

BENCHMARKING PPP PROCUREMENT 2017 IN PERU

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>A new PPP regulatory framework has been recently adopted composed of the Legislative Decree 1224, published on September 25, 2015, and its regulation, Supreme Decree 410-2015-EF, published on December 27, 2015. Although the Legislative Decree 1012 and its subsequent modifications and regulations were repealed with the new law, there are two aspects that are still regulated by the previous law: i) private initiatives (i.e. unsolicited proposals) declared admissible as of the effective date of the Legislative Decree 1224 and until the signing of the contract; ii) public initiatives (i.e. solicited proposals) incorporated into the promotion process as of the effective date of the Legislative Decree 1224 and until the contract awarding. Taking this into consideration, this analysis is based on both the existing and still enforceable regulatory framework as well as the new regulatory framework. The previously enforceable regulatory framework included the following:</p> <ul style="list-style-type: none"> - Supreme Decree N° 059-96-PCM, published on 27.12.1996 : Consolidated Text of Binding Rules that regulate the concession infrastructure and public service works to the private sector ("Concessions Law). - Supreme Decree N° 060-96-PCM, published on 28.12.1996: Regulation of the Consolidated Text of Binding Rules that regulate the concession infrastructure and public service works to the private sector ("Concessions Regulation"). - Legislative Decree N 1012, published on 13.05.2008: Approve Framework Law of Public Private Partnerships for the generation of employment, and dictates rules for the expediting of private investment promotion processes, as modified by Law N 30167 published on 02.03.2014 ("PPP Law"). - Supreme Decree N 054-2013-PCM, published on 16.05.2013: Approves Special Provisions for the Execution of Administrative Procedures - PPPs. - Supreme Decree N° 127-2014-EF published on 31.05.2014: Approves Regulation of Legislative Decree N 1012 Framework Law of Public-Private Associations for the generation of employment and dictates rules for the expedition of private investment promotion processes ("PPP Regulations).
and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:	<p>http://www.mef.gob.pe/index.php?option=com_content&view=article&id=4218&Itemid=100263&lang=es</p>
Besides national defense and other	No

matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors? Transportation.	
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>The PPP regulatory framework applies to all non-financial public sector entities (Sector Público No Financiero, SPNF, in Spanish), at all government levels, including national, regional and local entities. Therefore, the procuring authorities could be all ministries, regional and local governments. In each level, the procuring unit will be the corresponding Private Investment Promoting Organism (Organismo de Promoción de la Inversión or OPIP), depending on whether they have an OPIP, the size of the project, whether the project is an unsolicited proposal or</p>

	<p>whether the project requires government subsidy ("cofinanciamiento"). Namely, according to the PPP Law the procuring authorities are: (i) the Private Investment Promotion Agency (Proinversion) (http://www.proinversion.gob.pe) for multifaceted state projects of national relevance, projects that involve investments over 15,000 UIT (tax unit), private or state projects developed on nationwide assets, self-financed nationwide private initiatives, co-financed private initiatives; (ii) the Special Investment Committee (Comité de Inversión) of each Ministry for projects which are not in charge of Reinverson, and (iii) Committees in local and regional governments in case of regional or local projects. Since the PPP framework does not apply to the financial public sector entities such as the Central Reserve Bank of Peru (Banco Central de Reserva del Perú), and the National Bank (Banco de la Nación), among others and thus these entities cannot procure PPPs.</p>
<p>In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?</p>	<p>Yes</p>
<p>If yes, please indicate its name, and its website (if available):</p>	<p>PROINVERSION (www.proinversion.gob.pe) and the Ministry of Economy and Finance - MEF (www.mef.gob.pe), through the Directorate-General of Private Investment Policy and Promotion (Dirección General de Política de Promoción de la Inversión Privada)</p>
<p>If yes, what are the main responsibilities of the PPP Unit (check all that apply). PPP regulation.</p>	<p>Yes</p>
<p>PPP policy guidance and capacity building for other public authorities.</p>	<p>Yes</p>
<p>PPP promotion among the public and/or private sectors in national and international forums.</p>	<p>Yes</p>
<p>Technical support in implementing PPP projects.</p>	<p>Yes</p>
<p>Gatekeeping (approval of PPP projects).</p>	<p>Yes</p>
<p>Procurement of PPPs.</p>	<p>Yes</p>
<p>Oversight of PPP implementation.</p>	<p>No</p>
<p>Other</p>	<p>No</p>

please specify:	n/a
Preparation of PPPs	Score: 83
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):	The regulatory framework in Peru provides for the Ministry of Economy and Finance (MEF) to: (i) Issue favorable opinions for incorporation into the private investment promotion process of PPP projects, when they require guarantees or co-financing; (ii) issue an opinion in the design stage of investment projects classified as self-sustaining when they require the granting of guarantees from the Peruvian Government; (ii) for investment projects classified as co-financed, issue a favorable opinion regarding fiscal responsibility and budget capacity; (iii) issue a favorable opinion of the final design of the PPP contract regarding fiscal responsibility and budget capacity, over the amount of the maximum co-financing to be granted in the contract. Without a favorable opinion of the MEF, any subsequent act issued within the private investment promotion process, including the awarding, will be void. (Articles 8, 9.1, 9.2, 9.3, 9.5, and Seventh Final Complementary Provision of the PPP Law, and Articles 8 and 14 of the PPP Regulations). In the new PPP regulations adopted by Supreme Decree 410-2015-EF, article 17.2 also regulates that the Ministry of Economy and Finance must favorably approve the evaluation report of the PPP within 15 business days.
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):	According to Article 9.3 of the PPP Law, the final design of the PPP contract requires the approval of the Ministry of Finance. Article 21 of the new PPP Regulations also requires the approval the Ministry of Economy and Finance to approve the final draft of the contract before its signature.
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	Two additional authorities have to issue technical opinions on the draft of the PPP contract (i) the regulatory entities of the corresponding sector such as OSITRAN (Supervisory Organism of

	Investment in Public Transportation Infrastructure), OSINERGMIN (Supervisory Organism of Investment in Energy and Mines), SUNASS (National Superintendence of Sanitation Services) and OSIPTEL (Supervisory Agency of Private Investment in Telecommunications) and (ii) the National Audit Office.
and provide the relevant legal/regulatory provisions (if any):	Article 9.3 of the current PPP Law and article 21 of the new PPP Regulations.
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):	Article 7.1 of the PPP Law states: "The public entities will identify the levels of service being pursued, from a diagnostic about the actual situation, pointing out the importance in the national, sectorial, regional and local priorities, in the frame of which the investment projects are developed. A PPP may be developed over more than one Public Investment Project, as long as this has been declared viable under the scope of the SNIP (National Investment System)". Also, Article 7 of the PPP Regulations requires an Evaluation Report to incorporate the project into the PPP promotion process including: " (...) b) Relevance and consistency with the local, regional or national priorities as applicable; (...) m) Feasibility Declaration in accordance with the National Public Investment System". This second requirement only applies to co-financed projects, as also stated by Article 9.2 of the PPP Law: "Investment projects conducted as Public-Private Partnerships and classified as co-financed shall fulfill all the requirements and processes established in the National Public Investment System Law (...)". Contributors consider that these provisions are effectively respected in practice. Similar provisions will still apply with the new PPP Regulatory framework as established by articles 14 and 15 of the new PPP Regulations.
If yes, which of the following options best describes the way your government prioritizes PPP projects? (Please	Yes

<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>	<p>As explained in the above mentioned regulations</p>
<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>	<p>No</p>
<p>The regulatory framework does not include any provisions.</p>	<p>No</p>
<p>Other</p>	<p>No</p>
<p>please specify:</p>	<p>n/a</p>
<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>	<p>Some of the projects</p>
<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>	<p>Yes</p>

socio-economic impact of the project)	
Relevant legal/regulatory provision (if any)	Article 9.2 of the PPP Law and 7.1 of the PPP Regulations, PPP projects classified as co-financed must satisfy all the requirements of the National Public Investment Law. The National Public Investment System (SNIP) is an administrative system of the State that through a set of principles, methods, procedures and technical standards certifies the quality of Public Investment Projects. It aims for efficiency, sustainability and greater socio/economic impact. A Public Investment Project (PIP) is divided into three phases: Pre-investment, Investment and Post-investment. In the pre-investment phase, the entity shall undertake the evaluation of the project in order to determine its pertinence, social profitability and sustainability. Article 16.2 of the new PPP regulations keeps requiring all projects classified as co-financed to satisfy all the requirements of the SNIP.
Is there a specific methodology?	Yes
If yes, elaborate.	General Directive No. 001-2011-EF/68.01 of the Public Investment National System (SNIP).
Affordability assessment, including the identification of the required long term public commitments (explicit and implicit)	Yes
Relevant legal/regulatory provision (if any)	The Evaluation Report required by Article 7 of the PPP Regulations to incorporate a project to the PPP promotion process must include for self-sustainable projects a: " (...) j) preliminary estimation of financial and non-financial guarantees potentially required and the capacity of the [public] entity to assume those commitments (...)" and for co-financed projects, besides the previous one: " p) (...) budgetary capacity certified by the [public] entity (...)". Article 16.2 of the new PPP Regulations also contains this requirement.
Is there a specific methodology?	Yes
If yes, elaborate	Ministerial Resolution No. 048-2015-EF that regulates the assessment of public commitments resulting from PPPs.
Risk identification, allocation and assessment (risk matrix)	Yes
Relevant legal/regulatory provision (if any)	The Evaluation Report required by Article 7 of the PPP Regulations to incorporate a project to the PPP promotion process must include: "(...) i) preliminary identification and allocation of the risks". Article 16.2 of the new PPP Regulations also contains this requirement.
Is there a specific methodology?	Yes
If yes, elaborate	Directive No. 004-2012-Proinversión.
Financial viability or bankability assessment.	Yes

Relevant legal/regulatory provision (if any)	The Evaluation Report required by Article 7 of the PPP Regulations to incorporate a project to the PPP promotion process must include: "(...) h) preliminary economic and financial evaluation as a PPP". Article 16.2 of the new PPP Regulations also contains this requirement.
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)	Article 8.1 of the PPP Law indicates that "It is the responsibility of public entities to conduct a comparative analysis on whether private participation in the provision of public infrastructure or public service (...), is more beneficial to society than if it were provided by the state through public works, according to the provisions of the PPP Regulations". In this sense, the Evaluation Report required by Article 7 of the PPP Regulations to incorporate a project to the PPP promotion process must include for self-sustainable projects: "(...) k) advantages of developing the project through a PPP"; and for co-financed projects "(...) o) comparative analysis evaluation. Article 16.2 of the new PPP Regulations also contains this requirement.
Is there a specific methodology?	Yes
If yes, elaborate	Ministerial Resolution No. 249-2014-EF/15 approving the comparative assessment methodology.
Market assessment (showing evidence of enough interest in the market for the project)	Yes
Relevant legal/regulatory provision (if any)	The PPP Law and the PPP Regulations did not include specific reference to market assessment. However, article 19.1 of the new PPP Regulations establishes that the Private Investment Promoting Organism will assess the interest of potential bidders and financial institutions in the project.
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:	All of the projects
Does the procuring authority include a draft PPP contract	Yes

in the request for proposals?	
If yes, please provide the relevant legal/regulatory provisions (if any):	The previously enforced regulatory framework (PPP Law and PPP Regulations) did not expressly require elaborating and providing bidders with a draft PPP contract. However, according to our contributors, this was always done in practice and the tender documents always mention that there will be preliminary versions of the PPP Contracts, subject to commentaries. In fact, when Proinversion launches a public tender for a PPP project, it prepares and publishes a draft PPP contract online. The interested bidders are allowed to submit comments and requests in connection with the draft PPP contract, then, Proinversion usually prepares revised version(s) of the PPP contract taking into consideration the received feedback. Article 20.3 of the new PPP Regulations expressly required the procuring authority to provide potential bidders with a link to the tender documents including the draft contract.
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	n/a

legal/regulatory provisions (if any):	
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):	Legislative Decree 1192 (Decreto Legislativo 1192), Expropriation Act for the implementation of Infrastructure projects. Legislative Decree 1192 establishes that the competent Ministry, Regional or Local Government are active subjects of land acquisition or expropriation and that are also responsible for the process of land procurement and expropriation. At the same time, article 23 establishes that the private partner will be able to procure for itself the provision of the land, in which case the private partner will be in charge of the implementation, management and completion of the procurement process and the release of interferences and the Government will reimburse the expenses incurred.
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):	Legislative Decree 1192 (Decreto Legislativo 1192), Expropriation Act for the implementation of Infrastructure projects. Legislative Decree 1192 establishes that the competent Ministry, Regional or Local Government are active subjects of land acquisition or expropriation and that are also responsible for the process of land procurement and expropriation. At the same time, article 23 establishes that the private partner will be able to procure for itself the provision of the land, in which case the private partner will be in charge of the implementation, management and completion of the procurement process and the release of interferences and the Government will reimburse the expenses incurred.
If no, please elaborate (provide explanation):	n/a
Does the regulatory framework establish any exceptions where the preparation process described	Yes

above does not apply or allows for a "fast track" procedure?	
If yes, please provide the relevant legal/regulatory provisions:	Legislative Decree 1224, article 30.1, establishes that projects for the development of services related to public infrastructure or public services required to be provided by the State, applied research projects and /or technological innovation as those PPP's containing no investment component, they are handled in a simplified procedure. This "fast track" procedure is developed in the regulation approved by Supreme Decree 410-2015-EF, articles 27.1 and 27.2.
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:	236.5
Obtaining the required approvals from other relevant authorities:	112
Preparing the draft PPP contract:	144
Obtaining any permits, land and/or right of way that the procuring authority must provide according to the regulatory framework:	186
PPP Procurement	Score: 70
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)	Practice
If no, please elaborate (provide examples):	n/a
If yes, which of the following options	No

<p>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>	
<p>If yes, please specify:</p>	n/a
<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.</p>	Yes
<p>Other</p>	No
<p>please specify:</p>	n/a
<p>Does the procuring authority issue a public procurement notice of the PPP?</p>	Yes
<p>If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):</p>	<p>Article 14 of the Concessions Law and Ninth Final Complementary Disposition of Legislative Decree 1012. The PPP public procurement notice are published in the Official Gazette (El Peruano), local or national newspapers and the Internet (E-procurement portal or website). Article 20.3 of the new PPP Regulations establishes the same requirement.</p>
<p>If yes, is the public procurement notice published online?</p>	Yes
<p>If yes, please specify the website:</p>	http://www.proyectosapp.pe/default.aspx
<p>Does the procuring authority grant the potential bidders a minimum period of</p>	Yes

time to submit their bids?	
If yes, please provide the relevant legal/regulatory provisions (if any):	Practice
and the time in calendar days :	n/a
Do the tender documents detail the stages of the procurement process?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Practice
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):	Practice
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):	Practice
Among the PPP procurement processes conducted within the last two (2) years that had a prequalification stage, how many of them included	All of the projects

prequalification criteria in the tender documents? Please elaborate	
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):	Articles 20.3 and 20.1 b) of the new PPP Regulations regulate this possibility. Article 15 of the Concession Regulations previously enforceable states: "Questions or clarifications to the bidding terms made by the bidders must be acquitted and notified to the bidders in no more than fifteen (15) calendar days before the date of reception of proposals".
If yes, does the procuring authority disclose those questions and clarifications to all of the potential bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Practice
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:	All of the projects
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	n/a

legal/regulatory provisions (if any):	
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:	n/a
Does the procuring authority require the bidders to prepare and present a financial model with their proposals ?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 22.2 of the new PPP regulations establishes that the winner of the bidding process will have to present a financial model before signing the contract. The previously enforced regulatory framework did not require bidders to prepare and present a financial model with their proposals.
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):	According to Article 25 of the Concession Law "The concession will be granted to the owner of the technical and economic proposals that result most convenient, which will be determined according to the evaluation system contained in the bidding terms". The same provision is contained in Article 23.1 of the New PPP regulations.
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:	All 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?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
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.	n/a
Please specify:	n/a
The regulatory framework considers sole proposals valid as	n/a

long as they meet the conditions outlined in the tender documents.	
The regulatory framework does not allow the award of a PPP contract if only one proposal is submitted.	n/a
The regulatory framework does not include any provisions.	n/a
Other	n/a
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:	345
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):	Practice
If yes, is the public procurement award notice published online?	Yes
If yes, please specify the website:	http://www.proyectosapp.pe/default.aspx
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):	According to Article 22.1 of the Concessions Regulations, the concession will be granted to the owner of the most convenient proposal, by Resolution of the Special Committee that will be communicated to all bidders on the date established in the bidding terms. Such act will have the

	presence of a Public Notary. The same requirement is established in article 22.1 of the new PPP Regulations.
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):	Practice
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?	Yes
If yes, please provide the relevant legal/regulatory provisions:	The regulatory framework does not expressly include any restrictions to negotiate with the selected bidder between the award and the signature of the PPP contract. However, entering into additional negotiations with the selected bidders and, hence, affecting the interests of the other bidders would contravene: (i) the fairness principle that applies to all the administrative proceedings (Section 1.5 of Law No. 27444); and, (ii) Section 23 of the Concessions Regulations which states that each public bid shall be carried out in accordance with the guidelines and that, if this is not the case, the Special Committee shall leave without affecting the public bid.
Among the PPP procurement processes conducted within the last two (2) years, in how many of them were the terms and conditions changed between the award and the signature of the PPP contract? Please elaborate:	None of the projects
Does the procuring authority publish the PPP contract?	Yes
If yes, please specify the means of	The signed version of the PPP contract is available on the PPP Public Registry, which is managed by the Ministry of Economy and Finance (please note that this registry is in the implementation

publication and provide the relevant legal/regulatory provisions (if any):	stage) and in the website of the procuring authority (this is available in practice (Article 34 of the PPP Regulations). Article 82 of the new PPP regulations contain the same requirement.
If yes, is it published online?	Yes
If yes, please specify the website:	http://www.proyectosapp.pe/default.aspx
Does the regulatory framework establish any exceptions where the procurement 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
Unsolicited proposals	Score: 100
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:	Unsolicited proposals ("Iniciativas Privadas") are regulated in article 14 and the following of the PPP Law (Chapter 4) and article 19 and the following of the PPP Regulations (Chapter 3). In the new PPP Regulations, unsolicited proposals are also permitted and regulated in articles 32 to 44.
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:	10%
Does the procuring authority conduct an assessment to evaluate unsolicited proposals?	Yes
If yes, please specify and provide the	The process for evaluating unsolicited proposal as regulated in article 15 of the PPP Law and articles 20, 21, 22, 25, 26, 27 of the PPP Regulations have the following stages: (i) Submission of

relevant legal/regulatory provisions (if any):	<p>the unsolicited proposal to Promoting Organism of Private Investment, (ii) Admissibility and evaluation of the unsolicited proposal by the Promoting Organism of Private Investment and others competent authorities of the relevant sector where the PPP project will be developed, (iii) Statement of Importance (Declaración de Interés) of the project declared by the Private Investment Promotion Agency , (iv) Selection and award of the project. An equivalent process for both co-financed and self-sustainable unsolicited proposals is currently regulated by articles 33 and 42 of the new PPP Regulations.</p>
If yes, does it ensure that the unsolicited proposal is consistent with the existing government priorities?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>For self-sustainable unsolicited proposals Article 22.1 of the PPP Regulations requires the opinion from the competent entities regarding the "relevance and consistency of the unsolicited proposal with the national, regional or local priorities". For co-financed unsolicited proposals, Article 27.1 of the PPP Regulation indicates: (...) PROINVERSION will submit to the entities all the Unsolicited Proposals that rely on their competence for them to emit an opinion about the consistency between them and their strategic objectives. The entities will indicate the order of priority of the unsolicited proposals they deem consistent with their priorities. Under the new PPP regulations, article 34 for self-sustainable unsolicited proposals and 43 and 44 for co-financed unsolicited proposals regulate a process to ensure the consistency of them with other investment projects and national priorities.</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>Yes</p>
If yes, please specify:	<p>For self-sustainable unsolicited proposals, Article 22.1 of the PPP Regulations requires the opinion from the competent entities regarding the "relevance and consistency of the unsolicited proposal with the national, regional or local priorities". For co-financed unsolicited proposals, Article 27.1 of the PPP Regulation indicates: (...) PROINVERSION will submit to the entities all the Unsolicited Proposals that rely on their competence for them to emit an opinion about the consistency between them and their strategic objectives. The entities will indicate the order of priority of the unsolicited proposals they deem consistent with their priorities. Under the new PPP regulations, article 34 for self-sustainable unsolicited proposals and 43 and 44 for co-</p>

	financed unsolicited proposals regulate a process to ensure the consistency of them with other investment projects and national priorities.
The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.	No
The regulatory framework does not include any provisions.	No
Other	No
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:	Most of the projects
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):	According to article 16 of the PPP Law and article 31 of the PPP Regulations, interested parties have a period of ninety (90) calendar days from the day following the publication of the Statement of the Importance of the project to submit expressions of interest regarding the execution of the investment project. After this period of time and as long as there are other interested parties, Promoting Organism of Private Investment will initiate a competitive PPP procurement procedure (if not other parties showed interest direct awarding is permitted). The same provisions are currently contained in articles 46 to 48 of the new PPP Regulations, but the period of time for interested parties to submit their expressions of interest had been increased to 150 days.
Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the	Yes

proponent) to prepare their proposals?	
If yes, please provide the relevant legal/regulatory provisions (if any):	Articles 16 of the PPP Law and 74 of the New PPP Regulations
and the time in calendar days:	150
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).	Yes
Other	No
please specify:	n/a
Please provide the relevant legal/regulatory provisions (if any):	Article 31 of the PPP Regulations regulates both the right to a developer fee (article 31.4) and the Swiss challenge (article 31.3). The same provisions are contained in articles 49.5 y 51.4 of the new PPP regulations.
PPP Contract Management	Score: 76
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	Article 7.2 of the New PPP Law established that "the Ministry, Regional Government or Local Government should allocate their functions indicated in this article regarding to the contract

legal/regulatory provisions (if any)	execution phase to an organ inside their organizational structure or assign these functions to the Investment Promotion Committee (OPIP).
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):	Article 7.2 of the New PPP Law established that "the Ministry, Regional Government or Local Government should allocate their functions indicated in this article regarding to the contract execution phase to an organ inside their organizational structure or assign these functions to the Investment Promotion Committee (OPIP). Complementing this provision, article 6 of the New PPP Regulations establish that the Investment Promotion Committee (OPIP) can perform the necessary duties regarding the PPP contract execution, among its other responsibilities (that include the procurement process).
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	None of the projects

<p>PPP projects procured within the last two (2) years did the management system and tools fully inform the contact management team? Please elaborate:</p>	
<p>Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract?</p>	Yes
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>The Law No. 27332 on the regulatory agencies of private investment in public services establishes and regulates a monitoring and evaluation system for private investment projects including PPPs. Article 9 of the new PPP regulations includes a specific reference to this evaluation and monitoring system that was applicable before. Also, article 34.5 of the PPP Regulations establishes that "the Ministry of Finance may request to the responsible agencies information regarding the progress and implementation of the PPP Contracts, who shall refer the information no later than ten (10) working days under the responsibility of the agency head and the responsible official.</p>
<p>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.</p>	No
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	n/a
<p>The procuring or contract management authority must periodically gather information on the performance of the PPP contract.</p>	No
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	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?	Yes
If yes, please specify the website:	http://www.ositran.gob.pe/nosotros/ositran-en-cifras.html
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:	Article 17 of the PPP Regulations provides the rules for PPP contract assignment or transfer. Article 59 of the new PPP Regulations also contains the rules for PPP contract assignment.
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.	Yes
If yes, please provide the relevant legal/regulatory provisions:	Article 17.1 of the PPP Regulations provide that changes in the PPPCo structure will preserve the technical, legal and financial capacity and will be regulated in the PPP contract.
Flexibility to substitute non-controlling interest after the initial period.	Yes
If yes, please provide the relevant legal/regulatory provisions:	Changes in PPPco is not prohibited by the regulatory framework and such changes are regulated at a contractual level.
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:	Article 15 of the PPP Regulations. The recently approved new regulatory framework regulates this issue in articles 53 to 57 of the new PPP regulations.
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:	Article 15.1 of the PPP regulations states that if the renegotiation changes the object of the contract or implies an additional investment of more than a 15 % of the original cost of the project, the public entity should evaluate the convenience of conducting a new procurement process. The same provision is contained in article 53.2 of the new PPP regulations.

A change in the risk allocation of the contract.	Yes
If yes, please provide the relevant legal/regulatory provisions:	Article 53 of the new PPP Regulations establishes that any contract modification should preserve the original risk allocation.
A change in the investment plan or duration of the contract.	Yes
If yes, please provide the relevant legal/regulatory provisions:	Article 61.2 of the new PPP regulations regulates changes in the duration of the PPP contract.
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:	Article 37 of the Concessions Law provides that force majeure would exempt the Concessionaire from operating the public service and article 38 of the same Concessions Law establishes that the duration of the PPP contract would be extended in case of force majeure and other causes agreed on the contract. A similar provision is contained in article 61.3 of the new PPP regulations.
Material Adverse government action.	Yes
If yes, please provide the relevant legal/regulatory provisions:	Article 36.c) of the Concessions Law establishes that "when the default of partial or total terms results from an action or omission by the grantor, such terms will be understood as extended during a period equal to the delay or breakdown, without prejudice of the appropriate compensations.
Change in the Law.	Yes
If yes, please provide the relevant legal/regulatory provisions:	Article 17.2 of the PPP Regulations requires to compensate PPPCo if the financial-economic equilibrium is greatly affected due to change in Law. The same provision is contained in article 58 of the new PPP regulations.
Refinancing.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Other.	No
If yes, please specify and provide the relevant legal/regulatory provisions:	n/a

Does the regulatory framework establish a specific dispute resolution mechanism for PPPs?	<p>Yes</p>
If yes, please specify and provide the relevant legal/regulatory provisions	<p>Participation of a third neutral party (the "amiable compositeur") for the dispute resolution through direct contract between the parties. In case it does not work, the parties will submit their controversy before a Dispute Resolution Board which will be formed by 1 up to 3 experts. Also, the parties will rely on arbitration following the guidelines included in the PPP Regulations (Article 9.6 of the PP Law, 16 and 37 to 51 of the PPP Regulations). Equivalent provision are contained in article 23 of the new PPP Law and section VIII of the New PPP Regulations.</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>Yes</p>
If yes, please specify:	<p>Participation of a third neutral party (the "amiable compositeur") for the dispute resolution through direct contract between the parties. In case it does not work, the parties will submit their controversy before a Dispute Resolution Board which will be formed by 1 up to 3 experts. Also, the parties will rely on arbitration following the guidelines included in the PPP Regulations (Article 9.6 of the PP Law, 16 and 37 to 51 of the PPP Regulations). Equivalent provision are contained in article 23 of the new PPP Law and section VIII of the New PPP Regulations.</p>
The regulatory framework prescribes that a dispute resolution mechanism should be regulated in the contract.	<p>No</p>
The regulatory framework provide the parties with recourse to arbitration but no other alternative dispute resolution mechanism.	<p>No</p>
Other	<p>No</p>
please specify:	<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>Article 64 of the new PPP Regulations regulates the rights of intervention in favor of allowed creditors and states that contracts can establish rights for the permitted private creditors. Also, articles 24 and 25 of Legislative Decree 1224 regulates assurances and guarantees in favor of the investor.</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>Yes</p>
<p>The regulatory framework prescribes that a direct agreement should be signed with the lenders.</p>	<p>No</p>
<p>Other</p>	<p>No</p>
<p>please specify:</p>	<p>n/a</p>
<p>Does the regulatory framework expressly establish the grounds for termination of a PPP contract?</p>	<p>Yes</p>

If yes, please specify:	(i) Expiration of the PPP contract term; (ii) material breach of the PPP contract by the PPPCo; (iii) material breach of the PPP contract by the Authority; (iv) mutual agreement; (v) public interest; (vi) complete destruction of public infrastructure.
and provide the relevant legal/regulatory provisions:	Article 39 of the Concessions Law and currently article 63 of the new PPP Regulations.
If yes, does the regulatory framework also establish the consequences for the termination of the PPP contract?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
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?	Yes
Please describe:	Legislative Decree 1224 which was published on September 25, 2015 and its regulation and the Supreme Decree 410-2015-EF, which was published on December 27, are the new regulatory PPP framework.
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:	Methodology for the application of eligibility criteria; policy on the content of the evaluation report; guidelines for the evaluation of a self-funded PPP project; guidelines for the granting of guarantees; method of calculating the budget capacity; guidelines for risk allocation, and others that may apply.