

BENCHMARKING PPP PROCUREMENT 2017 IN THE KYRGYZ REPUBLIC

Regulatory and Institutional Framework for PPPs	
Does the regulatory framework in your country allow procuring PPPs?	Yes
Yes. If yes, please specify the relevant regulatory framework and the year of adoption:	<p>1. Law of the Kyrgyz Republic on Public-Private Partnership in the Kyrgyz Republic dated 22 February 2012, No.7 (hereinafter - PPP Law);</p> <p>2. Regulation on preparation of public-private partnership projects at the expense of the financing Fund of preparation of public-private partnership projects, approved by Decree of Government of the Kyrgyz Republic dated 17 March 2014 No. 147 (hereinafter Resolution No. 147);</p> <p>3. Regulation on tender commission for the selection of private partners in PPP project, approved by Decree of the Government of the Kyrgyz Republic dated 28 January 2013 No.39);</p> <p>4. Procedure on preparing tender rules and tender documentation on public-private partnership projects, approved by Decree of the Government of the Kyrgyz Republic dated 28 January 2013 No.39);</p> <p>5. Regulation on the use of forms of participation of the private partner in a public-private partnership (models of public-private partnerships), approved by Order of the Ministry of Economy of the Kyrgyz Republic dated 28 February 2013 No. 39;</p>
and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:	<p>1. http://www.ppp.gov.kg/upload/file/KG_PPP_law_ENG.pdf</p> <p>2. http://cbd.minjust.gov.kg/act/view/ru-ru/96267</p> <p>3. http://cbd.minjust.gov.kg/act/view/ru-ru/94221</p> <p>4. http://cbd.minjust.gov.kg/act/view/ru-ru/94222</p> <p>5. http://cbd.minjust.gov.kg/act/view/ru-ru/94135</p>
Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors? Transportation.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Water and irrigation	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Energy generation and distribution	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Telecom	No
If yes, please provide the relevant legal/regulatory provisions:	n/a

Health	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Education	No
If yes, please provide the relevant legal/regulatory provisions:	m/a
Other	Yes
If yes, please provide the relevant legal/regulatory provisions:	Pursuant to Article 3 of the PPP Law, PPP does not apply to relations connected with the use of mineral resources, public procurement and privatization. PPP does not apply to infrastructure objects and services list of which is determined by the Government of the Kyrgyz Republic.
Please identify the PPP procuring authorities in country_name and provide their website(s) (if available):	(i) Government of the Kyrgyz Republic (the "KR") (www.gov.kg); (ii) Ministry of Economy of the KR (www.mineconom.gov.kg); (www.ppp.gov.kg); (iii) Ministry of Finance of the KR (www.minfin.kg); (iv) other governmental authorities, including executive state bodies (such as ministries, state committees, local state administrations), local self-government bodies and municipal enterprises. Procuring authorities are listed in Articles 1 and 7 of the PPP Law.
In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?	Yes
If yes, please indicate its name, and its website (if available):	PPP Unit of the Investment Promotion Agency of the Kyrgyz Republic (www.ppp.gov.kg)
If yes, what are the main responsibilities of the PPP Unit (check all that apply). PPP regulation.	Yes
PPP policy guidance and capacity building for other public authorities.	Yes
PPP promotion among the public and/or private sectors in national and international forums.	Yes
Technical support in implementing PPP projects.	Yes
Gatekeeping (approval of PPP projects).	Yes
Procurement of PPPs.	No
Oversight of PPP implementation.	Yes
Other	No
please specify:	n/a
Preparation of PPPs	Score: 50

Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 10 of the PPP Law, the Ministry of Finance of the KR approves the PPP projects, tender documentation and PPP contracts that stipulate financing from the state budget.
If yes, is a second approval by the Ministry of Finance or Central Budgetary Authority required before signing the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 10 of the PPP Law, the Ministry of Finance of the KR approves the PPP projects, tender documentation and PPP contracts that stipulate financing from the state budget.
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?	Yes
If yes, please specify the relevant authority	Government of the Kyrgyz Republic
and provide the relevant legal/regulatory provisions (if any):	According to Article 16 of the PPP Law projects that are subject to Government approval, the decision to initiate a PPP project are adopted by the Government.
If yes, is a second approval by the same authority required before signing the PPP contract?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Does the government integrate the prioritization of PPP projects with all other public investment project prioritization? (e.g. in the context of a national public investment system)?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 16(1) of the PPP Law, when identifying and initiating a PPP project, a public partner takes into account public and municipal PPP development programs, social and economic development programs, and sectoral development programs.
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	No

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.	
If yes, please specify:	n/a
The regulatory framework prescribes the need for PPPs to be consistent with all other investment priorities without establishing a specific procedure to achieve that goal.	No
The regulatory framework does not include any provisions.	No
Other	Yes
please specify:	Pursuant to Article 16(1) of the PPP Law, when identifying and initiating a PPP project, a public partner takes into account public and municipal PPP development programs, social and economic development programs, and sectoral development programs.
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:	No Data
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)	Yes
Relevant legal/regulatory provision (if any)	Pursuant to Resolution No. 147 of March 17, 2014, evaluation of social issues that may arise as a result of the project, including the estimated costs for their decision, will be conducted.
Is there a specific methodology?	No
If yes, elaborate.	n/a
Affordability assessment, including the identification of the required long term public commitments (explicit and implicit)	Yes
Relevant legal/regulatory provision (if any)	Pursuant to Resolution No. 147 of March 17, 2014, the estimated need and the kinds of economic and / or financial support of the state, including preliminary cost estimate will be conducted.

Is there a specific methodology?	No
If yes, elaborate	n/a
Risk identification, allocation and assessment (risk matrix)	Yes
Relevant legal/regulatory provision (if any)	Pursuant to Resolution No. 147 of March 17, 2014, the preliminary risk assessment is conducted.
Is there a specific methodology?	No
If yes, elaborate	n/a
Financial viability or bankability assessment.	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology?	n/a
If yes, elaborate	n/a
Comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives	Yes
Relevant legal/regulatory provision (if any)	Pursuant to Article 16 (2) of the PPP Law, for purposes of initiating the PPP project, the public partner shall evaluate the prospective project, including its rationale and feasibility under PPP, the minimum requirements for the project, the types and conditions for providing government financial and/or economic guarantees and the development of other documents required under respective regulations approved by the Government and the authorized public agency.
Is there a specific methodology?	No
If yes, elaborate	n/a
Market assessment (showing evidence of enough interest in the market for the project)	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology?	n/a
If yes, elaborate	n/a
Among the PPP projects procured within the last two (2) years, for how many of them were all of the required assessments conducted? Please elaborate:	Most of the projects
Does the procuring authority include a draft PPP contract in the request for proposals?	Yes
If yes, please provide the relevant legal/regulatory	Pursuant to Article 20 (3) of the PPP Law, from the date of the publication of the invitation, the tender commission shall make the tender rules and tender documents

provisions (if any):	<p>publicly accessible. The tender documentation includes the draft PPP contract. Furthermore, Article 22 of the PPP Law sets out mandatory provisions that must be a part of the PPP agreement. These include, but are not limited to, the following:</p> <ul style="list-style-type: none"> - Subject and object of the PPP agreement; - Rights, obligations and liabilities of the parties; - The term of the PPP agreement; - The minimum scope, procedure of providing and quality standards of infrastructure services made and/or rendered in the process of the PPP project implementation, and the payment mechanisms for infrastructure services; - terms and conditions of financing the PPP project; - types and conditions of providing the government's financial and economic support, if any; - distribution of risks, among the parties to the PPP agreement, associated with implementation of the PPP project; - guarantees of performance of the agreement in respect of works and operation; - procedure for application of tariffs or charges related to the infrastructure services, as well as methods and formulas of calculation of such tariffs or charges; - procedure for possession and use of any infrastructure asset transferred by the public partner to the private partner in order to implement the PPP project; - methods of securing the obligations of the parties to the PPP agreement; - procedure for monitoring and evaluation of the PPP project; - requirements for insurance of the PPP project; - procedure for assignment of rights under the PPP project to financial institutions; - procedure for return to the public partner of the infrastructure asset and other rights conferred in connection with the performance of the PPP agreement at the expiration of the agreement;
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.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 13 (2) (2) of the PPP Law, the government economic support to the private partner/project may be provided, including: assisting in obtaining licenses, permits, approvals.
Does the procuring authority make available to PPPCo the necessary land or right of way to develop the PPP project (if any)? Land	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 13 (2) (1) of the PPP Law, Government economic support to the private partner and/or project company may be provided in the following way: in addition to rights to an infrastructure asset, providing rights to other movable or immovable property in accordance with the legislation of the Kyrgyz Republic.
If no, please elaborate (provide explanation):	n/a
Does the procuring authority make available to PPPCo the necessary land or right of way to develop the PPP project (if any)? Right of way	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 13 (2) (3) of the PPP Law, Government economic support to the private partner and/or project company may be provided in the following way: providing easements in respect of publicly and/or municipally owned movable or immovable property.
If no, please elaborate (provide explanation):	n/a
Does the regulatory framework establish any exceptions where the preparation process described above does not apply or allows for a “fast track” procedure?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
What is the average number of calendar days that the procuring authority spends on each of the following activities to prepare a PPP project? Conducting the required assessments:	37.5
Obtaining the required approvals from other relevant authorities:	75
Preparing the draft PPP contract:	37.5
Obtaining any permits, land and/or right of way that the procuring authority must	75

provide according to the regulatory framework:	
PPP Procurement	Score: 63
Are the bid evaluation committee members required to meet specific qualifications?	Yes
If yes, please specify and provide the relevant legal/regulatory provisions (if any)	Pursuant to Article 19 (2) of the PPP Law, the tender commission shall have an odd number of members of at least 5 people. The tender commission shall include a representative of the authorized public agency, a specialist 9 having experience and knowledge in respect of the relevant infrastructure asset, a specialist in the field of economics or finance, a specialist in the field of law, and a representative of the local community directly impacted by the PPP project. The members of the tender commission may be subject to qualification requirements approved by the authorized public agency. The members of the tender commission must not have conflict of interest in respect of the project concerned.
If no, please elaborate (provide examples):	n/a
If yes, which of the following options best describes the required qualifications of the committee members? (Please select only one). The regulatory framework details the qualifications required and/or the specific membership of the bid evaluation committee.	Yes
If yes, please specify:	Pursuant to Article 19 (2) of the PPP Law, the tender commission shall have an odd number of members of at least 5 people. The tender commission shall include a representative of the authorized public agency, a specialist 9 having experience and knowledge in respect of the relevant infrastructure asset, a specialist in the field of economics or finance, a specialist in the field of law, and a representative of the local community directly impacted by the PPP project. The members of the tender commission may be subject to qualification requirements approved by the authorized public agency. The members of the tender commission must not have conflict of interest in respect of the project concerned.
The regulatory framework requires generally sufficient qualification without detailing the specific qualifications required to be a member of the bid evaluation committee.	No
The regulatory framework does not include any provisions.	No
Other	No
please specify:	n/a
Does the procuring authority issue a public procurement	Yes

notice of the PPP?	
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 20 (3) of the PPP Law, the tender commission shall publish an invitation to participate in the pre-qualification stage in the mass media and on the official website of the authorized public agency. The text of the invitation shall be in the state and official languages and where necessary in foreign languages. From the date of the publication of the invitation, the tender commission shall make the tender rules and tender documents publicly accessible.
If yes, is the public procurement notice published online?	Yes
If yes, please specify the website:	www.mineconom.gov.kg ; www.ppp.gov.kg
Does the procuring authority grant the potential bidders a minimum period of time to submit their bids?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 20 (3) of the PPP Law, the bids for participation in the prequalification shall be submitted within 30 calendar days following the date of publication of the invitation to the tender.
and the time in calendar days :	30
Do the tender documents detail the stages of the procurement process?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Paragraph 8 of Regulation on preparing tender rules and tender documentation on PPP projects, approved by Decree of the Government of the Kyrgyz Republic dated 28 January 2013 No.39, the tender rules must contain following: Section 1: Introduction, Section 2: General terms, Sections 3: Submission of applications for participation in the tender and pre-selection of tenderers, Sections 4: Submission and evaluation of bids, Section 5: Choosing the tender winner, Section 6: Conclusion of a PPP contract, Section 7: Annexes
If no, please elaborate (provide examples):	n/a
Does the procurement process include a pre-qualification stage to select a number of qualified bidders to present the full proposal?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 20 (1) and 20 (2) of the PPP Law, the tender process shall consist of two stages: pre-qualification and selection of the winning bidder. The tender commission shall pre-qualify private partners having sufficient capability and qualification necessary to implement the PPP project. This pre-qualification stage is compulsory for the procurement of PPPs.
If yes, do the tender documents specify the prequalification criteria in order to make them available to all of the bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Submission of applications for participation in the tender and pre-selection of tenderers shall include requirements for the bidders participating in the pre-selection (Para 8 of Regulation on preparing tender rules and tender documentation on PPP projects,

	approved by Decree of the Government of the Kyrgyz Republic dated 28 January 2013 No.39).
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	All of the projects
Can interested parties/potential bidders submit questions to clarify the public procurement notice and/or the request for proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Tender rules shall provide for procedure and terms of clarification of tender documents provisions (Para 8 (2) Procedure on preparing tender rules and tender documentation on public-private partnership projects)
If yes, does the procuring authority disclose those questions and clarifications to all of the potential bidders?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
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:	No Data
Besides questions and clarifications, can the procuring authority conduct other types of dialogue with the potential bidders?	No
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
If yes, does the procuring authority disclose the content and the results of the dialogue to all of the potential bidders?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Among the PPP procurement processes conducted within	n/a

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:	
Does the procuring authority require the bidders to prepare and present a financial model with their proposals ?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
If no, please elaborate (provide examples):	There is no clear requirement for bidders to prepare and present a financial model with their proposal; however pursuant to Clause 21 of the PPP Tender Procedure, the bid rules may establish additional pre-qualification criteria, including financial.
Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 20 (6) of the PPP Law, evaluation of the proposals is carried out in two stages. The tender commission shall evaluate the private partners' proposals within the time limits specified in the tender documents, but not more than 60 calendar days following the end date specified under Article 5 (of the PPP Law). The proposals shall be evaluated in two stages. At the first stage, the tender commission shall assess whether the private partner meets the qualification requirements set forth in the tender documents. The proposals which do not meet the said requirements shall be rejected. The proposals selected at the first stage shall be evaluated at the second stage for compliance with social, financial and economic criteria set forth 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:	Most of the projects
In the case where only one proposal is submitted (sole proposals), does the procuring authority follow any special procedure before awarding the PPP?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 20 (4) of the PPP Law, The number of pre-qualified private partners must not be less than two. Otherwise, the tender shall be declared void.
If yes, what of the following	No

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.	
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.	Yes
The regulatory framework does not include any provisions.	No
Other	No
please specify:	n/a
In practice, what is the average number of calendar days between the initial publication of the PPP public procurement notice and the award of the PPP? Number of calendar days:	155
Does the procuring authority publish the award notice?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 20 (5) of the PPP Law, "the tender commission announces the winner of the tender within 5 working days after the decision of the tender commission on selection of winner of the tender. Within 5 working days after the decision of the tender commission in writing the decision on the choice of the winner of the tender or the decision on recognition of the tender invalid tender commission publishes announcement of the results of the tender in the manner prescribed for the invitation to tender, as well as directs the bidders who submitted bids, copy of the decision on the results of the tender. In the announcement of the results of the tender shall contain the name, first name or name of a legal entity - the bidder, selected the winner of the tender, or a decision to declare the tender failed to justify this decision (pp. 41, 42 Procedure for tendering for projects of public-private partnership approved by order of the Ministry of Economy of the Kyrgyz Republic on March 7, 2013 № 52). "
If yes, is the public procurement award notice published online?	Yes
If yes, please specify the	Authorized state body - Ministry of Economy of the Kyrgyz Republic,

website:	https://mineconom.gov.kg/
Does the procuring authority provide all the bidders with the result of the PPP procurement process?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Clause 41 of the PPP Tender Procedure, within 5 business days from the date of a decision of the tender commission about award of the PPP contract the public partner shall announce the winner and send a copy of such decision to all the rest bidders.
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:	No Data
Does the procuring authority publish the PPP contract?	No
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	n/a
If yes, is it published online?	n/a
If yes, please specify the website:	n/a
Does the regulatory framework establish any exceptions where the procurement process described above does not	No

apply or allows for a “fast track” procedure?	
If yes, please provide the relevant legal/regulatory provisions:	n/a
Unsolicited proposals	Score: 50
Does the regulatory framework allow for the submission of unsolicited proposals? (if no, skip to section F)	Yes
If yes, please provide the relevant legal/regulatory provisions:	Pursuant to Article 17 (1) of the PPP Law, private partners may apply to the public partner or the Government with a proposal to initiate a PPP project. The proposal must be accompanied by a preliminary feasibility study, a document confirming the private partner’s expenses in preparing the preliminary feasibility study, the rationale for the application of PPP to the selected infrastructure, an environmental impact assessment and the main conditions of the PPP agreement. In addition to the said documents, the private partner may submit other documents relevant to the proposed PPP project. The public partner must accept or reject the proposal within 60 days. If the proposal is rejected, the public partner must notify the private partner a notice of the reasons for rejection and return to the private partner all originals and copies of the earlier submitted documents.
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:	No Data
Does the procuring authority conduct an assessment to evaluate unsolicited proposals?	Yes
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 17 (1) of the PPP Law, the public partner must accept or reject the proposal within 60 days. If the proposal is rejected, the public partner must notify the private partner a notice of the reasons for rejection and return to the private partner all originals and copies of the earlier submitted documents. The public partner may request for additional information only once. This request must be supported by the statement of reasons. The private partner must provide the requested information within 30 calendar days of the receipt of the request. If the public partner requests for additional information, the decision whether to accept or reject the proposal shall be made within 30 calendar days of the receipt of additional information from the private partner. If no additional information is received from the private partner within the aforementioned term, the decision whether to accept or reject the proposal shall be made within 30 calendar days following the expiration of the term for the provision of additional information.
If yes, does it ensure that the unsolicited proposal is consistent with the existing government priorities?	No

If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
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.	n/a
If yes, please specify:	n/a
The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.	n/a
The regulatory framework does not include any provisions.	n/a
Other	n/a
please specify:	n/a
Among the unsolicited proposals approved within the last two (2) years, how many of them were a part of the existing government priorities? Please elaborate:	No Data
Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 17 (2) of the PPP Law, in the event that the public partner accepts the proposal initiated by the private partner, the public partner shall notify the private partner and the authorized public agency of this decision. The selection of (a winning) private partner for the PPP project initiated by a private partner shall be made through a tender in the manner provided by the PPP law and other regulations of the Kyrgyz Republic.
Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?	Yes
If yes, please provide the	Pursuant to Article 20 (3) of the PPP Law, the tender commission shall publish an

relevant legal/regulatory provisions (if any):	invitation to participate in the pre-qualification stage in the mass media and on the official website of the authorized public agency. The text of the invitation shall be in the state and official languages and where necessary in foreign languages. From the date of the publication of the invitation, the tender commission shall make the tender rules and tender documents publicly accessible. The bids for participation in the prequalification shall be submitted within 30 calendar days following the date of publication of the invitation to the tender.
and the time in calendar days:	30
Does the procuring authority use any of the following mechanisms to reward/compensate the presentation of unsolicited proposals? (check all that apply): Access to the best and final offer.	No
Developer's fee (reimbursing the original proponent for the project development cost).	Yes
Bid bonus.	No
Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).	No
Other	No
please specify:	n/a
Please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 17 (3) of the PPP Law, if the private partner that initiated the PPP project fails to win the tender, the winner of the tender must reimburse the private partner that initiated the PPP project for expenses incurred to prepare the preliminary feasibility study.
PPP Contract Management	Score: 58
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)	Pursuant to Article 32 (1) of the PPP Law, monitoring and evaluation of the PPP project shall be carried out by the public partner. The authorized public agency may also monitor and evaluate the PPP project. However this applies more towards the next section of the questionnaire, rather than the current one.
If yes, which of the following tools does it include (check all that apply)? Establishment of a PPP contract management team.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a

Participation of the members of the PPP contract management team in the PPP procurement process.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Possibility to consult with PPP procurement experts when managing the PPP contract.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Elaboration of a PPP implementation manual or an equivalent document.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Other	No
please specify:	n/a
If there is a contract management team, in how many of the PPP projects procured within the last two (2) years did the management system and tools fully inform the contact management team? Please elaborate:	No Data
Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 32 (1) of the PPP Law, monitoring and evaluation of the PPP project shall be carried out by the public partner. The authorized public agency may also monitor and evaluate the PPP project.
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.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 32 (2) of the PPP Law, annually, but not later than May 1 of the current year, the private partner or a project company is obliged to provide the public partner and the Ministry of Economy of the Kyrgyz Republic a report on the implementation of the PPP project and the financial report for the previous year.
The procuring or contract management authority must periodically gather	No

information on the performance of the PPP contract.	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The procuring or contract management authority must establish a risk mitigation mechanism.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The PPP contract performance information must be available to the public.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Other	No
please specify:	n/a
Is PPP contract performance information publicly available online?	No
If yes, please specify the website:	n/a
Does the regulatory framework expressly regulate a change in the structure (i.e. stakeholder composition) of PPPCo?	Yes
If yes, please provide the relevant legal/regulatory provisions:	Pursuant to Article 29 of the PPP Law, a public partner may own not more than one third of shares in the PPPCo and any change of stakeholder composition may take place upon preliminary written consent of the public partner and the Ministry of Economy of the KR, unless otherwise stipulated in the PPP contract.
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).	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
In case of a change affecting the controlling interest, the replacing entity must meet the same technical qualifications as the original operator.	No
If yes, please provide the	n/a

relevant legal/regulatory provisions:	
Flexibility to substitute non-controlling interest after the initial period.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Does the regulatory framework expressly regulate the modification or renegotiation of the PPP contract (once the contract is singed)?	Yes
If yes, please provide the relevant legal/ regulatory provisions:	Pursuant to Article 22 of the PPP Law a PPP contract shall stipulate for a procedure and terms of modification or extension of the PPP. However, the said provision is quite general and does not regulate specifically the circumstances outlined. The Law specifically states that the contract should include a provision related to the "procedure and conditions for amending, extending and terminating the PPP agreement, including the grounds for early termination of the PPP agreement and the procedure for compensation for damage caused by the early termination of the PPP agreement".
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.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
A change in the risk allocation of the contract.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
A change in the investment plan or duration of the contract.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Does the regulatory framework expressly regulate the following circumstances that may occur during the life of the PPP contract? (check all that apply): Force Majeure.	Yes
If yes, please provide the relevant legal/regulatory provisions:	Pursuant to Article 22 of the PPP Law, the contract must contain provisions related to the actions of the parties in the event of force majeure.
Material Adverse government action.	No

If yes, please provide the relevant legal/regulatory provisions:	n/a
Change in the Law.	Yes
If yes, please provide the relevant legal/regulatory provisions:	Pursuant to Article 22 of the PPP Law, the signed contract should contain provisions related to the procedures for the compensation for damage caused by the adoption of the regulations worsening the PPP project implementation conditions for the private partner as compared to the conditions set forth in the PPP agreement.
Refinancing.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Other.	Yes
If yes, please specify and provide the relevant legal/regulatory provisions:	Pursuant to Article 25 of the PPP Law, the rights and obligations of the private partner and the project company may be assigned to financial institutions to provide funding for the implementation of a PPP project, with the prior written consent of the public partner.
Does the regulatory framework establish a specific dispute resolution mechanism for PPPs?	Yes
If yes, please specify and provide the relevant legal/regulatory provisions	<p>Pursuant to Article 34 of the PPP Law, all disputes arising out of or in connection with the procedure of selection of private partners shall be settled in accordance with KR Law "On basis of administrative activity and administrative procedures".</p> <p>All disputes arising out of or in connection with the execution, performance and termination of the PPP agreement shall be settled by negotiation in accordance with provisions of the PPP agreement. The parties to the PPP agreement may determine the courts of the Kyrgyz Republic or arbitral tribunals of the Kyrgyz Republic or international commercial arbitration institutions as the venue for dispute resolution.</p> <p>All disputes arising out of or in connection with the provision by the private partner or the project company of services to beneficiaries in the course of the PPP project implementation shall be settled in the courts of the Kyrgyz Republic. When executing the PPP agreement, the public partner may demand that the private partner or the project company establish easy and efficient mechanisms to resolve such disputes as a method of pretrial dispute resolution.</p>
If yes, which of the following options best describes the dispute resolution mechanism for PPPs? (Please select only one). The regulatory framework details specific resolution mechanisms for disputes arising during the implementation of the PPP.	No
If yes, please specify:	n/a
The regulatory framework prescribes that a dispute resolution mechanism should be regulated in the contract.	Yes

The regulatory framework provide the parties with recourse to arbitration but no other alternative dispute resolution mechanism.	No
Other	No
please specify:	n/a
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?	Yes
If yes, please provide the relevant legal/regulatory provisions:	Pursuant to Article 25 of the PPP Law, the rights and obligations of the private partner and the project company may be assigned to the financial institutions providing finance for the PPP project implementation with the prior written consent of the public partner.
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.	No
If yes, please specify:	n/a
The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.	No
The regulatory framework prescribes that a direct agreement should be signed with the lenders.	No
Other	Yes
please specify:	Pursuant to Article 25 of the PPP Law, the rights and obligations of the private partner and the project company may be assigned to the financial institutions providing finance for the PPP project implementation with the prior written consent of the public partner.
Does the regulatory framework expressly establish the grounds for termination of a PPP contract?	Yes
If yes, please specify:	A PPP contract shall be terminated (i) upon expiry of the PPP contract term; (ii) upon mutual written consent of all parties to the PPP contract; (iii) upon initiative of either party of the PPP contract; (iv) upon decision of a body or person authorized by the parties to the PPP contract to settle a dispute; (v) if the PPPCo or private partner terminates its activities, declared as bankrupt or insolvent
and provide the relevant legal/regulatory provisions:	Article 27 of the PPP Law

If yes, does the regulatory framework also establish the consequences for the termination of the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions:	<p>Pursuant to Article 28 of the PPP Law, in the event of termination of the PPP contract private partner and/or project company are obliged to do the following, unless otherwise provided for in the PPP contract:</p> <ul style="list-style-type: none"> - to transfer public partner the infrastructure object and other assets received from the public partner, which should be free from any encumbrances by third parties in accordance with the terms of the contract; - to train staff of the public partner to operate and maintain the infrastructure object - to ensure continuity of support services and resources, including the supply of spare parts, if required, within a reasonable time after the transfer of the infrastructure object and other assets to public partner. <p>Early termination of the PPP contract by fault of one of the parties of PPP contract entails obligation to compensate the other party losses incurred by the parties</p>
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?	No
Please describe:	n/a
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?	Yes
Please describe:	<p>In November 2015, the Government submitted to the Parliament the Bill proposing amendments to the PPP Law. The proposed amendments refer to the list of public authorities which may be the public partner, stages of PPP projects, competencies of the KR authorities in the area of PPP, additional government financial support measures, etc.</p> <p>On 18 May 2016, the Parliament approved the Bill in the third hearing. Once signed by the President, it will enter into force upon expiration of 15 days term from the date of its official publication resolving some of the problems of the current legal framework for PPPs.</p> <p>Once the Bill will enter into force, KR Government will have to make changes to some subordinate legislation, including the procedures for holding tender for PPP projects, preparing tender rules and tender documentation for PPP projects, the regulation on tender commission on PPP projects, the rules for keeping the register of PPP projects, and perhaps adopt additional acts.</p> <p>Also in 2015 the draft Manual for Implementing Public-Private Partnerships in the KR was developed under the support of ADB. The draft Manual is currently undergoing the</p>

	review by KR Ministry of Economy, and we assume that KR Ministry of Economy will approve it after June 1, 2016.
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