

**BENCHMARKING PPP PROCUREMENT 2017 IN MALAYSIA**

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>The Malaysian government has been encouraging PPPs actively since 1991. The PPP scheme were officially unveiled under the 9th Malaysia Plan in 2006 whereby the government decided to streamline privatization by adopting new approaches such as PPP/PFI model and mechanisms. The Tenth Malaysian Plan (2011-2015) further enhances the objective of PPPs.</p> <p>Malaysia does not have a specific PPP law. However, the Financial Procedure Act 1957 provides for the general control and management of the public finances in Malaysia. The Act was amended in 1972 to empower the Minister of Finance to manage, control, supervise and direct all financial matters involving the federal government. Although, the Act does not provide specifically for PPPs, the Act is still relevant as it regulates public purchase and acquisition. Treasury Instructions, Treasury Circulars and Federal Circular Letters issued by the Ministry of Finance further contain provisions that regulate government procurement.</p> <p>To maintain check and balance in the procuring process, projects proposals are assessed and evaluated by the Project Steering Committee i.e through the PPP Committee and the Highest PPP Committee. It is then tabled to the Cabinet for a collective decision. In addition to the above, PPPs in Malaysia are also governed by the national policies on PPPs, including the privatization masterplan. These national policies set out guidelines for the regulation of PPPs. In view of the fact that these national policies are not act of parliament, it is not binding. Nevertheless, these policies guide PPPs and to be followed when procuring PPPs.</p> <p>Apart from the above, UKAS as the central agency in coordinating PPP in the country has also developed several Guidelines pertaining to PPP and privatization. These Guidelines further detail out the objective of the policy, methods of PPP and privatization, as well as the implementation mechanism.</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><a href="http://www.ukas.gov.my">http://www.ukas.gov.my</a></p> <p><a href="http://www.treasury.gov.my">http://www.treasury.gov.my</a></p>
<b>Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any</b>	No

<b>of the following sectors?</b>	
<b>Transportation.</b>	
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Water and irrigation</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Energy generation and distribution</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Telecom</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Health</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Education</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Other</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Please identify the PPP procuring authorities in country_name and provide their website(s) (if available):</b>	PPP procuring authorities involve all governmental levels from Federal Government (ministries/agencies) to state governments as well as local governments depending on the project, in which their roles are conducted according to their respective authority or responsibility
<b>In addition to the PPP procuring authorities listed above, is there a specialized government entity</b>	Yes

<b>that facilitates the PPP program (PPP Unit)?</b>	
<b>If yes, please indicate its name, and its website (if available):</b>	Public Private Partnership Unit, Prime Minister's Department <a href="http://www.ukas.gov.my">http://www.ukas.gov.my</a> When the privatization policy was launched in 1983, a Privatization Section (initially known as the Privatization Special Task Force) was established and was put under the Economic Planning Unit of the Prime Minister's Department. In 2009, after the official introduction of PPP under the 9th Malaysia Plan, the Privatization and Private Finance Initiative Unit was established which is now referred to as the Public-Private Partnership Unit ("3PU"), a government agency within the Prime Minister's Department, otherwise known as the Unit Kerjasama Awam Swasta ("UKAS")
<b>If yes, what are the main responsibilities of the PPP Unit (check all that apply). PPP regulation.</b>	Yes
<b>PPP policy guidance and capacity building for other public authorities.</b>	Yes
<b>PPP promotion among the public and/or private sectors in national and international forums.</b>	Yes
<b>Technical support in implementing PPP projects.</b>	Yes
<b>Gatekeeping (approval of PPP projects).</b>	Yes
<b>Procurement of PPPs.</b>	No
<b>Oversight of PPP implementation.</b>	Yes
<b>Other</b>	No
<b>please specify:</b>	n/a
<b>Preparation of PPPs</b>	Score: 46
<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</b>	Practice

<b>provisions (if any):</b>	
<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>	Practice
<b>Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before launching the procurement process?</b>	Yes
<b>If yes, please specify the relevant authority</b>	Cabinet
<b>and provide the relevant legal/regulatory provisions (if any):</b>	The third step the process Flow of PPP Projects is consideration and evaluation of PPP proposal and submission to Cabinet for approval in principal (PPP Guidelines, p. 11)
<b>If yes, is a second approval by the same authority required before signing the PPP contract?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Is required an approval from the Cabinet for the selection of the private operator before negotiations with the selected private operator (PPP Guidelines, p. 11).
<b>Does the government integrate the prioritization of PPP projects with all other public investment project prioritization? (e.g. in the context of a national public</b>	Yes

<b>investment system)?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>The general framework for public investment in Malaysia does require the government to assess and prioritize PPP projects with other public investment projects where UKAS works closely with the Economic Planning Unit (EPU).</p> <p>The 11th Malaysian Plan has been prepared by the Economic Planning Unit of the Prime Minister's Department and the Finance Ministry of Malaysia with approval by the Cabinet of Malaysia to allocate the national budget from the year 2016 to 2020 to all economic sectors in Malaysia. PPP are included in this plan, especially for housing and education but also in more general way: "In line with the whole-society approach, a social financing model for public-private partnership programs will be introduced to promote investments from the private sector, foundations, and individuals in delivering social services". However, this consists in a general encouragement of PPPs, PPP projects to be procured are not to be included in this plan.</p> <p>According to our best contributor, PPPs are included in the 11th Malaysia Plan. In the 11th Malaysia Plan, the Government will reduce ownership and control of selected non-core services (i.e.. operational matters such as processing of payroll) through privatization and outsourcing. The private sector will be encouraged to develop public housing which can be done through public-private partnerships.</p>
<b>If yes, which of the following options best describes the way your government prioritizes PPP projects? (Please select only one). The regulatory framework provides for the inclusion of PPPs in the national public investment system and/or details a specific procedure to ensure the consistency of PPPs with other public investment priorities.</b>	<p>No</p>
<b>If yes, please specify:</b>	<p>n/a</p>
<b>The regulatory framework prescribes the need for PPPs to be consistent with all other investment priorities without establishing a specific procedure to achieve that goal.</b>	<p>Yes</p>

<b>The regulatory framework does not include any provisions.</b>	No
<b>Other</b>	No
<b>please specify:</b>	n/a
<b>Among the PPP projects procured within the last two (2) years, how many of them were prioritized along with all other public investment projects? Please elaborate:</b>	No data
<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>	A PPP proposal will only be considered if there is a need on the part of the Government for the project after taking into account the benefits/probity as a whole in terms of, inter-alia: i. socio-economic impacts (PPP guidelines, 2.1).
<b>Is there a specific methodology?</b>	No
<b>If yes, elaborate.</b>	n/a
<b>Affordability assessment, including the identification of the required long term public commitments (explicit and implicit)</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	Practice
<b>Is there a specific methodology?</b>	No
<b>If yes, elaborate</b>	n/a

<b>Risk identification, allocation and assessment (risk matrix)</b>	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>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>	Section 2.1 of the PPP Guidelines is related to principles in Adopting PPP Approach : A PPP proposal will only be considered if there is a need on the part of the Government for the project after taking into account the benefits/probity as a whole in terms of, inter-alia: ii. Value for money and cost savings to the Government.
<b>Is there a specific methodology?</b>	Yes
<b>If yes, elaborate</b>	According to section 2.2 of the PPP guidelines, the main driver of the PPP Program is Value for Money (VfM), defined as 'the optimal combination of whole life cost and quality to meet the users' requirements'. Generally, VfM is achieved through: <ul style="list-style-type: none"> <li>- risk transfer which allocates risks optimally between the public and private sectors ;</li> <li>- long term nature of contracts (which embodies whole life costing) ;</li> <li>- the use of output specification which allows bidders to innovate ;</li> <li>- competition that provides fair value of the project ;</li> <li>- performance-based payment mechanism ;</li> <li>- private sector management expertise and skills.</li> </ul>
<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 conducted? Please elaborate:</b>	All of the projects
<b>Does the procuring authority include a draft PPP contract in the request for proposals?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Practice
<b>If no, please elaborate (provide examples):</b>	n/a
<b>Have standardized PPP model contracts and/or transaction documents been developed?</b>	No
<b>If yes, please specify and provide a government-supported website where the mentioned standards are available or provide an electronic copy of them:</b>	n/a
<b>Does the procuring authority obtain the permits necessary to develop and operate the PPP project before calling for tenders in any of the following areas? Environmental permits.</b>	No
<b>If yes, please</b>	n/a

<b>provide the relevant legal/regulatory provisions (if any):</b>	
<b>Urban and zoning permits.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Other permits.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Does the procuring authority make available to PPPCo the necessary land or right of way to develop the PPP project (if any)? Land</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Practice
<b>If no, please elaborate (provide explanation):</b>	n/a
<b>Does the procuring authority make available to PPPCo the necessary land or right of way to develop the PPP project (if any)? Right of way</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Practice
<b>If no, please elaborate (provide explanation):</b>	n/a
<b>Does the regulatory framework establish any exceptions where the preparation process described above does not apply or allows for a</b>	Yes

<b>“fast track” procedure?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	Land Acquisition Act 486 of 1960 Power to take possession in urgent cases 19. Where any land, described in any notice in Form E given under section 10, is in the opinion of the State Authority urgently required for use for a public purpose, or for a public utility in the case of an acquisition under paragraph 3(1)(b), the State Director may, on or after the expiration of fifteen days from the date of the giving of such notice, issue a Certificate of Urgency directing the Land Administrator to take possession of such land, subject to section 20.
<b>What is the average number of calendar days that the procuring authority spends on each of the following activities to prepare a PPP project? Conducting the required assessments:</b>	30
<b>Obtaining the required approvals from other relevant authorities:</b>	42
<b>Preparing the draft PPP contract:</b>	150
<b>Obtaining any permits, land and/or right of way that the procuring authority must provide according to the regulatory framework:</b>	317.5
<b>PPP Procurement</b>	<b>Score: 43</b>
<b>Are the bid evaluation committee members required to meet specific qualifications?</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any)</b>	JKAS terms and conditions provide composition for the different assemblies: Financial/Commercial Committee: Subject Matter Specialist on Finance and Accounting Sector (section 7.Finance Sub-Committee (JKK)) Technical Committee: Subject Matter Specialist on Engineering (civil, mechanical and electrical), architecture, quantity surveying and town planning (section 8.Technical Sub-Committee (JKT)). The members of the Committee shall not be less than three (3) officers with adequate qualification and knowledge on the related matter.
<b>If no, please elaborate (provide</b>	n/a

<b>examples):</b>	
<b>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.</b>	Yes
<b>If yes, please specify:</b>	<p>JKAS terms and conditions</p> <p>Financial sub-committee : 7.2 JKK members</p> <p>(A) Chairman: Section Director (project negotiation supervisor), UKAS, JPM</p> <p>(B) Secretary: Section Principal Assistant Director or Assistant Director (desk officer to the project negotiation), UKAS, JPM</p> <p>(C) Permanent Members: Ministry of Finance Malaysia; Economic Planning Unit, Prime Minister's Department; UKAS Specialist Officer, related JPM</p> <p>(D) Invited Members: Implementing Ministry / Agency</p> <p>Technical aspects : 8.2 JKT Members</p> <p>(A) Chairman: Director, Deputy Director of the Technical Section, UKAS, JPM</p> <p>(B) Secretary: Principal Assistant Director Assistant Director of Technical Section, UKAS, JPM</p> <p>(C) Permanent Members: Economic Planning Unit, Prime Minister's Department Public Works Department or Malaysia Administrative Modernization and Management Planning Unit (MAMPU) - depending on the type of project Specialist Officer UKAS, related JPM</p> <p>(D) Invited Members: Implementing Ministry / Agency</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>	No
<b>The regulatory framework does not include any provisions.</b>	No
<b>Other</b>	No

<b>please specify:</b>	n/a
<b>Does the procuring authority issue a public procurement notice of the PPP?</b>	Yes
<b>If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):</b>	Practice
<b>If yes, is the public procurement notice published online?</b>	Yes
<b>If yes, please specify the website:</b>	<a href="http://www.ukas.gov.my">www.ukas.gov.my</a>
<b>Does the procuring authority grant the potential bidders a minimum period of time to submit their bids?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Practice
<b>and the time in calendar days :</b>	n/a
<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 16 of the of the Treasury Circular n 5 of 2007
<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>	Practice

<p><b>If yes, do the tender documents specify the prequalification criteria in order to make them available to all of the bidders?</b></p>	<p>Yes</p>
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	<p>Practice</p>
<p><b>Among the PPP procurement processes conducted within the last two (2) years that had a prequalification stage, how many of them included prequalification criteria in the tender documents? Please elaborate</b></p>	<p>All of the projects</p>
<p><b>Can interested parties/potential bidders submit questions to clarify the public procurement notice and/or the request for proposals?</b></p>	<p>Yes</p>
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	<p>Practice</p>
<p><b>If yes, does the procuring authority disclose those questions and clarifications to all of the potential bidders?</b></p>	<p>Yes</p>
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	<p>Practice</p>
<p><b>Among the PPP procurement processes conducted within the last two (2)</b></p>	<p>All of the projects</p>

<p>years where questions were submitted, in how many were the questions and clarifications disclosed to all of the potential bidders? Please elaborate:</p>	
<p>Besides questions and clarifications, can the procuring authority conduct other types of dialogue with the potential bidders?</p>	No
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p>	n/a
<p>If yes, does the procuring authority disclose the content and the results of the dialogue to all of the potential bidders?</p>	n/a
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	n/a
<p>Among the PPP procurement processes conducted within the last two (2) years where any other type of dialogue was conducted, in how many was the content and the result of the dialogue disclosed to all of the potential bidders? Please elaborate:</p>	n/a
<p>Does the procuring authority require the bidders to</p>	Yes

<b>prepare and present a financial model with their proposals ?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>As stated in the PPP Guidelines Para 3.1 Box 2:  Typical Information Required for PPP Proposals</p> <ul style="list-style-type: none"> <li>- A business plan, including: partnership structure; duration of the proposed partnership; ownership (present and future); terms of payment; maintenance costs; reserves that need to be kept by the private partner; risk management, including that of force majeure; risk transfer from the government to the private sector partner; economic benefits to the government.</li> <li>- A financial plan, including: detailed cost schedule; financial structure; potential partner's sources of funding; how improvements, upgrades and modifications will be financed; pro forma financial statements (include in the submission a softcopy of the financial models)</li> </ul>
<b>If no, please elaborate (provide examples):</b>	n/a
<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>	Practice
<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

<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	<p>n/a</p>
<p><b>If yes, what of the following options best describes the way the procuring authority deals with sole proposals? (Please select only one). The regulatory framework details a specific procedure that the procuring authority must follow before awarding a PPP contract where only one proposal is submitted.</b></p>	<p>n/a</p>
<p><b>Please specify:</b></p>	<p>n/a</p>
<p><b>The regulatory framework considers sole proposals valid as long as they meet the conditions outlined in the tender documents.</b></p>	<p>n/a</p>
<p><b>The regulatory framework does not allow the award of a PPP contract if only one proposal is submitted.</b></p>	<p>n/a</p>
<p><b>The regulatory framework does not include any provisions.</b></p>	<p>n/a</p>
<p><b>Other</b></p>	<p>n/a</p>
<p><b>please specify:</b></p>	<p>n/a</p>
<p><b>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</b></p>	<p>225</p>

<b>calendar days:</b>	
<b>Does the procuring authority publish the award notice?</b>	Yes
<b>If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):</b>	Practice
<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.ukas.gov.my/en/keputusan-tender/sebutharga">http://www.ukas.gov.my/en/keputusan-tender/sebutharga</a>
<b>Does the procuring authority provide all the bidders with the result of the PPP procurement process?</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>	There are no specific regulatory provisions.
<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>	n/a
<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</b>	n/a

<b>legal/regulatory provisions:</b>	
<b>Among the PPP procurement processes conducted within the last two (2) years, in how many of them were the terms and conditions changed between the award and the signature of the PPP contract? Please elaborate:</b>	None of the projects
<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>	Score: USP not regulated
<b>Does the regulatory framework allow for the submission of unsolicited proposals? (if no, skip to section F)</b>	No
<b>If yes, please provide the relevant</b>	n/a

<b>legal/regulatory provisions:</b>	
<b>If yes, please specify, to the best of your knowledge, the percentage of PPP investments in your country approved as unsolicited proposals during the last five (5) years:</b>	n/a
<b>Does the procuring authority conduct an assessment to evaluate unsolicited proposals?</b>	n/a
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>If yes, does it ensure that the unsolicited proposal is consistent with the existing government priorities?</b>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>If yes, which of the following options best describes how unsolicited proposals are evaluated against existing government priorities? (Please select only one). The regulatory framework details a specific procedure to ensure the consistency of PPPs with other public investment priorities.</b>	n/a

<b>If yes, please specify:</b>	n/a
<b>The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.</b>	n/a
<b>The regulatory framework does not include any provisions.</b>	n/a
<b>Other</b>	n/a
<b>please specify:</b>	n/a
<b>Among the unsolicited proposals approved within the last two (2) years, how many of them were a part of the existing government priorities? Please elaborate:</b>	n/a
<b>Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?</b>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?</b>	n/a
<b>If yes, please provide the relevant legal/regulatory</b>	n/a

<b>provisions (if any):</b>	
<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>	n/a
<b>Developer's fee (reimbursing the original proponent for the project development cost).</b>	n/a
<b>Bid bonus.</b>	n/a
<b>Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).</b>	n/a
<b>Other</b>	n/a
<b>please specify:</b>	n/a
<b>Please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>PPP Contract Management</b>	Score: 24
<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>	Pursuant to section 3.4 of the PPP guidelines : The relevant Ministries are responsible for the contract management and performance monitoring
<b>If yes, which of the following tools does it include (check all that apply)?</b>	Yes

<b>Establishment of a PPP contract management team.</b>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Practice
<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 contact management team? Please elaborate:</b>	All of the projects

Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Practice
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):	Practice
The procuring or contract management authority must periodically gather information on the performance of the PPP contract.	No
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	No

<b>be available to the public.</b>	
<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>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	Guidelines on Concessionaire Shareholders Changes: 1. Purpose of the Guidelines is to: <ul style="list-style-type: none"> <li>i. standardize the application process conversion of shareholdings concessionaires;</li> <li>ii. Detailing the factors and elements that need to be considered in the process of changing the shareholding;</li> <li>iii. a reference in implementing the change holdings shares; and</li> <li>iv. Improve the efficiency and transparency of the process of change holdings share.</li> </ul>
<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>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	As per Guidelines on Concessionaire Shareholders Changes Para 8: Companies must comply with the criteria and eligibility requirements as follows: Para 8.1 No change in shareholding during the moratorium period unless for the purpose of listing on Bursa Malaysia; Para 8.2 Moratorium period for the services sector is a minimum of 2 years while the construction sector was 3 years or more depending on the construction period of the project;
<b>In case of a change affecting the controlling interest,</b>	No

<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>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	As per Guidelines on Concessionaire Shareholders Changes Para 8: Companies must comply with the criteria and eligibility requirements as follows: Para 8.1 No change in shareholding during the moratorium period unless for the purpose of listing on Bursa Malaysia; Para 8.2 Moratorium period for the services sector is a minimum of 2 years while the construction sector was 3 years or more depending on the construction period of the project;
<b>Does the regulatory framework expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?</b>	No
<b>If yes, please provide the relevant legal/ regulatory provisions:</b>	n/a
<b>If yes, which of the following circumstances are specifically regulated? (check all that apply): A change in the scope and/or object of the contract.</b>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>A change in the risk allocation of the contract.</b>	n/a
<b>If yes, please provide the relevant</b>	n/a

<b>legal/regulatory provisions:</b>	
<b>A change in the investment plan or duration of the contract.</b>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Does the regulatory framework expressly regulate the following circumstances that may occur during the life of the PPP contract? (check all that apply): Force Majeure.</b>	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 mechanism for</b>	No

<b>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>	No
<b>Please describe:</b>	n/a
<b>Are you aware of any reforms (in practice or in laws, regulations, policies, etc.) related to PPPs that: 50.2. Are ongoing and/or are planned to be adopted AFTER June 1, 2016?</b>	Yes
<b>Please describe:</b>	UKAS will be issuing new guidelines specifying the criteria for the selection of bidders in a procurement process.