

BENCHMARKING PPP PROCUREMENT 2017 IN ROMANIA

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:	Law no. 178/2010 on Public-Private Partnership; Government Decision no. 1239/2010 on the application of law no. 178/2010 on Public-Private Partnership. Law no. 178/2010 regulates the institutional PPP which means that the PPPCo includes both the public and the private partners. Contractual PPP projects have been developed in Romania in the form of works concession contracts, pursuant to Government Emergency Ordinance no. 34/2006 on the assignment of public procurement contracts, public works concession contracts, and services concession contracts ("GEO 34/2006"). GEO 34/2006 implemented Directives 2004/17/EC and 2004/18/EC. Following the need to implement the new directives on public procurement and concession contracts, Romania is about to adopt a set of new laws regulating public procurement/concessions awarding.
and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:	http://dpiis.gov.ro/new_dpiis/parteneriat-public-privat/cadrul-legislativ/
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 Article 8 of the Procurement Law, a contracting authority is:</p> <p>a) any state body - public authority or public institution, acting at central level or at regional or local level;</p> <p>b) any public body other than those referred to under a) above, having legal personality, established for the specific purpose of meetings needs in the general interest, without commercial or industrial character and which is in at least one of the following situations:</p> <ul style="list-style-type: none"> - is financed, for the most part, by a contracting authority, as defined under a) above, or by another public body; - is subordinated or is under the supervision of a contracting authority, as defined under a) above, or of another public body; - more than half of the members of its board of directors/management or supervision body are appointed by a contracting authority, as defined under a) above, or of another public body; <p>c) any association formed by one or more contracting authorities among those referred to under a), b), d) or e);</p> <p>d) any public undertaking performing one or several activities in the fields of water, thermo power and electric power, transport, post and other relevant activities, when it awards public contracts or concludes framework agreements for the purposes of performing those activities;</p> <p>e) any undertaking other than those referred to under a) - d) above, performing one or several activities in the fields of water, thermo power and electric power, transport, post and other relevant activities, based on a special or exclusive right granted by a competent authority, when it awards public contracts or concludes framework agreements for the purposes of performing those activities.</p> <p>Certain public bodies carrying out PPP projects are listed below:</p> <ul style="list-style-type: none"> - Ministry of Transports (www.mt.ro); - National Company for Motorways and National Roads (www.cnadnr.ro); - City of Bucharest (www.pmb.ro); - City of Iasi (www.primaria-iasi.ro).
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):	The Central Unit for the Coordination of Public-Private Partnership (in Romanian "Unitatea centrală pentru coordonarea parteneriatului public-privat" or "UCCPPP") within the Department for Foreign Investments and Public-Private Partnership. http://dpiis.gov.ro/new_dpiis/en/
If yes, what are the main responsibilities of the PPP Unit	Yes

(check all that apply). PPP regulation.	
PPP policy guidance and capacity building for other public authorities.	Yes
PPP promotion among the public and/or private sectors in national and international forums.	Yes
Technical support in implementing PPP projects.	Yes
Gatekeeping (approval of PPP projects).	Yes
Procurement of PPPs.	Yes
Oversight of PPP implementation.	Yes
Other	No
please specify:	n/a
Preparation of PPPs	Score: 35
Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 44 (b) of GEO No. 88/2013, the prior consent of the Ministry of Public Finances on the project is necessary for the purposes of proceeding to the preparation of the feasibility study.
If yes, is a second approval by the Ministry of Finance or Central Budgetary Authority required before signing the PPP contract?	No
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	National Agency for Public Procurement
and provide the relevant legal/regulatory provisions (if any):	Article 38 (2) of the PPP Law
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)?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
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.	n/a
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.	n/a
The regulatory framework does not include any provisions.	n/a
Other	n/a
please specify:	n/a
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:	Some of the projects
Which of the following assessments are conducted when identifying and preparing a PPP? (check all that apply): 10.1. Socio-economic analysis (cost-	Yes

benefit analysis of the socio-economic impact of the project)	
Relevant legal/regulatory provision (if any)	Pursuant to Article 34 of Decision No. 1239/2010, the pre-feasibility study should cover the main technical, financial, economic, social, institutional and environmental aspects of public-private project.
Is there a specific methodology?	No
If yes, elaborate.	n/a
Affordability assessment, including the identification of the required long term public commitments (explicit and implicit)	Yes
Relevant legal/regulatory provision (if any)	Pursuant to Article 34 (g) of the Decision No. 1239/2010, the pre-feasibility study should include budgetary estimates, including the estimated amount of private investment and the estimated amount of the public partner's participation in the project.
Is there a specific methodology?	No
If yes, elaborate	n/a
Risk identification, allocation and assessment (risk matrix)	Yes
Relevant legal/regulatory provision (if any)	Pursuant to Article 34 (j) of the Decision No. 1239/2010, the pre-feasibility study should include the estimation of major risks. Furthermore, pursuant to Article 36 (f) Decision No. 1239/2010, the fundamental study (which is done for larger and more complex projects) should include budget and risk analysis (identification, impact, probability, planning).
Is there a specific methodology?	No
If yes, elaborate	n/a
Financial viability or bankability assessment.	Yes
Relevant legal/regulatory provision (if any)	Practice
Is there a specific methodology?	No
If yes, elaborate	n/a
Comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives	Yes
Relevant legal/regulatory provision (if any)	Pursuant to Article 33 (2) (b) of Decision No. 1239/2010, the prefeasibility study results should provide complete information on the project alternatives that were examined.
Is there a specific methodology?	No
If yes, elaborate	n/a
Market assessment (showing evidence of enough interest in the market for the project)	No

Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology?	n/a
If yes, elaborate	n/a
Among the PPP projects procured within the last two (2) years, for how many of them were all of the required assessments conducted? Please elaborate:	All of the projects
Does the procuring authority include a draft PPP contract in the request for proposals?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
If no, please elaborate (provide examples):	Not as a general rule. However, in case of competitive dialog procedures (which is applicable for most of the PPP projects) a draft contract is supplied to the bidders which have qualified for the dialog phase.
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:	ANRMAP developed drafts for some concessions of works and some of these drafts are customarily used by public authorities but can be amended or not used at all, considering such drafts are developed to a guidance purpose. There is not one clear rule to that matter. (http://anap.gov.ro/web/documentatii-standardizate/)
Does the procuring authority obtain the permits necessary to develop and operate the PPP project before calling for tenders in any of the following areas? Environmental permits.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Urban and zoning permits.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Other permits.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Does the procuring authority make available to PPPCo the necessary land or right of way to develop the PPP project (if any)? Land	Yes

If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Art. 93 para (2) of the PPP Implementation Norms, the procuring authority shall contribute to the share capital of the PPPCo with assets that are privately owned by the state or the territorial and administrative units. No further details are provided by the law.
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	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
If no, please elaborate (provide explanation):	Neither the PPP Law nor the PPP Implementation Norms contain any provisions in respect of the right of way necessary for the development of the PPP project.
Does the regulatory framework establish any exceptions where the preparation process described above does not apply or allows for a "fast track" procedure?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
What is the average number of calendar days that the procuring authority spends on each of the following activities to prepare a PPP project? Conducting the required assessments:	202.5
Obtaining the required approvals from other relevant authorities:	181.5
Preparing the draft PPP contract:	60
Obtaining any permits, land and/or right of way that the procuring authority must provide according to the regulatory framework:	227
PPP Procurement	Score: 80
Are the bid evaluation committee members required to meet specific qualifications?	Yes
If yes, please specify and provide the relevant	Pursuant to Art. 43 para. (1) of the PPP implementation Norms, the evaluation commission in charge with the evaluation of the bids/letters of intent and the accompanying documents shall be composed of at least 5 members from the experts and

legal/regulatory provisions (if any)	<p>specialists of the procuring authority and, as the case may be, members of the deliberative authorities/governing bodies, executive members of the procuring authority, as defined in art. 8 of the PPP Law, as well as any other person with expertise in the field of the respective PPP project, as co-opted expert, who is not in a position of conflict of interest, as provided by the Anti-Corruption Law no. 161/2003.</p> <p>Pursuant to Art. 46 para. (1) of the PPP Implementation Norms, in the case of competitive dialogue procedures the negotiation commission consists of at least 5 members from the experts and specialists of the procuring authority, consisting of, as the case may be, local and county councilors, ministers, state secretaries, members of the board of directors or executive members of the procuring authority, as defined in art. 8 of the PPP Law, or any other person with expertise in the field of the respective PPP project, who is not in a position of conflict of interest, as provided by the Anti-corruption Law no. 161/2003.</p>
If no, please elaborate (provide examples):	<p>n/a</p>
If yes, which of the following options best describes the required qualifications of the committee members? (Please select only one). The regulatory framework details the qualifications required and/or the specific membership of the bid evaluation committee.	<p>No</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>Yes</p>
The regulatory framework does not include any provisions.	<p>No</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>Pursuant to Article 24 of the PPP Law, the procuring authority must publish the public procurement notice of the PPP in the Electronic System for Public Procurement (in Romanian "SEAP"). The notice shall also be published in the Official Journal of the European Union in case the estimated value of the PPP contract to be implemented is equal to or exceeds the equivalent in RON of the thresholds provided by the PPP Law for PPP contracts (i.e. the equivalent in RON of EUR 125,000, without VAT, for goods and services and the equivalent in RON of EUR 4,845,000, without VAT, for works)</p>

If yes, is the public procurement notice published online?	Yes
If yes, please specify the website:	https://www.e-licitatie.ro/Public/Common/Content.aspx?f=PublicHomePage
Does the procuring authority grant the potential bidders a minimum period of time to submit their bids?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Pursuant to Article 18 of the PPP Law, in case the estimated value of the PPP contract is equal to or exceeds the thresholds provided by the the time frame for the receipt of offers following the submission of the notice for publication in the Official Journal of the European Union is of 52 calendar days for open procedures and of at least 37 calendar days for competitive dialogue procedures.</p> <p>When the estimated valued of the PPP contract is lower than the thresholds provided by the law, the procuring authority has the obligation to send the selection notice for publication in SEAP with at least 22 days prior to the deadline for the submission of offers / letters of intent for both open procedures and competitive dialogue procedures.</p>
and the time in calendar days :	52
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 Article 38 (a) (6) of the PPP Implementation Norms, the document attached to the procurement notice shall include an estimated timetable of the PPP project, which shall include the data and stages for the project implementation. Moreover, the procurement notice shall include the details set forth in the Annex to the PPP Law, which also cover 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 Article 81 (1) a) and Article 96 (a) of the Procurement Law, when applying the restricted tender or competitive dialogue, the first stage of the procedure deals with the pre-qualification of the candidates based on pre-qualification criteria.
If yes, do the tender documents specify the prequalification criteria in order to make them available to all of the bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>According to Art 85 (2) and (3) and art 101 (1) and (2) of the Procurement Law, the pre-qualification criteria and the applicable rules in relation to pre-qualification shall be set out in the contract notice. The pre-qualification criteria relate to: (1) the personal situation of the candidate, (2) the suitability to pursue an economic activity, (3) the technical and professional capacity, (4) the economic and financial capacity, (5) management system standards, (6) environment system standards. Furthermore, Pursuant to Article 18 (16) of the PPP Law, in the case of the competitive dialogue procedure, the evaluation criteria shall be different from the negotiation criteria. Such</p>

	negotiation criteria shall be included in the procurement notice or the document attached to the procurement notice.
Among the PPP procurement processes conducted within the last two (2) years that had a prequalification stage, how many of them included prequalification criteria in the tender documents? Please elaborate	Most of the Projects
Can interested parties/potential bidders submit questions to clarify the public procurement notice and/or the request for proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Article 22 (3) of the PPP Law, any interested private investor has the right to request clarifications with respect to the procurement notice and the document attached to it. Pursuant to Article 22 (4) of the PPP Law, the procuring authority is required to respond to any request for clarification within at least 6 calendar days prior to the deadline for the receipt of tenders/letters of intent, if the request was addressed in a timely manner. However, such requests cannot result in the modification of the key elements of the bid or of the essential terms of the contract, which could lead to the distortion of the competition or discrimination.
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):	Pursuant to Article 21 of the PPP Law, the requests for clarifications addressed by private investors shall be published in SEAP. Pursuant to Article 54 index 30 of the PPP Implementation Norms the procuring authority has the obligation to publish the clarifications or modifications made in respect of the document attached to the procurement notice.
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:	Most of the Projects
Besides questions and clarifications, can the procuring authority conduct other types of dialogue with the potential bidders?	Yes
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 96 (b) and Article 106 (1) of the Procurement Law, when applying the competitive dialogue, the procuring authority will conduct a dialogue with the pre-selected candidates with the purpose of identifying the solutions which best suit the needs and objectives of the procuring authority in relation to the PPP project.

If yes, does the procuring authority disclose the content and the results of the dialogue to all of the potential bidders?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Among the PPP procurement processes conducted within the last two (2) years where 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:	None of the projects
Does the procuring authority require the bidders to prepare and present a financial model with their proposals ?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
If no, please elaborate (provide examples):	However, for each type of PPP contract, the private investor submits its bid outlining its involvement in the financing phase, development phase, maintenance, and operating phase of the PPP.
Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 44 index 6 paragraph (1) of the PPP Implementation Norms the procuring authority shall evaluate the offers submitted by interested private investors only on the basis of the selection and negotiation criteria set forth in the procurement notice.
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:	Some of the projects
In the case where only one proposal is submitted (sole proposals), does the procuring authority follow any special procedure before awarding the PPP?	Yes

If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 18 (21), the PPP Law provides that the open procedure or the competitive dialogue procedure can be completed even if only one bid is submitted, provided that such bid complies with the minimum requirements imposed by the procurement notice and the document attached to it issued by the procuring authority.
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.	No
Please specify:	n/a
The regulatory framework considers sole proposals valid as long as they meet the conditions outlined in the tender documents.	Yes
The regulatory framework does not allow the award of a PPP contract if only one proposal is submitted.	No
The regulatory framework does not include any provisions.	No
Other	No
please specify:	n/a
In practice, what is the average number of calendar days between the initial publication of the PPP public procurement notice and the award of the PPP? Number of calendar days:	720
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):	The procuring authority must publish the award notice in SEAP. The award notice shall include all the details set forth in the Annex to the PPP Law (Art. 18 para (2) letter k) index 1 and para. (7) letter r) index 1 of the PPP Law).
If yes, is the public procurement award notice published online?	Yes
If yes, please specify the website:	https://www.e-licitatie.ro/Public/Common/Content.aspx?f=PublicHomePage
Does the procuring authority provide all the bidders with	Yes

the result of the PPP procurement process?	
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Articles 18 (2) (k) and 18 (7) (r) of the PPP Law, each private investor that participated in the procedure shall be informed on the result of the procedure. The notice on the outcome of the procedure shall be submitted by post, fax or electronic means (e-mail) and shall be accompanied by a summary of the reasons which led to the rejection of the bid submitted by a private investor.
If no, please elaborate (provide examples):	n/a
If yes, does the notification of the result of the PPP procurement process include the grounds for the selection of the winning bid?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Articles 18 (2) (k) and 18 (7) (r) of the PPP Law, each private investor that participated in the procedure shall be informed on the result of the procedure. The notice on the outcome of the procedure shall be submitted by post, fax or electronic means (e-mail) and shall be accompanied by a summary of the reasons which led to the rejection of the bid submitted by a private investor.
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 204 (1) of the Procurement Law, the contracting authority shall conclude the PPP contract with the winning tenderer based on the technical and financial proposal comprised in the tender. Furthermore, pursuant to Article 47 (2) of the Implementing Concessions Regulations, the general and specific clauses of a PPP contract may not contradict the essential requirements of the terms of reference and the undertakings comprised in the tender. Therefore, no deviations from the tender documents and/or the winning tender are allowed.
Among the PPP procurement processes conducted within the last two (2) years, in how many of them were the terms and conditions changed between the award and the signature of the PPP contract? Please elaborate:	Some of the projects
Does the procuring authority publish the PPP contract?	No
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	n/a
If yes, is it published online?	n/a
If yes, please specify the website:	n/a

Does the regulatory framework establish any exceptions where the procurement process described above does not apply or allows for a “fast track” procedure?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
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 government priorities?	n/a
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	n/a

proponent has the option to match the winning bid and win the contract).	
Other	n/a
please specify:	n/a
Please provide the relevant legal/regulatory provisions (if any):	n/a
PPP Contract Management	Score: 51
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>According to the PPP Law (Articles 38-39), the coordination and central monitoring of the implementation of the PPP projects is carried out by UCCPPP. Also, according to Article 3 section IV of Government Decision no. 536/2014 regarding the organization and functioning of the Department for Foreign Investments and PPP, UCCPPP acts as a unit within the Department for Foreign Investments and PPP and has the following attributes as regards to the management of the implementation of a PPP: (i) ensures the maintenance and functioning of a system for collecting, processing and management of information and statistical data regarding the implementation of PPPs; (ii) prepares, based on its own analysis and assessments, the background analysis documents regarding the implementation process of PPPs; (iii) identifies and ensures the dissemination at national level of best practices guidelines in the field of PPPs; (iv) monitors the evolution of the implementation process of the PPP and coordinates the necessary actions; (v) gives specialized assistance to the public entities and the private partners in all the implementation stages of a PPP; (vi) establishes and manages the public integrated data base of all the PPP projects, etc. Furthermore, the management of the implementation of the PPP project is also supervised by the procuring authority through its rights related to the operation of the PPPCo.</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 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.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to the PPP Law (Articles 38-39), the coordination and central monitoring of the implementation of the PPP projects is carried out by UCCPPP. Also, according to Article 3 section IV of Government Decision no. 536/2014 regarding the organization and functioning of the Department for Foreign Investments and PPP, UCCPPP acts as a unit within the Department for Foreign Investments and PPP and has the following attributes as regards to the management of the implementation of a PPP: (i) ensures the maintenance and functioning of a system for collecting, processing and management of information and statistical data regarding the implementation of PPPs; (ii) prepares, based on its own analysis and assessments, the background analysis documents regarding the implementation process of PPPs; (iii) identifies and ensures the dissemination at national level of best practices guidelines in the field of PPPs; (iv) monitors the evolution of the implementation process of the PPP and coordinates the necessary actions; (v) gives specialized assistance to the public entities and the private partners in all the implementation stages of a PPP; (vi) establishes and manages the public integrated data base of all the PPP projects, etc. Furthermore, the management of the implementation of the PPP project is also supervised by the procuring authority through its rights related to the operation of the PPPCo.
Other	No
please specify:	n/a
If there is a contract management team, in how many of the PPP projects procured within the last two (2) years did the management system and tools fully inform the contact management team? Please elaborate:	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 107 (2) (w) of the PPP Implementation Norms, the PPP contract shall include monitoring procedures to assess whether the objectives of the PPP contracts have been achieved. Furthermore, according to the PPP Implementation Norms a risk allocation matrix is attached to the PPP procurement notice and used for quantifying the risks in relation to the PPP project. Although this risk allocation matrix represents one of the starting points for the negotiations between the public entity and the private partner, this may represent a basic instrument for assessment of subsequent implementation of the PPP project. However, the legislation does not provide details on the monitoring and evaluation system for PPP contracts already concluded.
If yes, which of the following tools does it include (check all that apply)? PPPCo must	No

provide the procuring or contract management authority with periodic operational and financial data.	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The procuring or contract management authority must periodically gather information on the performance of the PPP contract.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 51 (3) of the Implementing Concessions Regulations, the clauses of the PPP contract shall set out the manner the private partner submits reports to the procuring authority, on a periodic basis or upon request from the procuring authority, with respect to the manner and extent of fulfilment of certain parameters throughout the duration of the PPP contract.
The procuring or contract management authority must establish a risk mitigation mechanism.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Practice
The PPP contract performance information must be available to the public.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Other	No
please specify:	n/a
Is PPP contract performance information publicly available online?	No
If yes, please specify the website:	n/a
Does the regulatory framework expressly regulate a change in the structure (i.e. stakeholder composition) of PPPCo?	Yes
If yes, please provide the relevant legal/regulatory provisions:	According to Article 93 of the PPP Implementation Norms, PPPCo is created and functions in accordance with the Companies Law (Law no. 31/1990) as a company whose share capital is held by the public entity and the private investor. As regards changes in the structure of PPPco, Article 96 para. (1) of the PPP Implementation Norms provides that during the implementation of the PPP contract and until PPPco is liquidated through a final court decision, the leader of the joint venture forming the private investor cannot be replaced in the shareholding structure of PPPco. However, pursuant to Article 96

	para. (2) of the PPP Implementation Norms, in accordance with the contractual arrangements between the private entities forming the joint-venture participating in the PPP as private investor, some of these private entities may exit the PPP project, subject to the approval of the procuring authority, as soon as they performed the activities which were required from them within the project and they obtained their contractual rights within the joint-venture. In addition, according to Article 107 para. (2) letter (b1)(bb) of the PPP Implementation Norms, the PPP contract must include clauses establishing a mechanism for a scenario of withdrawal from the PPP project.
If yes, which of the following circumstances are specifically regulated? (check all that apply): Any change in PPPCo during an initial period (e.g. construction and first five years of operation).	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
In case of a change affecting the controlling interest, the replacing entity must meet the same technical qualifications as the original operator.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Flexibility to substitute non-controlling interest after the initial period.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Does the regulatory framework expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?	Yes
If yes, please provide the relevant legal/ regulatory provisions:	Pursuant to Article 50 (2) of the Implementing Concessions Regulations, the procuring authority shall not agree or request amendments to the clauses of the PPP contract which will reduce the responsibilities of the private partner in such a manner so that most of the risks are borne by the procuring authority.
If yes, which of the following circumstances are specifically regulated? (check all that apply): A change in the scope and/or object of the contract.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a

A change in the risk allocation of the contract.	Yes
If yes, please provide the relevant legal/regulatory provisions:	Pursuant to Article 50 (2) of the Implementing Concessions Regulations, the procuring authority shall not agree or request amendments to the clauses of the PPP contract which will reduce the responsibilities of the private partner in such a manner so that most of the risks are borne by the procuring authority.
A change in the investment plan or duration of the contract.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Does the regulatory framework expressly regulate the following circumstances that may occur during the life of the PPP contract? (check all that apply): Force Majeure.	Yes
If yes, please provide the relevant legal/regulatory provisions:	The risk of occurrence of force majeure is taken into account as a separate risk within the risk allocation matrix prepared for the PPP (Article 54 index 6 of the PPP Implementation Norms). Also, the PPP Implementation Norms provide that the general terms and conditions of the PPP contract should include provisions regulating force majeure (Article 107 of the PPP law).
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.	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?	Yes
If yes, please specify and provide the relevant legal/regulatory provisions	Pursuant to Article 28 (23) of the PPP Law, disputes arising during the implementation of the PPP, regarding the performance, nullity, avoidance, termination, rescission or unilateral cancellation (in Romanian "denuntare unilaterala") of the PPP contract are submitted to the jurisdiction of the courts of law (the commercial division of the competent tribunal)

<p>If yes, which of the following options best describes the dispute resolution mechanism for PPPs? (Please select only one). The regulatory framework details specific resolution mechanisms for disputes arising during the implementation of the PPP.</p>	<p>No</p>
<p>If yes, please specify:</p>	<p>n/a</p>
<p>The regulatory framework prescribes that a dispute resolution mechanism should be regulated in the contract.</p>	<p>No</p>
<p>The regulatory framework provide the parties with recourse to arbitration but no other alternative dispute resolution mechanism.</p>	<p>No</p>
<p>Other</p>	<p>Yes</p>
<p>please specify:</p>	<p>Pursuant to Article 28 (23) of the PPP Law, disputes arising during the implementation of the PPP, regarding the performance, nullity, avoidance, termination, rescission or unilateral cancellation (in Romanian "denuntare unilaterala") of the PPP contract are submitted to the jurisdiction of the courts of law (the commercial division of the competent tribunal)</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>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	<p>n/a</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>n/a</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>n/a</p>
<p>The regulatory framework prescribes that a direct</p>	<p>n/a</p>

agreement should be signed with the lenders.	
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:	The PPP contract is terminated in the following cases: (1) the term of the PPP contract expires; (2) based on the agreement between the public entity and the private partner; and (iii) in other cases provided by law or in the contract. Furthermore, Article 107 of the PPP Implementation Norms provides that the PPP contract must include clauses regulating the grounds of its termination or suspension
and provide the relevant legal/regulatory provisions:	Article 25 of the PPP Law, Article 107 of the PPP Implementation Norms.
If yes, does the regulatory framework also establish the consequences for the termination of the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions:	In case the PPP contract is terminated upon expiry of its term, PPPCo must refund to the public partner, freely and clear of any encumbrances, the public assets and the assets deriving from the implementation of the PPP contract (Article 25 para. (2) of the PPP law). If the private investor unilaterally withdraws from the PPP contract, the investment made until that moment is maintained as contribution to the project, PPPCo and the public entity having no obligation to refund the value of the investment to the private investor (Article 25 para. (5) of the PPP Law). Until the final and binding court decision for the dissolution of the PPPCo, upon the termination of the PPP contract, the parties remain bound to comply with their obligations arising under the law or the contract (Article 26 of the PPP Law).
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:	"At European level, new directives in the public procurement field were enacted, including Directive 2014/23/EU of the European Parliament and of the Council on the award of concession contracts ("Concession Directive"). The European Union Member States have the obligation to transpose the Concession Directive into their national legislation until April 18, 2016. At national level, the Romanian authorities prepared a draft of the primary legislation transposing the Concession Directive. The draft primary legislation has been made subject to an extensive public consultation process with the civil society, professional organizations, procuring authorities and private investors. Further to the public consultation process, the draft was updated by taking into consideration certain comments made by the stakeholders and was approved by the Romanian Government. Currently, the draft primary legislation transposing the

	<p>Concession Directive is under parliamentary debate by the Romanian Senate. It is expected to enter into force in the first part of year 2016, as well as the implementing norms which should be approved by Government Decision."</p>
<p>Are you aware of any reforms (in practice or in laws, regulations, policies, etc.) related to PPPs that: 50.2. Are ongoing and/or are planned to be adopted AFTER June 1, 2016?</p>	<p>Yes</p>
<p>Please describe:</p>	<p>Draft law PL-x nr. 457/2013 aiming at enacting a reformed PPP regulatory framework has been under a protracted legislative process since 2013. The draft law has been adopted by the Parliamentary chambers and sent to promulgation by the President twice (in December 2013 and June 2014), but was reversed to Parliament for re-examination on both the occasions, including on the ground that some provisions of the draft law were unconstitutional. The revised draft law has been re-adopted by the Senate and is currently under legislative process in the decisional Parliamentary chamber - the Chamber of Deputies.</p>