54.7. More efficient and transparent procurement process
- 54.8. Availability of affordable debt
- 54.9. Availability of de-risking instruments
- 54.10. Higher return to investors
- 54.11. Availability of reliable government funding
- 54.12. Zero tolerance to fraud and corruption
- 54.13. Public compliance with obligations
- 54.14. Other. Please specify:

**55. Please rate the extent to which, in your country, the PPP framework is an impediment to private sector's participation in PPPs:**

- |                                     |   |  |   |   |
|-------------------------------------|---|--|---|---|
| <input type="checkbox"/> No problem | <input type="checkbox"/> Minor obstacle | <input type="checkbox"/> Moderate obstacle | <input type="checkbox"/> Major obstacle | <input type="checkbox"/> Very severe obstacle |
|-------------------------------------|---|--|---|---|

**56. How can we improve this survey?**

**G. Acknowledgments**

**Thank you very much for participating in this project and completing the survey. We greatly appreciate your contribution!**

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Please note that we would like to publish your name, and affiliation, so that we can acknowledge your contribution to this survey. However, if you agree to the publication of the information indicated above, none of your responses will be attributed directly to you or your organization.

### 57. Do you authorize that we publish your information in the report?

Yes, I authorize. **If yes**, please provide the information you would like us to publish:

Title (Mr., Ms., Dr.) [ ]

First name [ ]

Last name [ ]

Position [ ]

Affiliation/Organization/Firm [ ]

No, I do not authorize.

### 58. Are there any more people who have assisted in the completion of this survey and to whom you would like us to acknowledge?

Yes. **If yes**, please provide the information you would like us to publish:

**Name**

**Affiliation**

[title]

[firm/Organization]

[Position]

[first name]

[last name]

[title]

[firm/Organization]

[Position]

[first name]

[last name]

[title]

[firm/Organization]

[Position]

[first name]

[last name]

No

### 59. Please help us expand our list of contributors by referring us to other public-private partnerships experts (lawyers, academics, public officials, private sector operators, etc.) who could respond to future editions. Do you have any referrals?

Yes. **If yes**, please provide the information below:



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First name	Last name	Position	Firm	E-mail
[ ]	[ ]	[ ]	[ ]	[ ]
[ ]	[ ]	[ ]	[ ]	[ ]

No