

BENCHMARKING PPP PROCUREMENT 2017 IN NEPAL

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:	Our analysis is based on the regulatory framework for PPPs in Nepal consisting the following texts : (i) Act No. 30 of the year 2063 (2006) The Act Enacted to make provisions on Private Financing in Build and Operation of Infrastructure ('PFBOI Act') ; (ii) The Public Procurement Act, 2063 (2007) ('PPA') ; (iii) The Public Procurement Rules, 2064 (2007) ('PPR').
and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:	http://ppmo.gov.np/acts_and_regulations
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:	n/a
Other	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Please identify the PPP procuring authorities in country_name and provide their website(s) (if available):	<p>According to section 1 (b) of the PPA, "Public Entity" means the following entity:-</p> <p>(1) Constitutional organ or body, Court, Ministry, Secretariat, Commission, Department of the Government of Nepal or any other Governmental Entity or Office thereunder,</p> <p>(2) Corporation, Company, Bank or Board owned or controlled fully or in majority by the Government of Nepal or Commission, Institute, Authority, Corporation, Academy, Board, Center, Council established at the public level or formed by the Government of Nepal under the laws in force and other corporate body of a similar nature,</p> <p>(3) University, College, Research Center, which is operated by the Government of Nepal or receives grants fully or in majority from the Government of Nepal, and other Academic or Educational Institution of a similar nature,</p> <p>(4) Local body,</p> <p>(5) Development Board formed under the Development Board Act, 1956,</p> <p>(6) Body operated with loan or grant of the Government of Nepal, and</p> <p>(7) Other Bodies as specified by the Government of Nepal by publishing a notification in the Nepal Gazette, as a Public Entity.</p>
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):	<p>Public procurement monitoring office</p> <p>http://ppmo.gov.np/about_us/functions</p>
If yes, what are the main responsibilities of	Yes

the PPP Unit (check all that apply). PPP regulation.	
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).	No
Procurement of PPPs.	Yes
Oversight of PPP implementation.	Yes
Other	No
please specify:	n/a
Preparation of PPPs	Score: 46
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):	Practice
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):	Practice

<p>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?</p>	<p>No</p>
<p>If yes, please specify the relevant authority</p>	<p>n/a</p>
<p>and provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>If yes, is a second approval by the same authority required before signing the PPP contract?</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>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)?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Practice</p>
<p>If yes, which of the following options best describes the way your government prioritizes PPP projects? (Please</p>	<p>No</p>

<p>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.</p>	
<p>If yes, please specify:</p>	n/a
<p>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.</p>	No
<p>The regulatory framework does not include any provisions.</p>	Yes
<p>Other</p>	No
<p>please specify:</p>	n/a
<p>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:</p>	Most of the projects
<p>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</p>	Yes

socio-economic impact of the project)	
Relevant legal/regulatory provision (if any)	Practice
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)	Practice
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)	Practice
Is there a specific methodology?	No
If yes, elaborate	n/a
Financial viability or bankability assessment.	Yes
Relevant legal/regulatory provision (if any)	Practice
Is there a specific methodology?	No
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)	PPR 20 (2) The following matters shall be taken into account in selecting the procurement contract pursuant to Sub-rule (1): (a) Type and quantity of procurement, (b) Whether there is a possibility of making procurement of similar nature again, (c) Distribution of risks between the public entity and the supplier, construction entrepreneur or consultant and other party, and (d) Mode of supervision of the contract.
Is there a specific methodology?	No
If yes, elaborate	n/a
Market assessment (showing evidence of enough interest in the market for the project)	Yes
Relevant legal/regulatory provision (if any)	Pursuant to section 3 of the PPR, any public entity shall, in preparing for any procurement proceedings, do as follows: (b) To obtain information as to the procurement contract prevailing at the market in order to identify various technical solutions relating to procurement and ascertain the availability of suppliers.
Is there a specific methodology?	No
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:	Some 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 provisions (if any):	Section 45 of the PPR indicates the Documents to be included in tender documents, including (e) Terms and format of procurement contract.
If no, please elaborate (provide examples):	n/a
Have standardized PPP model contracts and/or transaction documents been developed?	Yes
If yes, please specify and provide a	Standard bid documents http://ppmo.gov.np/standard_bid_document

government-supported website where the mentioned standards are available or provide an electronic copy of them:	
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
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
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):	Practice
If no, please elaborate (provide explanation):	n/a
Does the procuring authority make available to PPPCo	Yes

the necessary land or right of way to develop the PPP project (if any)? Right of way	
If yes, please provide the relevant legal/regulatory provisions (if any):	Practice
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?	Yes
If yes, please provide the relevant legal/regulatory provisions:	Practice
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:	60
Obtaining the required approvals from other relevant authorities:	90
Preparing the draft PPP contract:	30
Obtaining any permits, land and/or right of way that the procuring authority must provide according to the regulatory framework:	182
PPP Procurement	Score: 75

Are the bid evaluation committee members required to meet specific qualifications?	<p>Yes</p>
If yes, please specify and provide the relevant legal/regulatory provisions (if any)	<p>Section 71 of the PPA is related to the Evaluation Committee to be formed: (1) The Public Entity shall have to form an evaluation committee as prescribed for examination and evaluation of the pre-qualification proposals, bids, expression of interest or proposals of consultancy services or sealed quotation.</p>
If no, please elaborate (provide examples):	<p>n/a</p>
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.	<p>Yes</p>
If yes, please specify:	<p>Section 147 of the PPR provides for composition of the Evaluation committee (1) The formation of the evaluation committee referred to in Section 71 of the Act shall be as follows: (a) Chief of public entity or senior officer designated by him or her (technical employee, if possible) -Chairperson (b) Chief of financial administration section of the concerned public entity -Member (c) Technical expert related in the field (officer level, if possible) -Member (d) If there is a position of law officer in the public entity, law officer of the public entity - Member</p>
The regulatory framework requires generally sufficient qualification without detailing the specific qualifications required to be a member of the bid evaluation committee.	<p>No</p>

The regulatory framework does not include any provisions.	No
Other	No
please specify:	n/a
Does the procuring authority issue a public procurement notice of the PPP?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	Pursuant to section 7. (3) of the PPA, a Public Entity shall establish a procurement unit or assign the responsibilities thereof in order to carry out the following acts: (d) Publicly publishing the procurement notice. Section 14 furthermore provides that (1) A notice for invitation to bids or prequalification proposals shall have to be published in a daily newspaper of national circulation and, in the case of an international bid; it may also be published in any international communication media.
If yes, is the public procurement notice published online?	Yes
If yes, please specify the website:	Pursuant to section 14 (2) of the PPA, the notice as referred to in Sub-section (1) shall be placed in the website of the concerned entity or that of the Public Procurement Monitoring Office, in the case of a central level Public Entity, and in the case of a district level Public Entity, such notice may be placed in the website of that body or that of the Public Procurement Monitoring Office.
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 section 14 (4) of the PPA, in publishing a notice under Sub-section (1), for invitation of national level bidding or prequalification proposals, a period of at least thirty days shall be given and at least forty five days shall be given in the case of a notice on invitation that of international level bidding or prequalification proposals.
and the time in calendar days :	45
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 section 13 (2) of the PPA, the bidding documents under Sub-section (1) shall contain the following matters: (a) The nature of procurement, time required for procurement and technical specifications thereof, (e) Instructions for preparing and submitting bids, the place for the submission of bids, the deadline for the submission of bids and the place, date and time for the opening of bids.

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 section 12 (1) of the PPA, in order to procure such construction work as determined by the Public Procurement Monitoring Office from time to time to be large and complex, or to procure goods of high value such as industrial plants or with a view to identify qualified bidders, the Public Entity shall, prior to making invitation to bids, prepare prequalification documents and publicly invite to proposals for the determination of prequalification.
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):	<p>In the case of a bidder, the qualification criteria set forth in the bidding documents or where prequalification proceedings have been conducted for procurement, the qualification criteria set forth in the prequalification documents (section 10. 1 (a) of the PPA)</p> <p>More precisely, the prequalification documents under Sub-section (1) or (2) shall set forth the qualification criteria required for prequalification and the method for the preparation of proposals and the manner for the submission of proposals (PPA 12 (3)).</p> <p>This requirement is also contained in section 35 and 40 of the PPR.</p>
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	Most of the projects
Can interested parties/potential bidders submit questions to clarify the public procurement notice	Yes

and/or the request for proposals?	
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>According to section 16. (1) of the PPA, where any bidder, being unclear about any matter set forth in the bidding documents or the prequalification documents, requests, within the time period set out in such documents, for a clarification, the Public Entity shall have to communicate the information of such matter to all bidders prior to the deadline for the submission of bids or prequalification proposals.</p> <p>During a 2 stages bidding, the Public Entity may hold discussions with any or all bidders in relation to the bids submitted in response to the invitation to bid made pursuant to Sub-section (2) (section 28 (3) of the PPA).</p> <p>Section 52 of the PPR provides for the Pre-bid conference: (1) A public entity may organize a conference of bidders in advance of at least ten days prior to the deadline for the submission of tender in the case of a notice of invitation to national tender and in advance of at least fifteen days prior to such deadline in the case of a notice of invitation to international tender, for the purpose of briefing bidders on the tender documents, technical specifications, sites or similar other matters.</p> <p>(2) A bidder may raise a question or query about the procurement proceedings before the public entity in a meeting referred to in Sub-rule (1).</p>
If yes, does the procuring authority disclose those questions and clarifications to all of the potential bidders?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Pursuant to section 16 of the PPA, the Public Entity shall have to communicate the information of such matter to all bidders prior to the deadline for the submission of bids or prequalification proposals. Where the Public Entity makes any alteration/modification in the information under Sub-section (1) and the bidding documents or prequalification documents, it shall have to communicate information relating to such alteration/modification to all bidders that have participated in the procurement proceedings within a reasonable time so as to enable them to take such alteration/modification into account in submitting their bids or preparing their proposals for prequalification.</p> <p>Section 52 of the PPR also provides that such body shall provide promptly the responses to such question or query and the minutes of meeting to all bidders without identifying the sources of the questioners.</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	<p>Most of the projects</p>

disclosed to all of the potential bidders? Please elaborate:	
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 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:	Some of the projects
Does the procuring authority require the bidders to prepare and present a financial model with their proposals ?	Yes
If yes, please provide the relevant	Practice

legal/regulatory provisions (if any):	
If no, please elaborate (provide examples):	n/a
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 section 10. 4) of the PPA, bids, pre-qualification proposals and consultancy service proposals shall be evaluated only in accordance with the criteria set forth in the bidding documents, pre-qualification documents and in the documents relating to proposals, respectively, and such criteria shall equally be applicable to all bidders or proponents without any discrimination.
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 section 26 (2) of the PPA, notwithstanding anything contained in Sub-section (1), no bid shall be rejected or re-bidding shall be invited only for the reason that only a few bids are or only one bid is substantively responsive.
If yes, what of the following options best describes the way the procuring authority deals with sole proposals? (Please select only one). The regulatory	No

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.	No
The regulatory framework does not include any provisions.	No
Other	Yes
please specify:	Pursuant to section 26 (2) of the PPA, notwithstanding anything contained in Sub-section (1), no bid shall be rejected or re-bidding shall be invited only for the reason that only a few bids are or only one bid is substantively responsive.
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:	90
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):	<p>Pursuant to section 60. of the PPA, after a procurement contract has been concluded pursuant to this chapter, the Public Entity shall have to publish as prescribed a notice including the result of the evaluation of bid or consultancy service.</p> <p>Section 137 of the PPR furthermore details: (1) The concerned public entity shall, no later than three days of the conclusion of a procurement contract, post a notice thereof on its notice board and arrange for posting such notice also on the notice boards of the District</p>

	<p>Development Committee, District Administration Office and Treasury and Accounts Comptroller Office.</p> <p>(2) The concerned public entity may arrange for the publication of the notice referred to in Sub-rule (1) on its website, if any, and on the website of the Public Procurement Monitoring Office if that entity has not its website.</p> <p>(3) The public entity shall set forth, in the notice referred to in Sub-rule (1), the results of evaluation of tender or consultancy service, the date of publication of notice inviting tenders, proposals or sealed quotations, the name of newspaper, the reference number of notice, the item of procurement, the name and address of bidder, proponent or sealed quotation bidder making contract and the contract price, among other things.</p>
If yes, is the public procurement award notice published online?	Yes
If yes, please specify the website:	https://www.bolpatra.gov.np/ppmo/searchOpportunity
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 section 26 (3) and (4) of the PPA, the Public Entity shall have to communicate to all the bidders a notice along with the reason for the rejection of bids or cancellation of the procurement proceedings pursuant to Sub-section (1). Where any bidder requests, within thirty days of the communication of notice pursuant to Sub-section (3), for grounds for the rejection of all bids or rejection of the procurement proceedings, the Public Entity shall have to communicate such information to that bidder.
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?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to section 26 (3) and (4) of the PPA, the Public Entity shall have to communicate to all the bidders a notice along with the reason for the rejection of bids or cancellation of the procurement proceedings pursuant to Sub-section (1). Where any bidder requests, within thirty days of the communication of notice pursuant to Sub-section (3), for grounds for the rejection of all bids or rejection of the procurement proceedings, the Public Entity shall have to communicate such information to that bidder.
Does the regulatory framework restrict or regulate in any way negotiations with the selected	No

bidder between the award and the signature of the PPP contract?	
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:	Some of the projects
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 apply or allows for a “fast track” procedure?	Yes
If yes, please provide the relevant legal/regulatory provisions:	<p>Section 9 of the PFBOI Act provides for Implementing a Project by negotiations: (1) Government of Nepal may cause any project to be implemented by negotiations:</p> <ul style="list-style-type: none"> (a) The Expressions of Interest or proposals cannot be selected in the required number even if the Expression of Interest or proposal has been invited at least twice pursuant to this Act; or (b) There exists no possibility of competition; or (c) Having contained a new concept or technology; or (d) Having a cost estimate more than two billion rupees; or

	<p>(e) Having recommended by the Committee to implement through negotiations; or (f) Not having seen, owing to any reason, appropriate to follow other procedures as referred to in this Act.</p> <p>PPA 41. Provision for Direct Procurement: May be directly procured or construction work may be caused to be carried out directly in the following conditions: - only one supplier ; - additional goods or services.</p> <p>66. Provision Concerning Procurement to be Made in Special Circumstances. (1) Notwithstanding anything contained elsewhere in this Act, where the occurrence of special circumstance has created a situation in which, if a procurement is not made immediately, the public entity will sustain further loss, the Public Entity may procure or cause to be procured immediately. (2) The chief of the Public Entity shall have to give information of the circumstances under Sub-section (1) and the detailed description concerning the procurement to be made immediately to one level higher authority. (3) Other provision concerning procurement to be made in special circumstances shall be as prescribed.</p> <p>PPR 85. Provisions relating to direct procurement</p>
Unsolicited proposals	Score: USP not regulated
Does the regulatory framework allow for the submission of unsolicited proposals? (if no, skip to section F)	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
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:	n/a
Does the procuring authority conduct an assessment to evaluate unsolicited proposals?	n/a

<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>If yes, does it ensure that the unsolicited proposal is consistent with the existing government priorities?</p>	<p>n/a</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>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.</p>	<p>n/a</p>
<p>If yes, please specify:</p>	<p>n/a</p>
<p>The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.</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>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>	<p>n/a</p>
<p>Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?</p>	<p>n/a</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?</p>	<p>n/a</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>and the time in calendar days:</p>	<p>n/a</p>
<p>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.</p>	<p>n/a</p>
<p>Developer's fee (reimbursing the original proponent)</p>	<p>n/a</p>

for the project development cost).	
Bid bonus.	n/a
Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).	n/a
Other	n/a
please specify:	n/a
Please provide the relevant legal/regulatory provisions (if any):	n/a
PPP Contract Management	Score: 59
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)	According to section 111 (1) of the PPR, a public entity shall do the following acts, as required, while implementing a procurement contract: e) To monitor progress in the implementation of procurement contract according to the contract administration work plan and inspect and examine quality aspects (h) To manage financial aspects of contract implementation including budgetary and cost accounting aspects.
If yes, which of the following tools does it include (check all that apply)? Establishment of a PPP contract management team.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to section 111 (1) of the PPR, a public entity shall do the following acts, as required, while implementing a procurement contract: (d) To form a contract implementation team, where necessary.
Participation of the members of the PPP contract management team in the PPP procurement process.	Yes

If yes, please provide the relevant legal/regulatory provisions (if any):	Practice
Possibility to consult with PPP procurement experts when managing the PPP contract.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Practice
Elaboration of a PPP implementation manual or an equivalent document.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to section 111 (1) of the PPR, a public entity shall do the following acts, as required, while implementing a procurement contract: (e) To monitor progress in the implementation of procurement contract according to the contract administration work plan and inspect and examine quality aspects.
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 contract management team? Please elaborate:	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):	<p>To monitor project: (1) The Committee may monitor the project implementation and President of the concerned District Development Committee and a women member shall be involved while so monitoring (PFBOI Act, section 40).</p> <p>According to section 111 (1) of the PPR, a public entity shall do the following acts, as required, while implementing a procurement contract: (e) To monitor progress in the</p>

	implementation of procurement contract according to the contract administration work plan and inspect and examine quality aspects.
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.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The procuring or contract management authority must periodically gather information on the performance of the PPP contract.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to section 111 (1) of the PPR, a public entity shall do the following acts, as required, while implementing a procurement contract: (k) To submit periodic reports on the contract implementation to the one level higher authority.
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?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
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).	n/a
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.	n/a
If yes, please provide the relevant legal/regulatory provisions:	n/a
Flexibility to substitute non-controlling interest after the initial period.	n/a

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 signed)?	Yes
If yes, please provide the relevant legal/ regulatory provisions:	Pursuant to Section 53. of the PPA, Unless otherwise provide for in procurement contract, a procurement contract may be amended by written consent of both the parties subject to non-alteration of the basic nature or scope of the work. Provided that procurement contract need not be amended in issuing a variation order pursuant to Section 54 or making price adjustment pursuant to Section 55. Section 54. of the PPA and section 118 of the PPR indicate rules for variation orders, sections 55 of the PPA and 119 of the PPR are related to price adjustment and sections 56 of the PPA and 120 of the PPR regulate extension of duration.
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.	Yes
If yes, please provide the relevant legal/regulatory provisions:	According to section 53 of the PPA, unless otherwise provide for in procurement contract, a procurement contract may be amended by written consent of both the parties subject to non-alteration of the basic nature or scope of the work. Section 54 (2) provides that the variation order under Sub-section (1) shall be issued in the following manner:- (a) To be so issued as not to change the basic nature or scope of the concerned work.
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.	Yes
If yes, please provide the relevant legal/regulatory provisions:	According to Section 56 of the PPA, (1) Provisions concerning the extension of period of procurement contract shall be as provided in the concerned procurement contract. (2) Notwithstanding anything contained in Sub-section (1), if the period of procurement contract is to be inevitably extended due to force majeure, failure of the Public Entity to make available the materials to be made available by it or other reasonable causes, the

	<p>competent authority may extend the period on the prescribed grounds upon submission of application by the person obtaining procurement contract.</p> <p>Section 120 of the PPR is also related to extension of period of procurement contract : (1) Where it is not possible to complete the work set forth in a procurement contract within the period of such contract owing to the occurrence of event set forth in Section 56 of the Act, the concerned construction entrepreneur, supplier, service provider or consultant has to make an application, accompanied by the reason therefor, to the concerned public entity for the extension of period, in advance of at least Seven days of the expiration of the period of the procurement contract. [...]</p>
<p>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.</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	<p>Pursuant to section 52. (2) of the PPA, the procurement contract under Sub-section (1) shall include the terms and conditions as referred to in the bidding documents, documents relating to proposal and documents relating to sealed quotation and such terms and conditions may, according to the nature of the contract be the following:- (i) Force majeure.</p> <p>Section 56 of the PPA allows to extend duration of the contract when a force majeure situation makes it necessary.</p>
<p>Material Adverse government action.</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	<p>n/a</p>
<p>Change in the Law.</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	<p>n/a</p>
<p>Refinancing.</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	<p>n/a</p>
<p>Other.</p>	<p>No</p>
<p>If yes, please specify and provide the relevant legal/regulatory provisions:</p>	<p>n/a</p>

<p>Does the regulatory framework establish a specific dispute resolution mechanism for PPPs?</p>	<p>Yes</p>
<p>If yes, please specify and provide the relevant legal/regulatory provisions</p>	<p>Section 43. of the PFBOI Act is related to Settlement of disputes: (1) mutual understanding. (2) arbitration. (3) the arbitral proceedings shall be as provided for in the agreement if so provided, and if not, as per the prevailing law. According to section 52. (2) of the PPA, the procurement contract shall include the following: (r) Mechanism for settlement of disputes, Finally, section 111 (1) of the PPR indicates that a public entity shall do the following acts, as required, while implementing a procurement contract: (g) To adopt dispute settlement procedures set forth in the procurement contract if there arises any dispute between the public entity and the supplier, consultant, service provider or construction entrepreneur; in the event of breach of the procurement contract, to initiate action in accordance with provisions of remedies set forth in the contract.</p>
<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.</p>	<p>Yes</p>
<p>If yes, please specify:</p>	<p>Section 58 of the PPA provides a Mechanism for Dispute Settlement: (1) settle amicably (2) A procurement contract may provide the mechanism for resolution of disputes (3) Arbitration (4) In providing mechanism pursuant to Sub-section (2), the procurement contract may provide that disputes relating to construction work shall be resolved as follows:- (a) By an adjudicator for an amount, (b) By a three-member dispute resolution committee, in the case of amount exceeding that of clause (a). (c) The provision that if a person is not satisfied with the decision made under clause (a) or (b), such dispute shall be resolved through arbitration pursuant to prevailing law. (5) The appointment of adjudicator and formation of dispute resolution committee under Sub-section (4), and their functions, duties and power and procedure for resolution of dispute shall be as prescribed. Chapter-12 of the PPR contains Provisions Relating to Dispute Settlement.</p>

<p>The regulatory framework prescribes that a dispute resolution mechanism should be regulated in the contract.</p>	<p>No</p>
<p>The regulatory framework provide the parties with recourse to arbitration but no other alternative dispute resolution mechanism.</p>	<p>No</p>
<p>Other</p>	<p>No</p>
<p>please specify:</p>	<p>n/a</p>
<p>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?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	<p>Practice</p>
<p>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.</p>	<p>No</p>
<p>If yes, please specify:</p>	<p>n/a</p>
<p>The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.</p>	<p>No</p>

The regulatory framework prescribes that a direct agreement should be signed with the lenders.	No
Other	No
please specify:	n/a
Does the regulatory framework expressly establish the grounds for termination of a PPP contract?	Yes
If yes, please specify:	Convenience for public interest; breach of the contract; termination by a supplier, consultant, service provider or construction entrepreneur; force majeure.
and provide the relevant legal/regulatory provisions:	<p>Section 59 of the PPA:</p> <p>(1) The procurement contract shall have to specify the grounds in which such contract may be terminated.</p> <p>(2) The main grounds under Sub-section (1) may be the following:-</p> <p>(a) Grounds that the Public Entity may terminate procurement contract if the supplier, consultant, service provider or construction entrepreneur breaches the procurement contract,</p> <p>(b) Grounds that the Public Entity may terminate the procurement contract on the grounds of convenience for public interest,</p> <p>(c) Grounds that a supplier, consultant, service provider or construction entrepreneur may terminate the procurement contract, and</p> <p>(d) Grounds that procurement contract may be terminated for force majeure.</p>
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>Section 59 of the PPA provides the following :</p> <p>(3) A procurement contract shall include along with the following matters the provision of financial settlement and compensation to be made in the event of termination of the procurement contract:-</p> <p>(a) If payment is remaining to be made for the value of work, supply or service that has already been satisfactorily completed, payment thereof,</p> <p>(b) Liability to be borne by a defaulting supplier, consultant, service provider or construction entrepreneur for the increased cost to be incurred by the Public Entity to carry out or cause to be carried out the work under the procurement contract,</p> <p>(c) Amount of the actual loss sustained by the supplier or consultant or service provider or construction entrepreneur due to the termination of procurement contract by the Public Entity without any default on his/her part.</p> <p>(5) Where a procurement contract has been terminated [for convenience], the Public Entity shall have to pay the value for the following work that has been completed prior to</p>

	<p>the termination of the said contract :-</p> <p>(a) Payment due under clause (a) of Sub-section (2), (b) Where expenditure is to be paid on reimbursement basis, such expenditure as actually incurred,</p> <p>(c) The price of the goods specially manufactured for the Public Entity under the procurement contract,</p> <p>(d) Excluding the lost profit and the amount under clause (c) of Sub-section (3), the expenditure incurred for termination of the procurement contract, and</p> <p>(e) Other expenditure as prescribed.</p> <p>Section 127 of the PPR is related to payment to be made while terminating procurement contract by convenience</p>
<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?</p>	<p>No</p>
<p>Please describe:</p>	<p>n/a</p>
<p>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?</p>	<p>No</p>
<p>Please describe:</p>	<p>n/a</p>