

BENCHMARKING PPP PROCUREMENT 2017 IN TANZANIA

Regulatory and Institutional Framework for PPPs	
Does the regulatory framework in your country allow procuring PPPs?	Yes
Yes. If yes, please specify the relevant regulatory framework and the year of adoption:	<p>The analysis conducted was mainly based on the following laws and regulations:</p> <ul style="list-style-type: none"> (i) "The Public Private Partnership Act", (Bill Supplement No.0 ISSN 0856-0331X, added on June 18th, 2010 to the Gazette of the United Republic of Tanzania No. 13 Vol. 91) as amended by the PPP amendment Act of 2014 (special Bill Supplement No.1 (ISSN 0856- 0100 IX) added to the Gazette of the United Republic of Tanzania No.20 Vol.95 dated 16th May, 2014) - herinafter referred as the "PPP Act" (ii) "The Public Private Partnership Act, No. 18 of 2010 - Public Private Partnership Regulations of 2011: (Subsidiary Legislation published in the Gazette of the United Republic of Tanzania on 3/6/2011, No. 22 Vol. 92, Supplement No.17), Supplement No.9 (ISSN 0856 – 01001X) to the Gazette of the United Republic of Tanzania No. 52 Vol. 92 dated 30th December, 2011 - herinafter referred to as the "PPP Regulations" (iii) The Public Procurement Act: (Act supplement N.9, ISSN 0856 – 01001X, published in to the Gazette of the United Republic of Tanzania No. 52 Vol. 92 dated 30th December, 2011), and (iv) "The Public Procurement Act - Regulations", of 2013 Subsidiary legislation, Supplement No.45 (ISSN 0856 – 034X) published in the Gazette of the United Republic of Tanzania No. 48 Vol 94 dated 29th November, 2013, hereinafter referred to as the "Procurement Regulations".
and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:	<ul style="list-style-type: none"> (1) http://www.tic.co.tz/media/PPP%20Act.pdf AND http://www.tanzania.go.tz/egov_uploads/documents/1-2014-1_sw.pdf (2) http://www.tic.co.tz/media/PPP%20Regulations_1.pdf AND (3) https://www.ppra.go.tz/index.php/95-legislation/140-public-procurement-act-2011
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):	According to Sections 2 and 3 of the PPP Act, any Ministry, Government, department, Local Authority, or Statutory Corporation can act as "contracting authority" for PPP projects, and act in partnership with any private sector entity.
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):	Public Private Partnership Centre (hereinafter referred to as "PPP Centre") Section 4 of the PPP Act
If yes, what are the main responsibilities of the PPP Unit (check all that apply). PPP regulation.	Yes
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.	No
Oversight of PPP implementation.	Yes
Other	No
please specify:	n/a
Preparation of PPPs	Score: 50
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):	Section 10 and 17 of the PPP Act: The Minister responsible for finance needs to approve the terms of the agreement where the project involves financial or contingent liability of the Government
If yes, is a second approval by the Ministry of Finance or Central Budgetary Authority required before signing the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Section 40 of the PPP Regulations titled: APPROVAL OF DRAFT AGREEMENT BY FINANCIAL UNIT provides: "The contracting authority shall forward a draft agreement to the Finance Unit for onward submission to the Minister responsible for finance for the approval of the proposed terms of the agreement"
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 and provide the relevant legal/regulatory provisions (if any):	All PPP projects approved by the PPP Centre are subject to scrutiny and approval by the PPP Technical Committee and the National Investment Steering Committee Section 7 of the PPP Act, the Technical Committee considers and approves proposals forwarded to it by the PPP Centre and submits these to the National Investment Steering Committee for scrutiny. Furthermore, it is tasked with the overview of the Public Private Partnership Facilitation Fund. Section 8 of the Amendment to the PPP Act of 2014
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):	<p>Section 5 (4) (a) of PPP Regulations states that the contracting authority should cause a prefeasibility study after identifying a project for partnership and make sure that "the project is in line with government priorities as per national development plans"</p> <p>Section 11(1) (d) of PPP Regulations states that the contracting authority may reject the project concept if it "does not fall under the priorities set by the contracting authority or the Government plans". The following are mentioned as relevant development plans: Tanzania National Development Vision 2025, National Public Private Partnership Policy 2009 and the Big Results Now Initiative under the President's Delivery Bureau Department.</p>
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.	Yes
The regulatory framework does not include any provisions.	No
Other	No
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	Yes

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)	
Relevant legal/regulatory provision (if any)	The sixteenth schedule of the PPP Regulations provides for the minimum essential information for unsolicited PPP Proposals. The minimum essential information under the Procurement Regulations for unsolicited PPP proposals requires the socio-economic impact on local communities to be included. Section 10 (3) of the PPP Act requires that the feasibility study shall include technical and socio-economic impact analyses. Regulation 13 (i) of the Procurement Regulations provides that the feasibility study report shall contain recommendations or advice on the technical and economic viability of the project(s).
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)	<p>Section 11 PPP Act requires to perform a Feasibility study. More specifically, Section 5(4) (c) of the PPP Regulations requires that "the project complies with affordability requirement".</p> <p>Section 5 PPP Regulations requires a Pre-feasibility study;</p> <p>Section 23 PPP Regulations provides for an Evaluation of approved projects by the Finance Unit; and</p> <p>Section 24 PPP Regulations specifies the role of Committee of Finance Unit</p>
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)	<p>Section 11 PPP Act: Feasibility study (f) (3): "transfer appropriate technical, operational or financial risks to the private party"</p> <p>Section 5 PPP Regulation: Pre-feasibility study (4) (h): "The pre-feasibility study report shall conform to the criteria that: the project includes adequate risk analysis and sharing".</p> <p>Section 23 PPP Regulations: Evaluation of approved projects by the Finance Unit (1): "The Finance Unit shall [...] evaluate the project with a view to considering the fiscal risks involved"</p> <p>Section 24 PPP Regulations: (1) (b): "The Finance Unit may make</p>

	recommendations to the Finance Unit on the financial implication risks involved and other financial matters surrounding the implementation of the project".
Is there a specific methodology?	No
If yes, elaborate	n/a
Financial viability or bankability assessment.	Yes
Relevant legal/regulatory provision (if any)	Section 11 PPP Act (Feasibility study), and Sections 5 (Pre-feasibility study), 23 (Evaluation of approved projects by the Finance Unit) and 24 PPP Regulations (Committee of Finance Unit) imply a requirement to assess the financial feasibility or bankability of the project.
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)	Section 10(2)(c) &(2)(d) of the PPP Act as amended state that a feasibility study shall asses the " options available to the Government to satisfy those needs;(ii)the advantages and disadvantages of each option" and "demonstrate comparative advantage in terms of strategic and operational benefits for implementation under the agreement". Section 10 (4) of the PPP Act provides that there shall be an assessment of the comparative projections of the full costs to the government for the activity if that activity is not outsourced through the PPP agreement and if it is sourced through one.
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:	Some 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):	Under S.39 of the PPP Regulations, the Contract is to be drafted by the parties in line with the terms and conditions agreed upon during the negotiation phase. According to Section 39 of PPP Regulations: (1): "Upon approval by the accounting officer and the Minister responsible for the contracting authority, the accounting officer shall cause the agreement to be drafted in line with such terms and conditions as agreed by the parties during negotiation"
Have standardized PPP model contracts and/or transaction documents been developed?	No
If yes, please specify and provide a government-supported website where the mentioned standards are available or provide an electronic copy of them:	n/a
Does the procuring authority obtain the permits necessary to develop and operate the PPP project before calling for tenders in any of the following areas? Environmental permits.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Urban and zoning permits.	No
If yes, please provide the relevant 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	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
If no, please elaborate (provide explanation):	<p>Section 13 of PPP Act only provides that: "Where the project requires acquisition of land for its implementation, the acquisition shall be carried on in accordance with the Land Act, Village Land Act, the Land User Planning Act, Land Acquisition Act and any other relevant laws"</p> <p>The Land Act does not provide specifically that the procuring authority makes available to PPPCo the necessary land to develop the PPP project</p>
Does the procuring authority make available to PPPCo the necessary land or right of way	No

to develop the PPP project (if any)? Right of way	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
If no, please elaborate (provide explanation):	<p>(1) Section 13 of PPP Act only provides that: "Where the project requires acquisition of land for its implementation, the acquisition shall be carried on in accordance with the Land Act, Village Land Act, the Land User Planning Act, Land Acquisition Act and any other relevant laws"</p> <p>(2) The Land Act provides for a public right of way, but it does not provide specifically that the procuring authority makes available to PPPCo the necessary right of way to develop the PPP project</p> <p>(3) Unless already a public asset, the acquisition or use of any land that may be required for the PPP Project must be acquired in accordance with the existing legislative framework with regards to Land in Tanzania.</p>
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:	45
Obtaining the required approvals from other relevant authorities:	82
Preparing the draft PPP contract:	37
Obtaining any permits, land and/or right of way that the procuring authority must provide according to the regulatory framework:	313
PPP Procurement	Score: 80
Are the bid evaluation committee members required to meet specific qualifications?	Yes
If yes, please specify and provide the relevant	Section 40 (1) of the Public Procurement Act provides that for each tender an Evaluation Committee shall be formed which conducts the evaluation and

legal/regulatory provisions (if any)	<p>reports to the Procurement Management Unit. (3) the number of evaluation committee members depends on the value and complexity of the procurement. (4) members shall be of an appropriate level of expertise and experience. (5) members may be external to the procuring entity (6) they shall sign Code of Ethics</p> <p>Section 202 Public Procurement Regulations 2013: Evaluation Committee: "(1) An accounting officer shall form a tender evaluation committee comprising of not less three and not more than 5 members. (2) In exceptional circumstances, the accounting officer may form an evaluation committee of more than 5 members depending on the value and complexity of the procurement if there are justifiable reasons to increase the number of the evaluation committee..."</p> <p>Section 353(2) Public Procurement Regulations: "Procuring entities shall ensure that members of the committee are conversant with the online tools to enable them effectively and efficiently accomplish the evaluation process"</p>
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 the qualifications required and/or the specific membership of the bid evaluation committee.	No
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.	Yes
The regulatory framework does not include any provisions.	No
Other	No
please specify:	n/a
Does the procuring authority issue a public procurement notice of the PPP?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	<p>Section 15 of PPP Act as amended states that all PPP projects should be procured in an open and competitive bidding process.</p> <p>Section 68 of the Procurement Act provides that a tender notice is to be advertised when a procuring entity wishes to commence a competitive tendering process.</p>

	<p>Pursuing Regulation 33(1) PPP Regulations 2011, projects that are approved by the Minister of Finance and subject to the provisions of the Procurement Act, must be advertised by the contracting authority for tenders.</p> <p>Regulation 370 of the Public Procurement Regulations states that once a project is approved, the contracting authority shall submit a request for qualification to the Authority for advertisement.</p>
If yes, is the public procurement notice published online?	Yes
If yes, please specify the website:	http://tenders.ppra.go.tz/
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>Public Procurement Regulations:</p> <p>Under Section 68 (3): The timescale for each procurement shall be calculated on the basis of the standard processing times ... allowing any necessary margin for delays in transmission of documents or clarification of tenders or proposals</p> <p>Section 286 (6): The minimum period prescribed in the 8th Schedule shall apply for submission of pre-qualification application</p> <p>Sections 120(3) and 187(1) of the Procurement Regulations require a minimum period of processing time for tenders. Schedule 8 of the Procurement Regulations detail the adequate time given to bidders to prepare their bids. Time allotments vary from 4 to 90 calendar days depending on the stage of the tendering process. For large works, 90 days are prescribed.</p>
and the time in calendar days :	90
Do the tender documents detail the stages of the procurement process?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Under S.155 (1) (d) of the Public Procurement Regulations, it is a requirement for the procuring authority to include the intended stages of the procurement process within the tender documents
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):	<p>Section 52 of the Procurement Act states that a procuring entity "may engage in pre-qualification proceedings with a view to identifying tenderers prior to inviting tenders for the procurement of goods, works, or services".</p> <p>Regulation 119 of the Procurement Regulations provides for certain situations</p>

	<p>where pre-qualification proceeds may be conducted. The Procurement Regulations also envisages (at Regulation 148) a procuring entity to consider pre-qualification. For major or complex services, the Procurement Regulations also provides for pre-qualifications (at Regulation 286 of the Procurement Regulations).</p> <p>S.370 Public Procurement Regulations: About advertisement of request for qualification</p>
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>Section 120 of Public Procurement Regulations specifies the contents of the invitation for pre-qualification</p> <p>Section 121 of the Public Procurement Regulations provides for the content to be included in pre-qualification documents. These include instructions for the preparation and submission of pre-qualification applications; a summary of terms and conditions; any documentary evidence or other information that must be submitted; the manner and place of submission and deadline and any other information that may be required by the procuring authority.</p> <p>Furthermore under Section 122, an interested party may request clarification on the pre-qualification documents. The procuring authority is required to respond within three days.</p> <p>Regulation 120 of the Public Procurement Regulations, 2013 (PP Regulations)</p>
Among the PPP procurement processes conducted within the last two (2) years that had a prequalification stage, how many of them included prequalification criteria in the tender documents? Please elaborate	Most of the projects
Can interested parties/potential bidders submit questions to clarify the public procurement notice and/or the request for proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Under Regulation 13 (1) and Regulation 122 (1) of the Public Procurement Regulations, an interested party may request a clarification of the solicitations documents from a procuring entity. The time frame in which a request must be submitted by the tenderer varies between competitive (14 days prior to the deadline for the submission of tenders) and non-competitive bidding processes (3 days).</p>
If yes, does the procuring authority disclose those	Yes

questions and clarifications to all of the potential bidders?	
If yes, please provide the relevant legal/regulatory provisions (if any):	Sections 13 (2) and 122(2)(b) of the Public Procurement Regulations provide that within three working days after receiving a request for clarification, the procuring authority is to communicate it, in writing, to all tenderers/interested parties/potential bidders who have been provided with solicitation documents. This is done without identifying the source of the request.
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:	Some of the projects
Besides questions and clarifications, can the procuring authority conduct other types of dialogue with the potential bidders?	No
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
If yes, does the procuring authority disclose the content and the results of the dialogue to all of the potential bidders?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Among the PPP procurement processes conducted within the last two (2) years where any other type of dialogue was conducted, in how many was the content and the result of the dialogue disclosed to all of the potential bidders? Please elaborate:	n/a
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):	<p>PPP Regulations:</p> <p>Section 34: all bidders must have adequate resources or financial capacity and ability to manage the implementation of the project that has applied for. As</p>

	<p>such it is necessary for the procuring authority to ensure due diligence has been conducted with regards to this matter. It is an offence to bid for a project knowing one does not have the financial capabilities to undertake such project.</p> <p>Section 36(1) provides that, a person who intends to tender in terms of the PPP Act, 2010, shall have adequate resources or financial capacity and ability to manage the implementation of the project he has applied for. Regulation 36 of the PPP Regulations further provides that, a person who makes an application contrary to the above requirements commits an offence.</p> <p>Therefore, the only requirement is to prove availability of finance</p>
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>Section 372 Public Procurement Regulations. Proposals must be evaluated solely on the criteria specified in the solicitation documents.</p> <p>Section 72 of the PPA provides clearly that "The basis for tender evaluation and selection of the successful tenderer shall be clearly specified in the tender document</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:	Most of the projects
In the case where only one proposal is submitted (sole proposals), does the procuring authority follow any special procedure before awarding the PPP?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to section 25(3) (d) of the PPP Regulations government participation in a PPP requires "a competitive bidding process resulting to a minimum of two compliant tenderers as a condition precedent".
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.	No
The regulatory framework does not allow the award of a PPP contract if only one proposal is submitted.	Yes
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:	155
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):	Regulation 20 of the Procurement Regulations provides that a procuring entity shall submit contract award information to the Authority for publication Regulation 236 provides that the results of a tender award shall be published in the Journal and Tenders Portal on a regular basis.
If yes, is the public procurement award notice published online?	Yes
If yes, please specify the website:	https://www.ppra.go.tz/index.php
Does the procuring authority provide all the bidders with the result of the PPP procurement process?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Under S. 10 of the Public Procurement Regulations, the procuring authority is required to conduct its affairs with transparency and fairness. This entails that the procuring authority "shall maintain written records of all procurement, selection or disposal proceedings in which it is involved, and such records shall prescribe tenderers who have responded to advertisements or were approached to tender or to submit expression of interest or proposal, the successful tenderers, the unsuccessful tenderers and the reasons". Furthermore, such records are to be made available to any authorized persons or bodies, and that information as specified within the Regulations is to be published in the Journal and Tenders Portal.

	Regulation 155 (13) provides that a notice of rejection will be provided to each tenderer that does not win a bid together with the reasons thereof (this applies to request for proposals with simultaneous proposals).
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):	If the procuring entity has conducted simultaneous negotiations with the respective bidders, then under S.155 (13) of the PPP Regulations, it shall produce a notice of rejection to each unsuccessful bidder, detailing the reasons as to why their proposal was rejected.
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:	<p>Under S.38 - 44 of the PPP Regulations, it is the duty of the accounting officer of the procuring authority to form a multi-disciplinary negotiating team. It is to be comprised of individuals with knowledge, experience and skills on the subject matter of the project. Before a contract may be drafted, the terms of the agreement must be approved by the accounting officer and the Minister of the procuring authority. The draft agreement may then be forwarded to the Finance Unit, for submission to the Minister of Finance. A copy of the agreement must also be provided to the Attorney General. If the terms of the agreement have been approved by the Minister of Finance and agreed upon by both the procuring authority and successful bidder, it may then be vetted by the Attorney General. The Attorney General shall analyze the contract and provide a legal opinion on the matter. It is a requirement that the procuring authority considers the legal opinion of the Attorney General and makes any alterations if necessary and communicates this to the private party. If all steps have been satisfied and approval obtained, then the accounting officer may sign the contract on behalf of the procuring authority.</p> <p>Negotiations are restricted, but no direct motivation to ensure another bidder would not have been selected is stated. Regulation 225(2) Public Procurement Regulations prescribes that negotiations, notwithstanding regulations (1) and (2), may not be conducted to (a) substantially change the specification or details of the requirement, including tasks or responsibilities of the tenderer; (b) to materially alter the terms and conditions of contract stated in the solicitation document; (c) primarily for the purpose of reducing prices in case of procurement of goods, works or services; (d) to substantially alter anything which formed a crucial or deciding factor in the evaluation of tender.</p>
Among the PPP procurement processes conducted within the last two (2) years, in how many of them were the terms	None of the projects

and conditions changed between the award and the signature of the PPP contract? Please elaborate:	
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: 92
Does the regulatory framework allow for the submission of unsolicited proposals? (if no, skip to section F)	Yes
If yes, please provide the relevant legal/regulatory provisions:	<p>Section 80 of the Procurement Act provides that a proposal of the party submitting an unsolicited private partnership proposal shall be subjected to a formal competitive process.</p> <p>Regulation 36 of the PPP Regulations also allow for the submission of unsolicited proposals.</p> <p>Section 374 of Public Procurement Regulations: specifies the stages of management of unsolicited PPP</p> <p>Section 378 and Sixteenth Schedule of the Public Procurement Regulations provide for the contents of unsolicited PPP proposals</p> <p>Section 12 of the PP Amendment Act: "Except for unsolicited projects, PPP projects shall be procured through an open and competitive bidding basis</p>
If yes, please specify, to the best of your knowledge, the percentage of PPP investments in your country approved as unsolicited	No Data

proposals during the last five (5) years:	
Does the procuring authority conduct an assessment to evaluate unsolicited proposals?	Yes
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	<p>Section 8 (3) PPP Regulations: About the Identification of unsolicited proposals: "where the private party has submitted the project concept to the contracting authority, the contracting authority shall undertake preliminary analysis to approve or reject the project"</p> <p>Section 10 PPP Regulations: Lists the criteria on which the contracting authority should base its approval of the project concepts for unsolicited proposals</p>
If yes, does it ensure that the unsolicited proposal is consistent with the existing government priorities?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Regulation 11 (d) of the PPP Regulations provides that the contracting authority may reject the project concept of an unsolicited proposal if it does not fall under the priorities set by the contracting authority or the Government plans.</p> <p>Regulation 9(h) PPP Regulations 2011: The project content for unsolicited proposals shall contain "a statement showing how the proposed project supports the Government's development plans".</p>
If yes, which of the following options best describes how unsolicited proposals are evaluated against existing government priorities? (Please select only one). The regulatory framework details a specific procedure to ensure the consistency of PPPs with other public investment priorities.	No
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.	Yes
The regulatory framework does not include any provisions.	No
Other	No
please specify:	n/a

Among the unsolicited proposals approved within the last two (2) years, how many of them were a part of the existing government priorities? Please elaborate:	None of the projects
Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Section 36 PPP Regulations provides that "the contracting authority shall not conduct a procurement process for unsolicited projects proposals which (d) in any way interferes with competitive tendering</p> <p>S 374 and S. 375 Public Procurement Regulations: specify the stages of management of unsolicited PPP and the Invitation of counter proposals</p> <p>Section 80 (1) Public Procurement Act 2011 provides that a proposal of the party submitting an unsolicited private partnership proposal shall be subjected to a formal competitive process.</p>
Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Under S. 68 (3), S. 120, S. 163, S. 187 and S. 286 (6) and pursuant the Eighth Schedule of the Public Procurement Regulations: Application of the minimum period prescribed in the Eighth Schedule:</p> <p>In the prequalification stage:</p> <ul style="list-style-type: none"> (1) For International competitive tendering: 30 days (2) For National competitive tendering: 21 days <p>In the tendering stage:</p> <ul style="list-style-type: none"> (3) For National competitive tendering: 21 days ... (8) Where large works are involved: 90 days
and the time in calendar days:	90
Does the procuring authority use any of the following mechanisms to reward/compensate the presentation of unsolicited proposals? (check all that apply): Access to the best and final offer.	No
Developer's fee (reimbursing the original proponent for the project development cost).	No

Bid bonus.	No
Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).	Yes
Other	No
please specify:	n/a
Please provide the relevant legal/regulatory provisions (if any):	<p>Section 375 Public Procurement Regulations: (4) Where the contracting authority finds one of the counter proposals more attractive than that of the original project proponent, the original project proponent shall be given an opportunity to make his proposal competitive with that of the selected counter proposal within a period of thirty days from the date he is given the opportunity.</p> <p>(5) The original proponent shall be awarded the project if he matches the better price.</p>
PPP Contract Management	Score: 44
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>Section 10 of the PPP Act provides that the contracting authority shall identify, appraise, develop and monitor a project to be implemented.</p> <p>Section 46 PPP Regulations provides that after the signing of the agreement and commencement of the project, the accounting officer of the contracting authority shall ensure that the agreement is properly implemented, managed, enforced, monitored and reported on from its inception up to the expiry or its termination.</p>
If yes, which of the following tools does it include (check all that apply)? Establishment of a PPP contract management team.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Monitoring of implementation remains the function of the accounting officer.
Participation of the members of the PPP contract management team in the PPP procurement process.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Possibility to consult with PPP procurement experts when managing the PPP contract.	No

If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Elaboration of a PPP implementation manual or an equivalent document.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Other	No
please specify:	n/a
If there is a contract management team, in how many of the 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):	Section 49 of the PPP Regulations provides that every public private partnership project shall be monitored and evaluated by the contracting authority to ensure that the project is implemented in accordance with the agreement.
If yes, which of the following tools does it include (check all that apply)? PPPCo must provide the procuring or contract management authority with periodic operational and financial data.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Section 49(2) of the PPP Regulations: The contracting authority shall, in collaboration with the private party, prepare a monitoring and evaluation framework which shall be comprised of: (c) external audit and reporting requirements; (d) submission of progress reports; (e) verification of project assets and value;
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):	Section 49(2) PPP Regulations: (2) The contracting authority shall, in collaboration with the private party, prepare a monitoring and evaluation framework which shall be comprised of: (a) project Management Plan;

	(b) performance criteria; (c) external audit and reporting requirements; (d) submission of progress reports; (e) verification of project assets and value; and (f) stakeholder's communications.
The procuring or contract management authority must establish a risk mitigation mechanism.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The PPP contract performance information must be available to the public.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Other	No
please specify:	n/a
Is PPP contract performance information publicly available online?	No
If yes, please specify the website:	n/a
Does the regulatory framework expressly regulate a change in the structure (i.e. stakeholder composition) of PPPCo?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
If yes, which of the following circumstances are specifically regulated? (check all that apply): Any change in PPPCo during an initial period (e.g. construction and first five years of operation).	n/a
If yes, please provide the relevant legal/regulatory provisions:	n/a
In case of a change affecting the controlling interest, the replacing entity must meet the same technical qualifications as the original operator.	n/a
If yes, please provide the relevant legal/regulatory provisions:	n/a

Flexibility to substitute non-controlling interest after the initial period.	n/a
If yes, please provide the relevant legal/regulatory provisions:	n/a
Does the regulatory framework expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?	Yes
If yes, please provide the relevant legal/ regulatory provisions:	<p>Under Section 20 of the PPP Act, an agreement may be reviewed or amended by the parties provided consent is obtained by the Public Private Partnership Technical Committee.</p> <p>Under Section 21 of PPP Act, a public-private partnership agreement may be reviewed and amended by the parties, provided that:</p> <ul style="list-style-type: none"> (a) the Minister responsible for contracting authority has consented to the review or amendment; and (b) other relevant stakeholders have been consulted.
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.	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.	Yes
If yes, please provide the relevant legal/regulatory provisions:	Section 47(1)(f) of the PPP Regulations provides that the contracting authority shall have a right to terminate the project due to force majeure
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	Section 14 PPP Act provides that any dispute arising from an agreement shall be resolved through negotiation, mediation or arbitration.
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.	No
The regulatory framework provide the parties with recourse to arbitration but no other alternative dispute resolution mechanism.	No
Other	Yes
please specify:	Under S. 46 (2) (d) of the PPP Regulations, the Accounting Officer is to maintain a mechanism or procedure for the resolution of disputes. As per S.14 of the PPP Act, any such disputes shall be resolved through negotiation, mediation or arbitration.
Does the regulatory framework allow for the lenders to take control of the PPP project (lender step-in	No

right) if either PPPCo defaults or if the PPP contract is under threat of termination for failure to meet service obligations?	
If yes, please provide the relevant legal/regulatory provisions:	n/a
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.	No
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:	<p>The contracting authority shall have a right to terminate the project due to:</p> <ul style="list-style-type: none"> (a) inefficient implementation of the project by the private party; (b) failure to meet the deadline set for the project by the private party; (c) unforeseen events, beyond control of the private party; (d) breach of agreement by the private party; (e) nonperformance of the private party in service delivery as per agreement; or (f) force majeure:
and provide the relevant legal/regulatory provisions:	Section 47(1) of the PPP Regulations
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:	Section 47 of PPP Regulations: (2) Where the project is terminated for the failure of the private party to meet its obligations set under the agreement, the private party shall, after the expiration of thirty days from the day of notification, compensate the contracting authority for damages or losses suffered.

	(3) Upon termination of the project for reasons other than unforeseen events, the contracting authority may, in pursuance of the Act and these Regulations, engage another party.
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:	Amendment to the PPP Act of 2010
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?	No
Please describe:	n/a