

**BENCHMARKING PPP PROCUREMENT 2017 IN BANGLADESH**

<b>Regulatory and Institutional Framework for PPPs</b>	
<b>Does the regulatory framework in your country allow procuring PPPs?</b>	Yes
<b>Yes. If yes, please specify the relevant regulatory framework and the year of adoption:</b>	<p>PPPs in Bangladesh are mainly regulated by the Bangladesh Public-Private Partnership Act, 2015 (Act No. 18 of 2015) [hereinafter "PPP Act 2015"] which was enacted on September 16, 2015. Preceding the PPP Act 2015, was the Policy and Strategy for Public Private Partnership, 2010 [hereinafter "PPP Policy 2010"] which was published on August 2, 2010. The PPP Policy 2010 contained the Guidelines for Formulation, Appraisal and Approval of Large Projects, 2010 [hereinafter "Guidelines for Large Projects"]. The PPP Policy 2010 shall be deemed repealed in view of the enactment of the PPP Act 2015 according to Section 47(1) of this Act.</p> <p>While Section 20 of PPP Act 2015 allows unsolicited proposals, more detailed guidelines are contained in The Procedures for Implementation of PPP Policy and Strategy for Unsolicited Proposals, 2014 [hereinafter "Unsolicited Proposals Procedures 2014"] which the Cabinet Committee on Economic Affairs [hereinafter "CCEA"] approved on July 6, 2014. Furthermore, the PPP Office issued a PPP Screening Manual [hereinafter "PPP Screening Manual 2013"] on April 9, 2013.</p> <p>A relevant law on procurement is the Public Procurement Act 2006 (Act No. 24 of 2006) [hereinafter "Public Procurement Act 2006"] which was enacted on July 6, 2006 and its corresponding Public Procurement Rules 2008 which took effect on January 31, 2008. In case of inconsistency with other laws, the provisions of the PPP Act 2015 shall prevail. The previous regulations shall be considered the regulatory framework on PPPs in Bangladesh for purposes of this analysis.</p>
<b>and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:</b>	<a href="http://pppo.gov.bd/government_policy.php">http://pppo.gov.bd/government_policy.php</a>
<b>Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors? Transportation.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Water and irrigation</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Energy generation and distribution</b>	No

<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Telecom</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Health</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Education</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Other</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Please identify the PPP procuring authorities in country_name and provide their website(s) (if available):</b>	The procuring authorities include all infrastructure line ministries and executing agencies under those ministries.
<b>In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?</b>	Yes
<b>If yes, please indicate its name, and its website (if available):</b>	Public Private Partnership Authority, Prime Minister's Office; <a href="http://www.pppo.gov.bd/">http://www.pppo.gov.bd/</a>
<b>If yes, what are the main responsibilities of the PPP Unit (check all that apply). PPP regulation.</b>	Yes
<b>PPP policy guidance and capacity building for other public authorities.</b>	Yes
<b>PPP promotion among the public and/or private sectors in national and international forums.</b>	Yes
<b>Technical support in implementing PPP projects.</b>	Yes
<b>Gatekeeping (approval of PPP projects).</b>	Yes
<b>Procurement of PPPs.</b>	Yes
<b>Oversight of PPP implementation.</b>	Yes

<b>Other</b>	Yes
<b>please specify:</b>	According to PPP Act 2015, Section (9)(1), the PPP Authority's powers and functions shall be as follows: (b) decision of financial participation and incentives of the government; ... ; (g) audit and vetting of partnership agreement; (h) approval of PPP projects...; (o) determining and approval of organisational structure for officers and employees; (p) determining and approval of salary structure for officers and employees; (q) appointment and allocation of work of consultant and/or experts... (v) management and monitoring of the process of selecting the private partner; (w) forming a panel of advisors or experts or both for PPP projects, and selecting advisor or expert from that panel through set guidelines; (x) performing any functions relating to PPP; (2) assigned to it by the other party concerned.
<b>Preparation of PPPs</b>	Score: 63
<b>Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>If yes, is a second approval by the Ministry of Finance or Central Budgetary Authority required before signing the PPP contract?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before launching the procurement process?</b>	Yes
<b>If yes, please specify the relevant authority</b>	Cabinet Committee on Economic Affairs (CCEA).
<b>and provide the relevant legal/regulatory provisions (if any):</b>	<p>According to Section 14 of PPP Act 2015, PPP projects will be carried out, and the final approval will be given by the CCEA. The PPP Policy 2010, Sec. 11.3, also provides: Cabinet Committee on Economic Affairs, or "CCEA" means the committee established by the Government under Clause 18 of the Rules of Business, 1996.</p> <p>The Roles of CCEA related to PPP are the following:</p> <ol style="list-style-type: none"> <li>a. To approve guidelines and procedures related to formulation, appraisal and approval of PPP projects and their modifications;</li> <li>b. To approve various model documents for general use and use for specific types of PPP projects and their modifications;</li> <li>c. To approve the procedure and guidelines for financial participation of the government in PPP projects to be issued by the Finance Division...</li> <li>g. To approve special and pro-poor incentives to PPP projects proposed by the line</li> </ol>

	<p>Ministry/implementing agencies;</p> <p>h. To provide 'In Principle' approval for Medium and Large PPP projects;</p> <p>i. To approve selected bidder for Large PPP projects after Request for Proposal stage;</p> <p>j. To approve termination of PPP contract as proposed by the Ministry; and</p> <p>k. To approve organizational structure and ToR of Office for PPP.</p> <p>For the purposes of Section 14 of PP Act 2015, the Convener of this Committee is the Minister to the Government, Ministry of Finance. Moreover, the supporting personnel for this committee includes Governor of Bangladesh Bank, Senior Secretary of Ministry of Finance, Senior Secretary of Economic Affairs Department, Secretary of Internal Resources Department and Secretary of Bank and Financial Institution Department.</p>
<p><b>If yes, is a second approval by the same authority required before signing the PPP contract?</b></p>	<p>Yes</p>
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	<p>According to Section 14 of PPP Act 2015, PPP projects will be carried out in principle and final approval by the CCEA.</p>
<p><b>Does the government integrate the prioritization of PPP projects with all other public investment project prioritization? (e.g. in the context of a national public investment system)?</b></p>	<p>Yes</p>
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	<p>Practice</p>
<p><b>If yes, which of the following options best describes the way your government prioritizes PPP projects? (Please select only one). The regulatory framework provides for the inclusion of PPPs in the national public investment system and/or details a specific procedure to ensure the consistency of PPPs with other public investment priorities.</b></p>	<p>No</p>
<p><b>If yes, please specify:</b></p>	<p>n/a</p>
<p><b>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.</b></p>	<p>No</p>

<b>The regulatory framework does not include any provisions.</b>	Yes
<b>Other</b>	No
<b>please specify:</b>	n/a
<b>Among the PPP projects procured within the last two (2) years, how many of them were prioritized along with all other public investment projects? Please elaborate:</b>	Most of the projects.
<b>Which of the following assessments are conducted when identifying and preparing a PPP? (check all that apply): 10.1. Socio-economic analysis (cost-benefit analysis of the socio-economic impact of the project)</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	Shadow Pricing Modeling is used as a means to conduct a socio-economic assessment. While identifying and preparing a PPP, the PPP authority would consider whether the project falls under any strategic plans which also involves the socio-economic analysis among other things. Paragraphs 2.3 and 2.4 of the PPP Screening Manual provides a basis, available at: <a href="http://www.pppo.gov.bd/download/ppp_office/PPP-Screening-Manual_Final-Draft_09April2013.pdf">http://www.pppo.gov.bd/download/ppp_office/PPP-Screening-Manual_Final-Draft_09April2013.pdf</a> (pages 12-37).
<b>Is there a specific methodology?</b>	Yes
<b>If yes, elaborate.</b>	Shadow Pricing Modeling is the methodology used. While identifying and preparing a PPP, the PPP authority would consider whether the project falls under any strategic plans, which also involves the socio-economic analysis among other things. Paragraphs 2.3 and 2.4 of the PPP Screening Manual provides a basis, available at: <a href="http://www.pppo.gov.bd/download/ppp_office/PPP-Screening-Manual_Final-Draft_09April2013.pdf">http://www.pppo.gov.bd/download/ppp_office/PPP-Screening-Manual_Final-Draft_09April2013.pdf</a> (pages 12-37).
<b>Affordability assessment, including the identification of the required long term public commitments (explicit and implicit)</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	The PPP Screening Manual 2013, Criteria 5.1, asks the following questions: Is the delivery cost likely to be disproportionate to the project size, and thus affect the commercial viability of the project? It also provides that in order to assess the level of compliance with this criterion, the PPP proposal needs to present some preliminary estimate of the project costs and highlight if there are any aspects of the projects that may lead to higher than expected transaction costs for a project of this size. It further states that the public sector may deem the project feasible as long as the project features high affordability, and covers transaction costs. Criteria 6.1 of the same manual asks the following question: Can the private sector operator raise sufficient revenue from the project to recover their costs and generate a sufficient commercial return? Moreover, Section 26(3)

	of the PPP Act 2015 provides the scope to include similar terms in the contract.
<b>Is there a specific methodology?</b>	Yes
<b>If yes, elaborate</b>	<p>Demand Assessment as part of the Preliminary Feasibility Studies [hereinafter "PFS"] is the methodology used. The PPP Screening Manual 2013, Criteria 6.1, asks the following questions:</p> <p>Can the private sector operator raise sufficient revenue from the project to recover their costs and generate a sufficient commercial return? it also states that if a proposed PPP requires public financial support through Viability Gap Financing (VGF), it can still be considered for PPP as the Value for Money [hereinafter "VFM"] analysis (figure:2-11) performed in the feasibility study may show that the PPP (even with public support) is still more cost-effective than a traditional publicly procured project. It would be valuable to have this information as early in the process as possible. A Viability Gap Financing [hereinafter "VGF"] Analysis provides that if the VGF requirement does not exceed the threshold set out in the country's PPP policy and guidelines, the project is affordable to the public sector.</p>
<b>Risk identification, allocation and assessment (risk matrix)</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	Under Section 26 of the PPP Act 2015, the partnership agreement may contain matters relating to risk distribution. The PPP Screening Manual 2013, Criteria 8.1., asks the following questions: Has the risk matrix been completed to show the indicative risk allocation? Are risks envisaged to be transferred potentially manageable by private sector?
<b>Is there a specific methodology?</b>	Yes
<b>If yes, elaborate</b>	Practice
<b>Financial viability or bankability assessment.</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	<p>In accordance with Section 26(2) of the PPP Act 2015, the PPP Screening Manual 2013, Screening Condition 6 titled: Financially Viable, provides that a project must be financially viable in order to attract private sector partners to develop, implement and operate the services. Therefore, some initial estimates of the financial viability is required in terms of whether sufficient charges can be imposed to recover the costs of construction, operations and financing, and provide a return to the private sector partner. Criteria 6.1 of the same manual asks the following questions: Can the private sector operator raise sufficient revenue from the project to recover their costs and generate a sufficient commercial return? The projects must demonstrate the ability of generating adequate revenue from the operations to recover the life-cycle costs and yield sufficient commercial return. The interpretation of this condition is twofold, depending on the type of PPP mode proposed i.e. (i) cost recovery through user charges or (ii) cost recovery through BOT Annuity.</p> <p>Screening Condition 8 of the same manual also provides that bankable availability of financing is a key aspect of PPP projects. Whether banks are willing to provide financing or not, does not solely depend on the financial viability i.e. affordability as illustrated in the Financial Viability Condition above. Even more important is the likelihood that they</p>

	will receive back their money and their interest. The financial viability may indicate that there is sufficient revenue potential though how certain is this revenue potential and how certain are the life cycle costs or if they still need to be ascertained.
<b>Is there a specific methodology?</b>	Yes
<b>If yes, elaborate</b>	Practice
<b>Comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	Practice
<b>Is there a specific methodology?</b>	Yes
<b>If yes, elaborate</b>	Practice
<b>Market assessment (showing evidence of enough interest in the market for the project)</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	According to Section 26(2) of the PPP Act 2015, the PPP Screening Manual 2013, Screening Condition 7, provides that marketable PPP projects rely on private sector developers with appropriate skills and experience being attracted to invest in delivering the project. Therefore, attracting private sector developers to bid for this project is crucial to ensure delivery of the project and also to maximize competition between the parties to ensure that the public sector can benefit from selecting the best VFM proposition.
<b>Is there a specific methodology?</b>	Yes
<b>If yes, elaborate</b>	Market Analysis as part of the DFS is the methodology being used. Furthermore, the PPP Screening Manual 2013, Criteria 7.1., asks the following question: Has the envisaged PPP been done before elsewhere? Authorities need to market their project and also need to look at case studies from elsewhere as how the project can be best delivered. To assess the level of compliance with this criterion, the PPP proposal should confirm and include examples of reference projects (if available) or clarify the potential market prospects of this project that might make it attractive to private sector partners to create an effective and a competitive bidding process. Criteria 7.2 of the same manual provides: Is there a market capability to deliver this project? To assess the level of compliance with this criterion, the PPP Proposal needs to illustrate the capability of the market to deliver the proposed project.
<b>Among the PPP projects procured within the last two (2) years, for how many of them were all of the required assessments conducted? Please elaborate:</b>	All of the projects.
<b>Does the procuring authority include a draft PPP contract in the request for proposals?</b>	Yes

<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Practice
<b>If no, please elaborate (provide examples):</b>	n/a
<b>Have standardized PPP model contracts and/or transaction documents been developed?</b>	Yes
<b>If yes, please specify and provide a government-supported website where the mentioned standards are available or provide an electronic copy of them:</b>	<a href="http://www.pppo.gov.bd/downloads.php">http://www.pppo.gov.bd/downloads.php</a>
<b>Does the procuring authority obtain the permits necessary to develop and operate the PPP project before calling for tenders in any of the following areas? Environmental permits.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	The procuring authority obtains a Site Clearance Certificate. According to Rule 7(4) of Environment Conservation Rules 1997 provides that for industrial units and projects falling under the Orange – A and B, and Red categories, a location clearance certificate and thereafter an Environmental Clearance Certificate shall be issued. Location Clearance Certificate is also known as “Site Clearance Certificate”.
<b>Urban and zoning permits.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Other permits.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Does the procuring authority make available to PPPCo the necessary land or right of way to develop the PPP project (if any)? Land</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Practice
<b>If no, please elaborate (provide explanation):</b>	n/a
<b>Does the procuring authority make available to PPPCo the necessary land or right of way to develop the PPP project (if any)? Right of way</b>	Yes

<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Section 28 grants the Private Partner the right to access any land allocated or identified as suitable for any given PPP Project for the purpose of inspecting any material or documents related to such material, survey, collection of sample, development, excavation.</p> <p>Additionally, the Private Partner is required to serve at least five (5) working days to the existing landowner or occupier of the land (Section 28(2)). Moreover, the Private Partner shall be responsible for indemnifying any loss or damages caused by such activities and suffered by the landowner or by the possessor, and the amount of such damages shall be mutually determined.</p>
<b>If no, please elaborate (provide explanation):</b>	<p>n/a</p>
<b>Does the regulatory framework establish any exceptions where the preparation process described above does not apply or allows for a “fast track” procedure?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>Section 15 of PPP Act 2015 allows any project to be termed as “Prioritized Project” by the Procuring Authority or PPP Authority, as the case may be, for the purpose of accelerating socio-economic development of the Country or disaster management and rehabilitation, with the prior approval granted in cabinet meeting.</p> <p>The process for selecting the private partner and negotiations relating to a Prioritized Project shall be determined by the Rules to be promulgated, pursuant to the section 44 of the PPP Act 2015. The Rules are yet to be promulgated.</p>
<b>What is the average number of calendar days that the procuring authority spends on each of the following activities to prepare a PPP project? Conducting the required assessments:</b>	<p>90</p>
<b>Obtaining the required approvals from other relevant authorities:</b>	<p>135</p>
<b>Preparing the draft PPP contract:</b>	<p>90</p>
<b>Obtaining any permits, land and/or right of way that the procuring authority must provide according to the regulatory framework:</b>	<p>270</p>
<b>PPP Procurement</b>	<p style="text-align: right;">Score: 40</p>
<b>Are the bid evaluation committee members required to meet specific qualifications?</b>	<p>Yes</p>

<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any)</b>	Although the PPP Act 2015 does not specify any particular qualification criteria for the bid evaluating committee, Rule 8(5)(d) of the Public Procurement Rules 2008 indicates that the evaluation committee would consist of officers experienced in technical, commercial, financial or legal matters from ministries or divisions, agencies, or experts from universities or reputable professional bodies or specialist from the fields in case of external members. Section 9(1)(v) of the PPP Act 2015 empowers the PPP Authority to manage and monitor the process of selecting the private partner. However, the PPP Act 2015 does not specify the qualification requirements.
<b>If no, please elaborate (provide examples):</b>	n/a
<b>If yes, which of the following options best describes the required qualifications of the committee members? (Please select only one). The regulatory framework details the qualifications required and/or the specific membership of the bid evaluation committee.</b>	No
<b>If yes, please specify:</b>	n/a
<b>The regulatory framework requires generally sufficient qualification without detailing the specific qualifications required to be a member of the bid evaluation committee.</b>	Yes
<b>The regulatory framework does not include any provisions.</b>	No
<b>Other</b>	No
<b>please specify:</b>	n/a
<b>Does the procuring authority issue a public procurement notice of the PPP?</b>	Yes
<b>If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):</b>	Practice
<b>If yes, is the public procurement notice published online?</b>	Yes
<b>If yes, please specify the website:</b>	The Central Procurement Agency website, PPP Authority website, and procuring agency website; <a href="http://www.pppo.gov.bd/tenders_for_ppp_projects.php">http://www.pppo.gov.bd/tenders_for_ppp_projects.php</a>
<b>Does the procuring authority grant the potential bidders a minimum period of time to submit their bids?</b>	Yes

<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Practice
<b>and the time in calendar days:</b>	n/a
<b>Do the tender documents detail the stages of the procurement process?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>If no, please elaborate (provide examples):</b>	The repealed PPP Policy 2010 only outlined the cycles without stating whether these are contained in the tender documents. The PPP Act 2015 is silent on this.
<b>Does the procurement process include a pre-qualification stage to select a number of qualified bidders to present the full proposal?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Practice
<b>If yes, do the tender documents specify the prequalification criteria in order to make them available to all of the bidders?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Practice
<b>Among the PPP procurement processes conducted within the last two (2) years that had a prequalification stage, how many of them included prequalification criteria in the tender documents? Please elaborate</b>	Most of the projects.
<b>Can interested parties/potential bidders submit questions to clarify the public procurement notice and/or the request for proposals?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	According to Public Procurement Rules 2008, Sec. 117. Preparation and Issuance of RFP Document, the RFP shall indicate the time periods whereby the Procuring Entity can entertain any request by an Applicant for clarification, as well as the timing of the issue of the corresponding response.
<b>If yes, does the procuring authority disclose those questions and clarifications to all of the potential bidders?</b>	Yes

<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>According to Public Procurement Rules 2008, Sec. 94 (9), Procuring Entities that publish Tender Documents on their website shall ensure that:</p> <p>(a) the Tender Document is not removed from the website, before the closing date for the submission of Tenders; and</p> <p>(b) all modifications and clarifications to the Tender Document, if made and issued, including the reference numbers and dates are also posted on the website.</p>
<b>Among the PPP procurement processes conducted within the last two (2) years where questions were submitted, in how many were the questions and clarifications disclosed to all of the potential bidders? Please elaborate:</b>	<p>Most of the projects.</p>
<b>Besides questions and clarifications, can the procuring authority conduct other types of dialogue with the potential bidders?</b>	<p>Yes</p>
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	<p>Practice</p>
<b>If yes, does the procuring authority disclose the content and the results of the dialogue to all of the potential bidders?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Practice</p>
<b>Among the PPP procurement processes conducted within the last two (2) years where any other type of dialogue was conducted, in how many was the content and the result of the dialogue disclosed to all of the potential bidders? Please elaborate:</b>	<p>Most of the projects.</p>
<b>Does the procuring authority require the bidders to prepare and present a financial model with their proposals ?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Practice</p>
<b>If no, please elaborate (provide examples):</b>	<p>n/a</p>
<b>Does the procuring authority evaluate the proposals strictly and solely in accordance with</b>	<p>Yes</p>

<b>the evaluation criteria stated in the tender documents?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Practice
<b>Among the PPP procurement processes conducted within the last two (2) years, in how many of them was the evaluation of the bidders conducted in accordance with the criteria stated in the tender documents? Please elaborate:</b>	All of the projects.
<b>In the case where only one proposal is submitted (sole proposals), does the procuring authority follow any special procedure before awarding the PPP?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>If yes, what of the following options best describes the way the procuring authority deals with sole proposals? (Please select only one). The regulatory framework details a specific procedure that the procuring authority must follow before awarding a PPP contract where only one proposal is submitted.</b>	n/a
<b>Please specify:</b>	n/a
<b>The regulatory framework considers sole proposals valid as long as they meet the conditions outlined in the tender documents.</b>	n/a
<b>The regulatory framework does not allow the award of a PPP contract if only one proposal is submitted.</b>	n/a
<b>The regulatory framework does not include any provisions.</b>	n/a
<b>Other</b>	n/a
<b>please specify:</b>	n/a

<b>In practice, what is the average number of calendar days between the initial publication of the PPP public procurement notice and the award of the PPP? Number of calendar days:</b>	210
<b>Does the procuring authority publish the award notice?</b>	Yes
<b>If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):</b>	Practice
<b>If yes, is the public procurement award notice published online?</b>	Yes
<b>If yes, please specify the website:</b>	<a href="http://www.pppo.gov.bd">www.pppo.gov.bd</a>
<b>Does the procuring authority provide all the bidders with the result of the PPP procurement process?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>If no, please elaborate (provide examples):</b>	PPP Act 2015, Sec. 34. (1) provides that, unless otherwise provided in the PPP Act 2015 or the Right to Information Act, 009, the pre-qualification, tender and negotiation process and approval of all relevant documents, information, documents shall remain private.
<b>If yes, does the notification of the result of the PPP procurement process include the grounds for the selection of the winning bid?</b>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Does the regulatory framework restrict or regulate in any way negotiations with the selected bidder between the award and the signature of the PPP contract?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Among the PPP procurement processes conducted within the last two (2) years, in how many of them were the terms</b>	None of the projects.

<b>and conditions changed between the award and the signature of the PPP contract? Please elaborate:</b>	
<b>Does the procuring authority publish the PPP contract?</b>	No
<b>If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>If yes, is it published online?</b>	n/a
<b>If yes, please specify the website:</b>	n/a
<b>Does the regulatory framework establish any exceptions where the procurement process described above does not apply or allows for a “fast track” procedure?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	Practice
<b>Unsolicited proposals</b>	Score: 75
<b>Does the regulatory framework allow for the submission of unsolicited proposals? (if no, skip to section F)</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	Section 20 of the PPP Act 2015 provides that any private establishment may, in accordance with the procedure prescribed by the board of governors of the PPP Authority, provide an unsolicited proposal for a PPP project. Guidelines are likewise contained in the Procedures for Implementation of PPP Policy and Strategy for Unsolicited Proposals, 2014 [hereinafter “Unsolicited Proposals Procedures 2014”].
<b>If yes, please specify, to the best of your knowledge, the percentage of PPP investments in your country approved as unsolicited proposals during the last five (5) years:</b>	5%
<b>Does the procuring authority conduct an assessment to evaluate unsolicited proposals?</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	PPP Act 2015, Unsolicited Offer (Unsolicited Proposal) Sec. 20 (2), provides that unsolicited proposals shall be evaluated. The Unsolicited Proposals Procedures 2014, Section 7. Process for Submission of an Unsolicited Proposal, provides that the Line Ministry, Contracting Authority and/or the PPP Office may engage in discussions with the

	<p>Unsolicited Bidder in order to clarify the scope of the Unsolicited Proposal and to provide guidance on the criteria that needs to be met to be considered as an Eligible Unsolicited Proposal. Furthermore, the Unsolicited Proposals Procedures 2014, Sec. 8. Sector Policy Review of Unsolicited Proposal, provides that the Line Ministry/Contracting Authority will review the Unsolicited Proposal to determine whether the proposed project meets with their sector development plans, and is likely to deliver a positive socio-economic benefit. Finally, Section 9. Assessment of Eligibility of Unsolicited Proposal, states that on receipt of the formal submission from the Line Ministry or Contracting Authority, the PPP Office will assess whether or not the Unsolicited Proposal complies with the minimum information requirements set out in Article 6 of the Unsolicited Proposals Procedures 2014.</p>
<p><b>If yes, does it ensure that the unsolicited proposal is consistent with the existing government priorities?</b></p>	<p>Yes</p>
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	<p>The Unsolicited Proposals Procedures 2014, Article 6, states that an Unsolicited Proposal must contain sufficient information to enable the Government to carry out a proper evaluation of the scope and viability of the proposal and the qualifications of the Unsolicited Bidder. The description of the project should contain an outline of the proposed project, its scope and how the implementation of this project will support the Line Ministry or the Contracting Authority in meeting their sector development plans. According to Article 8. Sector Policy Review of Unsolicited Proposal - (a) The Line Ministry/Contracting Authority will review the Unsolicited Proposal to determine whether the proposed project meets with their sector development plans and is likely to deliver a positive socio-economic benefit.</p>
<p><b>If yes, which of the following options best describes how unsolicited proposals are evaluated against existing government priorities? (Please select only one). The regulatory framework details a specific procedure to ensure the consistency of PPPs with other public investment priorities.</b></p>	<p>No</p>
<p><b>If yes, please specify:</b></p>	<p>n/a</p>
<p><b>The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.</b></p>	<p>Yes</p>
<p><b>The regulatory framework does not include any provisions.</b></p>	<p>No</p>
<p><b>Other</b></p>	<p>No</p>

<b>please specify:</b>	n/a
<b>Among the unsolicited proposals approved within the last two (2) years, how many of them were a part of the existing government priorities? Please elaborate:</b>	Most of the projects.
<b>Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>According to the Unsolicited Proposals Procedures 2014, Sec. 16. Mode of Competitive Bidding for Eligible Unsolicited Proposals,</p> <p>(a) The mode of competitive bidding may include a Swiss Challenge System as set out in Article 17, Bonus system, as set out in Article 18 or other appropriate methods that may be proposed by the PPP Office and approved by the CCEA.</p> <p>(b) The Bonus System shall be used to invite competitive proposals on all Eligible Unsolicited proposals where the project is classified as a Medium or large PPP project under the PPP policy.</p> <p>(c) The line Ministry or Contracting Authority shall have the discretion on whether the Swiss Challenge system or the Bonus system will be used to invite competitive proposals on Eligible Unsolicited proposals where the Project is classified as a Small PPP project under the PPP policy. This decision must be approved by the approving Authority at the time of providing in principle Approval for processing the project on a PPP basis.</p>
<b>Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Section 14, 16, 17 and 18 of the Unsolicited Proposals Procedures 2014 provides for invitation of additional proposals from other prospective bidders (besides the proponent). Although the minimum period of time is not specified, priority is primarily given to the original proponent.
<b>and the time in calendar days:</b>	n/a
<b>Does the procuring authority use any of the following mechanisms to reward/compensate the presentation of unsolicited proposals? (check all that apply): Access to the best and final offer.</b>	No
<b>Developer's fee (reimbursing the original proponent for the project development cost).</b>	No
<b>Bid bonus.</b>	Yes

<b>Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).</b>	Yes
<b>Other</b>	Yes
<b>please specify:</b>	Other appropriate methods that may be proposed by the PPP Office and approved by the CCEA.
<b>Please provide the relevant legal/regulatory provisions (if any):</b>	According to the Unsolicited Proposals Procedures 2014, Sec. 16. Mode of Competitive Bidding for Eligible Unsolicited Proposals, the mode of competitive bidding may include a Swiss Challenge System as set out in Article 17, Bonus system as set out in Article 18 or other appropriate methods that may be proposed by the PPP Office and approved by the CCEA.
<b>PPP Contract Management</b>	<b>Score: 34</b>
<b>Has the procuring or contract management authority established a system to manage the implementation of the PPP contract?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any)</b>	Section 18(3) of PPP Act 2015 provides that the Procuring Authority must furnish reports related to the development and implementation of a PPP Project to the PPP Authority established in accordance with the Act in such a manner and time as may be prescribed.
<b>If yes, which of the following tools does it include (check all that apply)? Establishment of a PPP contract management team.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Practice
<b>Participation of the members of the PPP contract management team in the PPP procurement process.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Possibility to consult with PPP procurement experts when managing the PPP contract.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Elaboration of a PPP implementation manual or an equivalent document.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a

<b>Other</b>	No
<b>please specify:</b>	n/a
<b>If there is a contract management team, in how many of the PPP projects procured within the last two (2) years did the management system and tools fully inform the contact management team? Please elaborate:</b>	All of the projects.
<b>Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Section 9 (t) of the PPP Act 2015 provides for the power of the PPP authority to review and monitor the PPP project, although the PPP Act 2015 does not explicitly provide for the establishment of a monitoring and evaluation system.
<b>If yes, which of the following tools does it include (check all that apply)? PPPCo must provide the procuring or contract management authority with periodic operational and financial data.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Practice
<b>The procuring or contract management authority must periodically gather information on the performance of the PPP contract.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	According to PPP Act 2015, Section 18 on Powers and Functions of Contractor, there must be a project progress report.
<b>The procuring or contract management authority must establish a risk mitigation mechanism.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The PPP contract performance information must be available to the public.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a

<b>Other</b>	No
<b>please specify:</b>	n/a
<b>Is PPP contract performance information publicly available online?</b>	No
<b>If yes, please specify the website:</b>	n/a
<b>Does the regulatory framework expressly regulate a change in the structure (i.e. stakeholder composition) of PPPCo?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>If yes, which of the following circumstances are specifically regulated? (check all that apply): Any change in PPPCo during an initial period (e.g. construction and first five years of operation).</b>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>In case of a change affecting the controlling interest, the replacing entity must meet the same technical qualifications as the original operator.</b>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Flexibility to substitute non-controlling interest after the initial period.</b>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Does the regulatory framework expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?</b>	Yes
<b>If yes, please provide the relevant legal/ regulatory provisions:</b>	PPP Act 2015, Sec. 12 allows the Contracting Authority to seek guidance and assistance from the PPP Authority for... (c) Negotiation procedures and... (e) Amendment of the Partnership Contract after its signing. Section 12(e) of the PPP Act 2015 provides that a proposal may be made to the PPP authority for their assistance in making amendments

	to an implemented PPP contract. No elaboration was further provided on the circumstances.
<b>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.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>A change in the risk allocation of the contract.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>A change in the investment plan or duration of the contract.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Does the regulatory framework expressly regulate the following circumstances that may occur during the life of the PPP contract? (check all that apply): Force Majeure.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Material Adverse government action.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Change in the Law.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Refinancing.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Other.</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory provisions:</b>	n/a
<b>Does the regulatory framework establish a specific</b>	Yes

<b>dispute resolution mechanism for PPPs?</b>	
<b>If yes, please specify and provide the relevant legal/regulatory provisions</b>	<p>Section 30(1) of the PPP Act 2015 provides that disputes arising from application or interpretation of the provision of the PPP agreement shall be settled by the parties under the PPP agreement as follows: (a) through mutual consent of the parties; or (b) if the dispute is not settled through clause, resort would be made to an independent mediator; or through arbitration.</p> <p>Sub-section (2) further states that disputes may only be settled through the prescribed method in sub-section (1) irrespective of other Acts or enactments, by the means of national or international arbitration rules, and the seat of arbitration shall be in Dhaka; however, in special circumstances through consent, the seat may be in other countries.</p> <p>Sub-section (3) states that redress from national or international courts cannot be sought before invoking the dispute resolution process under sub-section (1) as it takes precedence over any Acts or Enactments.</p>
<b>If yes, which of the following options best describes the dispute resolution mechanism for PPPs? (Please select only one). The regulatory framework details specific resolution mechanisms for disputes arising during the implementation of the PPP.</b>	Yes
<b>If yes, please specify:</b>	<p>Section 30(1) of the PPP Act 2015 provides that disputes arising from application or interpretation of the provision of the PPP agreement shall be settled by the parties under the PPP agreement as follows: (a) through mutual consent of the parties; or (b) if the dispute is not settled through clause, resort would be made to an independent mediator; or through arbitration.</p> <p>Sub-section (2) further states that disputes may only be settled through the prescribed method in sub-section (1) irrespective of other Acts or enactments, by the means of national or international arbitration rules and the seat of arbitration shall be in Dhaka; however, in special circumstances through consent, the seat may be in other countries.</p> <p>Sub-section (3) states that redress from national or international courts cannot be sought before invoking the dispute resolution process under sub-section (1) as it takes precedence over any Acts or Enactments.</p>
<b>The regulatory framework prescribes that a dispute resolution mechanism should be regulated in the contract.</b>	No
<b>The regulatory framework provide the parties with recourse to arbitration but no other alternative dispute resolution mechanism.</b>	No
<b>Other</b>	No
<b>please specify:</b>	n/a
<b>Does the regulatory framework allow for the lenders to take control of the</b>	No

PPP project (lender step-in right) if either PPPCo defaults or if the PPP contract is under threat of termination for failure to meet service obligations?	
If yes, please provide the relevant legal/regulatory provisions:	n/a
If yes, which of the following options best describes the lender step-in right? (Please select only one). The regulatory framework expressly regulates the lender step-in rights.	n/a
If yes, please specify:	n/a
The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.	n/a
The regulatory framework prescribes that a direct agreement should be signed with the lenders.	n/a
Other	n/a
please specify:	n/a
Does the regulatory framework expressly establish the grounds for termination of a PPP contract?	No
If yes, please specify:	n/a
and provide the relevant legal/regulatory provisions:	n/a
If yes, does the regulatory framework also establish the consequences for the termination of the PPP contract?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Are you aware of any reforms (in practice or in laws, regulations, policies, etc.) related to PPPs that: Took place in 2015, are ongoing and/or are planned to be adopted BEFORE June 1, 2016?	Yes
Please describe:	PPP Act 2015; PPP Rules.

<b>Are you aware of any reforms (in practice or in laws, regulations, policies, etc.) related to PPPs that: 50.2. Are ongoing and/or are planned to be adopted AFTER June 1, 2016?</b>	Yes
<b>Please describe:</b>	PPP Regulations 2016.