

**BENCHMARKING PPP PROCUREMENT 2017 IN CONGO REP.**

<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>There are no PPP specific law or institutions in place in Congo Republic. However, several PPP projects were implemented in Congo Republic. In late 2009, the government adopted an action plan to improve the investment climate including institutional and regulatory reforms, establishing a platform for public private dialogue and taking measures to promote entrepreneurship. (Past projects include water, energy and transport PPPs).</p> <p>We will refer to (1) Decree No 2009-156 of 20 May 2009 on the procurement code (Hereinafter the Procurement Code); (2) The Constitution of Congo Republic of October 25, 2015; (3) Decree No. 2003-57 of April 22, 2003 about the establishment, responsibilities and composition of the National Investment Commission (Hereinafter the Investment Commission Decree); and (4) Law No.6-2003 of January 18, 2003 (Hereinafter, the Investment Chart).</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>	<p>(1) <a href="http://www.apicongo.org/code/Code_des_marches_publics_en_Republique_du_Congo.pdf">http://www.apicongo.org/code/Code_des_marches_publics_en_Republique_du_Congo.pdf</a></p> <p>(2) <a href="https://dub113.mail.live.com/mail/ViewOfficePreview.aspx?messageid=mgRKOJDZcJ5hG8LdidZ1x5HA2&amp;folderid=flinbox&amp;attindex=5&amp;cp=-1&amp;attdepth=5&amp;n=9933890">https://dub113.mail.live.com/mail/ViewOfficePreview.aspx?messageid=mgRKOJDZcJ5hG8LdidZ1x5HA2&amp;folderid=flinbox&amp;attindex=5&amp;cp=-1&amp;attdepth=5&amp;n=9933890</a></p> <p>(3) <a href="https://dub113.mail.live.com/mail/ViewOfficePreview.aspx?messageid=mgRKOJDZcJ5hG8LdidZ1x5HA2&amp;folderid=flinbox&amp;attindex=7&amp;cp=-1&amp;attdepth=7&amp;n=83501569">dub113.mail.live.com/mail/ViewOfficePreview.aspx?messageid=mgRKOJDZcJ5hG8LdidZ1x5HA2&amp;folderid=flinbox&amp;attindex=7&amp;cp=-1&amp;attdepth=7&amp;n=83501569</a></p> <p>(4) <a href="https://dub113.mail.live.com/mail/ViewOfficePreview.aspx?messageid=mgRKOJDZcJ5hG8LdidZ1x5HA2&amp;folderid=flinbox&amp;attindex=3&amp;cp=-1&amp;attdepth=3&amp;n=4846509">https://dub113.mail.live.com/mail/ViewOfficePreview.aspx?messageid=mgRKOJDZcJ5hG8LdidZ1x5HA2&amp;folderid=flinbox&amp;attindex=3&amp;cp=-1&amp;attdepth=3&amp;n=4846509</a></p>
<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>	<p>According to Article 3 of the Procurement Code, The provisions of this decree apply to contracts concluded on behalf of the following contracting authorities: (1) the State, local authorities and their public institutions; (2) Public companies and majority public-owned companies; (3) other organizations, agencies or offices, created by the state or local authorities to satisfy general interest needs, with or without legal personality, whose activities are financed or guaranteed by the government or benefiting from financial support or guarantee of the state or a local government.</p> <p>Additionally, Article 11 provides that the procuring authorities act through the following: (1) the State: through the ministries in their respective areas and institutions of the Republic; In the departments: the president of the county council; For municipalities : the mayor ; For public institutions of the state , public institutions and local authorities; (2) the organizations , agencies and offices: through the Director General; (3) For public companies , companies with majority public ownership and private companies referred to in Article 3 paragraph 2 above : the CEO, the deputy head or the manager, as appropriate.</p>
<b>In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?</b>	No
<b>If yes, please indicate its name,</b>	n/a

and its website (if available):	
If yes, what are the main responsibilities of the PPP Unit (check all that apply). PPP regulation.	n/a
PPP policy guidance and capacity building for other public authorities.	n/a
PPP promotion among the public and/or private sectors in national and international forums.	n/a
Technical support in implementing PPP projects.	n/a
Gatekeeping (approval of PPP projects).	n/a
Procurement of PPPs.	n/a
Oversight of PPP implementation.	n/a
Other	n/a
please specify:	n/a
<b>Preparation of PPPs</b>	<b>Score: 21</b>
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):	<p>According to Article 16 of the Procurement Code, the regulation of public procurement and public service delegation is provided by:</p> <p>1) The General Directorate of control of public contracts , established within the Ministry in charge of finance , responsible for a priori control of the procedure for the award and monitoring of the implementing rules of public procurement and public service delegations from the masters contracting or delegated contracting authorities.</p> <p>Furthermore, Article 17 of the Procurement Code provides that: the General Direction of Control of public procurement, that is part of the Ministry in charge of finance : - delivers a reasoned opinion on the tender documents before the launch of the call for competition; - Grants</p>

	authorizations and exceptions to the request of owners or delegated contracting authorities when required by the regulations.
<b>If yes, is a second approval by the Ministry of Finance or Central Budgetary Authority required before signing the PPP contract?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	According to Article 17 of the Procurement Code: The General Direction of Control of public procurement, that is part of the Ministry in charge of finance: - Delivers a reasoned opinion on the benchmarking report of proposals and the provisional contract award report prepared by the Procurement Committee ; - Conducts a legal and technical review before approval of the contract file and, if necessary , submits any request for clarification to the project owner or client representative, as well as any required change to ensure compliance with the tender documents and the regulations.
<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>	No
<b>If yes, please specify the relevant authority</b>	n/a
<b>and provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>If yes, is a second approval by the same 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>Does the government integrate the prioritization of PPP</b>	No

<p><b>projects with all other public investment project prioritization? (e.g. in the context of a national public investment system)?</b></p>	
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	n/a
<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>	n/a
<p><b>If yes, please specify:</b></p>	n/a
<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>	No
<p><b>The regulatory framework does not include any provisions.</b></p>	n/a
<p><b>Other</b></p>	n/a
<p><b>please specify:</b></p>	n/a

<p><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></p>	<p>None of the projects.</p>
<p><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></p>	<p>No</p>
<p><b>Relevant legal/regulatory provision (if any)</b></p>	<p>n/a</p>
<p><b>Is there a specific methodology?</b></p>	<p>n/a</p>
<p><b>If yes, elaborate.</b></p>	<p>n/a</p>
<p><b>Affordability assessment, including the identification of the required long term public commitments (explicit and implicit)</b></p>	<p>Yes</p>
<p><b>Relevant legal/regulatory provision (if any)</b></p>	<p>According to Article 25 of the Procurement Code: During the preparation phase, the procuring authority must: a) evaluate the estimated amount of the supplies , services or works , subject of the contract and ensure the existence of sufficient budgetary appropriations ; b) obtain , where appropriate , prior authorizations to which the market is concluded is submitted. Furthermore, Article 26 of the Procurement Code: When all the funding of a project cannot be mobilized in a single year and that benefits can be divided into phases over several years or farms slices and conditional phases, the person responsible of the market must provide a program related to the expected expenses for each year (in agreement with the minister in charge of investments for public administrations and legislative bodies for public administrative institutions and regional and local authorities).</p>

<b>Is there a specific methodology?</b>	No
<b>If yes, elaborate</b>	n/a
<b>Risk identification, allocation and assessment (risk matrix)</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>Is there a specific methodology?</b>	n/a
<b>If yes, elaborate</b>	n/a
<b>Financial viability or bankability assessment.</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>Is there a specific methodology?</b>	n/a
<b>If yes, elaborate</b>	n/a
<b>Comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>Is there a specific methodology?</b>	n/a
<b>If yes, elaborate</b>	n/a
<b>Market assessment (showing evidence of enough interest in the market for the project)</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>Is there a specific methodology?</b>	n/a
<b>If yes, elaborate</b>	n/a
<b>Among the PPP projects procured within the last two</b>	No Data

<p>(2) years, for how many of them were all of the required assessments conducted? Please elaborate:</p>	
<p>Does the procuring authority include a draft PPP contract in the request for proposals?</p>	No
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	n/a
<p>If no, please elaborate (provide examples):</p>	The law does not provide for such requirement.
<p>Have standardized PPP model contracts and/or transaction documents been developed?</p>	No
<p>If yes, please specify and provide a government-supported website where the mentioned standards are available or provide an electronic copy of them:</p>	n/a
<p>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.</p>	No
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	n/a
<p>Urban and zoning permits.</p>	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>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>If no, please elaborate (provide explanation):</b>	There are no provisions in the regulatory framework mandating that the procuring authority makes available to the private partner the necessary land to develop the PPP project.
<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>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>If no, please elaborate (provide explanation):</b>	There are no provisions in the regulatory framework mandating that the procuring authority makes available to the private partner the necessary right of way to develop the PPP project.
<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>	Yes
<b>If yes, please provide the relevant</b>	Practice

<b>legal/regulatory provisions:</b>	
<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>	No Data
<b>Obtaining the required approvals from other relevant authorities:</b>	No Data
<b>Preparing the draft PPP contract:</b>	No Data
<b>Obtaining any permits, land and/or right of way that the procuring authority must provide according to the regulatory framework:</b>	No Data
<b>PPP Procurement</b>	<b>Score: 45</b>
<b>Are the bid evaluation committee members required to meet specific qualifications?</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any)</b>	According to Article 12 of the Procurement Code: 2) The composition, powers and operating procedures of the Public Procurement Management Unit created for each client, and each client representative are established by decree.
<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</b>	No

<b>framework details the qualifications required and/or the specific membership of the bid evaluation committee.</b>	
<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>	No
<b>The regulatory framework does not include any provisions.</b>	No
<b>Other</b>	Yes
<b>please specify:</b>	According to Article 12 of the Procurement Code: 2) The composition, powers and operating procedures of the Public Procurement Management Unit created for each client and each client representative are established by decree.
<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>	Pursuant to Article 27 of the Procurement Code: The contracting authorities or delegated contracting authorities shall publish a general notice of tender in the Official Bulletin of public contracts, disclosing the essential characteristics of works, supplies, and services that are projected for the year, and in amounts equal or exceeding the procurement thresholds.
<b>If yes, is the public procurement notice published online?</b>	No
<b>If yes, please specify the website:</b>	n/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>	<p>According to Article 47 of the Procurement Code: In open and restricted procedures, the deadline for receipt of applications or tenders cannot be less than thirty calendar days for contracts above the thresholds set in Article 4 of this Decree, from the publication of the notice. (The same minimum period applies when the notice and the tender documents are prepared and sent electronically).</p>
<b>and the time in calendar days :</b>	<p>30</p>
<b>Do the tender documents detail the stages of the procurement process?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>According to Article 41 of the Procurement Code: The tender documents must comprise the following documents written in French:</p> <ul style="list-style-type: none"> <li>a) the invitation to tender;</li> <li>b) the general administrative clauses;</li> <li>c) the specific regulations of the tender;</li> <li>d) the special administrative clauses;</li> <li>e) the terms of general technical clauses;</li> <li>f) the special technical clauses, terms of reference or description of the supply;</li> <li>g) part of the unit price schedule;</li> <li>h) the quantities including the amounts to be performed;</li> <li>i) sub-detail of the price;</li> <li>j) the model forms including submission and security;</li> <li>k) where appropriate, plans, drawings, design calculations, technical documents or other documentation deemed necessary by the client or client representative.</li> </ul> <p>Additionally, according to Article 42: The tender notice shall state in particular:</p> <ul style="list-style-type: none"> <li>a) the reference of the tender including the number, the identification of the procurement commission and the client or client representative, the subject and date of signature;</li> <li>b) funding;</li> <li>c) the type of tender;</li> <li>d) the place or places where you can consult the tender documents;</li> <li>e) the qualifications of candidates and the terms of acquisition of tender documentation;</li> <li>f) the place, date and time limits for filing and opening of tenders;</li> <li>g) the period during which the candidates are bound by their tenders;</li> <li>h) the conditions to be met by tenders, including the caution amount.</li> </ul> <p>Finally, according to Article 43: The special regulations for calls for tenders shall specify, inter alia:</p> <ul style="list-style-type: none"> <li>a) the presentation and constitution of tenders; b) the terms of rejection of tenders;</li> <li>c) the bid evaluation criteria: <ul style="list-style-type: none"> <li>- For works, supplies and services, criteria such as running costs, prices, profitability, quality, technical merit, after-sales service and technical assistance, the period execution, the payment schedule must be objective, related to the subject of the contract, verifiable, quantifiable and expressed in monetary terms;</li> <li>- For intellectual services contracts, the criteria must be detailed by sub-criteria. These must be verifiable, and as much as qualitative as possible.</li> </ul> </li> <li>d) the methods and the award criteria;</li> <li>e) the rules for pre-qualification and post-qualification, if applicable.</li> </ul> <p>Article 44: The specifications determine the conditions under which contracts are executed. They</p>

	<p>include general documents and the following specific documents:</p> <p>a) the general administrative clauses which sets the provisions for implementation and monitoring of public procurement applicable to a category of contracts;</p> <p>b) the specifications of Contract that fix the administrative and financial provisions relating to each contract;</p> <p>c) all other technical and general documents notebooks and special documents defining the characteristics of works, supplies or services and intellectual services.</p> <p>Article 45: The works, supply of goods and services which are the subject of a public contract or a public service contract are defined by reference to standards, technical approvals or specifications commonly recognized by professionals at the national level or, failing national standards by reference to international standards or technical approvals or specifications.</p>
<b>If no, please elaborate (provide examples):</b>	<p>n/a</p>
<b>Does the procurement process include a pre-qualification stage to select a number of qualified bidders to present the full proposal?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>According to Article 32 of the Procurement Code: The open tender may be preceded by a pre-qualification where the project includes important work or complex equipment or specialized services.</p>
<b>If yes, do the tender documents specify the prequalification criteria in order to make them available to all of the 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 that had a prequalification stage, how many of them included prequalification criteria in the tender documents? Please elaborate</b>	<p>No Data</p>

<p>Can interested parties/potential bidders submit questions to clarify the public procurement notice and/or the request for proposals?</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>If yes, does the procuring authority disclose those questions and clarifications to all of the potential bidders?</p>	<p>n/a</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</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>None of the projects.</p>
<p>Besides questions and clarifications, can the procuring authority conduct other types of dialogue with the potential bidders?</p>	<p>No</p>
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>

<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>	<p>n/a</p>
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	<p>n/a</p>
<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>	<p>None of the projects.</p>
<p><b>Does the procuring authority require the bidders to prepare and present a financial model with their proposals ?</b></p>	<p>No</p>
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	<p>n/a</p>
<p><b>If no, please elaborate (provide examples):</b></p>	<p>According to Article 41 of the Procurement Code: The tender documents must comprise the following documents written in French: ...  h) the quantities, including the amounts to be performed;  j) the model forms including submission and security;  However, those models are likely not financial models.</p>
<p><b>Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?</b></p>	<p>Yes</p>

<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	According to Article 29 of the Procurement Code: 1) The tender procedure is concluded without negotiation, on the basis of objective evaluation criteria previously brought to the attention of candidates in the call to tender dossier and expressed, wherever possible, in monetary terms. 2) The choice of the bidder considers the following criteria, provided by way of example, can or should be supplemented by the nature of the purchase, and according to the provisions included in the tender documents.
<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>	No Data
<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

<p>The regulatory framework considers sole proposals valid as long as they meet the conditions outlined in the tender documents.</p>	<p>n/a</p>
<p>The regulatory framework does not allow the award of a PPP contract if only one proposal is submitted.</p>	<p>n/a</p>
<p>The regulatory framework does not include any provisions.</p>	<p>n/a</p>
<p><b>Other</b></p>	<p>n/a</p>
<p><b>please specify:</b></p>	<p>n/a</p>
<p>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:</p>	<p>No Data</p>
<p>Does the procuring authority publish the award notice?</p>	<p>Yes</p>
<p>If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):</p>	<p>According to Article 83 of the Procurement Code: The delegating authority must publish a notice of award of public service delegation agreement. This notice shall designate the delegate and include a summary of the main provisions of the delegation agreement.</p>
<p>If yes, is the public procurement award notice published online?</p>	<p>No</p>
<p>If yes, please specify the website:</p>	<p>n/a</p>
<p>Does the procuring authority provide all the bidders with the result of the PPP procurement process?</p>	<p>Yes</p>

<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>According to Article 88 of the procurement Code: The award shall be notified to the successful bidder. The other bidders are informed of the non-selection of their offering; their deposit, if any, is returned.</p> <p>The client (or client representative) publishes the award Minutes, or communicates the provisional award decision to the successful tenderer to all unsuccessful candidates simultaneously.</p>
<b>If no, please elaborate (provide examples):</b>	<p>n/a</p>
<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>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>According to Article 88 of the Procurement Code: In all cases , the client (or client representative) must communicate in writing to any unsuccessful tenderer, the reasons for rejection of its offer, the amount of the contract awarded, the name of the successful tenderer, as well as a copy of the attribution report, within five working days of receipt of the written application.</p>
<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>	<p>No</p>
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>n/a</p>
<b>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:</b>	<p>No Data</p>
<b>Does the procuring authority publish the PPP contract?</b>	<p>No</p>

<p>If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>If yes, is it published online?</p>	<p>n/a</p>
<p>If yes, please specify the website:</p>	<p>n/a</p>
<p>Does the regulatory framework establish any exceptions where the procurement process described above does not apply or allows for a “fast track” procedure?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	<p>Article 71 provides for: Direct agreement procedure, when the project is passed without tender, after special permission from the general direction of the competent control procurement. The Board authorization application of this procedure must describe the reasons to use this process.</p>
<p>Unsolicited proposals</p>	<p style="text-align: right;"><b>Score: USP not regulated</b></p>
<p>Does the regulatory framework allow for the submission of unsolicited proposals? (if no, skip to section F)</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	<p>n/a</p>
<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>	<p>n/a</p>
<p>Does the procuring authority conduct an assessment to</p>	<p>n/a</p>

<b>evaluate unsolicited proposals?</b>	
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>If yes, does it ensure that the unsolicited proposal is consistent with the existing government priorities?</b>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<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>	n/a
<b>If yes, please specify:</b>	n/a
<b>The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.</b>	n/a
<b>The regulatory framework does not</b>	n/a

<b>include any provisions.</b>	
<b>Other</b>	n/a
<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>	n/a
<b>Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?</b>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?</b>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<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):</b>	n/a

<b>Access to the best and final offer.</b>	
<b>Developer's fee (reimbursing the original proponent for the project development cost).</b>	n/a
<b>Bid bonus.</b>	n/a
<b>Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).</b>	n/a
<b>Other</b>	n/a
<b>please specify:</b>	n/a
<b>Please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>PPP Contract Management</b>	<b>Score: 17</b>
<b>Has the procuring or contract management authority established a system to manage the implementation of the PPP contract?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any)</b>	n/a
<b>If yes, which of the following tools does it include (check all that apply)? Establishment of a PPP contract management team.</b>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Participation of the members of the PPP contract management team</b>	n/a

<b>in the PPP procurement process.</b>	
<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>	n/a
<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>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Other</b>	n/a
<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>	None 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</b>	According to Article 16 of the Procurement Code, the regulation of public procurement and public service delegation is provided by :

<b>legal/regulatory provisions (if any):</b>	<p>1) The General Directorate of control of public contracts, established within the Ministry in charge of finance, responsible for a priori control of the procedure for the award and monitoring of the implementing rules of public procurement and public service delegations from the contracting authorities;</p> <p>2) The Public Procurement Regulatory Authority: it is responsible for independent regulation of public procurement and, through independent audits, ex post control of the procurement and execution of contracts and delegations of public services.</p>
<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>	Article 18 of the Procurement Code provides that: 1) The Public Procurement Regulatory Authority may initiate or cause, at any time, external audits or investigations on the transparency and regularity conditions under national laws and regulations, sub-regional and international procedures development and procurement, as well as conditions of execution of public contracts or public service delegations.
<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>	Article 18 of the Procurement Code provides that: 2) The Public Procurement Regulatory Authority carries out technical and financial audits in order to monitor ex post the implementation of the public procurement rules. To this end, it commands at the end of each financial year, an independent audit on a random sample of markets and sends the competent authorities the violations of the laws and regulations related to the award, execution and control of public procurement or public service delegations.
<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</b>	No

<b>information must be available to the public.</b>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Other</b>	Yes
<b>please specify:</b>	According to Article 19 of the Procurement Code: Investigations and subsequent verification may be initiated by the Regulatory Authority for Public Procurement, ex officio or on the basis of an application or information from anyone interested.
<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</b>	n/a

<b>qualifications as the original operator.</b>	
<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>	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): A change in the scope and/or object of the contract.</b>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>A change in the risk allocation of the contract.</b>	n/a
<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>	n/a

<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>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>According to Article 117 of the Procurement Code: Where the amount referred to in the previous article is reached, the Contracting Officer may terminate the contract. The total or partial remission of the penalties may be imposed by the authority of that person. Impediments resulting from force majeure exempt the holder of late penalties that could result.</p> <p>Furthermore Article 139 provides that: The client or client representative may order the postponement of works, supplies or services related to the contract before completion in case of force majeure or for reasons of general interest.</p> <p>Finally, Article 140 provides that: Any public contract may also be terminated when a force majeure renders performance impossible.</p>
<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 dispute resolution</b>	Yes

<b>mechanism for PPPs?</b>	
<b>If yes, please specify and provide the relevant legal/regulatory provisions</b>	<p>According to Article 144 of the Procurement Code: Public procurement contracts, or public service delegations, may use the hierarchical authority of the person responsible for the contract in the event of persistent disagreement with the latter, in order to seek an amicable settlement of disputes...</p> <p>Additionally, Article 145 provides that: Any dispute that is not settled amicably within thirty calendar days following the commencement of hierarchical appeal proceedings, will be settled in accordance with the law and applicable contractual stipulations, before the competent courts or arbitral tribunals.</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>	No
<b>If yes, please specify:</b>	n/a
<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>	Yes
<b>please specify:</b>	<p>Article 144 of the Procurement Code provides: Public procurement contracts, or public service delegations, may use the hierarchical authority of the person responsible for the contract in the event of persistent disagreement with the latter, in order to seek an amicable settlement of disputes ... .</p> <p>Additionally, Article 145 provides that: Any dispute that is not settled amicably within thirty</p>

	calendar days following the commencement of hierarchical appeal proceedings, will be settled in accordance with the law and applicable contractual stipulations, before the competent courts or arbitral tribunals.
<b>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?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>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.</b>	n/a
<b>If yes, please specify:</b>	n/a
<b>The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.</b>	n/a
<b>The regulatory framework prescribes that a direct agreement should be signed with the lenders.</b>	n/a
<b>Other</b>	n/a
<b>please specify:</b>	n/a
<b>Does the regulatory framework expressly establish the grounds for</b>	No

<b>termination of a PPP contract?</b>	
<b>If yes, please specify:</b>	n/a
<b>and provide the relevant legal/regulatory provisions:</b>	n/a
<b>If yes, does the regulatory framework also establish the consequences for the termination of the PPP contract?</b>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>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?</b>	No
<b>Please describe:</b>	n/a
<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>	No
<b>Please describe:</b>	n/a