

**BENCHMARKING PPP PROCUREMENT 2017 IN COTE D'IVOIRE**

<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>	The PPP regulatory framework in Cote d'Ivoire consists of the following: Decree No. 2012-1151 of December 19, 2012 relating to public-private partnerships; Decree No. 2012-1152 of September 19, 2012 relating to attribution, organization and functioning of the institutional framework management of public-private partnerships institutional frame such as modified by Decree No. 2014-246 of May 08, 2014
<b>and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:</b>	<a href="http://www.ppp.gouv.ci/reglementation.html">http://www.ppp.gouv.ci/reglementation.html</a>
<b>Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors? Transportation.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Water and irrigation</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Energy generation and distribution</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Telecom</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Health</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Education</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Other</b>	No

<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Please identify the PPP procuring authorities in country_name and provide their website(s) (if available):</b>	National Authority of Procurement contract regulation (Autorité Nationale de Régulations des Marchés Publics): <a href="http://www.anrmp.ci">www.anrmp.ci</a> National Steering Committee for public-private partnerships (Comité National de Pilotage des PPP): <a href="http://www.ppp.gouv.ci/faq.html">http://www.ppp.gouv.ci/faq.html</a> Secrétariat Exécutif des PPP Cellule d'Appui des PPP
<b>In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?</b>	Yes
<b>If yes, please indicate its name, and its website (if available):</b>	CNP PPP: <a href="http://www.ppp.gouv.ci/">http://www.ppp.gouv.ci/</a>
<b>If yes, what are the main responsibilities of the PPP Unit (check all that apply). PPP regulation.</b>	Yes
<b>PPP policy guidance and capacity building for other public authorities.</b>	Yes
<b>PPP promotion among the public and/or private sectors in national and international forums.</b>	Yes
<b>Technical support in implementing PPP projects.</b>	Yes
<b>Gatekeeping (approval of PPP projects).</b>	Yes
<b>Procurement of PPPs.</b>	No
<b>Oversight of PPP implementation.</b>	Yes
<b>Other</b>	No
<b>please specify:</b>	n/a
<b>Preparation of PPPs</b>	<b>Score: 54</b>
<b>Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 15 paragraph 2 of Decree No. 2012-1151 of December 19th 2012 relating to direct agreement procedure provides that the resort to the procurement process requires the approval of the ministry of finance
<b>If yes, is a second approval by the Ministry of Finance or Central Budgetary Authority</b>	Yes

<b>required before signing the PPP contract?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 21 paragraph 3 of Decree No. 2012-1151 of December 19th 2012 provides that PPP contracts awarded also need the approval of the ministry of finance
<b>Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before launching the procurement process?</b>	Yes
<b>If yes, please specify the relevant authority</b>	CNP PPP and the Council of Ministers
<b>and provide the relevant legal/regulatory provisions (if any):</b>	Article 8 of Decree No. 2012-1151 provides that: Contracting authorities should develop tender documents prior to the launch of any procedure for the award of PPP contracts with the support of the CA-PPP. These files are designed in accordance with standard adopted by the NOC-PPP in collaboration with technical ministries, adapted to the specific conditions of the project. They are transmitted to the SE-PPP for validation by the CNP-PPP in the presence of the representative of the Public Procurement Directorate.
<b>If yes, is a second approval by the same authority required before signing the PPP contract?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Pursuant to article 21 of Decree No. 2012-1151: Before the award of the contract, the procuring authority submits the PPP project contract to the non-objection opinion of the CNP-PPP.
<b>Does the government integrate the prioritization of PPP projects with all other public investment project prioritization? (e.g. in the context of a national public investment system)?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 7 of Decree No. 2012-1151 provides that the identification procedure involves performing summary studies of technical feasibility, economic, legal, financial, social and environmental as well as the compulsory registration of the partnerships contracts in the National Development Plan.
<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</b>	Yes

<b>other public investment priorities.</b>	
<b>If yes, please specify:</b>	<a href="http://www.primaturecotedivoire.net/site/4-DEF_TOME_IV_MATRICE_FINAL_061012.pdf">The National Plan of Development framework "Plan National de Développement" establishes a specific procedure for the government to prioritize PPP projects (http://www.primaturecotedivoire.net/site/4-DEF_TOME_IV_MATRICE_FINAL_061012.pdf): Action 3.4.5</a>
<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>	No
<b>The regulatory framework does not include any provisions.</b>	No
<b>Other</b>	No
<b>please specify:</b>	n/a
<b>Among the PPP projects procured within the last two (2) years, how many of them were prioritized along with all other public investment projects? Please elaborate:</b>	All of the projects
<b>Which of the following assessments are conducted when identifying and preparing a PPP? (check all that apply): 10.1. Socio-economic analysis (cost-benefit analysis of the socio-economic impact of the project)</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	Article 7.2 of Decree No. 2012-1151 provides that the identification procedure involves performing summary studies of technical feasibility, economic, legal, financial, social and environmental as well as the compulsory registration of the partnerships contracts in the National Development Plan.
<b>Is there a specific methodology?</b>	No
<b>If yes, elaborate.</b>	n/a
<b>Affordability assessment, including the identification of the required long term public commitments (explicit and implicit)</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	Practice
<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>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	Article 7.2 of Decree No. 2012-1151 provides that the identification procedure involves performing summary studies of technical feasibility, economic, legal, financial, social and environmental as well as the compulsory registration of the partnerships contracts in the National Development Plan.
<b>Is there a specific methodology?</b>	Yes
<b>If yes, elaborate</b>	Practice
<b>Comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives</b>	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 (2) years, for how many of them were all of the required assessments conducted? Please elaborate:</b>	Most of the projects
<b>Does the procuring authority include a draft PPP contract in the request for proposals?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	According to article 21.1 of the Public Procurement Code (Decree No. 2009-259): The request for proposals published by the procuring authority should include at least the following: (...) The terms and conditions of the contract and, if applicable, model contractual document signed by the parties.
<b>If no, please elaborate (provide examples):</b>	n/a

<b>Have standardized PPP model contracts and/or transaction documents been developed?</b>	No
<b>If yes, please specify and provide a government-supported website where the mentioned standards are available or provide an electronic copy of them:</b>	n/a
<b>Does the procuring authority obtain the permits necessary to develop and operate the PPP project before calling for tenders in any of the following areas? Environmental permits.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Urban and zoning permits.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Other permits.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Does the procuring authority make available to PPPCo the necessary land or right of way to develop the PPP project (if any)? Land</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Practice
<b>If no, please elaborate (provide explanation):</b>	n/a
<b>Does the procuring authority make available to PPPCo the necessary land or right of way to develop the PPP project (if any)? Right of way</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Practice
<b>If no, please elaborate (provide explanation):</b>	n/a
<b>Does the regulatory framework establish any exceptions where the preparation process described above does not apply or</b>	Yes

allows for a “fast track” procedure?	
If yes, please provide the relevant legal/regulatory provisions:	Article 15 of Decree No. 2012-1151 provides for the derogatory modes of PPP procedure, and specifically that PPP contracts can exceptionally be passed through competitive dialogue or through direct negotiation. Any derogatory mode of PPP procedure must be exceptional, justified by the procuring authority and authorized by the ministry of economy and finance, and after the positive opinion of the CNP-PPP.
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:	90
Obtaining the required approvals from other relevant authorities:	30
Preparing the draft PPP contract:	30
Obtaining any permits, land and/or right of way that the procuring authority must provide according to the regulatory framework:	180
<b>PPP Procurement</b>	<b>Score: 78</b>
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)	Article 7 (5) of Decree No. 2012-1151 provides that the call for tender procedure provided for in the public procurement code applies to PPPs. And according to Article 43 of the Public Procurement Code, Decree No. 2009-259 of August 6th, 2009 relating to public procurement contract regulations: An ad hoc committee for bid opening and evaluation of offers, works with the contracting authority, and is responsible for the opening of bids, evaluation of bids and designation of the beneficiaries. The composition of the committee varies depending on the nature of the contracting authority and the object of the tender (this article precises the different composition in different cases).
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

<b>If yes, please specify:</b>	Article 43 of the public procurement code, Decree No. 2009-259 of August 6th, 2009 relating to public procurement contract regulations details the composition of the Committee (responsible for the opening of bids and evaluation of the offers), that varies in function of the nature of the contracting authority and the object of the tender. In fact, article 43.2. regulates the composition of the committee when the contracting authority is a central administration of the State, a service of the State, a national public institution or a project; Article 43.3. regulates the composition of the committee when the Contracting Authority is a decentralized service of the State , or a public national or localized regional project; Furthermore, Article 43.4 regulates the composition of the committee when the Contracting Authority is a Crown corporation or a person referred to in Article 2 this Code. And finally, Article 43.5 regulates the composition of the committee in special cases, where a special commission can be created for the management of specific operations.
<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>	No
<b>please specify:</b>	n/a
<b>Does the procuring authority issue a public procurement notice of the PPP?</b>	Yes
<b>If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):</b>	<p>Article 10 of PPP Decree provides that the tender can be open or restricted, it can be done in a step or two, and it is subject to publicity measures at national and international levels.</p> <p>Article 79 of the public procurement code refers to articles 63 and 64, and sets a minimum deadline of 45 days for receipt of tenders.</p> <p>Article 7 (5) of Decree No 2012-1151 provides that the call for tender procedure provided for in the public procurement code applies to PPPs. And article 63 of the public procurement code provides for publication of all the projects, national publication in the "Bulletin officiel des Marchés Publics de la Côte d'Ivoire" and for international bidding process by an announcement in an international newspaper. In fact, article 63 provides that (1) the call for tender must be published in a national and / or International and / or electronic form, as appropriate; (2) the calls for tender are required to be published in the Official Bulletin of Public Procurement of the Republic of Ivory Coast under penalty of nullity. To this end, the publication deadline for national tenders is at least thirty (30) days. All open tender not released by this channel is considered null and void; (3) In case of international tendering, the notice of appeal to competition should be published in an international newspaper ads or on the Web, along with its publication in the Official Bulletin of Public Procurement of the Republic of Ivory Coast under penalty of nullity the procedure. The minimum time of publication of forty five (45) days.</p>
<b>If yes, is the public procurement notice published online?</b>	Yes

<b>If yes, please specify the website:</b>	<a href="https://marchespublics.ci">https://marchespublics.ci</a> - <a href="https://ppp.gouv.ci">https://ppp.gouv.ci</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>Article 7.5 of Decree No. 2012-1151: The calls for tender procedures provided for in the public procurement code apply to the PPP procedure; and article 63 of the public procurement code provides that (2) The tender notice is required to be published in the Official Bulletin of Public Procurement of the Republic of Ivory Coast, otherwise facing nullity. To this end, the publication deadline for national tenders is of at least thirty (30) days.</p> <p>All open tenders not released by this channel are considered null and void.</p> <p>The notice of calling for competition may also be the subject of a parallel insertion at the option of the contracting authority, in a publication entitled to receive legal notices by post or by any other appropriate means.</p> <p>Furthermore, (3) In case of an international tender, the tender notice should be published in a newspaper or international listings on the Web, along with its publication in the Official Bulletin of Public Procurement of the Republic of Ivory coast under penalty of nullity of the proceedings. The minimum time of publication of forty five (45) days.</p> <p>Also, Article 79 of the Public Procurement Code refers to Articles 63 and 64, and sets a minimum deadline of 45 days for receipt of tenders.</p>
<b>and the time in calendar days :</b>	45
<b>Do the tender documents detail the stages of the procurement process?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Article 21 of the Public Procurement Code (Decree No. 2009-259) provides that the tender documents should contain at least the following information: - Instructions for preparing tenders; - The period of validity of tenders; - Identification of parts or other information required of candidates to demonstrate their qualifications; - Qualitative and quantitative description of the goods required; - All ancillary services to be performed; - The place where the work must be performed or where the goods or services must be provided; - The time required for the execution of works, the supply of goods or services; - Criteria and procedures to be followed in determining the successful bid. - The terms and conditions of the contract and, if applicable, model contractual document signed by the parties; - The requirements for the opportunity to submit variants and the conditions and methods of analysis thereof for comparison of tenders; - How the bid amount must be formulated and expressed, including whether the price is to cover elements other than the cost of the work, goods, or services, such as any costs of transport and insurance, customs duties and applicable taxes, warranty items and after sales service; - The currency or currencies in which the bid amount must be formulated and expressed; - A statement that tenders must be drawn up in French; - Surety requirements; - Procedures for bid opening and examining tenders; - Reference currency and eventually the exchange rate to be used for evaluation and comparison of financial proposals; - References to this Code and its implementing regulations.</p>
<b>If no, please elaborate (provide examples):</b>	n/a
<b>Does the procurement process include a pre-qualification</b>	Yes

<b>stage to select a number of qualified bidders to present the full proposal?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Article 10 of Decree No. 2012-1151 provides that the PPP contract procedure can include a pre-qualification phase. Furthermore, the pre-qualification phase is detailed in articles 57 and 85 of the Public Procurement Code (Decree No. 2009-259).</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>Article 7 Al 5 of Decree No. 2012-1151 provides that the call for tender procedures provided for in the public procurement code apply to the PPP procedure. Furthermore, article 85 of the Public Procurement Code (Decree No. 2009-259) provides that the list of preselected candidates must be justified by the criteria in the prequalification documents and defined in relation to the particular nature of services expected and verified capabilities of said candidate.</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>All of the projects</p>
<b>Can interested parties/potential bidders submit questions to clarify the public procurement notice and/or the request for proposals?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Article 64 of the Public Procurement Code (Decree No. 2009-259) provides for the option for bidders and the procuring authority to communicate and exchange information.</p>
<b>If yes, does the procuring authority disclose those questions and clarifications to all of the potential bidders?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>First, article 9 of the public procurement code (Decree No. 2009-259) provides for the following general principles to be respected: - Free access to public procurement ; - Equal treatment of candidates ; - Transparent procedures ; - Prohibition of discrimination based on nationality of candidates; - Free competition...</p> <p>Furthermore, article 64 provides that: All communications and information exchanges between the bidders and the procuring authority shall meet the standards and measures for safety and reliability necessary to ensure confidentiality, transparency and integrity, and most importantly, the tools used to communicate by electronic means, as well as their technical characteristics, must be non-discriminatory, accessible and interoperable with the information and communications technology generally used.</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>	All of the projects
<p>Besides questions and clarifications, can the procuring authority conduct other types of dialogue with the potential bidders?</p>	Yes
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p>	Article 15 of Decree No. 2012-1151 provides that PPP contracts can exceptionally use the competitive dialogue procedure or the direct negotiation procedure. Articles 60 and 61 of the public procurement code provide for such fast track procedures.
<p>If yes, does the procuring authority disclose the content and the results of the dialogue to all of the potential bidders?</p>	No
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	n/a
<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>	Most of the projects
<p>Does the procuring authority require the bidders to prepare and present a financial model with their proposals ?</p>	Yes
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	Article 18 of the PPP Decree No. 2012-1151 provides for the inclusion by the bidders of a financial plan that is sufficiently realistic in their proposals.
<p>If no, please elaborate (provide examples):</p>	n/a
<p>Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?</p>	Yes
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	Article 18 of the PPP Decree No. 1012-1151 provides that the evaluation of proposals should be made in accordance with the evaluation criteria stated in the tender documents. Furthermore, article 71 of the public procurement code provides for the same: the award is made on the basis of economic, financial and technical criteria mentioned in the tender documents.

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:	Some 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):	Article 11 Al. 3 of Decree No. 2012-1151 provides, in the context of open procedure, that in case less than 3 candidates participate, the procedure can be resumed as long as the publication and competition requirements are respected.
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 conditions outlined in the tender documents.	No
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	Yes
please specify:	Article 11 Al. 3 of Decree No. 2012-1151 provides, in the context of open procedure, that in case less than 3 candidates participate, the procedure can be resumed as long as the publication and competition requirements are respected.
In practice, what is the average number of calendar days between the initial publication of the PPP public procurement notice and the	180

award of the PPP? Number of calendar days:	
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):	Article 21 Al 4 of Decree No. 2012-1151 provides that the contracting authority has the obligation to ensure the publication of the PPP contract award notice specifying the name of the winning bidder as well as a brief of the principal clauses of the contract.
If yes, is the public procurement award notice published online?	Yes
If yes, please specify the website:	<a href="https://ppp.gouv.ci">https://ppp.gouv.ci</a>
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):	Article 75 of the Public Procurement Code (Decree No. 2009-259) provides that: The procuring authority notifies, three days after reception of the validation decision made by the administrative structure charged of public procurement, the final attribution of the contract to the winning bidder. The procuring authority also informs the other bidders that their offers were rejected and it reimburses the provisional bonds they paid.
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?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
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?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
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

<b>If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):</b>	Article 21 of Decree No. 2012-1151 provides that the procuring authority has the obligation to ensure that a notice of the contract award is published specifying the name of the winning bidder as well as a brief of the principal clauses of the contract. However, the legal framework does not provide that the PPP contract per se needs to be published.
<b>If yes, is it published online?</b>	No
<b>If yes, please specify the website:</b>	n/a
<b>Does the regulatory framework establish any exceptions where the procurement process described above does not apply or allows for a “fast track” procedure?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	Article 17 of Decree No. 2012-1151 provides that direct negotiation procedure can be used in the following cases: (1) in emergency cases where unforeseeable circumstances or Force Majeure situations preventing the respect of the deadlines set forth in the call for tender procedure require immediate intervention in order to ensure the continuity of the procedure; (2) when the project involves defense or national security; (3) when one source can provide the service (especially when the service requires the use of intellectual property rights, professional secrets or other exclusive rights owned by one or a number of persons); (4) when the invitation to a prequalification procedure fails. The negotiated procedure is set according to examination document that will be submitted to the previous opinion of CNP-PPP as well as the approval of the council of ministers.
<b>Unsolicited proposals</b>	<b>Score: 33</b>
<b>Does the regulatory framework allow for the submission of unsolicited proposals? (if no, skip to section F)</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	Unsolicited proposals are defined in section 1 of Decree No. 2012-1151 as proposals for the execution of a PPP project without solicitation from the procuring authority. Additionally, article 19 provides that procuring authorities are allowed to examine unsolicited proposals as long as such proposals are not related to a project that already had the prequalification procedure announced or came to an end, and as long as such proposal respects the competitive character of the procedure. Finally, unsolicited proposals have to be in compliance with the chart adopted by the CNP-PPP that defines its procedure.
<b>If yes, please specify, to the best of your knowledge, the percentage of PPP investments in your country approved as unsolicited proposals during the last five (5) years:</b>	No Data
<b>Does the procuring authority conduct an assessment to</b>	Yes

<b>evaluate unsolicited proposals?</b>	
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	According to article 19 of the Decree No. 2012-1151, the unsolicited proposals must be in conformity with a chart adopted by CNP-PPP that must define the modalities of evaluation and operation of such unsolicited proposals.
<b>If yes, does it ensure that the unsolicited proposal is consistent with the existing government priorities?</b>	No
<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 include any provisions.</b>	n/a
<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>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	According to article 19 of the Decree No. 2012-1151, the procedure for unsolicited proposals is a procedure of competitive character.

Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and the time in calendar days:	n/a
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).	No
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):	n/a
<b>PPP Contract Management</b>	<b>Score: 49</b>
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)	<p>Article 3 of Decree No. 2012-1152 provides that: The institutional management of PPPs is placed under the authority of the President. The management institutional framework includes: (1) the PPP management National Committee (Le Comité National de Pilotage des PPP or: CNP-PPP), (2) the PPP Executive Secretariat (Le Secrétariat Exécutif des PPP, or: SE-PPP) and (3) the PPP Operational Cell (La Cellule Opérationnelle des PPP, or: CO-PPP).</p> <p>Article 8 provides that the SE-PPP assists the CNP-PPP in the exercise of its attributions, including: management of the implementation and execution of the PPP contracts.</p> <p>Furthermore, according to CMU, reference to article 24 of Decree No. 2012-1151, the contracting authority should constantly control the execution of the contract and the</p>

	good execution of all obligations... The PPP contracts are subjected to a periodical audit every 3 years (at the minimum).
<b>If yes, which of the following tools does it include (check all that apply)? Establishment of a PPP contract management team.</b>	No
<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 in the PPP procurement process.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	According to article 4 of Decree 2012-1152: The National Committee for PPP Management participates, among other things, in the PPP procurement process.
<b>Possibility to consult with PPP procurement experts when managing the PPP contract.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 6 of Decree 2012-1152 provides that when necessary, the CNP-PPP can have any expert attend its meetings. Such expert is only present to provide its expert opinion, but he does not have the right to vote.
<b>Elaboration of a PPP implementation manual or an equivalent document.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Other</b>	No
<b>please specify:</b>	n/a
<b>If there is a contract management team, in how many of the PPP projects procured within the last two (2) years did the management system and tools fully inform the contract management team? Please elaborate:</b>	Most of the projects
<b>Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 4 of Decree No. 2012-1152 provides that the National Committee of Management of PPPs is responsible, among other things, of following the implementation of the PPP contracts by the contracting authorities, and submits an annual report to the government about the implemented PPP projects. Additionally, article 24 of Decree No.2012-1151 provides that the procuring authority should permanently exercise its control prerogatives in order to ensure the good execution of the PPP contract, in conformity with the contractual calendar and the necessary means to ensure execution

	of its obligations. Also, the PPP contracts should be periodically audited (at least once every three years, by competent authorities following procedures defined by applicable texts).
<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>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<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 4 of Decree No. 2012-1152 provides that the National Committee of Management of PPPs is responsible, among other things, of following the implementation of the PPP contracts by the contracting authorities, and submits an annual report to the government about the implemented PPP projects. Additionally, article 24 of Decree No.2012-1151 provides that the procuring authority should permanently exercise its control prerogatives in order to ensure the good execution of the PPP contract, in conformity with the contractual calendar and the necessary means to ensure execution of its obligations. Also, the PPP contracts should be periodically audited (at least once every three years, by competent authorities following procedures defined by applicable texts).
<b>The procuring or contract management authority must establish a risk mitigation mechanism.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The PPP contract performance information must be available to the public.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Other</b>	No
<b>please specify:</b>	n/a
<b>Is PPP contract performance information publicly available online?</b>	No
<b>If yes, please specify the website:</b>	n/a

<b>Does the regulatory framework expressly regulate a change in the structure (i.e. stakeholder composition) of PPPCo?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>If yes, which of the following circumstances are specifically regulated? (check all that apply): Any change in PPPCo during an initial period (e.g. construction and first five years of operation).</b>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>In case of a change affecting the controlling interest, the replacing entity must meet the same technical qualifications as the original operator.</b>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Flexibility to substitute non-controlling interest after the initial period.</b>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Does the regulatory framework expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?</b>	Yes
<b>If yes, please provide the relevant legal/ regulatory provisions:</b>	<p>Pursuant to article 25 of Decree No. 2012-1151: According to the principle of economic and financial balance of PPP contracts in the event an economic imbalance occurs, modifications or revisions of the PPP contract can be processed with. To this effect, the PPP contract provides for the circumstances in which the contract can be changed, and the procedures to follow if necessary.</p> <p>Additionally, article 26 provides that PPP contracts are subject to an amendment aimed at changing :</p> <ul style="list-style-type: none"> <li>1- the extent of the operation or the activities of its contractual obligations</li> <li>2- financial conditions in the assumptions provided in Article 23 of the present decree</li> <li>3- contract duration for the following reasons: - general interest, - delay in the achievement of the work, or because of an interruption in the management caused by events that are unforeseeable and beyond the control of the parties - the contracting authority is forced to add new work non provided for in the initial contract that changes the general economy of the contract. Such extension is submitted to an authorization process,</li> </ul>

	signature and approval as provided for in the present decree, after submitting it to the opinion of the CNP-PPP.
<b>If yes, which of the following circumstances are specifically regulated? (check all that apply): A change in the scope and/or object of the contract.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>A change in the risk allocation of the contract.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>A change in the investment plan or duration of the contract.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	Articles 26 2) and 3) of Decree n2012-1151 provides that PPP contracts are subject to an amendment aimed at changing : 2- Financial conditions in the assumptions provided in Article 23 of the present decree 3- contract duration for the following reasons: - general interest, - delay in the achievement of the work, or because of an interruption in the management caused by events that are unforeseeable and beyond the control of the parties - the contracting authority is forced to add new work non provided for in the initial contract that changes the general economy of the contract. Such extension is submitted to an authorization process, signature and approval as provided for in the present decree, after submitting it to the opinion of the CNP-PPP.
<b>Does the regulatory framework expressly regulate the following circumstances that may occur during the life of the PPP contract? (check all that apply): Force Majeure.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Material Adverse government action.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Change in the Law.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	Article 23 Decree PPP 2012-1151 provides that the government guarantees fiscal and economic stability during the life of the contract. Therefore, any modifications in the regulatory framework cannot have an effect on the fiscal and economic balance of the PPP contract.
<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 mechanism for PPPs?</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory provisions</b>	According to article 29 of Decree n2012-1151: PPP contract is governed by the Ivorian law, unless otherwise stipulated in the contract. Furthermore, article 30 provides that: the national authority of public procurement regulation is exclusively competent to decide on the various procedures relating to the award of PPP contracts without prejudice to any action before the competent courts or, where appropriate, before the sectoral regulators. Dispute resolution procedures in PPP contracts are implemented in accordance with regulatory provisions. Any dispute between the contracting authority and the operator is settled in accordance with the dispute settlement mechanisms as agreed by the parties in the PPP contract.
<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>	Yes
<b>The regulatory framework provide the parties with recourse to arbitration but no other alternative dispute resolution mechanism.</b>	No
<b>Other</b>	No
<b>please specify:</b>	n/a
<b>Does the regulatory framework allow for the lenders to take control of the 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 termination of a PPP contract?</b>	Yes
<b>If yes, please specify:</b>	Termination of a PPP contract, which is at the initiative of the contracting authority or the private operator, is made in accordance with existing procedures. Parties have, moreover, the right to terminate the PPP contract by mutual consent.
<b>and provide the relevant legal/regulatory provisions:</b>	Article 28 of Decree No. 2012-1151
<b>If yes, does the regulatory framework also establish the consequences for the termination of the PPP contract?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	Article 28 final subparagraph of Decree no 2012-1151 provides that the contracting parties are required to provide indemnity clauses in their contract.
<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>	Yes
<b>Please describe:</b>	National Reform of the PPP legal framework - WAEMU Directives

