

BENCHMARKING PPP PROCUREMENT 2017 IN POLAND

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:	Act of 19 December 2008 on Public-Private Partnership (from hereinafter referred to as “PPP Law”), Act of 29 January 2004 - Public Procurement Law (from hereinafter referred to as “PPL Act”), Act of 9 January 2009 on Concession for Construction Works and Services (from hereinafter referred to as the “Concession Law”)
and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:	PPP Law: http://www.ppp.gov.pl/English/Documents_and_publications/Documents/2013_05_10_ACT_on_PPP_ENG.pdf PPL Act: http://www.ppp.gov.pl/English/Documents_and_publications/Documents/Public_Procurement_Law_2014_consolidated_text_19.10.2014.pdf Concession Law: http://www.ppp.gov.pl/English/Documents_and_publications/Documents/20121212_Act_on_Concession_for_Works_or_Services.pdf
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>Pursuant to the PPP Act (Article 2.1 of the PPP Act), the following entities can carry out PPP projects as public partners:</p> <ol style="list-style-type: none"> 1) Entities from the public finance sector (among them: government authorities, courts, regional authorities, public health institutions, universities); 2) Legal persons incorporated for the purpose of carrying out public purpose activities directly or indirectly controlled by entities from the public finance sector; 3) Associations of entities referred to in points 1 and 2.
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):	Ministry of Development - https://www.mr.gov.pl/
If yes, what are the main responsibilities of the PPP Unit (check all that apply). PPP regulation.	No
PPP policy guidance and capacity building for other public authorities.	Yes
PPP promotion among the public	Yes

and/or private sectors in national and international forums.	
Technical support in implementing PPP projects.	Yes
Gatekeeping (approval of PPP projects).	No
Procurement of PPPs.	No
Oversight of PPP implementation.	No
Other	No
please specify:	n/a
Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?	Yes
Preparation of PPPs	Score: 52
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Art. 18 of Act on public-private partnership - the financing of a project from the State budget in excess of PLN 100,000,000 requires the consent of the minister in charge of public finances, excluding funds allocated for financing the operational programs referred to in the Act on Development Policy Principles of 6 December 2006 (J.L. no. 227, item 1658, of 2007 no. 140, item 984 and of 2008 no. 216, item 1370). When giving consent, the minister in charge of public finances considers the impact of the planned budget expenditures on security of public finances.</p> <p>2. The consent referred to in item 1 is given on the contracting authority's application containing:</p> <ol style="list-style-type: none"> 1) description of the contracting authority; 2) description of the planned project; 3) projected amount of State budget funds allocated in individual budgeting periods for project implementation. <p>3. The minister in charge of public finances gives or refuses to give the consent within 6 weeks of receiving the application. The consent or refusal to give consent is not an administrative decision.</p> <p>4. The contracting authority may file another application for the consent referred to in item 1 to implement the same project in the case of a change in the data specified in item 2 point 3. Item 3 applies to the new application.</p>
If yes, is a second approval by the Ministry of Finance or Central Budgetary Authority	No

required before signing the PPP contract?	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
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	Conditions of the tender should be agreed upon with the Ministry of Transportation, and planned financial obligation of the National Treasury should be agreed upon with the minister competent for public finances.
and provide the relevant legal/regulatory provisions (if any):	Article 61 of the Act on Toll Motorways and National Road Fund.
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):	In Poland there are overall national strategies (eg. the National Development Strategy 2020) and sectoral strategies (eg. on transport, urban policy), which indicate PPPs as an important tool for the development of infrastructure and social services. The provisions of these

	documents do not point any specific PPP projects, but are intended to present the potential use of PPPs.
If yes, which of the following options best describes the way your government prioritizes PPP projects? (Please select only one). The regulatory framework provides for the inclusion of PPPs in the national public investment system and/or details a specific procedure to ensure the consistency of PPPs with other public investment priorities.	No
If yes, please specify:	n/a
The regulatory framework prescribes the need for PPPs to be consistent with all other investment priorities without establishing a specific procedure to achieve that goal.	No
The regulatory framework does not include any provisions.	No
Other	Yes
please specify:	In Poland there are overall national strategies (eg. the National Development Strategy 2020) and sectoral strategies (eg. on transport, urban policy), which indicate PPPs as an important tool for the development of infrastructure and social services. The provisions of these documents do not point any specific PPP projects, but are intended to present the potential use of PPPs.
Among the PPP projects procured within the last two (2) years, how many of them were prioritized along with all other public	None of the projects

investment projects? Please elaborate:	
Which of the following assessments are conducted when identifying and preparing a PPP? (check all that apply): 10.1. Socio-economic analysis (cost-benefit analysis of the socio-economic impact of the project)	Yes
Relevant legal/regulatory provision (if any)	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)	Regulation of the Minister of Economy of 11 February 2015 on Risks and Factors taken into Account in their Assessment
Is there a specific methodology?	Yes
If yes, elaborate	Comparator PPP and risk analysis - risk assessment methodology with a tool supporting analysis and risk factors allocation for PPP projects.

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)	Practice
Is there a specific methodology?	Yes
If yes, elaborate	Comparator PPP and risk analysis - economic model methodology that allows verification of the validity of the PPP project in the context of the project cycle. The methodology includes the set of analytical tools developed in a spreadsheet.
Market assessment (showing evidence of enough interest in the market for the project)	Yes
Relevant legal/regulatory provision (if any)	Practice
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:	Most of the projects
Does the procuring authority include a draft PPP contract in the request for proposals?	Yes

If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 36 (1) (16) of the PPL, the specification of essential terms of the contract shall include provisions of essence to the parties which will be introduced into the concluded public procurement contract, general terms of the contract or model contract, if the contracting authority requires the economic operator to conclude a public procurement contract with it on these terms.
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 government-supported website where the mentioned standards are available or provide an electronic copy of them:	Practice
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	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Pursuant to Article 9 (1) of the PPP Act, providing land on which a PPP project will be developed is one type of contribution that the procuring authority can make under a PPP contract. In practice, procuring authorities are often owners of the land where the project is to be developed/operated and grant private partners different types of rights to use the land for the purposes of carrying out their tasks under the PPP contracts (in particular, the right to land can be transferred based on a sale, rent, lease or a usufruct agreement).</p>
If no, please elaborate (provide explanation):	<p>n/a</p>
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	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Pursuant to Article 9 (1) and Article 9 (3) of the PPP Act: making an own contribution in the form of an asset can take place, in particular, through sale, making available, transfer for use, lease or rental. If the asset was the property of the private partner, the private partner shall be eligible to reimbursement of the value of the asset as at the moment of its transfer. In any other case, the private partner may demand reimbursement of outlays necessary as far as they are not covered by the proceeds from the asset. Reimbursement of other outlays can be demanded to the extent by which they increase the value of asset at the time of its transfer to the public entity. However, if the outlays were made after the time when the public entity demanded, in writing, the transfer of the asset or learned of filing against it a claim for such transfer, it can demand reimbursement of the necessary outlays only.</p>
If no, please elaborate (provide explanation):	<p>n/a</p>
Does the regulatory framework establish any exceptions where the preparation process described above does not apply or allows for a “fast track” procedure?	<p>No</p>
If yes, please provide the relevant	<p>n/a</p>

legal/regulatory provisions:	
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:	No Data
Obtaining the required approvals from other relevant authorities:	42
Preparing the draft PPP contract:	15
Obtaining any permits, land and/or right of way that the procuring authority must provide according to the regulatory framework:	No Data
PPP Procurement	Score: 80
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 best describes the required qualifications of the committee members? (Please select only one). The regulatory framework details	No

the qualifications required and/or the specific membership of the bid evaluation committee.	
If yes, please specify:	n/a
The regulatory framework requires generally sufficient qualification without detailing the specific qualifications required to be a member of the bid evaluation committee.	No
The regulatory framework does not include any provisions.	Yes
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 Article 5 of the PPP Law and Article 10 of the Concession Law, the public entities publish announcements in the Public Procurement Bulletin and/or in the Official Journal of the European Union. Additionally, they also publish information about the planned public-private partnership projects in the Bulletin of Public Information.
If yes, is the public procurement notice published online?	Yes
If yes, please specify the website:	The Public Procurement Bulletin http://bzp2.portal.uzp.gov.pl/ The Bulletin of Public Information https://www.bip.gov.pl/ or/ and The Official Journal of the European Union http://eur-lex.europa.eu/oj/direct-access.html?locale=pl
Does the procuring authority grant the potential bidders a minimum period of time to submit their bids?	Yes
If yes, please provide the relevant	Pursuant to Article 43 of the PPL Act, in cases where the contract value is equal to or exceeds 30,000 Euros, the time-limit for the receipt of tenders cannot be shorter than: 1) 40 days - from the day the contract notice is sent to the Office for the Official Publications of the European

legal/regulatory provisions (if any):	Communities by electronic means, in accordance with the format and procedures set out at the internet address referred to in the directive; 2) 47 days - from the day the contract notice is sent to the Office for the Official Publications of the European Communities in a manner other than that specified in item 1. In case of a restricted procedure, Article 52 of the PPL Act sets out the minimum time limits for the submission of bids based on different scenarios.
and the time in calendar days :	47
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 Articles 36 and 41 of the PPL Act, and Article 11 of the Concession Law, the tender documents detail the stages of the procurement process.
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 2 (Articles 47 to 53), Section 3 (Articles 54 to 60e) and Section 4 (Articles 61 to 65) of the PPL Act, pre-qualifications procedure takes place in the case of restricted tendering, a negotiated procedure with publication, and negotiated procedure without publication.
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):	Pursuant to Article 36 (1) (5) of the PPL Act, conditions for the participation in the procedure and description of the method used for the evaluation of the fulfillment of those conditions will be specified in the essential terms of the contract. Furthermore, Article 48 (2) (6) of the PPL Act states that the contract notice, in the case of a restricted procedure, should include the conditions for the participation in the procedure.
Among the PPP procurement processes conducted within the last two (2) years that had a prequalification	Most of the Projects

<p>stage, how many of them included prequalification criteria in the tender documents? Please elaborate</p>	
<p>Can interested parties/potential bidders submit questions to clarify the public procurement notice and/or the request for proposals?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Pursuant to Article 38 of the PPL Act, the private entity may request the contracting authority to explain the wording of the terms of reference. The contracting authority is required to provide explanations within specified time limit, as specified within Article 38.</p>
<p>If yes, does the procuring authority disclose those questions and clarifications to all of the potential bidders?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Pursuant to Article 38 (2) of the PPL Act, the contracting authority shall provide the text of the queries along with the explanations at the same time to all the economic operators who have received the specification of essential terms of contract, without disclosing the source of the query, and shall post it on its website if the specification is available on this website.</p>
<p>Among the PPP procurement processes conducted within the last two (2) years where questions were submitted, in how many were the questions and clarifications disclosed to all of the potential bidders? Please elaborate:</p>	<p>Most of the Projects</p>
<p>Besides questions and clarifications, can the procuring authority conduct other types of dialogue with the potential bidders?</p>	<p>Yes</p>

If yes, please specify and provide the relevant legal/regulatory provisions (if any):	<p>Pursuant to Article 38 (3) of the PPL Act, the contracting authority may arrange a meeting of all the economic operators to dispel any doubts concerning the contents of the specification of essential terms of contract and post likewise on its website information concerning the date of the meeting if the specification is on the website; in that case, information shall be prepared containing all specification queries made during that meeting and the answers to such queries without disclosing the source of the queries. Information from the meeting shall be immediately provided to the economic operators who have received the specification of essential terms of contract and shall be posted on the website if the specification of essential terms of contract is placed on the website.</p> <p>Legal regulations in Poland allow the procuring authority to conduct other types of dialogue with the potential bidders including: negotiated procedure with publication, competitive dialogue and the technical dialogue. The relevant legal provisions are Articles 60a to 60e of the PPL Act in the case of a competitive dialogue and Articles 31a to 31c in the case of the technical dialogue.</p>
If yes, does the procuring authority disclose the content and the results of the dialogue to all of the potential bidders?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Pursuant to Article 38 (2) of the PPL Act, the contracting authority shall provide the text of the queries along with the explanations at the same time to all the economic operators who have received the specification of essential terms of contract, without disclosing the source of the query, and shall post it on its website if the specification is available on this website.</p>
Among the PPP procurement processes conducted within the last two (2) years where any other type of dialogue was conducted, in how many was the content and the result of the dialogue disclosed to all of the potential bidders? Please elaborate:	<p>Most of the Projects</p>
Does the procuring authority require the bidders to prepare and present a financial model with their proposals ?	<p>Yes</p>
If yes, please provide the relevant	<p>Practice</p>

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):	<p>Pursuant to Article 6 of the PPP Law, the criteria for evaluation of the offers shall be: 1) the division of tasks and risks related to the project between the public entity and the private partner; 2) dates and amounts of projected payments or other considerations by the public entity, if such are planned. The criteria for evaluation of the offers can also include in particular: 1) the division of proceeds from the project between the public entity and the private partner; 2) the ratio of public entity contribution to private partner contribution; 3) the effectiveness of project implementation, including the effectiveness of asset use; 4) criteria referring directly to the project subject, in particular its quality, functionality, technical parameters, level of technologies offered, operational costs, and servicing.</p> <p>Furthermore, Article 17 of the Concession Law and Article 91 of the PPL Act further reiterate the criteria of evaluation for the proposals.</p>
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?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Provided that the final offer is submitted by a prequalified bidder and fulfills all the criteria specified in the terms of reference, the procuring authority can choose such sole proposal as the most advantageous offer under the normal procurement procedure and award the PPP project to such winning bidder.</p>

<p>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.</p>	<p>No</p>
<p>Please specify:</p>	<p>n/a</p>
<p>The regulatory framework considers sole proposals valid as long as they meet the conditions outlined in the tender documents.</p>	<p>Yes</p>
<p>The regulatory framework does not allow the award of a PPP contract if only one proposal is submitted.</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>In practice, what is the average number of calendar days between the initial publication of the PPP public procurement notice and the award of the PPP? Number of calendar days:</p>	<p>80</p>
<p>Does the procuring authority publish the award notice?</p>	<p>Yes</p>

If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	<p>Pursuant to Article 95 of the PPL Act, the award notice is published in the Public Procurement Bulletin (for projects with a value below the EU thresholds) or in the Official Journal of the EU (if the value of the project exceeds the EU thresholds)</p> <p>The Concession Act does not expressly state that the award notice has to be published by the procuring authority. It states only that a protocol from the procurement proceedings (in which the information on the choice of the most advantageous offer is included) should be publicly available (Article 20.1 of the Concession Act).</p>
If yes, is the public procurement award notice published online?	<p>Yes</p>
If yes, please specify the website:	<p>The Public Procurement Bulletin http://bzp2.portal.uzp.gov.pl/ or/ and The Official Journal of the European Union http://eur-lex.europa.eu/oj/direct-access.html?locale=pl</p>
Does the procuring authority provide all the bidders with the result of the PPP procurement process?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Pursuant to Article 92 (1) of the PPL Act, after selection of the best (most advantageous) tender, the contracting authority shall forthwith inform the economic operators who submitted tenders about: 1) the selection of the best tender, stating the name (company name) or name and surname, seat or place of residence and address of the economic operator, whose tender was selected, justification for its selection, as well as names (company names) or names and surnames, seats or places of residence and addresses of the economic operators who submitted their tenders, as well as the scoring of tenders in every tender evaluation criterion and the total score. 2) the economic operators whose tenders were rejected stating factual and legal grounds; 3) the economic operators who were excluded from the contract award procedure stating factual and legal grounds - if the contract is awarded in open tendering, negotiated procedure without publication or request- for- quotation.</p>
If no, please elaborate (provide examples):	<p>n/a</p>
If yes, does the notification of the result of the PPP procurement process include the grounds for the selection of the winning bid?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Pursuant to Article 92 (1) (1) of the PPL Act, after selection of the best (most advantageous) tender, the contracting authority shall forthwith inform the economic operators who submitted tenders about the selection of the best tender, stating the name (company name) or name and surname, seat or place of residence and address of the economic operator, whose tender was selected, justification for its selection, as well as names (company names) or names and surnames, seats or places of residence and addresses of the economic operators who</p>

	submitted their tenders, as well as the scoring of tenders in every tender evaluation criterion and the total score.
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:	Pursuant to Article 13 of the PPP Law, it shall be forbidden to amend the provisions of the public-private partnership agreement in relation to the contents of the offer on the basis of which the private partner selection had been made, unless the public entity provided for the possibility of making such amendments in the partnership announcement or in the documentation of the procedure of selecting a private partner and defined the terms of such amendment. Furthermore, Pursuant to Article 23 of the Concession Law, It shall be forbidden to make any changes of the contractual provisions in relation to the contents of the tender, based on which the agreement was concluded, unless the necessity to make such changes stems from the circumstances which could not have been foreseeable on the day of executing the agreement.
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?	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	Yes

the procurement process described above does not apply or allows for a “fast track” procedure?	
If yes, please provide the relevant legal/regulatory provisions:	Pursuant to Article 49 (3) of the PPL Act, In the event of extreme urgency for the award of a contract the contracting authority may fix a shorter time limit for the submission of requests to participate in a restricted tendering procedure, however not shorter than: 1) 10 days - from the day the contract notice is dispatched to the Publications Office of the European Union by electronic means with the use of the form posted on the website referred to in a directive; 2) 15 days - from the day the contract notice is dispatched to the Publications Office of the European Union by fax.
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
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
If yes, does it ensure that the unsolicited proposal is consistent with the existing	n/a

government priorities?	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
If yes, which of the following options best describes how unsolicited proposals are evaluated against existing government priorities? (Please select only one). The regulatory framework details a specific procedure to ensure the consistency of PPPs with other public investment priorities.	n/a
If yes, please specify:	n/a
The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.	n/a
The regulatory framework does not include any provisions.	n/a
Other	n/a
please specify:	n/a
Among the unsolicited proposals approved within the last two (2) years, how many of them were a part of the existing government priorities? Please elaborate:	n/a

Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and the time in calendar days:	n/a
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.	n/a
Developer's fee (reimbursing the original proponent for the project development cost).	n/a
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: 43
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)	<p>The Ministry for Economic Development (formerly the Ministry of Infrastructure and Development and the Ministry of Economy) has developed a number of publications / studies dedicated to the issues of preparation and implementation of PPP projects.</p> <p>These publications have no legal force, but nevertheless they present the best practices in managing PPP contracts. The studies recommend creating project teams, their participation in the award of the contract, the using of PPP advisory services and also elaborating of the manual on PPP project implementation. The Ministry for Economic Development clearly communicates the importance of these actions for the success of the effective preparation and implementation of PPP project.</p> <p>Moreover the Ministry itself also provides advisory services of experts on PPPs for the selected projects (in terms of legal, financial and technical issues).</p>
If yes, which of the following tools does it include (check all that apply)? Establishment of a PPP contract management team.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Participation of the members of the PPP contract management team in the PPP procurement process.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Possibility to consult with PPP procurement	No

experts when managing the PPP contract.	
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	Yes
please specify:	<p>The Ministry for Economic Development has developed a number of publications / studies dedicated to the issues of preparation and implementation of PPP projects. These publications have no legal force, but nevertheless they present the best practices in managing PPP contracts. The studies recommend creating project teams, their participation in the award of the contract, the using of PPP advisory services and also elaborating of the manual on PPP project implementation. The Ministry for Economic Development clearly communicates the importance of these actions for the success of the effective preparation and implementation of PPP project.</p> <p>Moreover the Ministry itself also provides advisory services of experts on PPP for the selected projects (in terms of legal, financial and technical issues).</p>
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:	None 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):	Pursuant to Article 8 of the PPP Law, the public entity shall have the right to current control of project implementation by the private partner. The principles and detailed procedure of conducting the controls shall be specified in the public-private partnership agreement.

<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>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>The procuring or contract management authority must periodically gather information on the performance of 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>The procuring or contract management authority must establish a risk mitigation mechanism.</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>The PPP contract performance information must be available to the public.</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>Other</p>	<p>No</p>
<p>please specify:</p>	<p>n/a</p>
<p>Is PPP contract performance</p>	<p>n/a</p>

information publicly available online?	
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	n/a

legal/regulatory provisions:	
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 Article 13 of the PPP Law, it shall be forbidden to amend the provisions of the public-private partnership agreement in relation to the contents of the offer on the basis of which the private partner selection had been made, unless the public entity provided for the possibility of making such amendments in the partnership announcement or in the documentation of the procedure of selecting a private partner and defined the terms of such amendment. Furthermore, Pursuant to Article 23 of the Concession Law, it shall be forbidden to make any changes of the contractual provisions in relation to the contents of the tender, based on which the agreement was concluded, unless the necessity to make such changes stems from the circumstances which could not have been foreseeable on the day of executing the agreement.
If yes, which of the following circumstances are specifically regulated? (check all that apply): A change in the scope and/or object of the contract.	Yes
If yes, please provide the relevant legal/regulatory provisions:	Pursuant to Article 13 of the PPP Law, it shall be forbidden to amend the provisions of the public-private partnership agreement in relation to the contents of the offer on the basis of which the private partner selection had been made, unless the public entity provided for the possibility of making such amendments in the partnership announcement or in the documentation of the procedure of selecting a private partner and defined the terms of such amendment. Furthermore, Pursuant to Article 23 of the Concession Law, it shall be forbidden to make any changes of the contractual provisions in relation to the contents of the tender, based on which the agreement was concluded, unless the necessity to make such changes stems from the circumstances which could not have been foreseeable on the day of executing the agreement.
A change in the risk allocation of the contract.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
A change in the investment plan or duration of the contract.	No

If yes, please provide the relevant legal/regulatory provisions:	n/a
Does the regulatory framework expressly regulate the following circumstances that may occur during the life of the PPP contract? (check all that apply): Force Majeure.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Material Adverse government action.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Change in the Law.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Refinancing.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Other.	Yes
If yes, please specify and provide the relevant legal/regulatory provisions:	Pursuant to Article 142 (5) of the PPL Act, the contract concluded for a period longer than 12 months shall contain provisions on rules for suitable modification of remuneration rates payable to the economic operator, in case of change in: 1) the rate of tax on goods and services, 2) the amount of minimum wage determined under Art. 2 (3-5) of the Act of 10 October 2002 on the minimum wage, 3) the rules on social insurance or health insurance or the rate of social security or health insurance contributions - if these changes will affect the cost of contract performance by the economic operator.
Does the regulatory framework establish a specific dispute resolution mechanism for PPPs?	Yes
If yes, please specify and provide the	Pursuant to Article 22 of the Concession Law, the concession contract shall contain: the manner and terms of settling disputes connected with performance of concession contract

relevant legal/regulatory provisions	
If yes, which of the following options best describes the dispute resolution mechanism for PPPs? (Please select only one). The regulatory framework details specific resolution mechanisms for disputes arising during the implementation of the PPP.	No
If yes, please specify:	n/a
The regulatory framework prescribes that a dispute resolution mechanism should be regulated in the contract.	Yes
The regulatory framework provide the parties with recourse to arbitration but no other alternative dispute resolution mechanism.	No
Other	No
please specify:	n/a
Does the regulatory framework allow for the lenders to take control of the PPP project (lender step-in right) if either PPPCo defaults or if the PPP contract is under threat of termination for failure to meet service obligations?	No
If yes, please provide the relevant	n/a

legal/regulatory provisions:	
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.	n/a
If yes, please specify:	n/a
The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.	n/a
The regulatory framework prescribes that a direct agreement should be signed with the lenders.	n/a
Other	n/a
please specify:	n/a
Does the regulatory framework expressly establish the grounds for termination of a PPP contract?	Yes
If yes, please specify:	In principle, each PPP contract should specify its own termination events. The laws provide only one specific termination event for all contracts executed in public procurement proceedings (this does not apply to PPP contracts awarded as concessions); in case of a change of conditions causing the implementation of the project to no longer be in the public interest, which change could not have been foreseen when the contract was executed, the procuring authority is entitled to terminate the contract
and provide the relevant legal/regulatory provisions:	Pursuant to Article 145.1 of the PPL Act, in the event of a material change of circumstances which causes the execution of the procurement contract to be no longer in the public interest, and which could not have been foreseen at the time of concluding the contract, the awarding entities may renounce a contract within a period of 30 days from the date on which they became aware of these circumstances.
If yes, does the regulatory framework also establish the consequences for	Yes

the termination of the PPP contract?	
If yes, please provide the relevant legal/regulatory provisions:	<p>Pursuant to Article 10 of the PPP Act, immediately after termination of the public-private partnership contract, the contracting authority selects a new private partner unless the project is to be implemented in another way. Furthermore, under Article 145 of the PPL in the event of a substantial change in circumstances leading to performance of the contract no longer being in the public interest, which was unforeseeable at the time the contract was concluded, the contracting authority may rescind the contract within 30 days of learning of those circumstances. In such case, the other party of the contract may request only the remuneration due for the part of the contract performed.</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>Yes</p>
Please describe:	<p>The government is currently working on a new Public Procurement Law (the "new PPL"). One of the main objectives of the new PPL is to implement the new EU public procurement directives adopted in 2014 (i.e., Directives 2014/24/EU, 2014/25/EU and 2014/23/EU) to Polish law. The transposition deadline is April 18, 2016. Along with the adoption of the new PPL, changes in the Concession Act are also anticipated.</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>No</p>
Please describe:	<p>n/a</p>