

## BENCHMARKING PPP PROCUREMENT 2017 IN GHANA

Regulatory and Institutional Framework for PPPs	
<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>Ghana does not have a standalone PPP Law (a draft PPP bill is currently under review). Procuring PPPs is allowed under the National Policy on Public Private Partnerships in Ghana adopted in June 2011 (the "PPP Policy"). The PPP Policy sets out some guidelines for the interim regulation of PPPs pending the enactment of Ghana public-private partnerships Bill. However, to the extent that the PPP Policy is not an act of parliament it is not binding and enforceable. That notwithstanding it is the policy that guides PPPs and it is to be followed by the MDA's when procuring PPPs. PPPs are new in Ghana and in that regard the provisions of the national policy have to a large extent not been implemented. The National Policy on PPPs was adopted pursuant to the constitutional foundation for PPPs in Ghana as expressed in article 36(2)(b) and (c) of the 1992 Constitution of Ghana, which in essence states that the State should create an enabling economic environment for the private sector to thrive and reads as follows: "The State is to take all necessary steps to establish a sound and healthy economy whose underlying principles shall include: (a) affording ample opportunity for individual initiative and creativity in economic activities and fostering an enabling environment for a pronounced role of the private sector in the economy; (b) ensuring that individuals and the private sector bear their fair share of social and national responsibilities including responsibilities to contribute to the overall development of the country". The PPP Policy is complemented with the Ministry of Finance and Economic Planning PPP Toolkit for Unsolicited Proposals, December 2012 (the "PPP Toolkit for Unsolicited Proposals"). Procurement of PPP must be done in accordance with the Public Procurement Act 2003 - Act 663 - (The "Public Procurement Act") as also specifically stated in the PPP Policy that reads on this respect as follows: "The procurement procedure (...) must ensure that PPP activities are within the scope of the public procurement act shall be undertaken under the Public Procurement Act". Other miscellaneous remarks include certain laws, pertaining to specific sectors of the economy, that enable procuring PPPs within that particular sector e.g. section 3(1)(k) of the Ghana Highway Authority Act, 1997 (Act 540) empowers Ghana Highway Authority to procure PPPs for projects pertaining to the road transport, construction and tolling. Once again, the manner and procedure for such procurement must be done in accordance with the Public Procurement Act.</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><u>(1) The National Policy on PPP of 2011:</u>  <a href="http://www.mofep.gov.gh/sites/default/files/docs/pid/National%20Policy%20on%20Public%20Private%20Partnership.pdf">http://www.mofep.gov.gh/sites/default/files/docs/pid/National%20Policy%20on%20Public%20Private%20Partnership.pdf</a></p> <p><u>(2) The Public Procurement Act of 2003:</u>  <a href="http://www.ppaghana.org/documents/Public%20Procurement%20Act%202003%20Act%20663.pdf">http://www.ppaghana.org/documents/Public%20Procurement%20Act%202003%20Act%20663.pdf</a></p> <p><u>(3) Ghana PPP Draft Bill:</u>  <a href="http://www.mofep.gov.gh/sites/default/files/docs/pid/PPP_Law_Draft%20.pdf">http://www.mofep.gov.gh/sites/default/files/docs/pid/PPP_Law_Draft%20.pdf</a></p> <p><u>(4) The PPP Toolkit for Unsolicited Proposals of 2012:</u>  <a href="http://www.mofep.gov.gh/sites/default/files/docs/pid/assessing_unsolicited_proposals.pdf">http://www.mofep.gov.gh/sites/default/files/docs/pid/assessing_unsolicited_proposals.pdf</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</b>	<p>The PPP procuring authorities in Ghana are the Ministries, Department &amp; Agencies (MDAs); Metropolitan, Municipal &amp; District Assemblies (MMDAs), in consultation with the various departments of the Ministry of Finance such as the Public Investment Division. The PPP Policy reads on this respect "The implementing entities shall be the</p>

<b>website(s) (if available):</b>	<p>implementing Contracting Authorities under GoG. MDAs, MMDAs and other contracting entities shall be required to develop capability in PPP development with support from PAU. Where appropriate, Contracting Authorities, especially sector Ministries shall be encouraged to set up Project Management Units (PMUs) , particularly to assist in the project identification, needs and options analysis, initial definition of PPP concept and PPP Contract Management, Monitoring, Reporting and Evaluation."</p> <p>Website: <a href="http://www.mofep.gov.gh">www.mofep.gov.gh</a></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>	<p>Yes</p>
<b>If yes, please indicate its name, and its website (if available):</b>	<p>(1) The Public Investment Division in the Ministry of Finance and Economic Planning (<a href="http://www.mofep.gov.gh">www.mofep.gov.gh</a>) is responsible for PPPs regulation in Ghana. This Division includes the Project and Financial Analysis Unit and the PPP Advisory Unit. (<a href="http://www.mofep.gov.gh/divisions/pid">http://www.mofep.gov.gh/divisions/pid</a>).</p> <p>(2) Besides this Division the Ministry of Finance and Economic Planning also houses: (i) the Debt Management Division; (ii) the Budget Division; (iii) the Legal Division that also have some responsibilities over PPP as indicated by the National Policy on PPPs. (<a href="http://www.mofep.gov.gh/sites/default/files/docs/pid/PPP_Law_Draft%20.pdf">http://www.mofep.gov.gh/sites/default/files/docs/pid/PPP_Law_Draft%20.pdf</a> )</p> <p>The Ministry is in general responsible for the issuing of Standardized PPP provisions and PPP Manual/Guidelines for the effective management of PPP Projects. The Public Investment Division is responsible for developing the legal, institutional and regulatory framework for the PPP programme. The Project and Financial Analysis Unit charged with the screening of projects to ensure consistency with the National Infrastructure Plan, the verification that the use of PPP option is preferable and beneficial relative to direct public investment. The PPP Advisory Unit provides advice to the various contracting authorities in the Public Sector to enhance the identification, preparation of feasibility analysis, structuring, negotiations and procurement of PPP projects. The Debt Management Division ensures fiscal sustainability for PPP projects. The Budget Division also of the same Ministry is in charge of incorporating PPP projects into the annual budgeting exercise.</p>
<b>If yes, what are the main responsibilities of the PPP Unit (check all that apply). PPP regulation.</b>	<p>Yes</p>
<b>PPP policy guidance and capacity building for other public authorities.</b>	<p>Yes</p>

<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: 46</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>	The National Policy on public-private partnerships requires the Ministry of Finance and Economic Planning to give its approval at the following stages: <ol style="list-style-type: none"> <li>1. The approval of pre-feasibility and project viability.</li> <li>2. Review and approval of full feasibility report.</li> <li>3. Review of project documentation, draft PPP agreement/concession.</li> <li>4. Review and Recommendation of Evaluation Report (see the approval schedule and paragraphs 47, 48, 49, 52, 54 and 61 of the National Policy on public-private partnerships, June 2011).</li> </ol>
<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>	The National Policy on PPPs (Key Institutions Part C) provides that approval by the PPP Committee, the Cabinet and the Parliament should be provided as may be necessary (see the approval schedule and paragraphs 54 and 63 of the National Policy on public-private partnerships, June 2011).
<b>Besides the procuring authority and the Ministry of</b>	Yes

<b>Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before launching the procurement process?</b>	
<b>If yes, please specify the relevant authority</b>	<p>Project Management Units of Ministries, Departments and Agencies or the appropriate authority and a concurrent review by the Public Investment Division of the Ministry of Finance and Economic Planning of the pre-feasibility study. The National Policy on PPP considers this as Approval I - pre-feasibility of the PPP process. PPP Approval Committee: under the Finance Ministry considers requests by entities to under PPPs and serves as the approving authority for PPPs.</p>
<b>and provide the relevant legal/regulatory provisions (if any):</b>	<p>The approval schedule and paragraphs 47, 48, 49, 50, and 53 of the National Policy on public-private partnerships, June 2011.</p>
<b>If yes, is a second approval by the same authority required before signing the PPP contract?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Approval to procure PPP needed from the following authority: The PPP Approval Committee shall approve the feasibility study, when the PPP involves projects with estimated project costs of up to fifty million Ghana Cedis (GHS50,000,000) but exceeds two million Ghana Cedis (GHS2,000,000). If the PPP involves projects with estimated project costs of above fifty million Ghana Cedis (GHS50,000,000), Cabinet shall approve the feasibility study based on recommendation from the PPP Approval Committee. When the PPP involves projects with estimated project costs of two million Ghana Cedis (GHS2,000,000) and below, the Public Investment Division of the Ministry of Finance and Economic Planning shall approve the feasibility study. As a consequence, for a PPP project with an estimated cost of US \$ 150 million the approval authority will be the Cabinet. The National Policy on PPP divides this approval into: Feasibility - Approval II, Procurement - Approval IIIA and IIIB (see The Approval Schedule and paragraph 50 to 57 of the National Policy on public-private partnerships).</p> <p>Approval to enter into PPP Contract: The Approving Authority - Approval Committee/Cabinet/Parliament/Metropolitan, Municipal and District Assemblies (as required on the previous approval). (See The approval schedule and paragraphs 57 and 59 of the National Policy on PPP. The National Policy on PPP considers this Contracting PPP Agreements/Concessions - Approval IV. )</p>
<b>Does the government integrate the prioritization of PPP projects with all</b>	<p>Yes</p>

<b>other public investment project prioritization? (e.g. in the context of a national public investment system)?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Practice
<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>	No
<b>If yes, please specify:</b>	n/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>	Yes
<b>Other</b>	No
<b>please specify:</b>	n/a
<b>Among the PPP projects procured within the last two</b>	Most of the projects

<b>(2) years, how many of them were prioritized along with all other public investment projects? Please elaborate:</b>	
<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>	The National Policy on PPPs paragraph 50 (requires socio-economic analysis to be done in accordance with the terms of reference for the assignment).
<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>	Paragraph 27 of the National Policy on PPPs, p.9 deals with the issue of "fiscal sustainability" for PPP projects and refers to consideration of both direct and contingent liabilities, including guarantees, arising from PPP projects. Additionally, under par. 46, 50, 57 and 59, affordability remains a requirement in the context of all pre-feasibility, feasibility studies, procurement and contracting forming part of the relevant approvals (approval I-IV).
<b>Is there a specific methodology?</b>	No
<b>If yes, elaborate</b>	n/a
<b>Risk identification, allocation and assessment (risk matrix)</b>	Yes

<b>Relevant legal/regulatory provision (if any)</b>	Risk allocation is required and the National Policy on PPPs refers to it in par. 12 and 13 under guiding principles; in the context of a "risk sharing and management framework" par. 41- 42, p. 11, as part of the feasibility study and lastly, in par. 57 and 59 as part of the approvals relative to procurement and contracting.
<b>Is there a specific methodology?</b>	No
<b>If yes, elaborate</b>	n/a
<b>Financial viability or bankability assessment.</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>Comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	Par. 12 of the National Policy on PPPs refers to "value for money" as a guiding principle. Additionally, under par. 50 and 57, PPPs are being assessed against the same "value for money" requirement as part of both feasibility studies and procurement (approvals II and III).
<b>Is there a specific methodology?</b>	No
<b>If yes, elaborate</b>	n/a
<b>Market assessment (showing evidence of enough interest in the market for the project)</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>Among the PPP projects procured within the last two (2) years, for how many of them were all of the required assessments</b>	All of the projects

conducted? Please elaborate:	
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):	Practice
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

<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 allows for a “fast track” procedure?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>What is the average number of calendar days that the procuring authority</b>	266

spends on each of the following activities to prepare a PPP project? Conducting the required assessments:	
Obtaining the required approvals from other relevant authorities:	92
Preparing the draft PPP contract:	106
Obtaining any permits, land and/or right of way that the procuring authority must provide according to the regulatory framework:	133
<b>PPP Procurement</b>	<b>Score: 63</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)	Section 19.1 of the Public Procurement Act stipulates that a procurement entity shall appoint a tender evaluation panel with the required expertise to evaluate tenders and assist the tender committee in its work.
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>	<p>Schedule 17 of the Public Procurement Act provides that the tender committee should be composed of the following members: (a) head of finance or head of accounts division; (b) a representative of the Ministry of Justice not below Chief State Attorney; (c) three other heads of division or department one of whom represents a user department or division; (d) two members of Parliament from the region, one appointed by the Minister and the other chosen by the Regional Caucus of Members of Parliament.</p>
<b>The regulatory framework requires generally sufficient qualification without detailing the specific qualifications required to be a member of the bid evaluation committee.</b>	<p>No</p>
<b>The regulatory framework does not include any provisions.</b>	<p>No</p>
<b>Other</b>	<p>No</p>
<b>please specify:</b>	<p>n/a</p>
<b>Does the procuring authority issue a public procurement notice of the PPP?</b>	<p>Yes</p>
<b>If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):</b>	<p>Section 3 of the Public Procurement Act provides that the Board shall publish a monthly Public Procurement Bulletin which shall contain information germane to public procurement, including proposed procurement notices, notices of invitation to tender and contract award. Section 21(4) of the Public Procurement Act provides that The procurement entity shall send to the Tender Review Board, procurement notices for contracts and procurement plans above the thresholds stipulated in Schedule 3 for publication in the Public Procurement Bulletin.</p>
<b>If yes, is the public procurement notice published online?</b>	<p>Yes</p>
<b>If yes, please specify the website:</b>	<p>www.ppaghana.org</p>
<b>Does the procuring authority grant the potential bidders a minimum period of time to submit their bids?</b>	<p>Yes</p>
<b>If yes, please provide the relevant</b>	<p>Section 53(1)(b) of the Public Procurement Act provides that the procurement entity shall allow tenderers at least six weeks to prepare their tenders for international competitive tendering.</p>

<b>legal/regulatory provisions (if any):</b>	
<b>and the time in calendar days :</b>	43
<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>	Section 50 of the Public Procurement Act provides that: (3) The invitation documents shall include; (a) instructions for preparing tenders; (b) the criteria and procedures, in conformity with the provisions of section 22; for the evaluation of the qualifications of suppliers or contractors; (c) the requirements on additional documentary evidence or other information that is to be submitted by suppliers or contractors to demonstrate their qualifications;....
<b>If no, please elaborate (provide examples):</b>	n/a
<b>Does the procurement process include a pre-qualification stage to select a number of qualified bidders to present the full proposal?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Section 23 the Public Procurement Act provides that: A procurement entity may engage in prequalification proceedings to identify tenderers who are qualified prior to the submission of tenders.
<b>If yes, do the tender documents specify the prequalification criteria in order to make them available to all of the bidders?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Section 23(3) of the Public Procurement Act provides that a procurement entity shall supply a set of prequalification documents to each supplier or contractor that requests them (for a price reflecting the cost of printing and provision to suppliers or contractors); and section 23(4) details the provisions that the prequalification documents shall include. Furthermore, section 24(1) of the Public Procurement Act provides that the procurement entity shall make a decision with respect to the qualification of each supplier or contractor submitting an application to prequalify and in reaching that decision shall apply only the criteria set out in the prequalification documents.
<b>Among the PPP procurement processes</b>	Some of the projects

<p>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</p>	
<p>Can interested parties/potential bidders submit questions to clarify the public procurement notice and/or the request for proposals?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Section 51 of the Public Procurement Act enables suppliers or contractors to promptly request clarification on the tender documents from the procurement entity and the procurement entity shall respond to a request by a supplier or contractor within a reasonable time before the deadline for the submission of tenders to enable the supplier or contractor make a timely submission of its tender. Furthermore, section 51(5) adds that the procurement entity may convene a meeting of suppliers and contractors to clarify and modify tender documents.</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>According to section 51(2) of the Public Procurement Act, the procurement entity communicates clarifications to the suppliers or contractors provided with the invitation documents (without disclosing the source of the original request). Additionally, Section 51(5) provides that the procurement entity shall prepare minutes of any previous meeting concerned with clarification of the invitation documents without identifying the sources of the requests.</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</p>	<p>All of the projects</p>

<b>bidders? Please elaborate:</b>	
<b>Besides questions and clarifications, can the procuring authority conduct other types of dialogue with the potential bidders?</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>If yes, does the procuring authority disclose the content and the results of the dialogue to all of the potential bidders?</b>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<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>	n/a
<b>Does the procuring authority require the bidders to prepare and present a financial model with their proposals ?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a

<b>If no, please elaborate (provide examples):</b>	Even though bids are expected to demonstrate certain financial criteria, no specific requests for financial models are made in the Public Procurement Act 2003 or the National Policy on PPP.
<b>Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Section 59 provide that (1) the procurement entity shall evaluate and compare the tenders that have been accepted in order to ascertain the successful tender in accordance with the procedures and criteria set out in the invitation documents. (2) No criterion shall be used that has not been set out in the invitation documents. Furthermore, section 74 of the draft bill provides that "each responsive proposal shall be evaluated in accordance with the evaluation criteria outlined in the solicitation documents and the provisions of this Act".
<b>Among the PPP procurement processes conducted within the last two (2) years, in how many of them was the evaluation of the bidders conducted in accordance with the criteria stated in the tender documents? Please elaborate:</b>	All of the projects
<b>In the case where only one proposal is submitted (sole proposals), does the procuring authority follow any special procedure before awarding the PPP?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>If yes, what of the following options best describes the way the procuring authority deals with sole proposals? (Please select only</b>	n/a

<p>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.</p>	
<p>Please specify:</p>	<p>n/a</p>
<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>Other</p>	<p>n/a</p>
<p>please specify:</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>180</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>Section 65(9)(c) of the Public Procurement Act explicitly provides that all contracts above the threshold in Schedule 3, must be published in the Procurement Bulletin which shall disclose the names of firms or individuals awarded contracts, the start and completion dates, as well as the value of the contracts.</p>

<b>If yes, is the public procurement award notice published online?</b>	Yes
<b>If yes, please specify the website:</b>	<a href="http://www.ppaghana.org">www.ppaghana.org</a>
<b>Does the procuring authority provide all the bidders with the result of the PPP procurement process?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Section 65(9) provides that the procurement entity shall give notice of the procurement contract in writing to unsuccessful suppliers and contractors
<b>If no, please elaborate (provide examples):</b>	n/a
<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>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Does the regulatory framework restrict or regulate in any way negotiations with the selected bidder between the award and the signature of the PPP contract?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Among the PPP procurement processes conducted within the last two (2) years, in how many of them were the terms and</b>	None of the projects

<b>conditions changed between the award and the signature of the PPP contract? Please elaborate:</b>	
<b>Does the procuring authority publish the PPP contract?</b>	No
<b>If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>If yes, is it published online?</b>	n/a
<b>If yes, please specify the website:</b>	n/a
<b>Does the regulatory framework establish any exceptions where the procurement process described above does not apply or allows for a "fast track" procedure?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Unsolicited proposals</b>	<b>Score: 58</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>	According to section 62 of the National Policy on public-private partnerships, the submission of unsolicited proposals is permitted and their examination takes place on a case-by-case basis.
<b>If yes, please specify, to the best of your knowledge, the percentage of PPP investments in your country approved as unsolicited</b>	27%

<b>proposals during the last five (5) years:</b>	
<b>Does the procuring authority conduct an assessment to evaluate unsolicited proposals?</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	<p>According to sections 62 and 63 of the National Policy on public-private partnerships, the submission of unsolicited proposals is permitted and their examination takes place on a case-by-case basis, and they should be consistent with the national development agenda, serve the public interest, needs and priorities of the Contracting Authority as well as long-term strategic plan for investment in that sector. Furthermore, section 64 of the policy provides that the criteria for considering unsolicited proposals shall be provided in the PPP Manual/Guidelines and the Standardised Provisions. In all circumstances, unsolicited PPP projects shall be subject to a value for money, technical, financial and economic assessment. Criteria shall be developed to prescribe circumstances under which unsolicited proposals shall be subjected to competitive process.</p> <p>Additionally, the Ministry of Finance and Economic Planning PPP toolkit for unsolicited proposal (2012) reiterates the requirements listed in sections 63 and 64 of the National Policy on public-private partnerships, mandating that the contracting authority shall review and establish that the unsolicited proposal: (a) is not currently on its list of investment projects already being considered, (b) offers innovation in design and an innovative approach to project development and management, (c) is consistent with the national development agenda, (d) is aligned with the MDA's policy priorities and long term sector plans, (e) avoids onerous conditions upon government, (f) is in accordance with the guiding principles for PPPs as outlined in the National Policy on PPP and (e) any follow-up requirements for completeness of proposed further work. Please note that similarly to the PPP Policy, the PPP toolkit for unsolicited proposals is not backed by an Act of Parliament and therefore does not have binding force. In practice however it should be followed by the MDAs when dealing with unsolicited proposals.</p>
<b>If yes, does it ensure that the unsolicited proposal is consistent with the existing government priorities?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Both the National Policy on PPPs and the PPP toolkit for unsolicited proposals state that unsolicited proposals should be “consistent with the national development agenda, serve the public interest, needs and priorities of the Contracting Authority as well as long term strategic plan for investment in that sector” and assessed against long term strategies, national development plans and investment needs in specific sectors.
<b>If yes, which of the following options best describes how unsolicited</b>	No

<p>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.</p>	
<p>If yes, please specify:</p>	n/a
<p>The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.</p>	Yes
<p>The regulatory framework does not include any provisions.</p>	No
<p>Other</p>	No
<p>please specify:</p>	n/a
<p>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:</p>	All of the projects
<p>Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?</p>	Yes
<p>If yes, please provide the relevant</p>	Section 25 of the Procurement Act states that participation in procurement proceedings shall be on a competitive basis. Additionally, the toolkit for unsolicited

<b>legal/regulatory provisions (if any):</b>	proposals provides in paragraph 4 that the ministries, departments and agencies shall recruit a transaction advisor to prepare pre-feasibility and full feasibility studies from the perspective of government in accordance with the National Policy, and the studies will be used as benchmarks to independently review the initial business case. Finally, if the unsolicited proposal is determined to be viable, the transaction advisor will be required to further assist the MDA to plan, structure and undertake a competitive procurement process that would include the unsolicited proposal.
<b>Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?</b>	No
<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): Access to the best and final offer.</b>	No
<b>Developer's fee (reimbursing the original proponent for the project development cost).</b>	No
<b>Bid bonus.</b>	No
<b>Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).</b>	No
<b>Other</b>	No
<b>please specify:</b>	n/a
<b>Please provide the relevant</b>	n/a

<b>legal/regulatory provisions (if any):</b>	
<b>PPP Contract Management</b>	<b>Score: 22</b>
<b>Has the procuring or contract management authority established a system to manage the implementation of the PPP contract?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any)</b>	Section 99.1 of the Bill provides for measure to be put in by the contracting entity to ensure that the contract is properly implemented before the PPP Agreement is entered into. Furthermore, section 66 of the National Policy on Public Procurement provides that: A Contracting Authority that is party to a PPP Agreement/Concession is responsible for ensuring that the PPP Agreement/Concession is properly implemented, managed, enforced, monitored and reported on, and must maintain such mechanisms and procedures
<b>If yes, which of the following tools does it include (check all that apply)? Establishment of a PPP contract management team.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Section 37 of the National Policy on Public Procurement provides that, where appropriate, contracting authorities, especially sector ministries shall be encouraged to set up Project Management Units (PMUs), particularly to assist in the project identification, needs and options analysis, initial definition of PPP concept and PPP contract management, monitoring, reporting and evaluation. Furthermore, section 8 of the National Policy on Public Investment Management also provides the responsibilities of the contract management team.
<b>Participation of the members of the PPP contract management team in the PPP procurement process.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Possibility to consult with PPP procurement experts when managing the PPP contract.</b>	No

<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Elaboration of a PPP implementation manual or an equivalent document.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Other</b>	No
<b>please specify:</b>	n/a
<b>If there is a contract management team, in how many of the PPP projects procured within the last two (2) years did the management system and tools fully inform the contract management team? Please elaborate:</b>	Some 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>	<p>Section 37 of the National Policy on public-private partnerships provides that the implementing entities shall be the implementing Contracting Authorities under GoG. MDAs, MMDAs and other contracting entities shall be required to develop capability in PPP development with support from PAU. They are responsible for the following: project identification, needs and options analysis, initial definition of PPP concept and PPP Contract Management, Monitoring, Reporting and Evaluation. (Assistance of Project Management Units (PMUs) can be used where necessary).</p> <p>Furthermore, section 66 of the National Policy on PPPs establish the following monitoring and evaluation system of the PPP contracts in Ghana: A Contracting Authority that is party to a PPP Agreement/Concession is responsible for ensuring that the PPP Agreement/Concession is properly implemented, managed, enforced, monitored and reported on, and must maintain such mechanisms and procedures as approved in approval IV for –</p> <ul style="list-style-type: none"> <li>· Measuring the outputs of the PPP Agreement/Concession;</li> </ul>

	<ul style="list-style-type: none"> <li>· Monitoring the implementation of the PPP Agreement/Concession and performances under the PPP Agreement/Concession;</li> <li>· Liaising with the private party;</li> <li>· Resolving disputes and differences with the private party;</li> <li>· Generally overseeing the day-to-day management of the PPP Agreement/Concession; and</li> <li>· Reporting on the PPP Agreement in the Contracting Authority's Annual Report.</li> </ul>
<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>	<p>No</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>n/a</p>
<b>The procuring or contract management authority must periodically gather information on the performance of the PPP contract.</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Section 66 of the National Policy on PPPs provides that: A Contracting Authority that is party to a PPP Agreement/Concession is responsible for ensuring that the PPP Agreement/Concession is properly implemented, managed, enforced, monitored and reported on, and must maintain such mechanisms and procedures as approved in approval IV for –</p> <ul style="list-style-type: none"> <li>· Measuring the outputs of the PPP Agreement/Concession;</li> <li>· Monitoring the implementation of the PPP Agreement/Concession and performances under the PPP Agreement/Concession;</li> <li>· Liaising with the private party;</li> <li>· Resolving disputes and differences with the private party;</li> <li>· Generally overseeing the day-to-day management of the PPP Agreement/Concession; and</li> <li>· Reporting on the PPP Agreement in the Contracting Authority's Annual Report.</li> </ul>
<b>The procuring or contract management authority must establish a risk mitigation mechanism.</b>	<p>No</p>

<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,</b>	n/a

<b>the replacing entity must meet the same technical 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>	Yes
<b>If yes, please provide the relevant legal/ regulatory provisions:</b>	Sections 70 and 71 of the PPP Policy briefly regulates "Amendments and Variations of PPP Agreement/Concessions" states: (4) A prior written approval of MOFEP-PID is required for any material amendments to a PPP Agreement/Concession, including any material variation to the outputs or any waivers contemplated or provided for in the PPP Agreement/Concession. (5) MOFEP-PID will approve a material amendment only if it is satisfied that the PPP Agreement/Concession, if so amended, continue to provide - Value for money; affordability; and substantial technical, operational and risk transfer to the private party.
<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</b>	n/a

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

<b>mechanism for PPPs?</b>	
<b>If yes, please specify and provide the relevant legal/regulatory provisions</b>	n/a
<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>	n/a
<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>	n/a
<b>The regulatory framework provide the parties with recourse to arbitration but no other alternative dispute resolution mechanism.</b>	n/a
<b>Other</b>	n/a
<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</b>	No

<b>failure to meet service obligations?</b>	
<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>	No
<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>	Yes
<b>Please describe:</b>	(1) Public Procurement (Amendment) Bill, 2015 and (2) A draft PPP Legislation is contemplated to be approved by Parliament of Ghana.
<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>	
<b>Please describe:</b>	(1) Public Private Partnership Bill and (2) guidelines, regulations and standardised PPP documents.