



## BENCHMARKING INFRASTRUCTURE DEVELOPMENT 2020 IN GERMANY - PPP

SURVEY QUESTION	ANALYSIS
<b>Regulatory and Institutional Framework for PPPs</b>	
<b>2. Does the regulatory framework in your country allow procuring PPPs?</b>	Yes
<b>If yes, please specify the relevant regulatory framework and the year of adoption:</b>	<p>The main regulations applicable to PPPs in the country include:</p> <p>(1) Act Against Restraints on Competition (GWB) of 26 August 1998 as amended, Part IV of which broadly establishes key principles of public procurement and award of concessions (hereafter, “PPA”);</p> <p>(2) Ordinance on Concessions (KonzVgV) of 12 April 2016 as amended (hereafter, “Concessions Ordinance”), which transposes provisions of the EU Concessions Directive 2014/23/EU in the national legislation;</p> <p>(3) Federal Budget Code (BHO) of 19 August 1969 as amended (hereafter, “Budget Code”), which contains the general principles for budgeting for construction activities and large development projects, among others, independently of whether they were procured as PPPs;</p> <p>(4) PPP contract for a Federal Highway under the Availability Model issued by the Federal Ministry of Transport and Digital Infrastructure (hereafter, “Standard Contract for Highways”). This document is not mandatory in nature, but is useful in showcasing what a typical PPP contract in the highways sector might look like.</p> <p>Due to the federal nature of the political-administrative organization of the country, many of the relevant guidances and important PPP-related issues are governed at the level of the states. For the purposes of the present analysis, the regulations of the state of the North Rhine Westphalia were used wherever applicable to demonstrate what a possible regulatory framework at the state level might look, including:</p> <p>(6) Guidelines on Economic Feasibility Studies for PPP projects issued by the Ministry of Finance of the state of the North Rhine Westphalia in April 2007 (hereafter, “Economic Feasibility Study Guideline”).</p> <p>The analysis of the Public Private Partnerships (PPPs) in Germany shall be based on the totality of the provisions contained in the aforementioned regulations, which apply to the different aspects of the procurement and management process in the country.</p>
<b>and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an</b>	<p>(1) Act Against Restraints on Competition (GWB), Part IV: <a href="http://www.gesetze-im-internet.de/gwb/index.html">http://www.gesetze-im-internet.de/gwb/index.html</a>;</p> <p>(2) Ordinance on Concessions (KonzVgV): <a href="https://www.gesetze-im-internet.de/konzvgv/KonzVgV.pdf">https://www.gesetze-im-internet.de/konzvgv/KonzVgV.pdf</a>;</p> <p>(3) Federal Budget Code (BHO): <a href="https://www.gesetze-im-internet.de/bho/BJNR012840969.html">https://www.gesetze-im-internet.de/bho/BJNR012840969.html</a>;</p> <p>(4) PPP contract for a Federal Highway under the Availability Model: <a href="https://www.bmvi.de/SharedDocs/DE/Anlage/StB/oepp-systematische-darstellung-projektvertraeglicher-regelungen.pdf?__blob=publicationFile">https://www.bmvi.de/SharedDocs/DE/Anlage/StB/oepp-systematische-darstellung-projektvertraeglicher-regelungen.pdf?__blob=publicationFile</a>;</p> <p>(5) Guidelines on Economic Feasibility Studies for PPP projects:</p>

<b>electronic copy of it:</b>	<a href="http://broschueren.nordrheinwestfalendirekt.de/herunterladen/der/datei/000000-wirtschaftlichkeit-pdf/von/leitfaden-der-ppp-initiative-wirtschaftlichkeitsuntersuchung-bei-ppp-projekten/vom/finanzministerium/568;">http://broschueren.nordrheinwestfalendirekt.de/herunterladen/der/datei/000000-wirtschaftlichkeit-pdf/von/leitfaden-der-ppp-initiative-wirtschaftlichkeitsuntersuchung-bei-ppp-projekten/vom/finanzministerium/568;</a>
<b>2.1. Are you aware of any reforms (in the regulatory frameworks – laws, regulations, policies, etc.- or in generally followed practices) related to PPPs that: Took place in or after June 2017 but BEFORE June 1, 2019?</b>	Yes
<b>Please describe:</b>	Both the PPA and Concessions Ordinance were amended on July 2018. Additionally, the Law for the Establishment of an Infrastructure Company for Highways and Other Federal Motorways (InfrGG) of 14 August 2017 provides for the establishment of a new infrastructure company managing all federal motorways and limits the maximum size of a German federal road PPPs to stretches of 100 km.
<b>Are ongoing and/or are planned to be adopted AFTER June 1, 2019?</b>	No
<b>Please describe:</b>	n/a
<b>2.2. For which of the following sectors is the above-mentioned regulatory framework applicable?: Transportation</b>	Yes
<b>please provide the relevant legal/regulat</b>	According to the PPA, Part IV, §102(4), “sector activities in the field of transport services are the provision or operation of networks intended to provide a service to the public in the field of transport by railway, automated systems, tramway, trolley bus, bus or cable; a network shall

<b>ory provisions:</b>	<p>be considered to exist where the service is provided under operating conditions laid down by a competent authority, such as conditions on the routes to be served, the capacity to be made available or the frequency of the service.”</p> <p>According to the PPA, Part IV, §102(5), “sector activities in the field of ports and airports are activities relating to the exploitation of a geographical area for the purpose of the provision of airports and maritime or inland ports or other terminal facilities to carriers by air, sea or inland waterway.”</p>
<b>Water Supply, Sewerage, Solid Waste Management and irrigation.</b>	<p>No</p>
<b>please provide the relevant legal/regulatory provisions:</b>	<p>The PPA, §101 contains a definition of concession grantors that explicitly excludes the application of the PPA, § 102(1) (water sector activities) from such a definition, implying that the water sector infrastructure is not covered by the provisions of the PPA.</p> <p>Additionally, according to the PPA, §149(9), “this Part [award of concessions] shall not apply to the award of: &lt;...&gt; (9) concessions in the field of water that</p> <p>(a) relate to the provision or operation of fixed networks intended to provide a service to the public in connection with the collection, transport or distribution of drinking water or the supply of drinking water to such networks or</p> <p>(b) are related to an activity under letter a) and have as their subject matter one of the following:</p> <p>(aa) hydraulic engineering, irrigation and land drainage projects, provided that the volume of water to be used for the supply of drinking water represents more than 20% of the total volume of water made available by such projects or irrigation or drainage installations, or</p> <p>(bb) the disposal or treatment of sewage.”</p>
<b>Energy generation/transmission and distribution.</b>	<p>Yes</p>
<b>please provide the relevant legal/regulatory provisions:</b>	<p>According to the PPA, Part IV, §102(2), “sector activities in the field of electricity are</p> <ol style="list-style-type: none"> <li>1. the provision or operation of fixed networks intended to provide a service to the public in connection with the production, transport or distribution of electricity;</li> <li>2. the supply of electricity to such networks, unless <ol style="list-style-type: none"> <li>a) the production of electricity by the sector contracting entity under § 100(1) no. 2 takes place because its consumption is necessary for carrying out an activity that is not a sector activity under paragraphs 1 to 4; and</li> <li>b) the supply depends only on the sector contracting entity’s own consumption and has not exceeded 30% of that sector contracting entity’s total production of energy, on the basis of the average for the preceding three years, including the current year.”</li> </ol> </li> </ol>
<b>ICT</b>	<p>No</p>
<b>please provide the relevant legal/regulatory provisions:</b>	<p>According to the PPA, §149(8), “this Part [award of concessions] shall not apply to the award of: &lt;...&gt; (8) concessions with the main purpose of allowing the concession grantor under § 101(1) no. 1 to provide or exploit public communications networks or to provide to the public one or more electronic communications services.”</p>

<b>Social Infrastructure</b>	Yes
<b>please provide the relevant legal/regulatory provisions:</b>	There is no explicit prohibition to conduct concessions in the social infrastructure sectors. In the absence of an explicit prohibition, concessions in the social infrastructure sectors are considered to be allowed.
<b>Other</b>	No
<b>please provide the relevant legal/regulatory provisions:</b>	n/a
<b>3.1 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibits or restricts PPPs in any of the following sectors?: Transportation</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>3.2 Water Supply, Sewerage, Solid Waste Management and irrigation</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	The PPA, Part IV, §101 contains a definition of concession grantors that explicitly excludes the application of the PPA, § 102(1) (water sector activities) from such a definition, implying that the water sector infrastructure is not covered by the provisions of the PPA. Additionally, according to the PPA, §149(9), "this Part [award of concessions] shall not apply to the award of: <...> (9) concessions in the field of water that (a) relate to the provision or operation of fixed networks intended to provide a service to the public in connection with the collection, transport or distribution of drinking water or the

	<p>supply of drinking water to such networks or (b) are related to an activity under letter a) and have as their subject matter one of the following:</p> <p>(aa) hydraulic engineering, irrigation and land drainage projects, provided that the volume of water to be used for the supply of drinking water represents more than 20% of the total volume of water made available by such projects or irrigation or drainage installations, or (bb) the disposal or treatment of sewage.”</p>
<b>3.3 Energy generation, transmission and distribution</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>3.4. ICT</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	According to the PPA, §149(8), “this Part [award of concessions] shall not apply to the award of: <...> (8) concessions with the main purpose of allowing the concession grantor under § 101(1) no. 1 to provide or exploit public communications networks or to provide to the public one or more electronic communications services.”
<b>3.5. Social infrastructure , including hospitals, education, prisons, housing, etc.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>3.6. Other.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>4. Please identify the PPP procuring authorities in Germany and</b>	<p>According to the PPA, §98, “contracting authorities within the meaning of this Part are &lt;...&gt; concession grantors within the meaning of § 101.”</p> <p>Furthermore, according to the PPA, §101, “(1) concession grantors are:</p> <ol style="list-style-type: none"> <li>1. public contracting authorities under § 99 nos. 1 to 3 [below] that award a concession;</li> <li>2. sector contracting entities under § 100(1) no. 1 [below] that carry out a sector activity under § 102(2) through (6) and award a concession for the purpose of carrying out this activity;</li> </ol>

<p><b>provide their website(s) (if available):</b></p>	<p>3. sector contracting entities under § 100(1) no. 2 [below] that carry out a sector activity under § 102(2) through (6) and award a concession for the purpose of carrying out this activity. (2) § 100(2) and (3) shall apply mutatis mutandis.”</p> <p>According to the PPA, §99, “public contracting authorities are</p> <ol style="list-style-type: none"> <li>1. regional and local authorities and their special funds;</li> <li>2. other legal persons under public or private law that were established for the specific purpose of meeting non-commercial needs in the general interest, if             <ol style="list-style-type: none"> <li>(a) they are for the most part financed individually or jointly through a participation or in some other way by entities within the meaning of nos 1 or 3;</li> <li>(b) their management is subject to supervision by entities under nos 1 or 3; or</li> <li>(c) more than half of the members of their management or supervisory boards have been appointed by entities under nos 1 or 3;</li> </ol> </li> </ol> <p>the same shall apply if such legal person, individually or together with others, provides the financing, for the most part, to another legal person under public or private law, exercises supervision over its management or has appointed the majority of the members of a management or supervisory board;</p> <ol style="list-style-type: none"> <li>3. associations whose members fall under nos 1 or 2 &lt;...&gt;”, among others.</li> </ol> <p>According to the PPA, §100(1), “sector contracting entities are</p> <ol style="list-style-type: none"> <li>1. public contracting authorities under § 99 nos. 1 to 3 that carry out a sector activity under § 102;</li> <li>2. natural or legal persons under private law who carry out a sector activity under § 102, where             <ol style="list-style-type: none"> <li>a) such activity is carried out based on special or exclusive rights that were conferred by a competent authority; or</li> <li>b) public contracting authorities under § 99 nos. 1 through 3 can individually or jointly exercise a controlling influence on these persons.”</li> </ol> </li> </ol> <p>In the context of the case study assumptions, the possible contracting authorities may be the higher road construction authorities of the Länder and, as a service provider for some of them, the DEGES (<a href="http://www.deges.de">www.deges.de</a>); they closely cooperate with the Federal Ministry of Transport and Digital Infrastructure (<a href="https://www.bmvi.de/DE/Home/home.html">https://www.bmvi.de/DE/Home/home.html</a>).</p>
<p><b>5. Is there a specialized government entity(ies) that facilitates the PPP program (PPP Unit)?</b></p>	<p>Yes</p>
<p><b>If yes, please indicate its name(s), and its website(s) (if available):</b></p>	<p>PD - Partnership Deutschland: the in-house advisor to the public sector on various aspects, including PPPs, among others (PD-Partnerschaft Deutschland-Berater der öffentlichen Hand GmbH): <a href="http://www.pd-g.de/home/">www.pd-g.de/home/</a>; and</p>
<p><b>the year of establishment:</b></p>	<p>PD - Partnership Deutschland was created at the end of 2016 by conversion from the former ÖPP Deutschland AG, which was originally established in 2007 with the main focus on PPPs;</p>
<p><b>and the relevant legal/regulatory basis:</b></p>	<p>PD - Partnership Deutschland: general corporate law.</p>

<b>If yes, what are the main responsibilities of the agency(ies) (check all that apply): PPP regulation and policy guidance.</b>	No
<b>PPP capacity building for other public authorities.</b>	Yes
<b>PPP promotion among the public and/or private sectors in national and international forums.</b>	Yes
<b>Technical support in implementing PPP projects.</b>	Yes
<b>Identification and selection of PPP projects from the pipeline.</b>	No
<b>Revision of fiscal risks borne by the Government.</b>	No
<b>Consultation with affected communities on potential impact of PPP projects.</b>	No
<b>Approval of PPP projects.</b>	No
<b>Undertaking the procurement of PPPs.</b>	No
<b>Oversight of PPP</b>	Yes

<b>implementation.</b>	
<b>Post-project appraisal and audit</b>	No
<b>Other:</b>	No
<b>Please specify:</b>	n/a
<b>Please provide the relevant legal/regulatory provisions:</b>	In respect of Partnership Deutschland (PD), as a public company, PD offers holistic strategy and organizational advice and support for the conception and implementation of complex modernization and procurement projects exclusively for the public sector. As a public infrastructure consultancy, the company - which also operates under the German Partnership brand - advises in all phases of investment projects, i.e. from testing to planning to implementation of infrastructure projects.
<b>5.3. Additionally, is there a central project development fund (support mechanism) for project preparation?</b>	No
<b>If yes, please indicate its name, and its website (if available):</b>	n/a
<b>the year of establishment:</b>	n/a
<b>and the relevant legal/regulatory basis.</b>	n/a
<b>Preparation of PPPs</b>	
<b>7. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?</b>	No
<b>If yes, please provide the</b>	n/a



<b>relevant legal/regulatory provisions:</b>	
<b>7.2. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before signing the PPP contract?</b>	<p>No</p>
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>n/a</p>
<b>7.4. Does the Ministry of Finance (or government more broadly) have a specific system of: Budgeting for PPP projects (e.g., including the estimated total cost of the PPP project over the life of the project in the budget cycle).</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>Not specific to PPP projects, but the relevant provisions exist, in general, for the large construction projects in respect of the multi-year nature of the budgetary appropriations to be made in relation to such projects.</p> <p>Thus, according to the Federal Budget Code (BHO), §17(1), “&lt;...&gt; expenditures and commitment appropriations shall be estimated according to their purpose and, if necessary, explained. Explanations can be declared binding.”</p> <p>According to the Federal Budget Code (BHO), §17(2), “in the case of expenditures for a multi-year activity, the estimated total costs for the first estimate in the budget and financial implementation for each subsequent [year] estimate must be presented.”</p> <p>According to the Federal Budget Code (BHO), §24, “(1) expenses and commitment</p>

	<p>appropriations for construction activities may only be estimated if plans, cost estimates and explanations are available, which shall show the implementation type, the costs of a construction activity, the land acquisition and the related facilities, as well as the intended financing and a schedule. The documents must be accompanied by an estimate of the annual budgetary expenditures arising in connection with a project after the completion of a construction activity;</p> <p>(2) Expenses and commitment appropriations for larger procurements and larger development projects may only be estimated if there are plans and estimates of the costs and cost sharing. Paragraph 1 sentence 2 applies accordingly &lt;...&gt;“, among others.</p> <p>According to the Federal Budget Code (BHO), §54, “(1) a construction work may only be started if the detailed design drawings and cost calculations are available, unless these are small activities. The drawings and calculations may only deviate from the documents described in the §24 insofar as the change is not significant; further exceptions require the consent of the Federal Ministry of Finance.</p> <p>(2) Larger procurements and larger development projects are to be based on sufficient documents. Paragraph 1 sentence 2 applies accordingly.”</p> <p>Additionally, according to the Law About Principles of the Federal and State Budget Law (Budgetary Principles Act - HGrG), §5, “when drawing up and executing the budget, only the expenditure and the authorizations to enter into obligations to pay expenditure in future years (commitment appropriations) that are necessary for the fulfillment of the tasks of the federal government or the state are to be taken into account.”</p>
<b>Reporting liabilities (explicit and implicit, direct and contingent) arising from PPPs (e.g., disclosing information about the public sector commitments on the PPP project).</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>The budgetary information related to PPP projects can be found in the annual budget that is published online in the Table (Part X) (for the year 2019 available here: <a href="https://www.bundeshaushalt.de/fileadmin/de.bundeshaushalt/content_de/dokumente/2019/soll/Haushaltsgesetz_2019_Bundeshaushaltsplan_Gesamt.pdf">https://www.bundeshaushalt.de/fileadmin/de.bundeshaushalt/content_de/dokumente/2019/soll/Haushaltsgesetz_2019_Bundeshaushaltsplan_Gesamt.pdf</a>).</p>
<b>Accounting liabilities (explicit and implicit, direct and contingent) arising from PPPs (e.g.,</b>	<p>Yes</p>

<p><b>the public sector commitments to the PPP project are recorded in the national accounts).</b></p>	
<p><b>If yes, please provide the relevant legal/regulatory provisions:</b></p>	<p>According to the European System of Accounts 2010, which needs to be applied mandatorily by all EU Member States, every Member State has to record its PPP liabilities in the State balance sheets. However, according to the report of the European Court of Auditors from 2018, Member States may enter their public participation in PPP procedures as off-balance sheet items. Therefore, not all PPPs will be listed on the balance sheets, but, depending on the underlying risk sharing mechanism, some of the PPP projects may be recorded on a balance sheet.</p>
<p><b>7.5. If yes, please indicate which of the following alternatives best describes the regulation: International Public Sector Accounting Standards (IPSAS).</b></p>	<p>No</p>
<p><b>If yes, please provide the relevant legal/regulatory provisions:</b></p>	<p>n/a</p>
<p><b>Other international standard (e.g. European System of Accounts).</b></p>	<p>Yes</p>
<p><b>If yes, please provide the relevant legal/regulatory provisions:</b></p>	<p>European System of Accounts 2010 (ESA 2010)</p>
<p><b>Other</b></p>	<p>No</p>
<p><b>Please specify and provide the</b></p>	<p>n/a</p>

<b>relevant legal/regulatory provisions:</b>	
<b>7.7. Does the Ministry of Finance (or government more broadly) disclose PPP liabilities (explicit and implicit, direct and contingent) on an online platform/database?</b>	<p>No</p>
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>n/a</p>
<b>and specify the website:</b>	<p>n/a</p>
<b>8. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, do(es) any other authority(s) approve the PPP project before launching the procurement process (e.g. Cabinet, Cabinet Committee, Parliament, Supreme Audit Office, etc.)?</b>	<p>No</p>

<p><b>If yes, please specify the relevant authority:</b></p>	<p>n/a</p>
<p><b>and provide the relevant legal/regulatory provisions:</b></p>	<p>n/a</p>
<p><b>8.1. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before signing the PPP contract?</b></p>	<p>No</p>
<p><b>If yes, please provide the relevant legal/regulatory provisions:</b></p>	<p>n/a</p>
<p><b>9. Please select the option that best describes the way your government ensures that PPP projects are consistent with other government public priorities (e.g., in the context of a national public investment system,</b></p>	<p>Yes</p>

<p><b>multi-year perspective plans, medium-term budgetary framework): The regulatory framework provides for the inclusion of PPPs in the national public investment system/medium-term budgetary framework and details a specific procedure to ensure the consistency of PPPs with other public investment priorities.</b></p>	
<p><b>If yes, please specify and provide the relevant legal/regulatory provisions:</b></p>	<p>PPP projects like any other infrastructure projects will have to follow the general rules applicable to infrastructure projects independently of the procurement method.</p> <p>Thus, according to the Federal Budget Code (BHO), §7(2), “appropriate profitability (economic) studies shall be performed for all activities that have a financial impact on a budget. The risk distribution associated with such activities must also be taken into account. In suitable cases, private providers should be given an opportunity to demonstrate to what extent they can perform government tasks or economic activities serving public purposes with equal or greater efficiency (expression of interest procedure).”</p> <p>The long-term strategic document for the transportation sector is the 2030 Federal Transport Infrastructure Plan, which also contains a vision regarding the PPP projects (available here: <a href="http://www.bmvi.de/SharedDocs/EN/Documents/G/ftip-2030.pdf?__blob=publicationFile">http://www.bmvi.de/SharedDocs/EN/Documents/G/ftip-2030.pdf?__blob=publicationFile</a>). Further elaboration of the ideas laid down in the 2030 Federal Transport Infrastructure Plan is provided in the separate requirement plans for roads, railways and waterways, which are annexed to the laws on the expansion of the road network, the rail network and the network of waterways.</p> <p>On the basis of these documents, investments are prioritized and are made sure to be in compliance with the overall government infrastructure priorities.</p>
<p><b>The regulatory framework prescribes the need for</b></p>	<p>No</p>

<p><b>PPPs to be consistent with all other investment priorities without establishing a specific procedure to achieve that goal.</b></p>	
<p><b>If yes, please specify and provide the relevant legal/regulatory provisions:</b></p>	<p>n/a</p>
<p><b>The procuring authority does not evaluate PPPs against existing government priorities.</b></p>	<p>No</p>
<p><b>Please elaborate and provide examples:</b></p>	<p>n/a</p>
<p><b>10.1 Which of the following assessments are conducted when identifying and preparing a PPP in order to inform the decision to proceed with it? (check all that apply):</b>  <b>Socio-economic analysis (cost-benefit analysis of the socio-economic</b></p>	<p>Yes</p>

<b>impact of the PPP project)</b>	
<b>Relevant legal/regulatory provision</b>	According to the Federal Budget Code (BHO), §7(2), “appropriate profitability (economic) studies shall be performed for all activities that have a financial impact on a budget. The risk distribution associated with such activities must also be taken into account. In suitable cases, private providers should be given an opportunity to demonstrate to what extent they can perform government tasks or economic activities serving public purposes with equal or greater efficiency (expression of interest procedure).”
<b>Is there a specific methodology ?</b>	Yes
<b>If yes, please elaborate</b>	For example, at the level of the state of the North Rhine Westphalia Economic Feasibility Study Guideline provides such a methodology.
<b>10.2 Fiscal Affordability assessment, including the identification of the required long-term public commitments (explicit and implicit, direct and contingent liabilities)</b>	Yes
<b>Relevant legal/regulatory provision</b>	For example, at the level of the state of the North Rhine Westphalia Economic Feasibility Study Guideline, Section 4.2.1.1 provides some guidance on the assessment of the needs, affordability and budgetary compatibility of an activity.
<b>Is there a specific methodology ?</b>	Yes
<b>If yes, please elaborate</b>	For example, at the level of the state of the North Rhine Westphalia Economic Feasibility Study Guideline provides such a methodology.
<b>10.3. Risk identification , allocation and assessment (risk matrix)</b>	Yes
<b>Relevant legal/regulatory provision</b>	According to the Federal Budget Code (BHO), §7(2), “appropriate profitability (economic) studies shall be performed for all activities that have a financial impact on a budget. The risk distribution associated with such activities must also be taken into account. In suitable cases, private providers should be given an opportunity to demonstrate to what extent they can perform government tasks or economic activities serving public purposes with equal or greater efficiency (expression of interest procedure).” Furthermore, for example, at the level of the state of the North Rhine Westphalia Economic



	Feasibility Study Guideline, Sections 4.3.2.3.5 and 5.2.6 provide some guidance on the risk assessment, distribution and a sample risk matrix.
<b>Is there a specific methodology ?</b>	Yes
<b>If yes, please elaborate</b>	For example, at the level of the state of the North Rhine Westphalia Economic Feasibility Study Guideline provides such a methodology.
<b>10.4. Comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives (i.e., value for money analysis, public sector comparator)</b>	Yes
<b>Relevant legal/regulatory provision</b>	According to the Federal Budget Code (BHO), §7(1), “the principles of economy and efficiency must be observed when drawing up and executing a budget. These principles oblige to examine to what extent state tasks or economic activities serving public purposes can be fulfilled through outsourcing and denationalization or privatization.” Furthermore, for example, at the level of the state of the North Rhine Westphalia Economic Feasibility Study Guideline, Section 4.3.2, among others, provides some guidance on preparation of a public sector comparator.
<b>Is there a specific methodology ?</b>	Yes
<b>If yes, please elaborate</b>	For example, at the level of the state of the North Rhine Westphalia Economic Feasibility Study Guideline provides such a methodology.
<b>10.5. Financial viability or bankability assessment</b>	No
<b>Relevant legal/regulatory provision</b>	n/a
<b>Is there a specific methodology ?</b>	No

<b>If yes, please elaborate</b>	n/a
<b>10.6. Procurement Strategy (i.e., quick assessment to plan and better strategize the tendering process in advance so it is fit for purpose)</b>	No
<b>Relevant legal/regulatory provision</b>	n/a
<b>Is there a specific methodology ?</b>	No
<b>If yes, please elaborate</b>	n/a
<b>10.7. Market sounding/ assessment a. Including the potential interest from contractors and capacity in the market for the contract</b>	No
<b>Relevant legal/regulatory provision</b>	n/a
<b>Is there a specific methodology ?</b>	No
<b>If yes, please elaborate</b>	n/a
<b>10.7. Market sounding/ assessment b. specifically designed to identify the solutions and technology</b>	No

<b>available as well as the opportunities for innovation</b>	
<b>Relevant legal/regulatory provision</b>	n/a
<b>Is there a specific methodology ?</b>	No
<b>If yes, please elaborate</b>	n/a
<b>10.8. Environmental impact assessment</b>	Yes
<b>Relevant legal/regulatory provision</b>	<p>According to the PPA, Part IV, §97(3), “in making the award, aspects of quality and innovation as well as social and environmental aspects shall be considered in accordance with this Part.”</p> <p>Furthermore, according to the Environmental Impact Assessment Act (UVP, hereafter, “EIA Act”), §6 “for a new project, which is marked with the letter “X” in Appendix 1, column 1, there is an unconditional obligation to carry out an EIA if the characteristics specified for determining the type of a project are available. If size or performance values are provided, there is an obligation to carry out an EIA if the values are reached or exceeded.”</p> <p>Furthermore, the EIA Act, Appendix 1, Section 14 contains the following types of projects in the transportation sector, for which conducting an EIA is an unconditional obligation:</p> <p>(14.3) construction of a federal highway or other federal highway if this is an expressway as defined in the European Convention on the Main Roads of International Traffic of November 15, 1975;</p> <p>(14.4) construction of a new four or more lane federal highway if this new road has a continuous length of 5 km or more;</p> <p>(14.5) construction of a four-lane or multi-lane federal highway by relocating and / or expanding an existing federal highway if this changed section of the federal highway has a continuous length of 10 km or more and other relevant activities as prescribed.</p>
<b>Is there a specific methodology ?</b>	Yes
<b>If yes, please elaborate</b>	The Environmental Impact Assessment Act (UVP) provides such a methodology.
<b>10.8.1 Consultation process with affected communities explicitly included in the environment</b>	Yes

<b>al impact assessment</b>	
<b>Relevant legal/regulatory provision</b>	According to the Environmental Impact Assessment Act (UVP, hereafter, "EIA Act"), §18, "(1) a competent authority shall involve the public in the environmental impact assessment of a project. The affected public will be given an opportunity to express their views. Associations recognized according to the Environmental Remedies Act should support a competent authority in a way that protects the environment. The participation procedure must meet the requirements of the Section 73(3), sentence 1 and paragraphs 5 to 7 of the Administrative Procedures Act <...>", among others.
<b>Is there a specific methodology ?</b>	Yes
<b>If yes, please elaborate</b>	The Environmental Impact Assessment Act (UVP) and the Administrative Procedures Act provide such a methodology.
<b>10.9. Social impact assessment</b>	Yes
<b>Relevant legal/regulatory provision</b>	The social aspects are analyzed as part of the EIA, thus provisions of the applicable regulations that govern an EIA apply to SIA as well, in particular, the Environmental Impact Assessment Act (UVP, hereafter, "EIA Act"), §6 and Appendix 1, Section 14. Thus, according to the PPA, Part IV, §97(3), "in making the award, aspects of quality and innovation as well as social and environmental aspects shall be considered in accordance with this Part." Furthermore, according to the Environmental Impact Assessment Act (UVP, hereafter, "EIA Act"), §2(1), "the subjects of a protection under this law are: 1. people, especially human health; <...> and 4. cultural heritage and other property <...>", among others.
<b>Is there a specific methodology ?</b>	Yes
<b>If yes, please elaborate</b>	The Environmental Impact Assessment Act (UVP) provides such a methodology.
<b>10.9.1 Consultation process with affected communities explicitly included in the social impact assessment</b>	Yes
<b>Relevant legal/regulatory provision</b>	The social aspects are analyzed as part of the EIA, thus provisions of the applicable regulations that govern a public consultation process for an EIA apply to a SIA as well, in particular, the Environmental Impact Assessment Act (UVP, hereafter, "EIA Act"), §18 and others as applicable.
<b>Is there a specific</b>	Yes

<b>methodology ?</b>	
<b>If yes, please elaborate</b>	The Environmental Impact Assessment Act (UVP) and the Administrative Procedures Act provide such a methodology.
<b>11. Does the procuring authority include the assessments in the request for proposals and/or tender documents?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>and specify which of the assessments are included in the request for proposals and/or tender documents: Socio-economic analysis;</b>	No
<b>Fiscal Affordability assessment;</b>	No
<b>Risk identification and allocation;</b>	No
<b>Comparative assessment;</b>	No
<b>Financial viability;</b>	No
<b>Market sounding for private sector interest;</b>	No
<b>Market sounding for</b>	No

<b>technological solutions;</b>	
<b>Environmental impact assessment;</b>	No
<b>Social impact assessment;</b>	No
<b>Any other</b>	No
<b>please specify:</b>	n/a
<b>11.2. Are the assessments published online?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>According to the Environmental Impact Assessment Act (UVP, hereafter, "EIA Act"), §19(2)(1), "in the course of the [public] participation process, a competent authority shall issue at least the following documents for the public inspection: (1) an EIA report &lt;...&gt;", among others. Furthermore, according to the EIA Act, §20(1), "centralized Internet portals shall be set up by the federal and state governments to make &lt;...&gt; the documents to be published in accordance with §19(2) [above] available on the Internet. The access shall be provided to the centralized federal Internet portal if a licensing authority is a federal authority. The Federal Environment Agency shall be responsible for the construction and operation of the centralized federal internet portal."</p>
<b>specify the website:</b>	The Federal UVP portal: <a href="https://www.uvp-portal.de/vorhaben">https://www.uvp-portal.de/vorhaben</a> .
<b>please specify which of the assessments are published online: Socio-economic analysis</b>	No
<b>Fiscal Affordability assessment;</b>	No
<b>Risk identification and allocation;</b>	No
<b>Comparative assessment;</b>	No
<b>Financial viability;</b>	No
<b>Market sounding for private sector interest;</b>	No
<b>Market sounding for</b>	No

<b>technological solutions;</b>	
<b>Environmental impact assessment;</b>	Yes
<b>Social impact assessment;</b>	Yes
<b>12. Are tender/bidding documents made available online?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	According to the Concessions Ordinance, §17(1), “a contracting authority shall provide in a concession notice or - if a concession notice does not contain a call for tender - in the invitation to submit the bid an electronic address, under which the tender documents can be accessed free of charge, without restriction, completely and directly.”
<b>If yes, please provide the website:</b>	- the portal “service.bund.de - Verwaltung Online “ is the centralized access point for citizens, companies and administrations to the electronic notices of the federal, state and local administration as well as of the authorities and institutions of the federal administration on the Internet, among others: <a href="https://www.service.bund.de/Content/DE/Ausschreibungen/Suche/Formular.html;jsessionid=8967F1E609E3760515BCDC25DECFA505.2_cid367?view=processForm&amp;nn=4641514;">https://www.service.bund.de/Content/DE/Ausschreibungen/Suche/Formular.html;jsessionid=8967F1E609E3760515BCDC25DECFA505.2_cid367?view=processForm&amp;nn=4641514;</a> - the Tenders Electronic Daily (TED), a procurement portal of the European Union: <a href="https://ted.europa.eu/TED/browse/browseByMap.do">https://ted.europa.eu/TED/browse/browseByMap.do</a> .
<b>12.3. Do the tender documents include a draft PPP contract?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	According to the Concessions Ordinance, §16, “the tender documents include any document that a concession’s grantor provides or refers to to describe or define elements of a concession or a procurement process. This includes, in particular, <...> the draft contract terms <...>”, among others.
<b>13. Have standardized PPP model contracts and/or transaction documents been developed?</b>	Yes
<b>If yes, please specify and provide a</b>	The (non-mandatory) standardized PPP contracts were developed for several sectors, in particular:

<b>government-supported website where the mentioned standards are available or provide an electronic copy of them:</b>	<p>(1) PPP contract for the federal highway area under the availability model: <a href="https://www.bmvi.de/SharedDocs/DE/Anlage/StB/oepp-systematische-darstellung-projektvertraglicher-regelungen.pdf?__blob=publicationFile">https://www.bmvi.de/SharedDocs/DE/Anlage/StB/oepp-systematische-darstellung-projektvertraglicher-regelungen.pdf?__blob=publicationFile</a>;</p> <p>(2) PPP model contract for the owner model in a building construction with comments and optional contractual clauses: <a href="https://www.pdg.de/assets/Drucksachen/Grundlagenarbeiten/140916_GLA_Bd-15_Mustervertrag.pdf">https://www.pdg.de/assets/Drucksachen/Grundlagenarbeiten/140916_GLA_Bd-15_Mustervertrag.pdf</a>;</p>
<b>and provide the relevant legal/regulatory provisions:</b>	<p>According to the introduction for the PPP contract for the federal highway area under the availability model, “the purpose of this systematic presentation is to give the interested public an insight into the typical contractual regulations that are used in project contracts for current PPP projects in the area of federal roads.”</p>
<b>14.1 Does the procuring authority/responsible government entity have a role in either providing or facilitating any of the following requirements?: Obtaining the required environmental permits.</b>	<p>Yes</p>
<b>If yes, please specify the role of the procuring authority:</b>	<p>Assistance in granting the permits and licenses.</p>
<b>and provide the relevant legal/regulatory provisions:</b>	<p>According to the Standard Contract for Highways, Section 5.1, “a client [a contracting authority] undertakes to support a contractor from the beginning of a contract period as far as legally possible in the fulfillment of a contract goal, in particular, assisting in the granting of permits and licences that may still be necessary &lt;...&gt;”, among others.</p>
<b>14.4. Obtaining the possession of required land.</b>	<p>Yes</p>
<b>If yes, please specify the role of the procuring authority :</b>	<p>The land would usually have to be provided to a private party.</p>



<b>and provide the relevant legal/regulatory provisions:</b>	<p>According to the Standard Contract for Highways, Section 11.1, “a client [a contracting authority] undertakes to provide a contractor with the land necessary for the subject of a contract free of charge in accordance with the planning approval decisions related to the contractual route, including the land thereafter intended for the temporary use and acquisition of the land as well as the usage rights belonging to a contract subject, in accordance with the following provisions for the duration of the contract period and for the temporary use, to the extent that this is provided for and required by the tender documents, for this period. A client shall provide the land and rights of use required for the construction during construction phase of a project provided for in the construction schedule and provided for in the planning approval decisions no later than the times specified in a construction schedule.”</p>
<b>14.7. Obtaining the required right of way.</b>	<p>Yes</p>
<b>If yes, please specify the role of the procuring authority :</b>	<p>The right of way would usually have to be provided to a private party.</p>
<b>and provide the relevant legal/regulatory provisions:</b>	<p>According to the Standard Contract for Highways, Section 11.1, “a client [a contracting authority] undertakes to provide a contractor with the land necessary for the subject of a contract free of charge in accordance with the planning approval decisions related to the contractual route, including the land thereafter intended for the temporary use and acquisition of the land as well as the usage rights belonging to a contract subject, in accordance with the following provisions for the duration of the contract period and for the temporary use, to the extent that this is provided for and required by the tender documents, for this period. A client shall provide the land and rights of use required for the construction during construction phase of a project provided for in the construction schedule and provided for in the planning approval decisions no later than the times specified in a construction schedule.”</p>
<b>Procurement/Tendering of PPPs</b>	
<b>16. Which of the following options best describes the required qualifications of the bid evaluation committee members? (Please select only one): The membership of the bid evaluation committee is specified and/or its members are</b>	<p>No</p>

<b>required to meet detailed qualifications .</b>	
<b>If yes, please specify and provide the relevant legal/regulatory provisions:</b>	n/a
<b>The bid evaluation committee members require sufficient qualification without specific details.</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory provisions:</b>	n/a
<b>The bid evaluation committee members are not required to have any specific qualifications .</b>	Yes
<b>Please elaborate and provide examples:</b>	<p>There is no explicit provision for the requirement to form a separate evaluation team or a committee, neither certain requirements to qualifications of members of such a team. Evaluation shall be performed by a contracting authority.</p>
<b>17. Does the procuring authority issue an invitation for bids/ tender notice for the PPP project?</b>	Yes
<b>If yes, please specify the</b>	<p>According to the Concessions Ordinance, §19(1), "a concession grantor shall announce its intention to award a concession in a concession notice."</p>

<b>means of publication and provide the relevant legal/regulatory provisions:</b>	<p>According to the Concessions Ordinance, §19(2), “a concession notice shall follow the model set out in the Annex XXI to the Commission’s Implementing Regulation (EU) 2015/1986 of 11 November 2015 on the introduction of standard forms for the publication of contract award notices and the repeal of Implementing Regulation (EU) No 842/2011 in the current version (OJ L 296, 12.11.2015, p. 1).”</p> <p>Furthermore, according to the Concessions Ordinance, §23(1), “notices of concession, prior information, procurement notices and notices of changes to a concession (notices) shall be sent to the Publications Office of the European Union by electronic means.”</p> <p>According to the Concessions Ordinance, §23(3), “notices may not be published earlier than 48 hours after the confirmation by the Publications Office of the European Union that the information provided has been published at national (local) level. Such publication may only contain information contained in the notice sent to the Publications Office of the European Union. The date of transmission to the Publications Office of the European Union must be indicated in the notice published nationally (locally).”</p>
<b>17.1. If yes, is the public procurement notice published online?</b>	<p>Yes</p>
<b>If yes, please specify the website:</b>	<p>- the portal “service.bund.de - Verwaltung Online “ is the centralized access point for citizens, companies and administrations to the electronic notices of the federal, state and local administration as well as of the authorities and institutions of the federal administration on the Internet, among others:  <a href="https://www.service.bund.de/Content/DE/Ausschreibungen/Suche/Formular.html;jsessionid=8967F1E609E3760515BCDC25DECFA505.2_cid367?view=processForm&amp;nn=4641514;">https://www.service.bund.de/Content/DE/Ausschreibungen/Suche/Formular.html;jsessionid=8967F1E609E3760515BCDC25DECFA505.2_cid367?view=processForm&amp;nn=4641514;</a>  - the Tenders Electronic Daily (TED), a procurement portal of the European Union:  <a href="https://ted.europa.eu/TED/browse/browseByMap.do">https://ted.europa.eu/TED/browse/browseByMap.do</a>.</p>
<b>18. Are foreign companies subject to any of the following restrictions when participating in the bidding process (check all that apply)? Prohibition to bid in the public tender (including the possibility to discretionary use a</b>	<p>No</p>

<b>procedure that precludes the participation of foreign firms).</b>	
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Requirement to have an office or a branch in the country before being allowed to bid in the public tender.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Requirement to form a joint venture with domestic firm(s) to be allowed to bid in the public tender.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Requirement to have prior experience in the country to bid in the public tender.</b>	No

<b>If yes, please specify</b>	n/a
<b>and provide the relevant legal/regulatory provisions:</b>	n/a
<b>Threshold for public tenders to be open for foreign participation/ to be considered international tenders.</b>	No
<b>If yes, please specify</b>	n/a
<b>and provide the relevant legal/regulatory provisions:</b>	n/a
<b>18.3. If never, what are the key reasons for their non-participation, please list:</b>	n/a
<b>19. Does the procuring authority grant the potential bidders a minimum period of time to submit their bids?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>According to the Concessions Ordinance, §27(3), “the minimum period for receiving applications for participation in a tender with or without a bid shall be 30 days from the day after a tender notice is published.”</p> <p>According to the Concessions Ordinance, §27(4), “if a procurement procedure occurs in several stages, the minimum period for the receipt of initial offers shall be 22 days from the day after the invitation to submit a bid is published. A concession grantor can shorten the deadline for submitting the bids by five days if they are submitted by electronic means.”</p>
<b>and the time in calendar days:</b>	30

<b>20.1. Open competitive tendering/bidding: Available</b>	Yes
<b>Default</b>	No
<b>Relevant legal/regulatory provision</b>	<p>According to the Concessions Ordinance, §12(1), “a concession grantor may freely structure the procedure for awarding a concession in accordance with this Ordinance. A concession grantor can base a procurement procedure on the regulations contained in the Public Procurement Ordinance and may use a regarding negotiated procedure with participating competition.”</p> <p>Furthermore, according to the Ordinance on the Award of Public Contracts (Procurement Regulation - VgV), §14(1), “public contracts are awarded in accordance with the Section 119 of the Law Against Restraints on Competition [PPA] through the open procedure &lt;...&gt;”, among others.</p> <p>The same is reiterated in the PPA, §119(1): “public contracts shall be awarded in open procedures &lt;...&gt;”, among others.</p>
<b>20.2 Competitive tendering/bidding with pre-qualification stage (Restricted tendering): Available</b>	Yes
<b>Default</b>	No
<b>Relevant legal/regulatory provision</b>	<p>According to the Concessions Ordinance, §12(1), “a concession grantor may freely structure the procedure for awarding a concession in accordance with this Ordinance. A concession grantor can base a procurement procedure on the regulations contained in the Public Procurement Ordinance and may use a regarding negotiated procedure with participating competition.”</p> <p>Furthermore, according to the Ordinance on the Award of Public Contracts (Procurement Regulation - VgV), §14(1), “public contracts are awarded in accordance with the Section 119 of the Law Against Restraints on Competition [PPA] through &lt;...&gt; the restricted procedure &lt;...&gt;”, among others.</p> <p>The same is reiterated in the PPA, §119(1): “public contracts shall be awarded in &lt;...&gt; restricted procedures &lt;...&gt;”, among others.</p> <p>According to the PPA, §119(4), “the restricted procedure is a procedure in which the public contracting authority, after a previous public invitation to participate, selects a limited number of undertakings in accordance with objective, transparent and non-discriminatory criteria (competitive tender) and invites these to submit tenders.”</p>

<b>20.3 Multi-stage tendering/bidding (with shortlisting of final candidate(s)):</b> <b>Available</b>	Yes
<b>Default</b>	No
<b>Relevant legal/regulatory provision</b>	According to the Concessions Ordinance, §12(2), “procurement process can be carried out in one or more stages <...>”, among others.
<b>20.4. Competitive dialogue:</b> <b>Available</b>	Yes
<b>Default</b>	No
<b>Relevant legal/regulatory provision</b>	According to the Concessions Ordinance, §12(1), “a concession grantor may freely structure the procedure for awarding a concession in accordance with this Ordinance <...>”, among others.  As a reference, according the PPA, §119(1), “public contracts shall be awarded in <...> competitive dialogue <...>”, among others.
<b>20.5. Best and Final Offer (BAFO):</b> <b>Available</b>	No
<b>Default</b>	No
<b>Relevant legal/regulatory provision</b>	n/a
<b>20.6. Direct negotiation:</b> <b>Available</b>	Yes
<b>Default</b>	No
<b>Relevant legal/regulatory provision</b>	According to the Concessions Ordinance, §20(1), “publishing of a concession notice can be waived if the construction or service can only be provided by a specific company because: (1) the purpose of a concession is to create or acquire a unique work of art or a unique artistic achievement; (2) a tender cannot be held for technical reasons; (3) there is an exclusive right; or (4) rights of intellectual property or other rights other than those defined in §101 paragraph 2 in conjunction with §100 paragraph 2 sentence 1 of the [PPA] must be observed. Sentence 1 numbers 2 to 4 shall only be applied if there is no sensible alternative or replacement solution and the lack of competition is not the result of an artificial narrowing of the parameters of a concession award.”
<b>20.7. Other. Please, specify:</b> <b>Available</b>	Yes
<b>Default</b>	No

<b>Relevant legal/regulatory provision</b>	<p>According to the Concessions Ordinance, §12(1), “a concession grantor may freely structure the procedure for awarding a concession in accordance with this Ordinance &lt;...&gt;”, among others.</p> <p>As a reference, according the PPA, §119(1), “public contracts shall be awarded in &lt;...&gt; negotiated procedures &lt;...&gt; or innovation partnerships”, among others.</p>
<b>20.8. If direct negotiation is either an available or default option, does the regulatory framework restrict this procedure to certain exceptional conditions and circumstances (including cases of single source providers or applicable to a certain threshold)?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>According to the Concessions Ordinance, §20(1), “publishing of a concession notice can be waived if the construction or service can only be provided by a specific company because:</p> <ul style="list-style-type: none"> <li>(1) the purpose of a concession is to create or acquire a unique work of art or a unique artistic achievement;</li> <li>(2) a tender cannot be held for technical reasons;</li> <li>(3) there is an exclusive right; or</li> <li>(4) rights of intellectual property or other rights other than those defined in §101 paragraph 2 in conjunction with §100 paragraph 2 sentence 1 of the [PPA] must be observed.</li> </ul> <p>Sentence 1 numbers 2 to 4 shall only be applied if there is no sensible alternative or replacement solution and the lack of competition is not the result of an artificial narrowing of the parameters of a concession award.”</p>
<b>21. Do the tender documents detail the procedure of the procurement process, providing the same information</b>	<p>Yes</p>



<b>to all the bidders?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>According to the Concessions Ordinance, §13(2), “a concession grantor shall provide the following information:</p> <p>(1) in a tender notice issued in accordance with §19, a description of concession and conditions for participation in a tender; and</p> <p>(2) the award criteria as well as the minimum requirements, if applicable, in a tender notice issued in accordance with §19, in the invitation to submit a bid or in the other concession award documents.”</p> <p>Furthermore, according to the Concessions Ordinance, §16, “the tender documents include any document that a concession’s grantor provides or refers to to describe or define elements of a concession or a procurement process. This includes, in particular, a service description, the draft contract terms, templates for the submission of documents by applicants or bidders and information about the general obligations”, among others.</p>
<b>22. Do the tender documents unambiguously specify the qualification requirements (or the prequalification requirements when applicable) making them available to all potential bidders as part of the tender notice/ invitation for bids?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>According to the Concessions Ordinance, §25(1), “a concession grantor shall specify the eligibility [qualification] criteria in accordance with §152(2) and §122 of the [PPA] and specify such eligibility [qualification] criteria in a tender notice. If a tender notice issued in accordance with §20 is not required, the eligibility [qualification] criteria must be included in the tender documentation.”</p> <p>Furthermore, according to the PPA, §152(2), “concessions shall be awarded to eligible undertakings within the meaning of § 122.”</p> <p>According to the PPA, §122(1), “public contracts shall be awarded to skilled, efficient (eligible) undertakings that have not been excluded under §§ 123 or 124.”</p> <p>According to the PPA, §122(2), “an undertaking is eligible if it meets the criteria (selection criteria) defined in detail by the public contracting authority for the proper execution of the public contract. The selection criteria may exclusively relate to:</p> <ol style="list-style-type: none"> <li>1. Qualification and authorisation to pursue the professional activity;</li> <li>2. Economic and financial standing;</li> </ol>

	3. Technical and professional ability.”
<b>22.2. Are there any parameters/limits to the qualification requirements to ensure that they do not unduly restrict competition of qualified bidders?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>According to the Concessions Ordinance, §25(2), “the eligibility [qualification] criteria must be non-discriminatory and serve the purposes of: &lt;..&gt; (2) ensuring competition.”</p> <p>Additionally, according to the PPA, §122(4), “selection criteria must be related and proportionate to the subject matter of the contract &lt;...&gt;”, among others.</p>
<b>23. Can potential bidders/tenders submit questions to clarify the public procurement notice and/or the bidding/tender documents?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>According to the Concessions Ordinance, §18, “a concession grantor shall provide all companies participating in a tender procedure with the additional information about the tender documents at least six days before the deadline for the submission of bids, provided that bidders have requested such additional information in a good time.”</p>
<b>23.2. If yes, can the bidders also suggest innovations to improve the tender documents or procurement approach, including for</b>	Yes

<b>example the provision of value engineering and/or technological ly neutral options?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>According to the Concessions Ordinance, §31(2), “if a bid contains an innovative solution with exceptionally high functional performance that a concession grantor could not have foreseen, the order of the award criteria can be changed accordingly. In this case, a concession grantor has to inform the bidders about the changed order of the award criteria and, while observing the minimum period in accordance with §27 paragraph 4 sentence 1, publish a new invitation to submit a bid. If the award criteria were published at the same time as a concession notice, a new concession notice must be published, observing the minimum period in accordance with §27(3).”</p>
<b>and elaborate on the kind of innovations that are allowed:</b>	<p>Innovative solution with exceptionally high functional performance.</p>
<b>23.4. If yes, is there a timeframe for the procuring authority to address questions and clarifications by bidders?</b>	<p>Yes</p>
<b>Please indicate the timeframe (number of calendar days to provide clarifications before the deadline):</b>	<p>At least six days before the bid submissions deadline.</p>
<b>and provide the relevant legal/regulatory provisions:</b>	<p>According to the Concessions Ordinance, §18), “a concession grantor shall provide all companies participating in a tender procedure with the additional information about the tender documents at least six days before the deadline for the submission of bids, provided that bidders have requested such additional information in a good time.”</p>
<b>23.6. If yes, notwithstanding confidential information</b>	<p>Yes</p>

<p><b>pertaining to the bidders, does the procuring authority disclose those questions and clarifications to all potential bidders?</b></p>	
<p><b>If yes, please provide the relevant legal/regulatory provisions:</b></p>	<p>According to the Concessions Ordinance, §18, “a concession grantor shall provide all companies participating in a tender procedure with the additional information about the tender documents at least six days before the deadline for the submission of bids, provided that bidders have requested such additional information in a good time.”</p>
<p><b>23.8. If yes, does the procuring authority extend the proposal submission deadline due to the modifications introduced in the bidding/tender documents?</b></p>	<p>No</p>
<p><b>If yes, please provide the relevant legal/regulatory provisions:</b></p>	<p>n/a</p>
<p><b>24. Besides questions and clarifications, can the procuring authority conduct a pre-bid conference?</b></p>	<p>No</p>
<p><b>If yes, please specify and</b></p>	<p>n/a</p>

<p><b>provide the relevant legal/regulatory provisions:</b></p>	
<p><b>24.2. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose the response to the queries raised by the bidders in the pre-bid conference to all bidders?</b></p>	<p>No</p>
<p><b>If yes, please specify and provide the relevant legal/regulatory provisions:</b></p>	<p>n/a</p>
<p><b>25. Does the procuring authority require the bidders to prepare and submit a financial model with their proposals / bids?</b></p>	<p>No</p>
<p><b>If yes, please provide the relevant legal/regulatory provisions:</b></p>	<p>n/a</p>
<p><b>If no, please elaborate:</b></p>	<p>No such requirement. The financial model is usually prepared by or on behalf of a contracting authority during the feasibility study stage (economic and profitability analysis) as stated in the Economic Feasibility Study Guideline.</p>

<b>26. Does the procuring authority evaluate the bids/tenders strictly and solely in accordance with the evaluation criteria stated in the bidding/tender documents?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>According to the Concessions Ordinance, §31(1), “the award criteria according to §152 Paragraph 3 of the [PPA] are to be given in the descending order.”  Furthermore, according to the Concessions Ordinance, §152(3), “the award shall be made on the basis of objective criteria used to ensure that the tenders are assessed in competitive conditions and that an overall economic advantage can thus be identified for the concession grantor. The award criteria must be related to the subject matter of the concession and must not allow the grantor complete freedom of choice. They may comprise qualitative, environmental or social concerns. The award criteria must be accompanied by a description that allows the information submitted by the tenderers to be reviewed effectively and an evaluation to be carried out as to whether and the extent to which the tenders meet the award criteria.”</p>
<b>26.2. Can criteria other than price (non-price attributes) be used when evaluating the tenders/bids of a PPP contract?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>According to the Concessions Ordinance, §31(1), “&lt;...&gt; the award criteria must be related to the subject matter of the concession and must not allow the grantor complete freedom of choice. They may comprise qualitative, environmental or social concerns &lt;...&gt;”, among others.</p>
<b>26.4. If criteria other than price are used, does it have to be justified,</b>	<p>Yes</p>

<b>objective and quantifiable?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>According to the Concessions Ordinance, §31(1), “the award criteria according to §152 Paragraph 3 of the [PPA] are to be given in the descending order.”</p> <p>Furthermore, according to the Concessions Ordinance, §152(3), “&lt;...&gt; the award criteria must be related to the subject matter of the concession and must not allow the grantor complete freedom of choice &lt;...&gt;”, among others.</p>
<b>26.6. When price is used as one of the evaluation criteria, does the procuring authority provide a cost estimate?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>According to the Concessions Ordinance, §2(1), “a concession grantor shall calculate the estimated contract value using an objective method, which must be specified in the tender documents.”</p>
<b>27. In the case where only one proposal is submitted, which of the following options best describes the way the procuring authority deals with them? (Please select only one)?: The procuring authority follows a specific procedure before awarding a PPP contract where only one proposal is submitted.</b>	<p>No</p>

<b>Please specify and provide the relevant legal/regulatory provisions:</b>	n/a
<b>The procuring authority considers sole proposal valid as long as it meets the conditions outlined in the tender documents.</b>	No
<b>Please specify and provide the relevant legal/regulatory provisions:</b>	n/a
<b>The procuring authority does not award a PPP contract if only one proposal is submitted.</b>	No
<b>Please specify and provide the relevant legal/regulatory provisions:</b>	n/a
<b>The regulatory framework does not include any provisions.</b>	Yes
<b>28. Does the procuring authority publish the contract</b>	Yes



<b>award notice?</b>	
<b>If yes, please specify the means of publication and provide the relevant legal/regulatory provisions:</b>	<p>According to the Concessions Ordinance, §21(1), “a concession grantor shall send a contract award notice with the result of the award procedure to the Publications Office of the European Union at the latest 48 days after the award of a contract. A contract award notice shall be drawn up in accordance with the model set out in the Annex XXII to the Implementing Regulation (EU) 2015/1986.”</p> <p>Furthermore, according to the Concessions Ordinance, §23(1), “notices of concession, prior information, procurement notices and notices of changes to a concession (notices) shall be sent to the Publications Office of the European Union by electronic means.”</p> <p>According to the Concessions Ordinance, §23(3), “notices may not be published earlier than 48 hours after the confirmation by the Publications Office of the European Union that the information provided has been published at national (local) level. Such publication may only contain information contained in the notice sent to the Publications Office of the European Union. The date of transmission to the Publications Office of the European Union must be indicated in the notice published nationally (locally).”</p>
<b>28.1. If yes, is the contract award notice published online?</b>	Yes
<b>If yes, please specify the website:</b>	<p>- the portal “service.bund.de - Verwaltung Online “ is the centralized access point for citizens, companies and administrations to the electronic notices of the federal, state and local administration as well as of the authorities and institutions of the federal administration on the Internet, among others:  <a href="https://www.service.bund.de/Content/DE/Ausschreibungen/Suche/Formular.html;jsessionid=8967F1E609E3760515BCDC25DECFA505.2_cid367?view=processForm&amp;nn=4641514;">https://www.service.bund.de/Content/DE/Ausschreibungen/Suche/Formular.html;jsessionid=8967F1E609E3760515BCDC25DECFA505.2_cid367?view=processForm&amp;nn=4641514;</a></p> <p>- the Tenders Electronic Daily (TED), a procurement portal of the European Union:  <a href="https://ted.europa.eu/TED/browse/browseByMap.do">https://ted.europa.eu/TED/browse/browseByMap.do</a>.</p>
<b>29. Does the procuring authority notify all the bidders individually about the result of the PPP tendering/bidding process?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>According to the Concessions Ordinance, §30(1), “without prejudice to §134 of the [PPA], a concession grantor shall immediately inform all applicants or bidders about the decisions regarding the award, including the name of a successful bidder, the reasons for rejecting their requests to participate or bids and the reasons for a decision, in regards of which a concession award notice was published or a process was cancelled and initiated again.”</p>
<b>If no, please elaborate:</b>	n/a

<b>29.2. If yes, does the notification of the result of the PPP procurement process include the grounds for the selection of the winning bid/tender?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>According to the Concessions Ordinance, §30(1), “without prejudice to §134 of the [PPA], a concession grantor shall immediately inform all applicants or bidders about the decisions regarding the award, including the name of a successful bidder, the reasons for rejecting their requests to participate or bids and the reasons for a decision, in regards of which a concession award notice was published or a process was cancelled and initiated again.”</p>
<b>29.4. If yes, does the procuring authority provide bidders/tenders with the option of holding a debriefing meeting to discuss why their bid/tender was not selected?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>According to the Concessions Ordinance, §30(2), “at the request of the parties concerned in the text form in accordance with §126b of the Civil Code, a concession grantor shall immediately, in any event within 15 days, inform any bidder who has submitted a proper bid about the features and relative advantages of the selected [winning] bid.”</p>
<b>30. Is there a standstill (or pause) period after the contract award and before the signing of the contract in order to allow</b>	<p>Yes</p>

<b>aggrieved unsuccessful bidders to challenge the award decision?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>According to the PPA, §134(2), “a contract may be concluded at the earliest 15 calendar days after the information pursuant to paragraph 1 has been sent [such information includes the award decision and the standstill period, among others]. If the information is sent electronically or by fax, the standstill period shall be reduced to 10 calendar days. The standstill period shall begin on the day after which the contracting authority despatches the information; the date of receipt by the tenderer and candidate in question shall be irrelevant.”</p>
<b>and the time in calendar days:</b>	<p>15</p>
<b>30.2. If yes, is the standstill period set out in the notice of intention to award?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>According to the PPA, §134(1), “public contracting authorities shall inform the unsuccessful tenderers in writing and without delay &lt;...&gt; of the earliest date of the conclusion of the contract. This shall also apply to candidates who were not informed of the rejection of their tenders before notification of the decision on the award was sent to the successful tenderers.”</p>
<b>31. Does the regulatory framework restrict material negotiations (for example price or scope) with the winning bidder between the award and the signature of the PPP contract?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>According to the Concessions Ordinance, §12(2), “procurement process can be carried out in one or more stages. A concession grantor may negotiate with the applicants and bidders. The subject matter of a concession, the minimum requirements for the bid and the award criteria may not be changed during the negotiations.”</p>
<b>32. Does the regulatory</b>	<p>Yes</p>

<b>framework allow for complaint review mechanisms pertaining to the PPP bidding/tendering process?</b>	
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions:</b>	<p>According to the PPA, §155, “without prejudice to review by the supervisory authorities, any award of &lt;...&gt; concessions shall be subject to review by the public procurement tribunals.”</p> <p>According to the PPA, §156(1), “the federal public procurement tribunals shall review the award of &lt;...&gt; concessions for public contracts and concessions attributable to the Federation, while the Land public procurement tribunals shall review &lt;...&gt; concessions attributable to the Länder.”</p> <p>According to the PPA, §160(2), “every undertaking that has an interest in &lt;...&gt; the concession and claims that its rights under § 97(6) were violated by non-compliance with the provisions governing the awarding of public contracts has the right to file an application. In doing so, it must show that it has been, or risks being harmed by the alleged violation of public procurement provisions.”</p>
<b>32.1. If yes, is there a timeframe in which decisions on complaints are issued?</b>	<p>Yes</p>
<b>If yes, please elaborate the timeframe (number of calendar days to resolve):</b>	<p>35</p>
<b>and provide the relevant legal/regulatory provisions:</b>	<p>According to the PPA, §167(1), “the public procurement tribunal shall take its decision and give reasons in writing within a period of five weeks of receipt of the application. In the case of particular factual or legal difficulties, the chairman may in exceptional cases by notice to the parties extend this period by the required time. The extended period shall not exceed two weeks. The chairman shall give reasons in writing for this order.”</p>
<b>32.2. If yes, are decisions subject to appeal?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>According to the PPA, §171(1), “immediate appeals shall be admissible against decisions of a public procurement tribunal. An immediate appeal may be filed by the parties to the proceedings before the public procurement tribunal.”</p> <p>According to the PPA, §171(2), “an immediate appeal shall also be admissible if the public procurement tribunal does not decide upon an application for review within the period set out in § 167(1); in this case the application shall be deemed to have been rejected.”</p> <p>According to the PPA, §171(3), “the immediate appeal shall be decided exclusively by the</p>

	<p>Higher Regional Court having jurisdiction at the seat of the public procurement tribunal. An award division shall be established at the Higher Regional Courts.”</p> <p>According to the PPA, §171(4), “legal matters pursuant to paragraph 1 and 2 may be assigned to other Higher Regional Courts or the Supreme Court of a Land by an ordinance issued by the Land governments. The Land governments may delegate this authority to their judicial administrations.”</p>
<p><b>32.3. If yes, is the original complaint and/or the appeal reviewed resolved by an independent administrative authority (other than the procuring authority or the courts)?</b></p>	<p>Yes</p>
<p><b>If yes, please provide the relevant legal/regulatory provisions:</b></p>	<p>According to the PPA, §155, “without prejudice to review by the supervisory authorities, any award of &lt;...&gt; concessions shall be subject to review by the public procurement tribunals.”</p> <p>Furthermore, according to the PPA, §157(1), “the public procurement tribunals shall exercise their functions independently and under their own responsibility within the limits of the law.”</p> <p>According to the PPA, §157(2), “the public procurement tribunals shall take their decisions through a chairman and two associate members of which one shall serve in an honorary capacity (honorary associate member). The chairman and the regular associate member must be civil servants appointed for life with the qualification to serve in the senior civil service, or comparable expert employees. Either the chairman or the regular associate member must be qualified to serve as a judge; generally, this should be the chairman. The associate members should have in-depth knowledge of public procurement; the honorary associate members should additionally have several years of practical experience in the field of public procurement &lt;...&gt;”, among others.</p>
<p><b>and identify the approving authority</b></p>	<p>A Public Procurement Tribunal.</p>
<p><b>33. Does the procuring authority publish the PPP contract? (notwithstanding the protection of commercially sensitive information)</b></p>	<p>No</p>

<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>33.1 A summary of the PPP contract: Available (e.g. by request or in the official gazette)</b>	No
<b>Available online</b>	No
<b>Website</b>	n/a
<b>Relevant legal/regulatory provision</b>	n/a
<b>33.2. The full PPP contract: Available (e.g. by request or in the official gazette)</b>	No
<b>Available online</b>	No
<b>Website</b>	n/a
<b>Relevant legal/regulatory provision</b>	n/a
<b>33.3. All of the contract's annexes and appendixes: Available (e.g. by request or in the official gazette)</b>	No
<b>Available online</b>	No
<b>Website</b>	n/a
<b>Relevant legal/regulatory provision</b>	n/a
<b>33.4. Any subsequent</b>	No

<b>amendment made to the PPP contract: Available (e.g. by request or in the official gazette)</b>	
<b>Available online</b>	No
<b>Website</b>	n/a
<b>Relevant legal/regulatory provision</b>	n/a
<b>PPP Contract Management</b>	
<b>35. Does the procuring authority or contract management authority establish a system to manage the PPP contract (i.e., attributing responsibilities or establishing specific management tools)?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>The Standard Contract for Highways provides for a system to manage and monitor a contract, including through the following provisions:</p> <ul style="list-style-type: none"> <li>- §9: contract period, operating period;</li> <li>- §14: provision of services;</li> <li>- §15: traffic-impairing measures;</li> <li>- §16: choice of traffic routing and establishment and operation of workplaces;</li> <li>- §17: responsible contact person, control and emergency service, traffic coordinator and other relevant sections as applicable.</li> </ul>
<b>35.1. If yes, which of the following tools does it include (check all that apply)? Establishment of a PPP contract</b>	No

<b>management team</b>	
<b>Relevant legal/regulatory provisions:</b>	n/a
<b>Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa</b>	No
<b>Relevant legal/regulatory provisions:</b>	n/a
<b>Elaboration of a PPP contract management manual or an equivalent document</b>	Yes
<b>Relevant legal/regulatory provisions:</b>	<p>According to the Standard Contract for Highways, §1.1.6, “a project contract shall have the following contract components, whereby the order is the same as the order of interpretation and application: &lt;...&gt; (1.1.6) for planning services during construction phase, the general contract conditions for services of engineers and landscape architects in road and bridge construction (AVB-ING), edition [● 1] version [●] with associated technical contract conditions (TVB) according to the manual for the award and execution of freelance services of engineers and landscape architects in road and bridge construction (HVA F-StB), edition [●] version [●]. For the subsequent period, the conditions stated in this § 1.1.6 apply in their currently valid version.”</p> <p>Additionally, at the operational stage, according to the Standard Contract for Highways, §37.1, “a contractor shall provide the client with a detailed concept for the operation of the contract route [●] months before the start of the operational period, including a description of the handling of the takeover of the operational service and the necessary maintenance and control plans. The detailed concept is to be developed based on the business service concept presented in the bid of a successful bidder. Deviations from this business service concept are only permitted with the consent of a client. Part of the detailed concept must include, in particular, operational planning, the planned operational and employee organization, traffic monitoring, the deployment plans for route control and winter service, a representation of the agreements and coordination with the police and fire service regarding operational plans in the event of accidents, and the handling of the handover of the operational service.”</p> <p>Further provisions of the Standard Contract for Highways, §37 apply to the manual at the operational stage.</p>



<b>Establishment of personnel training programs (i.e., initial training and continued training throughout the course of the project)</b>	<p>No</p>
<b>Relevant legal/regulatory provisions:</b>	<p>n/a</p>
<b>Establishment of a risk mitigation mechanism which considers the evolving nature of risks throughout the project lifecycle (guidelines, specific processes, insurance regime, etc.)</b>	<p>Yes</p>
<b>Relevant legal/regulatory provisions:</b>	<p>The Standard Contract for Highways, §55 is devoted to the issue of the required insurance. Thus, according to the Standard Contract for Highways, §55.1, “a contractor undertakes to take out the insurance listed in the Appendix 2 to this contract at the times and for the periods specified therein and to provide evidence of the conclusion to the client on the dates specified in the above-mentioned Appendix. The amounts specified in the Appendix 2 are to be adjusted for the first time [●] months after the start of the contract period and then every [●] months in accordance with the increases in the price index to be used in accordance with § 2.3.53 compared to the price index at the beginning of the contract period.” Additionally, the Standard Contract for Highways, §41 details a requirement to have a contract performance guarantee for maintenance.</p>
<b>35.2. Which of the following options best describes the required qualifications of the PPP contract</b>	<p>No</p>

<p><b>management team members? (Please select only one):</b>  <b>The membership of the PPP contract management team is specified and/or its members are required to meet detailed qualifications .</b></p>	
<p><b>If yes, please specify and provide the relevant legal/regulatory provisions:</b></p>	<p>n/a</p>
<p><b>The PPP contract management team members are required to meet sufficient qualification without specific details.</b></p>	<p>No</p>
<p><b>If yes, please specify and provide the relevant legal/regulatory provisions:</b></p>	<p>n/a</p>
<p><b>The PPP contract management team members are not required to meet any</b></p>	<p>No</p>

<b>specific qualifications</b>	
<b>Please elaborate and provide examples:</b>	n/a
<b>36. Does the procuring or contract management authority establish a monitoring and evaluation system of the construction of the PPP project (i.e., system for tracking progress of construction, monitoring and evaluation of performance, etc.)?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	The Standard Contract for Highways contains separate sections that are devoted exclusively to contract management during construction, including: <ul style="list-style-type: none"> <li>- §28: construction;</li> <li>- §29: dates;</li> <li>- §30: geological risk;</li> <li>- §33: construction penalty;</li> <li>- §34: construction supervision, dedication, commissioning and traffic release;</li> <li>- §35: contract performance guarantee for construction and other sections as applicable.</li> </ul>
<b>36.1. If yes, is the PPP contract construction performance information made available to the public (e.g. by request or published in the official gazette/bulletin board)?</b>	No

<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>36.2. If yes, is the PPP contract construction performance information made publicly available online?</b>	No
<b>If yes, please specify the website:</b>	n/a
<b>37. Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract implementation after construction?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	The Standard Contract for Highways contains separate sections that are devoted exclusively to contract management during construction, including: <ul style="list-style-type: none"> <li>- §36: duty to operate;</li> <li>- §37: operating regulations;</li> <li>- §38: conservation obligation;</li> <li>- §39: subsequent changes to the technical or legal standards;</li> <li>- §40: management information system, protocol, reporting obligation and inspections;</li> <li>- §41: contract performance guarantee for maintenance and other sections as applicable.</li> </ul>
<b>37.1. If yes, which of the following tools does it include (check all that apply)? Payments are linked to performance</b>	Yes

<b>Relevant legal/regulatory provisions:</b>	<p>According to the Standard Contract for Highways, §45.1.2, “in addition to the installment payment described in §44, during the contract period a contractor shall receive a monthly fee for his services to be performed under this project contract in accordance with the following provisions and subject to any reductions in fees and retention rights of a client to be carried out under this project contract. The monthly fee shall be made up of: &lt;...&gt; (45.1.2) fee component in the amount of monthly euros [●] (in words: [●] euros) for the duration of the contract period in accordance with § 9.1, for other services under this project contract including maintenance services as defined in § 2.3.13 (b) and services of the company as defined in § 2.3.13 (a) [Note: Depending on the project, the fee can also be structured in stages] &lt;...&gt;”, among others.</p>
<b>Performance is assessed against output/ Key performance indicators (KPI) set in the tender documents and the PPP contract</b>	<p>Yes</p>
<b>Relevant legal/regulatory provisions:</b>	<p>Several provisions of the Standard Contract for Highways establish such a requirement. For example, according to the Standard Contract for Highways, §38.3, “a contractor undertakes to regularly check the stability, usability, durability and traffic safety as well as the functional requirements and operational safety of the contractual route in accordance with the specifications for maintenance and operational service contained in the tender documents &lt;...&gt;”, among others.</p>
<b>The procuring or contract management authority can abate (reduce) payments for non-performance of operating obligations under the PPP contract</b>	<p>Yes</p>
<b>Relevant legal/regulatory provisions:</b>	<p>According to the Standard Contract for Highways, §45.2, “reductions in monthly fee to be paid due to availability restrictions [Note: The entire availability mechanism has to be adapted project-specifically so that the desired incentives for optimized availability are set against the background of the route-specific traffic flows.]  (45.2.1) Principles for calculation the deduction amounts:  The deduction amounts in the amount specified in § 45.2.2 shall be applied for the availability restrictions. When assigning deduction amounts to the availability restrictions, the following exception, special and collision rules must be observed. The due date and settlement of the deduction amounts is based on § 45.4.  (a) in the area of a job, availability restrictions are penalized with deducted as follows:</p>

	<p>(i) if speed reductions and restrictions on the carriageway cross-section (as defined in § 2.3.63) come together in a job, only the deduction amounts to be applied according to § 45.2.2 for the restriction of the carriageway cross-section are applied (per lane), but not a deduction amount for speed reductions. Amounts in accordance with §§ [●] can be accumulated &lt;...&gt;“, among others.</p> <p>Further provisions of the Standard Contract for Highways, §45 apply to the issue of calculating deductions for various deficiencies in the agreed availability standards.</p>
<b>The private partner must provide the procuring or contract management authority with periodic operational and financial data</b>	<p>Yes</p>
<b>Relevant legal/regulatory provisions:</b>	<p>Several provisions of the Standard Contract for Highways establish such a requirement. For example, according to the Standard Contract for Highways, §38.3, “&lt;...&gt; a client shall receive the test reports [about operational data] without being asked. Building data and building book are to be updated by the contractor.”</p> <p>Furthermore, according to the Standard Contract for Highways, §40.1, “a contractor is obliged to continuously and completely record and control his operational and maintenance services and the availability of the contract route in accordance with the specifications of the tender documents and must document these data. This documentation must cover the entire contract period and must be updated to include any additions and changes to the contract route made during this period. All data relevant information for the calculation of the monthly salary must also be recorded without gaps. The result of the data collection and control of performance obligations process must be documented continuously in a reporting system (management information system).”</p> <p>According to the Standard Contract for Highways, §40.2, “the management information system is to be managed on the basis of a data processing program in which the recorded data are to be set digitally. The data mentioned in § 40.3 must be kept accessible to the client at all times (online access). It must be ensured that all the data necessary for the operational service and the determination of the monthly remuneration (including the keeping of logbooks and other logs) cannot be changed retrospectively, but can only be supplemented, at the time of the recording, and, if necessary, the required supplementation is shown. Other (especially manual) records are only sufficient for documenting the services of the operational service if the software used to record and process the services demonstrably did not work as a result of a software error. In the event of a software error, a contractor is obliged to notify the client immediately of such occurrence and must rectify such error within [●] hours and add changes to the management information system.”</p> <p>Further provisions of the Standard Contract for Highways, §40 apply to the issue of the management information system, protocol and reporting obligations as well as inspections.</p>
<b>The procuring or contract management authority must</b>	<p>Yes</p>

<p><b>periodically gather information on the performance of the PPP contract</b></p>	
<p><b>Relevant legal/regulatory provisions:</b></p>	<p>There is no obligation in the Standard Contract for Highways, but rather an option that a contracting authority can collect such data.</p> <p>For example, according to the Standard Contract for Highways, §40.5, “a client shall check the performance and availability report of a contractor [prepared and provided to a contracting authority by a private party]. A client has the right to raise justified objections to the performance and availability report prepared by a contractor if a client has information and evidence from its own controls or from other sources that conflict with the content of the performance and availability report submitted &lt;...&gt;”, among others.</p> <p>Furthermore, according to the Standard Contract for Highways, §40.7, “a client is entitled to carry out inspections at its own expense or to have them carried out at any time in order to determine whether a contractor is fulfilling his obligations under §36 and §38 and in accordance with the relevant chapters of the tender documents. If a client’s inspection reveals that a contractor has not properly complied with his obligations under §36 and §38 and the relevant chapters of the tender documents, a contractor must take the necessary measures immediately if a client requests a contractor to remedy the defect in writing. In this case, in deviation from the sentence 1, a contractor shall bear the costs of the inspection of a client.”</p>
<p><b>The PPP contract performance information must be available to the public (e.g. by request or in the official gazette/bulletin board)</b></p>	<p>No</p>
<p><b>Relevant legal/regulatory provisions:</b></p>	<p>n/a</p>
<p><b>The PPP contract performance information must be available online</b></p>	<p>No</p>
<p><b>If yes, please specify the website:</b></p>	<p>n/a</p>
<p><b>Relevant legal/regulatory</b></p>	<p>n/a</p>

ory provisions:	
38. Is there an economic/technical regulator to oversee the implementation of PPP contracts?	No
If yes, please provide it name and website:	n/a
and the relevant legal/regulatory provisions establishing its mandate:	n/a
38.1. If yes, does the economic regulator have (check all that apply): Political autonomy (for example, through independence of its Directors' appointments of the Line Ministry or other similar mechanisms).	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Managerial autonomy (freedom to determine the use of its	No



<b>budget and organization of resources)</b>	
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Tariff setting authority.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Dispute resolution authority.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>39. Are foreign companies restricted from repatriating the income resulting from the operation of a PPP project?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>40. Does the regulatory framework (including standard contractual clauses) expressly</b>	Yes

<p><b>regulate changes in the ownership structure (i.e. stakeholder composition) of the private partner and/or assignment of the PPP contract?</b></p>	
<p><b>If yes, please provide the relevant legal/regulatory/standard contractual provisions:</b></p>	<p>The Standard Contract for Highways, §59 deals with the issue of the shareholder structure of a private party.</p> <p>Thus, according to the Standard Contract for Highways, §59.1, “&lt;...&gt; a contractor shall immediately notify a client in writing of any intended change in the company form and / or the shareholder structure, whereby a contractor must enclose all documents necessary for the client to assess the intended change. Any change in the company form and / or the shareholder structure that leads to a change in the shares and / or voting rights requires an express written consent of a client. The consent may only be refused for an important reason, in particular, due to the lack of creditworthiness of the entering partner or the failure to provide declarations that correspond to those that were or are to be submitted by the original shareholders or members of the applicant community after the competition or the award documents. The above regulations apply accordingly to changes at the level of the holding company.”</p>
<p><b>40.1. If yes, which of the following circumstances are specifically regulated? (check all that apply): Any change in the private partner during an initial period (e.g. construction and first two years of commercial operation).</b></p>	<p>No</p>
<p><b>If yes, please provide the relevant legal/regulatory/standard</b></p>	<p>n/a</p>

<b>contractual provisions:</b>	
<b>Changes of ownership/c ontract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions:</b>	<p>According to the PPA, §132(1)(4), “material changes to a public contract during its term require a new procurement procedure. Changes are material if they result in the public contract differing substantially from the public contract originally awarded. A material change exists in particular where &lt;...&gt; (4) a new contractor replaces the contractor in cases other than those provided for in paragraph 2 no. 4.”</p> <p>Furthermore, according to the PPA, §132(2)(4)(b), “notwithstanding paragraph 1, it is permissible to modify a public contract without conducting a new procurement procedure where &lt;...&gt; (4) &lt;...&gt; (b) based on the fact that a different undertaking that meets the requirements originally set for eligibility replaces the original contractor, wholly or in part, following corporate restructuring through, for example, takeover, merger, acquisition or insolvency, provided that this does not entail further material modifications within the meaning of paragraph 1 &lt;...&gt;”, among others.</p>
<b>41. Does the regulatory framework (including standard contractual clauses) expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory/standard</b>	<p>According to the PPA, §154(3), “as for other matters, the following provisions shall apply for the award of concessions, including the concessions under § 153: &lt;...&gt; (3) § 131(2) and (3) and §132 provided that :</p> <p>(a) § 132(2) sentence 2 and 3 for the award of concessions relating to activities under § 102(2) through (6) shall not apply; and</p>

<b>contractual provisions:</b>	(b) the upper limit in § 132(3) no. 2 for works and services concessions uniformly amounts to 10% of the value of the original concession <...>“, among others. Furthermore, the PPA, §132 deals with the issue of modification of contracts during their term.
<b>41.1. If yes, is an approval from a government authority, other than the procuring authority, required?</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions:</b>	n/a
<b>41.2. 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.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions:</b>	According to the PPA, §132(1)(3), “material changes to a public contract during its term require a new procurement procedure. Changes are material if they result in the public contract differing substantially from the public contract originally awarded. A material change exists in particular where <...> (3) the modification significantly extends the scope of the public contract <...>“, among others.
<b>41.2.1. If yes, is there a threshold for which a new tendering process is required?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard</b>	According to the PPA, §132(3)(2), “it is also permissible to modify a public contract without conducting a new procurement procedure if the overall nature of the contract is not altered and the value of the modification: (1) does not exceed the respective thresholds under § 106 [EUR 5,548,000 for concessions]; and (2) does not amount to more than 10% of the original contract value in the case of <...> [works

<b>contractual provisions:</b>	<p>and services concessions].</p> <p>Where there are several successive modifications, the total value of the modifications is applicable.”</p> <p>Additionally, according to the PPA, §132(2), “&lt;...&gt; in the cases referred to in nos 2 [additional supplies, works or services become necessary, which were not provided for in the initial procurement documents and a change in the contractor a) cannot be made for economic or technical reasons and b) would cause significant inconvenience or substantial duplication of costs for the public contracting authority] and 3 [the need for modification has been brought about by circumstances that a diligent public contracting authority could not foresee, and the overall nature of the contract is not altered by the modification], the price may not be increased by more than 50% of the value of the original contract. Where there are several successive modifications of the contract, this limitation applies to the value of each individual modification, provided that the modifications were not made with the aim to circumvent the provisions of this Part.”</p>
<b>and please elaborate:</b>	<p>The threshold for the value of a change is the lower of the EUR 5,548,000 or 10% of the original value of a concession.</p>
<b>A change in the risk allocation of the contract.</b>	<p>No</p>
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions:</b>	<p>n/a</p>
<b>A change in the financial and/or economic balance of the contract.</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions:</b>	<p>According to the PPA, §132(1)(2), “material changes to a public contract during its term require a new procurement procedure. Changes are material if they result in the public contract differing substantially from the public contract originally awarded. A material change exists in particular where &lt;...&gt; (2) the modification shifts the economic balance of the public contract in favour of the contractor in a manner that was not provided for in the initial contract &lt;...&gt;”, among others.</p>
<b>A change in the duration of the contract.</b>	<p>No</p>
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions:</b>	<p>n/a</p>

<b>A change in the agreed price or tariff or annuity payments.</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions:</b>	n/a
<b>41.6. Can the procuring/contract management authority modify a PPP contract unilaterally?</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions:</b>	n/a
<b>42. Does the regulatory framework (including standard contractual clauses) expressly address the following circumstances that may occur during the life of the PPP contract? (check all that apply): Force Majeure.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard</b>	The Standard Contract for Highways, §27 deals with the issue of force majeure and a third-party violence.

<b>contractual provisions:</b>	
<b>Material Adverse Government Action</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions:</b>	n/a
<b>Change in the Law.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions:</b>	<p>According to the Standard Contract for Highways, §39.1, “a contractor shall inform a client in advance of any unforeseeable additional costs that are based solely on the fact that:</p> <p>(39.1.1) after the last update of a bid of the successful bidder, the new laws or rules and regulations to be applied in accordance with §1.2.1 for construction or in accordance with § 36.1.1 or § 38.1 for operation or maintenance, or rules or regulations, or if planning approval decisions are changed without the contractor’s prompting; and</p> <p>(39.1.2) this change was not known to a contractor until the last time a bid of the successful bidder was updated and also did not have to be known and no change was expected. A change or creation of a recognized rule of technology must be expected at the latest when a draft or a pre-standard of the relevant standard has been published for specialist groups.</p> <p>A contractor must immediately explain to the client in detail the resulting unpredictable, necessary and reasonable additional costs expected by a contractor. The associated savings or other advantages must be taken into account, presented in a written report and justified, insofar as this is possible at the time using the care of a conscientious and experienced specialist planner and contractor. If a change in the construction process is necessary, the contractor must, in particular, report a detailed calculation of the resulting and unpredictable additional costs and unavoidable postponements. The report must show separately additional costs for maintenance, operation and additional construction costs. If a general or final figure at the time of the report is not possible to calculate when applying the due diligence standard of this § 39.1, a contractor must provide a reasonable justification for this and make up the figure immediately.”</p> <p>Further provisions of the Standard Contract for Highways, §39 apply to a situation of changes in the technical and regulatory requirements that affect a contract.</p>
<b>Refinancing.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions:</b>	The Standard Contract for Highways, §43.6 deals with the issue of sharing by a contracting authority in refinancing profits [if any] of a private party.
<b>Subcontracting and replacement of the</b>	Yes

<b>subcontractors.</b>	
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions:</b>	<p>According to the Concessions Ordinance, §33(1), “in a concession notice or the tender documentation, a concession grantor may request companies to specify the parts of a concession that they intend to subcontract to third parties and, if reasonable, the intended subcontractors when submitting their bid. Before a contract is awarded, a concession grantor requires the bidders whose bids were shortlisted to name the subcontractors and to demonstrate that they have the necessary funds from these subcontractors at their disposal. If an applicant or bidder intends to subcontract part of a contract to a third party and at the same time invokes the capacity of that third party with regard to its performance, Section 25(3) shall also apply.”</p> <p>Further provisions of the Concessions Ordinance, §33 apply to the issue of sub-contracting.</p>
<b>43. Does the regulatory framework (including standard contractual clauses) allow for alternative dispute resolution mechanisms in case of disputes arising from the implementation of PPP contracts?</b>	<p>Yes</p>
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions:</b>	<p>The Standard Contract for Highways, §56 describes the reconciliation procedure. Additionally, the Code of Civil Procedure, Book 10 apply to the issue of arbitration.</p>
<b>43.1. If yes, is arbitration available as an option?: Domestic arbitration only</b>	<p>No</p>
<b>If yes, please specify and provide the relevant legal/regulatory/standard</b>	<p>n/a</p>



<b>contractual provisions:</b>	
<b>Domestic arbitration and international arbitration</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions:</b>	<p>Provisions of the Code of Civil Procedure, Book 10 apply to both domestic and foreign arbitration.</p> <p>Thus, according to the Code of Civil Procedure, Section 1025(1), "the rules of the present Book are to be applied where the venue of the arbitration proceedings in the sense as defined by section 1043 (1) is located in Germany."</p> <p>According to the Code of Civil Procedure, Section 1025(2), "the stipulations of sections 1032, 1033 and 1050 are to be applied also in those cases in which the venue of the arbitration proceedings is located abroad or has not yet been determined."</p>
<b>No</b>	No
<b>43.2. If applicable, are arbitration awards enforceable by local courts?</b>	Yes
<b>If yes, please elaborate and provide the relevant legal/regulatory/standard contractual provisions:</b>	<p>According to the Code of Civil Procedure, Section 1060(1), in respect of a domestic arbitration, "compulsory enforcement is an available remedy provided the arbitration award has been declared enforceable."</p> <p>According to the Code of Civil Procedure, Section 1061(1), in respect of a foreign arbitration, "the recognition and enforcement of foreign arbitration awards is governed by the Convention of 10 June 1958 on the recognition and enforcement of foreign arbitral awards (published in Federal Law Gazette (Bundesgesetzblatt, BGBl.) 1961 II page 121). The stipulations of other treaties concerning the recognition and enforcement of arbitration awards shall remain unaffected hereby."</p>
<b>43.3. Are other Alternative Dispute Resolution (ADR) options available (including mediation or dispute resolution boards)?</b>	Yes
<b>If yes, please elaborate and provide the relevant legal/regulatory/standard contractual provisions:</b>	The Standard Contract for Highways, §56 describes the reconciliation procedure.

<b>ory/standard contractual provisions:</b>	
<b>44. Does the regulatory framework (including standard contractual clauses) allow for the lenders to take control of the PPP project (lender step-in rights) if either the private partner defaults or if the PPP contract is under threat of termination for failure to meet service obligations?</b>	<p style="text-align: center;">Yes</p>
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions:</b>	<p>According to the The Standard Contract for Highways, §58, “as far as the inclusion of an outside capital is planned according to the bid of a successful bidder, the following provisions apply: a contractor must ensure that he and the joint representative shall conclude a direct contract attached in the Annex 4 at the same time as this contract is concluded. A client undertakes to do what is necessary to conclude a direct contract at the moment of a financial close.”</p>
<b>44.1. 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.</b>	<p style="text-align: center;">No</p>

<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions:</b>	n/a
<b>The regulatory framework prescribes that a direct agreement should be signed with the lenders.</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions:</b>	<p>According to the The Standard Contract for Highways, §58, “as far as the inclusion of an outside capital is planned according to the bid of a successful bidder, the following provisions apply: a contractor must ensure that he and the joint representative shall conclude a direct contract attached in the Annex 4 at the same time as this contract is concluded. A client undertakes to do what is necessary to conclude a direct contract at the moment of a financial close.”</p>
<b>The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions:</b>	n/a
<b>Other</b>	No
<b>Please specify:</b>	n/a
<b>45. Does the regulatory framework (including standard contractual</b>	Yes

<p>clauses) expressly address the grounds for termination of a PPP contract?</p>	
<p>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions:</p>	<p>According to the Standard Contract for Highways, §50, “this project contract can only be terminated according to the termination rights expressly regulated herein. In particular, all other statutory termination rights are excluded insofar as this is legally permissible.” Furthermore, the termination rights are regulated in the following sections of the Standard Contract for Highways:</p> <ul style="list-style-type: none"> <li>- §51: termination by a contracting authority;</li> <li>- §52: termination by a private party;</li> <li>- §53: general regulations for the termination of a contract and other relevant sections as applicable.</li> </ul>
<p>45.2. If yes, does the regulatory framework (including standard contractual clauses) also address the consequences for the termination of the PPP contract?</p>	<p>Yes</p>
<p>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions:</p>	<p>The Standard Contract for Highways, §54 deals with the issue of the legal consequences of a contract termination.</p>
<p><b>Unsolicited Proposals</b></p>	
<p>47. Are unsolicited proposals in Germany: (choose only one): Explicitly prohibited by the legal framework? (If prohibited,</p>	<p>No</p>

<b>skip to section G)</b>	
<b>Explicitly allowed by the legal framework?</b>	No
<b>Not regulated by the legal framework, but do happen in practice?</b>	No
<b>Not regulated by the legal framework, and do not happen in practice? (if not done in practice, skip to section G)</b>	Yes
<b>If the legal framework explicitly prohibits or allows unsolicited proposals, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>48. Does the procuring authority conduct an assessment to evaluate unsolicited proposals? (if not, skip to question 50)</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory provisions:</b>	n/a

<b>48.2. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>49. Which of the following options best describes how the procuring authority ensures that unsolicited proposals are consistent with existing government priorities? (Please select only one): The procuring authority follows a specific procedure to ensure the consistency of PPPs with other government investment priorities.</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory provisions:</b>	n/a

<p><b>The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.</b></p>	<p>No</p>
<p><b>If yes, please provide the relevant legal/regulatory provisions:</b></p>	<p>n/a</p>
<p><b>The procuring authority does not evaluate unsolicited proposals against existing government priorities.</b></p>	<p>No</p>
<p><b>Please elaborate and provide examples:</b></p>	<p>n/a</p>
<p><b>50. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?</b></p>	<p>No</p>
<p><b>If yes, please provide the relevant</b></p>	<p>n/a</p>

<b>legal/regulatory provisions:</b>	
<b>51. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?</b>	<p>No</p>
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>n/a</p>
<b>and the time in calendar days:</b>	<p>n/a</p>
<b>52. Does the procuring authority use any of the following incentive mechanisms to reward/compensate the submission of unsolicited proposals? (check all that apply): Access to the best and final offer (BAFO) process and/or automatic shortlisting.</b>	<p>No</p>
<b>Developer's fee (reimbursing</b>	<p>No</p>



<b>the original proponent for the project development cost).</b>	
<b>Bid Bonus.</b>	No
<b>Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).</b>	No
<b>Other</b>	No
<b>Please specify:</b>	n/a
<b>Please provide the relevant legal/regulatory provisions:</b>	n/a