

BENCHMARKING PPP PROCUREMENT 2017 IN BULGARIA

Regulatory and Institutional Framework for PPPs	
Does the regulatory framework in your country allow procuring PPPs?	Yes
Yes. If yes, please specify the relevant regulatory framework and the year of adoption:	The Public-Private Partnership Act, State Gazette Issue No. 45 dated 15 June 2012 ("PPP Act"); Regulations for the Application of the Public-Private Partnership Act, State Gazette Issue No. 5 dated 18 January 2013 ("RAPPPA"; The Public Procurement Act, State Gazette issue No. 28 dated 6.04.2004 ("Public Procurement Act"); The Concession Act, State Gazette Issue No. 36 dated 2.05.2006.
and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:	PPP Act, RAPPPA, Concession Act: http://www.minfin.bg/en/page/750
Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors? Transportation.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Water and irrigation	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Energy generation and distribution	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Telecom	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Health	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Education	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Other	No

If yes, please provide the relevant legal/regulatory provisions:	n/a
Please identify the PPP procuring authorities in country_name and provide their website(s) (if available):	<p>According to Article 13 of the PPPA, the PPP procuring authorities in Bulgaria are called "public partners" which are:</p> <ol style="list-style-type: none"> 1. Ministers and heads of departments (for government PPPs for activities of public interest, carried out at sites that are state property and/or are assigned to an authority of the central government by virtue of a statutory instrument); 2. municipality mayors (for municipality PPPs for activities of public interest, carried out at sites that are municipality property and/or are assigned to the local authorities or to the municipality mayors by virtues of a statutory instrument); 3. state and municipality bodies governed by public law (for activities of public interest, carried out at sites that are their property and/or are assigned to them by virtues of law, their articles of association or another act). <p>According to Article 17 of the Concession Act the concession procuring authority is called concession grantor which are:</p> <ol style="list-style-type: none"> 1. The Council of Ministers- with reference to the state concessions (concession over public state ownership objects) 2. The Municipal Council- with reference to the municipal concessions (concession over public municipal ownership objects) 3. public law organization represented by a body in accordance with its articles of association- with reference to the public concessions (concessions over private ownership objects owned by public organizations) 4. The Council of Ministers, the respective Municipal Council and/or the body of the public law organization- with reference to joint concessions (over joint-ownership objects) <p>In respect to any subjects owned by a body governed by public law whereof the capital is wholly owned by the State and/or a municipality, the grantor shall be the competent government minister and/or municipal council.</p>
In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?	Yes
If yes, please indicate its name, and its website (if available):	<p>Economic and Social Policy Directorate of the Administration of the Council of Ministers - http://www.conces.government.bg/show?action=9&lang=1. Ministry of Finance - State Aid and Real Sector Directorate http://www.minfin.bg/en/page/750</p>
If yes, what are the main responsibilities of the PPP Unit (check all that apply). PPP regulation.	Yes

PPP policy guidance and capacity building for other public authorities.	Yes
PPP promotion among the public and/or private sectors in national and international forums.	Yes
Technical support in implementing PPP projects.	No
Gatekeeping (approval of PPP projects).	Yes
Procurement of PPPs.	Yes
Oversight of PPP implementation.	Yes
Other	No
please specify:	n/a
Preparation of PPPs	Score: 46
Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 30 (3) of the PPP Act, The financial and economic analysis for State PPPs and for PPPs of State bodies governed by public law shall be approved by the Minister of Finance.
If yes, is a second approval by the Ministry of Finance or Central Budgetary Authority required before signing the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 48 (2) of the PPP Act, where the provision of financial support constitutes aid falling within the scope of group exemption, the PPP contract shall enter into effect after a favorable opinion of the Minister of Finance under Article 9(2) of the State Aids Act.
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?	No
If yes, please specify the relevant authority	n/a
and provide the relevant legal/regulatory provisions (if any):	n/a
If yes, is a second approval by the same authority required	No

before signing the PPP contract?	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
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)?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
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.	n/a
If yes, please specify:	n/a
The regulatory framework prescribes the need for PPPs to be consistent with all other investment priorities without establishing a specific procedure to achieve that goal.	n/a
The regulatory framework does not include any provisions.	n/a
Other	n/a
please specify:	n/a
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:	n/a
Which of the following assessments are conducted when identifying and	Yes

preparing a PPP? (check all that apply): 10.1. Socio-economic analysis (cost-benefit analysis of the socio-economic impact of the project)	
Relevant legal/regulatory provision (if any)	Pursuant to Article 30 (1) of the PPP Act, The preparatory steps shall include procuring a justification to prove the socio-economic cost-benefit impact of the implementation of the project by means of PPP, where the financial and economic analysis shall prove, at a minimum: a) the affordability to the State budget or to the municipal budget or to the budget of the body governed by public law, as the case may be, of the PPP project; b) the obtaining of better value for money from invested public funds by means of PPP. Furthermore, it should be pointed out that Articles 14 and 15 of the RAPPPA also provide for the need to conduct a socio-economic analysis.
Is there a specific methodology?	No
If yes, elaborate.	n/a
Affordability assessment, including the identification of the required long term public commitments (explicit and implicit)	Yes
Relevant legal/regulatory provision (if any)	Pursuant to Article 30 (1) (2) (a) of the PPP Act, a financial and economic analysis shall prove, at a minimum, the affordability to the State budget or to the municipal budget or to the budget of the body governed by public law, as the case may be, of the PPP project.
Is there a specific methodology?	No
If yes, elaborate	n/a
Risk identification, allocation and assessment (risk matrix)	Yes
Relevant legal/regulatory provision (if any)	Pursuant to Article 18 (6) (6) of the RAPPPA, the approval or the denial of the financial and economic analysis by the Ministry of Finance shall include an opinion on the allocation of risk between the parties. Also, Pursuant to Article 7 (2) (1) of the RAPPPA, the proposal will be accompanied by an ex ante evaluation of the feasibility of the project by means of a PPP. This analysis will include an analysis of the allocation of risks. Furthermore, Pursuant to Article 6 of the PPP Act, in a PPP, risks shall be allocated between the public partner and the private partner. The allocation of the risks shall be determined on a case-by-case basis for each PPP depending on the capability of the partners to assess, control and manage the risks.
Is there a specific methodology?	No
If yes, elaborate	n/a
Financial viability or bankability assessment.	Yes
Relevant legal/regulatory provision (if any)	Pursuant to Article 30 (1) (2) of the PPP Act, a financial and economic analysis shall prove, at a minimum:

	<p>a) The affordability to the State budget or to the municipal budget or to the budget of the body governed by public law, as the case may be, of the PPP project.</p> <p>b) The obtaining of better value for money from invested public funds by means of PPP.</p>
Is there a specific methodology?	No
If yes, elaborate	n/a
Comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives	Yes
Relevant legal/regulatory provision (if any)	Pursuant to Article 30 (1) (2) (b), a financial and economic analysis needs to prove that better value shall be achieved for the invested public funds via PPP.
Is there a specific methodology?	No
If yes, elaborate	n/a
Market assessment (showing evidence of enough interest in the market for the project)	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology?	n/a
If yes, elaborate	n/a
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:	Some of the projects.
Does the procuring authority include a draft PPP contract in the request for proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 31 (2) of the PPP Act, the public partner shall procure the preparation of a draft resolution, notice and documents or, respectively, a descriptive document for participation in the procedure for selection of a private partner, including a draft PPP contract.
If no, please elaborate (provide examples):	n/a
Have standardized PPP model contracts and/or transaction documents been developed?	No
If yes, please specify and provide a government-supported website where the mentioned standards are available or provide an electronic copy of them:	n/a

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.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Urban and zoning permits.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Other permits.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Does the procuring authority make available to PPPCo the necessary land or right of way to develop the PPP project (if any)? Land	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 9 (1) (2) and Article 11 of the PPP Act the procuring authority may lease its property to the private partner. The procuring authority may not lease sites and fixtures that are public state or public municipality property.
If no, please elaborate (provide explanation):	n/a
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	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Articles 9 (1) (2) and Article 11 of the PPP Act, the procuring authority may lease its property to the private partner. The procuring authority may not lease sites and fixtures that are public state or public municipality property.
If no, please elaborate (provide explanation):	n/a
Does the regulatory framework establish any exceptions where the preparation process described above does not apply or allows for a "fast track" procedure?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
What is the average number of calendar days that the procuring authority spends on	105

each of the following activities to prepare a PPP project? Conducting the required assessments:	
Obtaining the required approvals from other relevant authorities:	22
Preparing the draft PPP contract:	105
Obtaining any permits, land and/or right of way that the procuring authority must provide according to the regulatory framework:	730
PPP Procurement	Score: 93
Are the bid evaluation committee members required to meet specific qualifications?	Yes
If yes, please specify and provide the relevant legal/regulatory provisions (if any)	Pursuant to Article 34 of the Public Procurement Act, the contracting authority shall appoint a commission to conduct the public procurement procedure, designate the composition of the said commission and the substitute members. The composition of the commission shall mandatorily include one qualified lawyer, and at least one-half of the rest of the members shall be persons who are professionally competent in connection with the subject matter of the procurement. Any such commission shall consist of an odd number of members.
If no, please elaborate (provide examples):	n/a
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.	Yes
If yes, please specify:	Pursuant to Article 34 of the Public Procurement Act, the contracting authority shall appoint a commission to conduct the public procurement procedure, designate the composition of the said commission and the substitute members. The composition of the commission shall mandatorily include one qualified lawyer, and at least one-half of the rest of the members shall be persons who are professionally competent in connection with the subject matter of the procurement. Any such commission shall consist of an odd number of members.
The regulatory framework requires generally sufficient qualification without detailing the specific qualifications	No

required to be a member of the bid evaluation committee.	
The regulatory framework does not include any provisions.	No
Other	No
please specify:	n/a
Does the procuring authority issue a public procurement notice of the PPP?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 35 (4) of the PPP Act, the notice is published in the Public Procurement Register and in the Official Journal of the European Union.
If yes, is the public procurement notice published online?	Yes
If yes, please specify the website:	The Public Procurement Register website: http://rop3-app1.aop.bg:7778/portal/page?_pageid=173,1082251&_dad=portal&_schema=PORTAL
Does the procuring authority grant the potential bidders a minimum period of time to submit their bids?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 64 (1) of the Public Procurement Act, upon conduct of an open procedure, the contracting authority shall dispatch the contract notice to the Agency for entry into the Public Procurement Register not later than fifty-two days before expiry of the deadline fixed for the receipt of tenders.
and the time in calendar days :	52
Do the tender documents detail the stages of the procurement process?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>According to Article 35 of the PPP Act, the Public Private Partnership notice shall include the following information:</p> <ol style="list-style-type: none"> 1. name, address, telephone and fax numbers, e-mail address of the procuring authority and a contact person; 2. type of procedure; 3. subject, object and value of the procurement as well as the quantity or scope of it, including such information about the lots. In this section, the site where the activity of public interest will be executed shall also be described; 4. the code under the Common Procurement Vocabulary (CPV); 5. place and time period for performance of the procurement; 6. selection criteria, in case the procuring authority defines them; 7. terms and amount of the participation guarantee and of the contract performance guarantee (the latter shall include all guarantees defined in the draft PPP contract). 8. terms and method of payment (including the maximum amount of payment as well as other forms of financial support); 9. term of validity of the bid proposals for an open procedure;

	<p>10. the assessment criteria; in case the criterion is the economically most beneficial proposal - also the indices for a comprehensive assessment with their relative importance ...;</p> <p>11. possibility of submitting versions in the tenders;</p> <p>12. possibility for the tenderers to bid for one, several or all the lots, in case the subject of the procurement is divided into lots;</p> <p>13. place and period of time where and within which the contract documents should be received, as well as the price and method of payment for the documents;</p> <p>14. place and period of time for the applications and the tenders to be received;</p> <p>15. place and date of opening of the bid proposals or the applications for participation;</p> <p>16. date of publication of the prior information notice, if any;</p> <p>17. date of dispatch of the notice;</p> <p>18. allocation of the significant risks;</p> <p>19. conditions that determine the economic balance of the PPP contract; circumstances of factual or legal nature related to the object of the activity or service of public interest, the occurrence of which would lead to a distortion of the balance;</p> <p>20. conditions or prohibitions on the use of the object or part of it for collateral, if any.</p>
If no, please elaborate (provide examples):	n/a
Does the procurement process include a pre-qualification stage to select a number of qualified bidders to present the full proposal?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 33 (1) of the PPP Act, the private partner can be selected by using a restricted procedure. Therefore, under Article 77 (1) of the Public Procurement Act, the contracting authority shall conduct qualification proceedings for the purpose of selecting the candidates possessing the financial and technical capacity required to perform the public procurement.
If yes, do the tender documents specify the prequalification criteria in order to make them available to all of the bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 25 (2) (6) of the Public Procurement Law, the contract notice shall include: the selection criteria, including minimum requirements for the economic and financial standing of the candidate or tenderer, for the technical capacity and qualifications thereof, where the contracting authority establishes such requirements, as well as the references required to be provided as evidence.
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	Most of the projects.
Can interested parties/potential bidders	Yes

<p>submit questions to clarify the public procurement notice and/or the request for proposals?</p>	
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Pursuant to Article 29 (1) of the Public Procurement Act, persons may request in writing from the procuring authority clarifications on the documentation for participation within 10 days prior to the expiration of the term for receiving offers or applications.</p>
<p>If yes, does the procuring authority disclose those questions and clarifications to all of the potential bidders?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Pursuant to Article 29 (2) of the Public Procurement Act, the additional information shall be published on the buyer profile within four days after the receipt of any such request. If the persons have indicated an e-mail address, the additional information shall be sent to that address on the day of publication of the said information on the buyer profile. The additional information shall not identify the parties who have requested it.</p>
<p>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:</p>	<p>All of the projects</p>
<p>Besides questions and clarifications, can the procuring authority conduct other types of dialogue with the potential bidders?</p>	<p>Yes</p>
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p>	<p>Pursuant to Article 33 (1) of the PPP Act, a private partner can be selected by means of a competitive dialogue procedure. Furthermore, pursuant to Article 83a (1) of the Public Procurement Act, the contracting authority may award a public procurement by means of competitive dialogue where the procurement is particularly complex, which precludes award of the said procurement applying an open or restricted procedure.</p>
<p>If yes, does the procuring authority disclose the content and the results of the dialogue to all of the potential bidders?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Pursuant to Article 83g (2) of the Public Procurement Act, the contracting authority shall dispatch the decision on one and the same day to all candidates and shall publish the decision on the buyer profile together with the report of the commission.</p>
<p>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:</p>	<p>No Data</p>

Does the procuring authority require the bidders to prepare and present a financial model with their proposals ?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 36 (2) of the PPP Act, The tenderers shall submit a tender according to Section II of Chapter Four of the Public Procurement Act and shall attach thereto a financial and economic model for implementation of the PPP.
If no, please elaborate (provide examples):	n/a
Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Practice.
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:	Most of the projects.
In the case where only one proposal is submitted (sole proposals), does the procuring authority follow any special procedure before awarding the PPP?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 39 (2) (1) of the Public Procurement Act, if only one proposal is submitted, the procuring authority may cancel the procedure. If it does not cancel it, it shall assess the bid strictly based on the criteria stated in the tender documentation.
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.	No
Please specify:	n/a
The regulatory framework considers sole proposals valid as long as they meet the	Yes

conditions outlined in the tender documents.	
The regulatory framework does not allow the award of a PPP contract if only one proposal is submitted.	No
The regulatory framework does not include any provisions.	No
Other	No
please specify:	n/a
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:	69.5
Does the procuring authority publish the award notice?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 73 (4) of the Public Procurement Act the contracting authority shall publish the decision on the buyer's profile together with the memorandum of the commission, and it shall dispatch the decision to the tenderers on the same day.
If yes, is the public procurement award notice published online?	Yes
If yes, please specify the website:	Registration of the PPP projects on the website of the Ministry Finance (not yet created). As pointed above, as long as PPA's rules also apply, the procuring authority should publish the award notice on its official website - the Buyers Profile section. Article 73, para. 4 PPA. PPP projects should be registered on the website of the Public Procurement Agency - http://rop3-app1.aop.bg/ and on the procuring authority's official website in Section "Buyers Profile".
Does the procuring authority provide all the bidders with the result of the PPP procurement process?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 73 (3) of the Public Procurement Act, the contracting authority shall dispatch the decision to the tenderers within three days after the issuance of the said decision.
If no, please elaborate (provide examples):	n/a
If yes, does the notification of the result of the PPP procurement process include the grounds for the selection of the winning bid?	Yes

If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 73 (1) of the Public Procurement Act, five days after the completion of the appointed committee's work, the procuring authority shall issue a reasoned decision, declaring thereby the ranking of the tenderers and the selected tenderer.
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?	Yes
If yes, please provide the relevant legal/regulatory provisions:	According to Article 42 (1) of the PPP Act, the PPP contract shall be concluded without conducting negotiations in accordance with the draft PPP contract and with the tender or proposals.
Among the PPP procurement processes conducted within the last two (2) years, in how many of them were the terms and conditions changed between the award and the signature of the PPP contract? Please elaborate:	None of the projects.
Does the procuring authority publish the PPP contract?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 43 of the PPP Act, the PPP contract shall be concluded in writing in at least three original copies- one for each of the parties and one for the public PPP register at the Ministry of Finance. The appendices to the PPP contract shall be made in as many copies as is the number of the originals. Also, Pursuant to Article 24 (1) of the PPP Act, the Ministry of Finance shall keep and maintain a public PPP register which is freely and publicly accessible on the internet. Furthermore, Pursuant to Article 22b (2) (10) of the Public Procurement Act, without breaching applicable restrictions in connection with the disclosure of commercially sensitive information and competition rules, the public procurement contracts, together with the mandatory attachments thereto, will be published on the buyer profile in the form of electronic documents.
If yes, is it published online?	Yes
If yes, please specify the website:	The respective procuring authority's website. The website of the Ministry of Finance: http://www.minfin.bg/ ; http://www.nkr.government.bg/app?service=external/Browse&sp=201
Does the regulatory framework establish any exceptions where the procurement process described above does not apply or allows for a "fast track" procedure?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Unsolicited proposals	Score: 50

Does the regulatory framework allow for the submission of unsolicited proposals? (if no, skip to section F)	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions:	<p>Pursuant to Articles 27 and 28 (1) of the PPP Act any interested party (i.e. any private partner) may propose to a procuring authority the initiation of a PPP. The proposal shall be accompanied by a justification and financial and economic analysis, as well as a pre-investment research or investment project in case of construction works.</p>
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:	<p>No Data</p>
Does the procuring authority conduct an assessment to evaluate unsolicited proposals?	<p>Yes</p>
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	<p>Pursuant to Article 30 of the PPP Act, The preparatory phase shall include a justification proving the social and economic feasibility of implementing the project via PPP, based on:</p> <ol style="list-style-type: none"> 1. a pre-investment study or an investment project - where the PPP involves works; 2. a financial and economic analysis which shall at least prove: <ol style="list-style-type: none"> a) the affordability for the state budget, respectively for the municipal budget or the budget of the body governed by public law of the PPP project, and b) that better value shall be achieved for the invested public funds via PPP; 3. a legal analysis of the compliance with the legal requirements for PPP. <p>(2) Where the preparatory actions are the result of a private partner initiative, the public partner may use fully or in part the documents referred to in Article 28 (1).</p> <p>(3) The financial and economic analysis for state PPP's and for PPP's of state-owned public-private entities shall be approved by the Minister of Finance.</p> <p>(4) The justification shall be approved by the public partner based on a proposal from an expert council appointed thereby.</p>
If yes, does it ensure that the unsolicited proposal is consistent with the existing government priorities?	<p>No</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>n/a</p>
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	<p>n/a</p>

the consistency of PPPs with other public investment priorities.	
If yes, please specify:	n/a
The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.	n/a
The regulatory framework does not include any provisions.	n/a
Other	n/a
please specify:	n/a
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:	None of the projects.
Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 28 (3) of the PPP Act, Where the public partner has used the pre-development study or the development-project design, the interested party shall have the right, unless selected as a private partner, to remuneration for the data from the pre-development study or from the development-project design used in the technical specifications. The amount of such remuneration shall be determined by the public partner according to a methodology specified in the regulations for application of the Act and shall be paid within one year after the publication of the notice.
Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Within the given estimate value the applicable provision is Art. 64, para. 1 and para. 2 PPA which provides that the procuring authority shall dispatch the contract notice for entry into the Public Procurement Register not later than 52 days before expiry of the deadline fixed for the receipt of tenders. The term above may be shortened to 36 days, provided that the prior information notice has been dispatched for publication between fifty-two days and twelve months before the date of dispatch of the notice for tender and contains the information which is available at the date of dispatch of the said notice.
and the time in calendar days:	52

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.	No
Developer's fee (reimbursing the original proponent for the project development cost).	Yes
Bid bonus.	No
Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).	No
Other	No
please specify:	n/a
Please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 28 (3) of the PPP Act, Where the public partner has used the pre-development study or the development-project design, the interested party shall have the right, unless selected as a private partner, to be remunerated for the data from the pre-development study or from the development-project design used in the technical specifications. The amount of such remuneration shall be determined by the public partner according to a methodology specified in the regulations for application of the Act and shall be paid within one year after the publication of the notice.
PPP Contract Management	Score: 68
Has the procuring or contract management authority established a system to manage the implementation of the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any)	According to Article 45 of the PPP Act and Article 38 of the RAPPPA, the procuring authority exercises a continued assessment (so called on-going control) on the implementation of the PPP contract.
If yes, which of the following tools does it include (check all that apply)? Establishment of a PPP contract management team.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 38 (4) and (5) of the RAPPPA: Ongoing control shall be carried out by: officials of the State or municipal administration or body governed by the relevant public law, and/or a control commission. Furthermore, the rights, obligations and responsibilities of the persons carrying out ongoing control, as well as the composition of the control commission, shall be determined by an order of the public partner.
Participation of the members of the PPP contract management team in the PPP procurement process.	No

If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Possibility to consult with PPP procurement experts when managing the PPP contract.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 38 (6) of the RAPPPA: Control over particular obligations of the private partner may be commissioned by means of a contract to an external contractor.
Elaboration of a PPP implementation manual or an equivalent document.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Other	No
please specify:	n/a
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:	Some of the projects.
Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Pursuant to Article 45 of the PPP Act, The fulfilment of the obligations of the parties shall be monitored and controlled, and the private partner shall be audited upon performance of the PPP contract. The parties to the PPP contract shall be obligated to keep and preserve the documentation and to ensure protection of information in connection with the performance of the contract.</p> <p>Pursuant to Article 39 of RAPPPA: Monitoring of the performance of effective PPP contracts in the country shall be carried out on the basis of annual accounts and, to this end, not later than the 31st day of March. The public partners for State PPPs and PPPs of State bodies governed by public law shall present annual reports on the performance of the PPP contracts to the Minister of Finance.</p>
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.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a

The procuring or contract management authority must periodically gather information on the performance of the PPP contract.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 38 of the RAPPPA: The monitoring control shall include periodic checks if all the contractual obligations are executed, including quality of the object of technical or social infrastructure, quality criteria and other.
The procuring or contract management authority must establish a risk mitigation mechanism.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The PPP contract performance information must be available to the public.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 45 (3) of the PPP Act, the private partner shall make public the performance of the PPP contract.
Other	No
please specify:	n/a
Is PPP contract performance information publicly available online?	Yes
If yes, please specify the website:	This information shall be available on the PPP Register website. However, the PPP Register website is not yet active.
Does the regulatory framework expressly regulate a change in the structure (i.e. stakeholder composition) of PPPCo?	Yes
If yes, please provide the relevant legal/regulatory provisions:	Pursuant to Article 57 (1) of the RAPPPA, upon replacement of the private partner, and within three months after such replacement is recorded in the Commercial Register, the successor to the private partner may request that the PPP contract be extended therewith, after presenting evidence that: <ol style="list-style-type: none"> 1. the said successor conforms to the requirements specified in the notice; 2. the circumstances referred to in Article 47(1), (2) and (5) of the Public Procurement Act (such as criminal convictions) do not apply to the said successor; 3. the said successor conforms to other requirements regarding the performance of the contract as specified by law.
If yes, which of the following circumstances are specifically regulated? (check all that apply): Any change in PPPCo during an initial period (e.g.	No

construction and first five years of operation).	
If yes, please provide the relevant legal/regulatory provisions:	n/a
In case of a change affecting the controlling interest, the replacing entity must meet the same technical qualifications as the original operator.	Yes
If yes, please provide the relevant legal/regulatory provisions:	Pursuant to Article 57 (1) (1) and Article 57 (1) (3) of the PPP Act, the said successor in title conforms to the requirements specified in the notice and the said successor in title conforms to other requirements regarding the performance of the contract as specified by law.
Flexibility to substitute non-controlling interest after the initial period.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Does the regulatory framework expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?	Yes
If yes, please provide the relevant legal/ regulatory provisions:	Pursuant to Article 56 (1) (2) and (3), the contract may be amended or supplemented by a supplementary agreement. The supplementary agreement can be concluded between the public and the private partner without a decision of the authority in cases where the amendments and supplements fall within the framework of the decision on initiation of a procedure for selection of a private partner, of the notice, of the decision on selection of a private partner and of the tender of the tenderer selected as a private partner. However, in cases where, due to unforeseen circumstances, it has become necessary to assign to the private partner additional works which are not included in the contract, a change of the type or volume of the works under the contract or assign additional services of general interest, an approval of the relevant authority is required prior to the contract amendment.
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.	Yes
If yes, please provide the relevant legal/regulatory provisions:	Pursuant to Article 56 (3) of the PPP Act, the PPP contract may be amended and/or supplemented, including when it becomes necessary, due to unforeseen circumstances, to assign to the private partner additional work, that was not included in the original contract, in the facility where the activity of general interest is carried out. Finally it is also possible to change the type or the volume of the works under the contract, or to assign additional services of general interest.

A change in the risk allocation of the contract.	Yes
If yes, please provide the relevant legal/regulatory provisions:	Pursuant to Article 69 (1) of the PPP Act, upon upsetting of the economic balance, each of the parties to a PPP contract may request that the contract be amended or supplemented in order to restore the economic balance. Any such request shall be submitted to the other party by a reasoned proposal on the basis of a new integral analysis of the circumstances which have led to the upsetting of the economic balance.
A change in the investment plan or duration of the contract.	Yes
If yes, please provide the relevant legal/regulatory provisions:	Pursuant to Article 69 (3) of the PPP Act, the contract term may be shortened or increased by not more than one third of the initially agreed duration.
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.	Yes
If yes, please provide the relevant legal/regulatory provisions:	Pursuant to Article 68 (4) (2) of the PPP Act, activities under the contract are discontinued as a result of force majeure.
Material Adverse government action.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Change in the Law.	Yes
If yes, please provide the relevant legal/regulatory provisions:	Pursuant to Article 68 (4) (1) of the PPP Act, the economic balance of the contract may also be disturbed when the conditions for financing, construction, management or maintenance of the facility whereby the activity of general interest is carried out, and/or the conditions for provision of the service of general interest, have changed as a result of changes in legislation or by an act of a regulatory authority.
Refinancing.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Other.	No
If yes, please specify and provide the relevant legal/regulatory provisions:	n/a
Does the regulatory framework establish a specific dispute resolution mechanism for PPPs?	Yes
If yes, please specify and provide the relevant legal/regulatory provisions	Pursuant to Article 73 of the PPP Act, disputes relating to the conclusion, performance, amendment and termination of PPP contracts shall be resolved by the competent civil court.

<p>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.</p>	<p>No</p>
<p>If yes, please specify:</p>	<p>n/a</p>
<p>The regulatory framework prescribes that a dispute resolution mechanism should be regulated in the contract.</p>	<p>No</p>
<p>The regulatory framework provide the parties with recourse to arbitration but no other alternative dispute resolution mechanism.</p>	<p>No</p>
<p>Other</p>	<p>Yes</p>
<p>please specify:</p>	<p>Pursuant to Article 73 of the PPP Act, disputes relating to the conclusion, performance, amendment and termination of PPP contracts shall be resolved by the competent civil court. Furthermore, Pursuant to Art. 72 of PPP Act, the decisions or resolutions of the authorities under this Act adopted in a procedure for selection of a private partner shall be appealable under the terms and according to the procedure established by Chapter Eleven "Appeal" of the Public Procurement Act. Chapter Eleven details appeals on the selection of the private partner by a 3rd party (such as another bidder).</p>
<p>Does the regulatory framework allow for the lenders to take control of the 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?</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	<p>n/a</p>
<p>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.</p>	<p>n/a</p>
<p>If yes, please specify:</p>	<p>n/a</p>
<p>The regulatory framework prescribes that the lender</p>	<p>n/a</p>

step-in rights should be regulated in the contract.	
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?	Yes
If yes, please specify:	<p>Generally, the PPP contract shall be terminated with the expiry of its term. There are also few special grounds for termination of PPP contract when the Private Partner has been declared insolvent - as of the date of entry into force of the ruling. The partnership contract could also provide for special termination grounds.</p> <p>The contract may be terminated unilaterally or by mutual agreement of the parties only in case of: 1) complete or partial loss of the facility that is supposed to carry out the activity of general interest, 2) upon subsequent occurrence of danger to the national security and defense, the environment, human health, protected territories, areas and sites and public order.</p> <p>In case of non-performance of the partnership contract the defaulting party may terminate it after giving a notice to the other party with suitable timeframe to perform and a with a warning that after its expiry, the contract shall be considered terminated.</p>
and provide the relevant legal/regulatory provisions:	Articles 58, 59, 60 and 61 of the PPP Act.
If yes, does the regulatory framework also establish the consequences for the termination of the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions:	Articles 63 to 66 of the PPP Act provide the consequences for the termination of the contract. In case of early termination of the PPP contract for a reason within the control of the procuring authority, the private partner shall be entitled to compensation. In case of early termination of the PPP contract for a reason within the control of the private partner, the procuring authority shall owe the private partner certain compensation in case the site where the activity of public interest is carried out is owned by the state, the municipality or the body governed by public law. In case the site is owned by the private partner, the latter is entitled to no compensation. Despite the due compensations the party at fault shall also be liable for indemnity, stipulated in the PPP contract. In case of PPP contract termination the private partner shall deliver the site where the activity is carried out back to the procuring authority (in case the site is owned by the state, the municipality or the body governed by public law).
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?	
Please describe:	
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?	
Please describe:	