**Public-Private Partnerships in Infrastructure** **[country\_name]**

Dear Contributor,

On behalf of the World Bank Group, we would like to invite you to participate in the *Public-Private Partnerships* indicator of the *Benchmarking Infrastructure Development* initiative in [**country\_name]**. This indicator is part of the *Benchmarking Infrastructure Development* Global Initiative that aims to leverage positive policy changes to promote transparency and efficiency in the preparation, procurement and management of large infrastructure projects (for information on past editions, please visit bpp.worldbank.org).

This survey assesses the quality of the legal and regulatory framework during the PPP project cycle. It is structured in six sections (A-F). It starts with a brief section on your experience with PPPs (A), which is followed by an overview of the legal and institutional framework for PPPs (B) in [**country\_name**], and an evaluation of key features in PPP preparation (C), procurement (D), and contract management (E). The last section (F) assesses the treatment of unsolicited proposals.

This questionnaire has two type of questions, regulatory-based questions (**in black font**) and practice-based questions (**in blue font**). **Regulatory-based questions must always be accompanied by the corresponding regulatory basis. Practice-based questions must always be answered, based on your experience, independently of regulatory-based answers**.

While responding to the survey, please note that if your answers differ by sector, type or size of the contract, or other variables, you should refer to the case study assumptions below.

**Case study assumptions**

* The **Private Partner (the Project Company) is a Special Purpose Vehicle (SPV)[[1]](#footnote-2) established by a consortium of privately owned firms, which operate in [country\_name].**
* The procuring authority is [nat\_authority] in [country\_name] that is planning to procure the design, build, finance (full or partial), operation and maintenance of a national/federal infrastructure project in the transportation sector (i.e. national highway) with an estimated investment value of **USD 150 million (or the equivalent in your local currency)** funded with availability payments and/or user fees.
* To this end, the procuring authority initiates a public call for tenders/ invitation for bids/ request for proposal/ request for qualification, following a **competitive PPP procurement procedure.**

Please note that your responses will be held in strict confidentiality and will not be attributed directly to you or your organization. If you wish your contribution to be acknowledged in the final report (unless explicitly otherwise specified by you), please provide your contact information at the end of the survey.

Please complete and return the survey **no later than fifteen days from the date of receipt**. Should you have any question or need assistance with the survey, please do not hesitate to contact us.

 **Definitions**

* **“Public-Private Partnership (PPP)”** refers to any contractual arrangement between a public entity or authority and a private entity, for providing a public asset or service[[2]](#footnote-3), in which the private party bears significant risk and management responsibility. For the purpose of this survey, this definition applies irrespective of the terminology used in the particular country or jurisdiction and applies both to government-pays or user-pays PPP.
* **The “regulatory framework”** encompasses all laws, regulations, policies, binding guidelines or instructions, standard PPP contracts, other legal texts of general application, judicial decisions and administrative rulings governing or setting precedent in connection with PPPs. In this context, the term “policies” refers to other government-issued documents that are binding to all stakeholders, enforced in similar ways to laws and regulations, and provide detailed instructions for the implementation of PPPs. It should not be confused with Policy in the sense of a government’s statement of intent to use PPPs as a course of action to deliver public services. The “regulatory framework” includes but is not limited to those laws, regulations, policies, etc. dealing with PPPs (i.e. procurement of PPPs may be governed by the general procurement framework; planning and budgeting issues may be regulated instead by broader public finance related laws and regulations).
* The **“Procuring Authority”** is the Ministry, Department or Agency responsible for ensuring that the relevant assets and/or services are provided by the private partner after successful completion of procurement/ bidding process. It is the authority in charge of the PPP (i.e. identifying, preparing, procuring, awarding and managing the PPP contract).
* **Procurement terminology**: Considering that procurement-related terminology varies across jurisdictions, depending on the type of procurement procedure and the stage of the process, the terms used in the survey should be interpreted by contributors to best fit the local naming conventions. In particular, the following non-exhaustive list of terms can be broadly understood as interchangeable in the context of the survey:
	+ Bidding/tendering process/selection process/procurement
	+ Bid/tender/proposal
	+ Call for tenders/tender notice/invitation for bids/request for qualifications (RFQ)/request for proposals (RFP) - in cases when there is not an RFQ.
	+ Tender documents/bidding documents/specifications/request for proposals (RFP)

We would like to thank you again for your invaluable contribution to the work of the World Bank Group.

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1. **Experience with PPPs**

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| * + 1. **Do you have experience working on infrastructure (transportation, energy and/or water) PPP contracts?**
 |
| [ ] Yes[ ] No* + - 1. **If yes**, in how many infrastructure (transportation, energy and/or water) PPP contracts have you (or your firm/agency) been involved in within the last two (2) years in [country\_name]? Please provide an approximate number:
 |

1. **Regulatory and Institutional Framework for PPPs**

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| * + 1. **Does the regulatory framework in your country allow procuring PPPs?**
 |
| [ ] Yes. **If yes**, please specify the relevant regulatory framework and the year of adoption:       and provide a link to a government–supported website where the mentioned regulatory framework is available or provide an electronic copy of it:      [ ] No* + - 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?**[ ]** Yes.Please describe**:**      **[ ]** NoAre ongoing and/or are planned to be adopted AFTER June 1, 2019?**[ ]** Yes.Please describe**:** **[ ]** No* + - 1. For which of the following sectors is the above-mentioned regulatory framework applicable?

**[ ]**  Transportation. **If yes**, please provide the relevant legal/regulatory provisions**:**      **[ ]**  Water Supply, Sewerage, Solid Waste Management and irrigation. **If yes**, please provide the relevant legal/regulatory provisions**:**      **[ ]** Energy generation/transmission and distribution. **If yes**, please provide the relevant legal/regulatory provisions**:**      **[ ]**  ICT. **If yes**, please provide the relevant legal/regulatory provisions**:**      **[ ]**  Social infrastructure, including hospitals, education, prisons, housing, etc. **If yes**, please provide the relevant legal/regulatory provisions**:**      **[ ]** Other. **If yes**, specify and provide the relevant legal/regulatory provisions**:**       |

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| * + 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?**
 |
| * + - 1. [ ]  Transportation. **If yes**, please provide the relevant legal/regulatory provisions:
			2. [ ]  Water Supply, Sewerage, Solid Waste Management and irrigation. **If yes**, please provide the relevant legal/regulatory provisions:
			3. [ ]  Energy generation, transmission and distribution. **If yes**, please provide the relevant legal/regulatory provisions:
			4. [ ]  ICT. **If yes**, please provide the relevant legal/regulatory provisions:
			5. **[ ]** Social infrastructure, including hospitals, education, prisons, housing, etc. **If yes**, please provide the relevant legal/regulatory provisions**:**
			6. [ ]  Other. **If yes**, specify and provide the relevant legal/regulatory provisions:
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| * + 1. **Please identify the PPP procuring authorities in** **[country\_name] and provide their website(s) (if available):**
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| * + 1. **Is there a specialized government entity(ies) that facilitates the PPP program (PPP Unit)?**
 |
| [ ] Yes. **If yes**, please indicate its name(s), and its website(s) (if available):      , the year of establishment       and the relevant legal/regulatory basis      . [ ] No**If yes**, what are the main responsibilities of the agency(ies) (check all that apply):[ ]  PPP regulation and policy guidance.[ ]  PPP capacity building for other public authorities. [ ]  PPP promotion among the public and/or private sectors in national and international forums.[ ]  Technical support in implementing PPP projects.[ ]  Identification and selection of PPP projects from the pipeline. [ ]  Revision of fiscal risks borne by the Government.[ ]  Consultation with affected communities on potential impact of PPP projects.[ ]  Approval of PPP projects.[ ]  Undertaking the procurement of PPPs.[ ]  Oversight of PPP implementation.[ ]  Post-project appraisal and audit[ ]  Other, please specify:      Please provide the relevant legal/regulatory provisions:      * + - 1. Based on your experience, **in practice**, how often is this agency(ies) properly equipped to conduct its responsibilities mentioned above?

 [ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate**:      * + - 1. Based on your experience, **in practice**, how often does this agency(ies) perform its duties effectively?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate**:      * + - 1. Additionally, is there a central project development fund (support mechanism) for project preparation?

[ ] Yes. **If yes**, please indicate its name, and its website (if available):      , the year of establishment       and the relevant legal/regulatory basis      . [ ] No* + - 1. Based on your experience, **in practice**, how often does this project development facilities have enough resources to support adequately project preparation?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate**:       |

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| * + 1. **Please provide any additional information or comments on the answers to the question(s) above and indicate which one(s) you are referring to:**
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1. **Preparation of PPPs**

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| * + 1. **Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?**
 |
| [ ] Yes. **If yes,** please provide the relevant legal/regulatory provisions:      [ ] No* + - 1. Based on your experience, **in practice**, how often is the procurement process for a PPP project launched without the approval from the Ministry of Finance or Central Budgetary Authority?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate**:      * + - 1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before signing the PPP contract?

[ ] Yes. **If yes,** please provide the relevant legal/regulatory provisions:      [ ] No* + - 1. Based on your experience, **in practice**, how often is the PPP contract signed without the previous approval from the **Ministry of Finance or Central Budgetary Authority**?

 [ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate**:      * + - 1. 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). **If yes,** please provide the relevant legal/regulatory provisions:      [ ]  Reporting liabilities (explicit and implicit, direct and contingent) arising from PPPs (e.g., disclosing information about the public sector commitments on the PPP project). **If yes,** please provide the relevant legal/regulatory provisions:      [ ]  Accounting liabilities (explicit and implicit, direct and contingent) arising from PPPs (e.g., the public sector commitments to the PPP project are recorded in the national accounts). **If yes,** please provide the relevant legal/regulatory provisions:      * + - 1. **If yes,** please indicate which of the following alternatives best describes the regulation:

[ ] International Public Sector Accounting Standards (IPSAS). **If yes**, please provide the relevant legal/regulatory provisions:      [ ] Other international standard (e.g. European System of Accounts). Please provide the relevant legal/regulatory provisions:      [ ] Other. Please specify and provide the relevant legal/regulatory provisions:      * + - 1. Based on your experience, **in practice**, do the systems in place ensure that the Ministry of Finance or Central Budgetary Authority fully recognize the public-sector commitments arising from PPPs over the life of the projects?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate**:      * + - 1. Does the Ministry of Finance (or government more broadly) disclose PPP liabilities (explicit and implicit, direct and contingent) on an online platform/database?

[ ] Yes. **If yes,** please provide the relevant legal/regulatory provisions:       and specify the website:      .[ ] No* + - 1. Based on your experience, **in practice**, how often are PPP related liabilities disclosed on a regularly updated website?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate**:       |

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| * + 1. **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.)?**
 |
| [ ] Yes. **If yes,** please specify the relevant authority:      and provide the relevant legal/regulatory provisions:      [ ] No* + - 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?

[ ] Yes. **If yes,** please provide the relevant legal/regulatory provisions:      [ ] No |

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| * + 1. **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, 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. **If yes**, please specify and provide the relevant legal/regulatory provisions:      [ ]  The regulatory framework prescribes the need for PPPs to be consistent with all other investment priorities without establishing a specific procedure to achieve that goal. **If yes**, please provide the relevant legal/regulatory provisions:      [ ]  The regulatory framework does not include any provisions, but the procuring authority evaluates the consistency of PPPs with other government investment priorities in practice. **If yes,** please elaborate:      [ ]  The procuring authority does not evaluate PPPs against existing government priorities. Please elaborate and provide examples:      * + - 1. Based on your experience, **in practice**, how often are PPPs part of the broader government public priorities/public investment system?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate**:       |

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| * + 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)**:**
 |
| **Assessment** | **Relevant legal/regulatory provision** | **Is there a specific methodology?** | **If yes, please elaborate[[3]](#footnote-4)** | **In practice, how often is this assessment done?**  |
| * + - 1. **Socio-economic analysis** (cost-benefit analysis of the socio-economic impact of the PPP project)
 | [ ]  |       | [ ]  Yes[ ]  No  |       | [ ] Always[ ] Often[ ] Occasionally[ ] Rarely[ ] Never**Details:**       |
| * + - 1. **Fiscal Affordability assessment**, including the identification of the required long-term public commitments (explicit and implicit, direct and contingent liabilities)
 | [ ]  |       | [ ]  Yes[ ]  No  |       | [ ] Always[ ] Often[ ] Occasionally[ ] Rarely[ ] Never**Details:**       |
| * + - 1. **Risk identification**, allocation and assessment (risk matrix)
 | [ ]  |       | [ ]  Yes[ ]  No  |       | [ ] Always[ ] Often[ ] Occasionally[ ] Rarely[ ] Never**Details:**       |
| * + - 1. **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)
 | [ ]  |       | [ ]  Yes[ ]  No  |       | [ ] Always[ ] Often[ ] Occasionally[ ] Rarely[ ] Never**Details:**       |
| * + - 1. **Financial viability** or bankability assessment
 | [ ]  |       | [ ]  Yes[ ]  No  |       | [ ] Always[ ] Often[ ] Occasionally[ ] Rarely[ ] Never**Details:**       |
| * + - 1. **Procurement Strategy** (i.e., quick assessment to plan and better strategize the tendering process in advance so it is fit for purpose)
 | [ ]  |       | [ ]  Yes[ ]  No  |       | [ ] Always[ ] Often[ ] Occasionally[ ] Rarely[ ] Never**Details:**       |
| * + - 1. **Market sounding/ assessment[[4]](#footnote-5)**
1. Including the potential interest from contractors and capacity in the market for the contract
 | [ ]  |       | [ ]  Yes[ ]  No  |       | [ ] Always[ ] Often[ ] Occasionally[ ] Rarely[ ] NeverDetails:       |
| 1. specifically designed to identify the solutions and technology available as well as the opportunities for innovation
 | [ ]  |       | [ ]  Yes[ ]  No  |       | [ ] Always[ ] Often[ ] Occasionally[ ] Rarely[ ] NeverDetails:       |
| * + - 1. **Environmental impact assessment**
 | [ ]  |       | [ ]  Yes[ ]  No  |       | [ ] Always[ ] Often[ ] Occasionally[ ] Rarely[ ] Never**Details:**       |
| **10.8.1** Consultation process with affected communities explicitly included in the environmental impact assessment | [ ]  |       | [ ]  Yes[ ]  No |       | [ ] Always[ ] Often[ ] Occasionally[ ] Rarely[ ] Never**Details:**       |
| * + - 1. **Social impact assessment**
 | [ ]  |       | [ ]  Yes[ ]  No  |       | [ ] Always[ ] Often[ ] Occasionally[ ] Rarely[ ] Never**Details:**       |
| **10.9.1** Consultation process with affected communities explicitly included in the social impact assessment  | [ ]  |       | [ ]  Yes[ ]  No |       | [ ] Always[ ] Often[ ] Occasionally[ ] Rarely[ ] Never**Details:**       |

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| * + 1. **Does the procuring authority include the assessments in the request for proposals and/or tender documents?**
 |
| [ ] Yes. **If yes**, please provide the relevant legal/regulatory provisions:       and specify which of the assessments are included in the request for proposals and/or tender documents: [ ]  Socio-economic analysis; [ ]  Fiscal Affordability assessment; [ ] Risk identification and allocation; [ ]  Comparative assessment; [ ]  Financial viability; [ ]  Market sounding for private sector interest; [ ]  Market sounding for technological solutions;[ ]  Environmental impact assessment; [ ]  Social impact assessment; [ ]  Any other, please specify      [ ]  No* + - 1. Based on your experience, **in practice**,how often are assessments included in the requests for proposals/tender documents?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate:**      * + - 1. Are the assessments published online?

[ ]  Yes**. If yes**, please provide the relevant legal/regulatory provisions:      , specify the website       and, please specify which of the assessments are published online: [ ]  Socio-economic analysis; [ ]  Fiscal Affordability assessment; [ ] Risk identification and allocation; [ ]  Comparative assessment; [ ]  Financial viability; [ ]  Market sounding for private sector interest; [ ]  Market sounding for technological solutions; [ ]  Environmental impact assessment; [ ]  Social impact assessment[ ]  No* + - 1. Based on your experience, **in practice**, how often are these assessments published on a regularly updated website?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate**:       |

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| * + 1. **Are tender/bidding documents made available online?**
 |
| [ ] Yes. **If yes**, please provide the relevant legal/regulatory provisions:       **If yes**, please provide the website:      [ ] No* + - 1. Based on your experience, **in practice**, how often are tender documents published on a functioning website of open access?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate**:      * + - 1. Based on your experience, **in practice**, how often are tender/bidding documents published on a regularly updated website?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate:**      * + - 1. Do the tender documents include a draft PPP contract?

[ ] Yes. **If yes**, please provide the relevant legal/regulatory provisions:      [ ] No.* + - 1. Based on your experience, in practice, how often do the tender documents include a draft PPP contract?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate:**       |

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| * + 1. **Have standardized PPP model contracts and/or transaction documents been developed?**
 |
| [ ] Yes. **If yes**, please specify and provide a government- supported website where the mentioned standards are available or provide an electronic copy of them:       and provide the relevant legal/regulatory provisions:      [ ] No * + - 1. Based on your experience, **in practice**, how often are standardized PPP model contracts and/or transactions document used?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate:**       |

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| * + 1. **Does the procuring authority/responsible government entity have a role in either providing or facilitating any of the following requirements?**
 |
| * + - 1. Obtaining the required *environmental permits*.

[ ] Yes. **If yes**, please specify the role of the procuring authority      and provide the relevant legal/regulatory provisions:      [ ] No * + - 1. Based on your experience, **in practice**, how many days does it take to obtain such permits once the PPP contract is signed? (*Please select one only*):

[ ] Permits obtained before the contract signing [ ] Between 0 and 30 [ ] Between 31 and 180[ ] More than 181 **Please elaborate**:      * + - 1. Based on your experience, **in practice**, how often do delays occur in obtaining such permits? (please select one only):

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate**:      * + - 1. Obtaining the possession of required *land*.

[ ] Yes. **If yes**, please specify the role of the procuring authority       and provide the relevant legal/regulatory provisions:      [ ] No * + - 1. Based on your experience, **in practice**, how many days does it take to obtain the possession of all required land (100%) once the PPP contract is signed? (Please select one only):

[ ] All required land obtained before the contract signing [ ] Between 0 and 30 [ ] Between 31 and 180 [ ]  More than 181 **Please elaborate**:      * + - 1. Based on your experience, **in practice**, how often do delays occur in obtaining the possession of all the required land? (please select one only):

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate**:      * + - 1. Obtaining the required *right of way*.

[ ] Yes. **If yes**, please specify the role of the procuring authority       and provide the relevant legal/regulatory provisions:      [ ] No * + - 1. Based on your experience, **in practice**, how many days does it take to obtain such a right once the PPP contract is signed? (*Please select one only*):

[ ] Right of way obtained before the contract signing [ ] Between 0 and 30 [ ] Between 31 and 180[ ]  More than 181 **Please elaborate**:      * + - 1. Based on your experience, **in practice**, how often do delays occur in obtaining such a right? (*please select one only*):

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate**:       |

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| * + 1. **Please provide any additional information or comments on the answers to the question(s) above and indicate which one(s) you are referring to:**
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1. **Procurement/Tendering of PPPs**

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| * + 1. **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 required to meet detailed qualifications. **If yes,** please specify and provide the relevant legal/regulatory provisions:      [ ]  The bid evaluation committee members require sufficient qualification without specific details. **If yes**, please provide the relevant legal/regulatory provisions:      [ ]  The bid evaluation committee members are not required to have any specific qualifications. Please elaborate and provide examples:      * + - 1. Based on your experience, **in practice**, how often do bid evaluation committee members have competence in performing their duties? (*please select one only*):

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate**:       |

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| * + 1. **Does the procuring authority issue an invitation for bids/ tender notice for the PPP project?**
 |
| [ ] Yes. **If yes**, please specify the means of publication and provide the relevant legal/regulatory provisions:      [ ] No* + - 1. **If yes,** is the public procurement notice published online?

**[ ]** Yes. **If yes,** please specify the website**:**      **[ ]** No* + - 1. Based on your experience, **in practice**, how often is this notice published on a website of free and open access?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate:**      * + - 1. Based on your experience, **in practice**, how often is this notice published on a regularly updated website?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate:**       |

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| * + 1. **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 procedure that precludes the participation of foreign firms). **If yes**, please provide the relevant legal/regulatory provisions:       [ ]  Requirement to have an office or a branch in the country before being allowed to bid in the public tender. **If yes**, please provide the relevant legal/regulatory provisions:      [ ]  Requirement to form a joint venture with domestic firm(s) to be allowed to bid in the public tender. **If yes**, please provide the relevant legal/regulatory provisions:      [ ]  Requirement to have prior experience in the country to bid in the public tender. **If yes**, please specify       and provide the relevant legal/regulatory provisions:      [ ]  Threshold for public tenders to be open for foreign participation/to be considered international tenders. **If yes**, please specify       and provide the relevant legal/regulatory provisions:      * + - 1. Based on your experience, **in practice**, how often do regulatory requirements unduly restrict the participation of foreign companies in bidding/ tendering/ pre-qualification/ procurement/ selection process? (*please select one only*):

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate**:      * + - 1. Based on your experience, **in practice**, how often do foreign companies participate in bidding/tendering processes? (*please select one only*):

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate**:      * + - 1. **If never**, what are the key reasons for their non-participation, please list:
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| * + 1. **Does the procuring authority grant the potential bidders a minimum period of time to submit their bids?**
 |
| [ ] Yes. **If yes**, please provide the relevant legal/regulatory provisions:       and the time in calendar days:      [ ] No* + - 1. Based on your experience, **in practice**, how many days of minimum period does the procuring authority actually grant bidders to submit their bids? (*Please select one only*):

[ ] Between 0 and 30 [ ] Between 31 and 90 [ ] Between 91 and 180 [ ]  More than 181**Please elaborate**:       |

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| * + 1. **What are the procurement procedures available and/or set as default for PPP contracts?** (check only one option for each aspect­)
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| **Procedure** | **Available**  | **Default**  | **Relevant legal/regulatory provision** |
| * + - 1. Open competitive tendering/bidding
 | [ ]  | [ ]  |       |
| * + - 1. Competitive tendering/bidding with pre-qualification stage (Restricted tendering)
 | [ ]  | [ ]  |       |
| * + - 1. Multi-stage tendering/bidding (with shortlisting of final candidate(s))
 | [ ]  | [ ]  |       |
| * + - 1. Competitive dialogue
 | [ ]  | [ ]  |       |
| * + - 1. Best and Final Offer (BAFO)
 | [ ]  | [ ]  |       |
| * + - 1. Direct negotiation
 | [ ]  | [ ]  |       |
| * + - 1. Other. Please, specify
 | [ ]  | [ ]  |       |

* + - 1. **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)?

[ ] Yes. **If yes**, please provide the relevant legal/regulatory provisions:      [ ] No.* + - 1. Based on your experience, **in practice**, how often are PPP projects procured as a result of direct negotiations?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate:**      * + - 1. Based on your experience, in practice, how often does the procuring authority use procurement procedures (e. g., multi stage tendering, competitive dialogue, BAFO) specifically designed to incentivize innovation?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate**:       * + - 1. Based on your experience, **in practice**, how often does the procurement procedure of a PPP project ensure that all potentially qualified bidders can participate?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate:**       |

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| --- |
| * + 1. **Do the tender documents detail the procedure of the procurement process, providing the same information to all the bidders?**
 |
| [ ] Yes. **If yes**, please provide the relevant legal/regulatory provisions:      [ ] No. * + - 1. Based on your experience, **in practice**, how often does the procuring authority provide the bidders with sufficient information to equally understand the procurement process?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate:**       |

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| * + 1. **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?**
 |
| [ ] Yes. **If yes**, please provide the relevant legal/regulatory provisions:      [ ] No* + - 1. Based on your experience, **in practice**, how often do invitations for bids/tender notices clearly include the qualification requirements (or prequalification requirements when applicable), making them equally accessible to all bidders?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate:** * + - 1. Are there any parameters/limits to the qualification requirements to ensure that they do not unduly restrict competition of qualified bidders?

[ ] Yes. **If yes**, please provide the relevant legal/regulatory provisions:      [ ] No.* + - 1. Based on your experience, **in practice**, how often do the do the qualification requirements (or prequalification requirements when applicable) unduly restrict the participation of qualified bidders in a PPP procurement process?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate:**  |

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| --- |
| * + 1. **Can potential bidders/tenderers submit questions to clarify the public procurement notice and/or the bidding/tender documents?**
 |
| [ ] Yes. **If yes**, please provide the relevant legal/regulatory provisions:      [ ] No* + - 1. Based on your experience, in practice, how often does the procuring authority answer questions and clarifications form the bidders?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate**:      * + - 1. **If yes,** can the bidders also suggest innovations to improve the tender documents or procurement approach, including for example the provision of value engineering and/or technologically neutral options?

[ ] Yes. **If yes,** please provide the relevant legal/regulatory provisions:       and elaborate on the kind of innovations that are allowed:      [ ] No.* + - 1. Based on your experience**, in practice**, how often is the procuring authority open to suggestions of innovations (e.g., provision of value engineering and/or technologically neutral options) to improve the tender documents/procurement approach?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never Please **elaborate**:      * + - 1. **If yes,** is there a timeframe for the procuring authority to address questions and clarifications by bidders?

[ ] Yes. Please indicate the timeframe:       and provide the relevant legal/regulatory provisions:      [ ] No* + - 1. Based on your experience, **in practice**, how often does the procuring authority abide by such a timeframe?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate**:      * + - 1. **If yes**, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose those questions and clarifications to all potential bidders?

[ ] Yes. **If yes**, please provide the relevant legal/regulatory provisions:      [ ] No* + - 1. Based on your experience, **in practice**, how often is the disclosure of information about questions and/or clarifications done?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate**:      * + - 1. **If yes,** does the procuring authority extend the proposal submission deadline due to the modifications introduced in the bidding/tender documents?

[ ] Yes. **If yes,** please provide the relevant legal/regulatory provisions:      [ ] No. * + - 1. Based on your experience, **in practice**, how often is an extension of the deadline granted when required due to the modifications introduced in the bidding/tender documents?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate**:       |

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| * + 1. **Besides questions and clarifications, can the procuring authority conduct a pre-bid conference?**
 |
| [ ] Yes. **If yes**, please specify and provide the relevant legal/regulatory provisions:      [ ] No* + - 1. Based on your experience, in practice, how often does the procuring authority conduct a pre-bid conference?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate**:      * + - 1. **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?

[ ] Yes. **If yes**, please provide the relevant legal/regulatory provisions:      [ ] No* + - 1. Based on your experience, **in practice**, how often is the disclosure of information about the pre-bid conference actually done?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate**:       |

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| * + 1. **Does the procuring authority require the bidders to prepare and submit a financial model with their proposals[[5]](#footnote-6)/ bids?**
 |
| [ ] Yes. **If yes**, please provide the relevant legal/regulatory provisions:      [ ] No. **If no**, please elaborate:      * + - 1. **Based** on your experience, **in practice**, how often are the financial models provided by the bidders are sound and robust?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate**:       |

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| --- |
| * + 1. **Does the procuring authority evaluate the bids/tenders strictly and solely in accordance with the evaluation criteria stated in the bidding/tender documents?**
 |
| [ ] Yes. **If yes**, please provide the relevant legal/regulatory provisions:      [ ] No * + - 1. Based on your experience, **in practice**, how often is the specified criteria respected?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate**:      * + - 1. Can criteria other than price (non-price attributes) be used when evaluating the tenders/bids of a PPP contract?

[ ] Yes. **If yes**, please provide the relevant legal/regulatory provisions:      [ ] No * + - 1. Based on your experience, **in practice**, how often are criteria other than price (non-price attributes) used for PPP contracts?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate**:      * + - 1. **If criteria other than price are used**, does it have to be justified, objective and quantifiable?

[ ] Yes. **If yes**, please provide the relevant legal/regulatory provisions:      [ ] No * + - 1. Based on your experience, **in practice**, how often are criteria other than price justified, objective and quantifiable?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate**:      * + - 1. **When price is used as one of the evaluation criteria**, does the procuring authority provide a cost estimate?

[ ] Yes. **If yes**, please provide the relevant legal/regulatory provisions:      [ ] No * + - 1. Based on your experience**, in practice**, how often is a cost estimate provided when price is used as the evaluation criteria?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate**:       |

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| * + 1. **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. Please specify and provide the relevant legal/regulatory provisions:      [ ]  The procuring authority considers sole proposal valid as long as it meets the conditions outlined in the tender documents. Please provide the relevant legal/regulatory provisions:      [ ]  The procuring authority does not award a PPP contract if only one proposal is submitted. Please provide the relevant legal/regulatory provisions:      [ ]  The regulatory framework does not include any provisions.* + - 1. Based on your experience**, in practice**, when only one proposal is received, how often are the procurement procedures followed to ensure it offers the best value for money?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate**:       |

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| --- |
| * + 1. **Does the procuring authority publish the contract award notice?**
 |
| [ ] Yes. **If yes**, please specify the means of publication and provide the relevant legal/regulatory provisions:      [ ] No* + - 1. **If yes,** is the contract award notice published online?

**[ ]** Yes. **If yes,** please specify the website**:**      **[ ]** No* + - 1. Based on your experience, **in practice**, how often is the contract award notice published on a website of free and open access?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate:**      * + - 1. Based on your experience, **in practice**, how often is the award notice published on a regularly updated website?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate:**       |

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| --- |
| * + 1. **Does the procuring authority notify all the bidders individually about the result of the PPP tendering/bidding process?**
 |
| [ ] Yes. **If yes**, please provide the relevant legal/regulatory provisions:      [ ] No. **If no**, please elaborate:      * + - 1. Based on your experience**, in practice**, how often does the procuring authority notify all bidders /tenderers individually with the results of the bidding/tender process?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate:**      * + - 1. **If yes**, does the notification of the result of the PPP procurement process include the grounds for the selection of the winning bid/tender?

**[ ]** Yes. **If yes**, please provide the relevant legal/regulatory provisions:       **[ ]** No* + - 1. Based on your experience**, in practice**, how often does the procuring authority provide all bidders/tenderers with the grounds for awarding the winning bid?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate:**      * + - 1. **If yes,** does the procuring authority provide bidders/tenderers with the option of holding a debriefing meeting to discuss why their bid/tender was not selected?

**[ ]** Yes. **If yes**, please provide the relevant legal/regulatory provision:      **[ ]** No.* + - 1. Based on your experience**, in practice**, how often does the procuring authority hold a debriefing meeting requested by the bidder/tenderer to discuss why his/her bid/tender was not selected?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate:**       |

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| --- |
| * + 1. **Is there a standstill (or pause) period after the contract award and before the signing of the contract in order to allow aggrieved unsuccessful bidders to challenge the award decision?**
 |
| [ ] Yes. **If yes**, please provide the relevant legal/regulatory provisions:       and the time in calendar days:      [ ] No* + - 1. Based on your experience, in practice, how often does the procuring authority provide a standstill period?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate:**       * + - 1. **If yes**, is the standstill period set out in the notice of intention to award?

[ ] Yes. **If yes**, please provide the relevant legal/regulatory provisions:      [ ] No.* + - 1. Based on your experience, in practice, how often does the established regime provide aggrieved unsuccessful bidders with a fair opportunity to challenge the award decision?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate:**       |

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| --- |
| * + 1. **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?**
 |
| [ ] Yes. **If yes**, please provide the relevant legal/regulatory provisions:      [ ] No* + - 1. Based on your experience, **in practice**, how often is this restriction respected in practice?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate:**      * + - 1. Based on your experience, **in practice**, how often are post-award material negotiations (price or scope) used in practice?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate:**       |

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| --- |
| * + 1. **Does the regulatory framework allow for complaint review mechanisms pertaining to the PPP *bidding/tendering process*?**
 |
| [ ] Yes. **If yes**, please specify and provide the relevant legal/regulatory/standard contractual provisions:      [ ] No* + - 1. **If yes**, is there a timeframe in which decisions on complaints are issued?

[ ] Yes. **If yes**, please elaborate the timeframe       and provide the relevant legal/ regulatory provisions      [ ] No* + - 1. **If yes**, are decisions subject to appeal?

[ ] Yes. **If yes**, please provide the relevant legal/ regulatory provisions:      [ ] No* + - 1. **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)?

[ ] Yes. **If yes**, please provide the relevant legal/regulatory provisions:       and identify the approving authority      [ ] No* + - 1. Based on your experience, **in practice**, how often are the issued decisions on complaints enforced?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ]  Never **Please** **elaborate:**       |

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| * + 1. **Does the procuring authority publish the PPP contract? (notwithstanding the protection of commercially sensitive information)**
 |
| [ ] Yes. **If yes**, please provide the relevant legal/regulatory provisions:      [ ] No.**If yes,** which of the following elements does the publication include (*check all that apply*)

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **Available (e.g. by request or in the official gazette)**  | **Available online**  | **Relevant legal/regulatory provision** | **Published on a regularly updated website** |
| * + - 1. A summary of the PPP contract
 | [ ]  | [ ] **Website:**       |       | [ ] Always[ ] Often[ ] Occasionally[ ] Rarely[ ] Never**Details:**       |
| * + - 1. The full PPP contract
 | [ ]  | [ ] **Website:**       |       | [ ] Always[ ] Often[ ] Occasionally[ ] Rarely[ ] Never**Details:**       |
| * + - 1. All of the contract’s annexes and appendixes
 | [ ]  | [ ] **Website:**       |       | [ ] Always[ ] Often[ ] Occasionally[ ] Rarely[ ] Never**Details:**       |
| * + - 1. Any subsequent amendment made to the PPP contract
 | [ ]  | [ ] **Website:**       |       | [ ] Always[ ] Often[ ] Occasionally[ ] Rarely[ ] Never**Details:**       |

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| * + 1. **Please provide any additional information or comments on the answers to the question(s) above and indicate which one(s) you are referring to:**
 |
|       |

1. **Contract Management**

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| --- |
| * + 1. **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)?**
 |
| [ ] Yes. **If yes**, please provide the relevant legal/regulatory provisions:      [ ] No* + - 1. **If yes**, which of the following tools does it include (check all that apply)?

|  |  |  |
| --- | --- | --- |
| **Tools**  | **Included in the PPP management system** | **Relevant legal/regulatory provisions** |
| Establishment of a PPP contract management team | [ ]  |       |
| Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa | [ ]  |       |
| Elaboration of a PPP contract management manual or an equivalent document | [ ]  |       |
| Establishment of personnel training programs (i.e., initial training and continued training throughout the course of the project) | [ ]  |       |
| Establishment of a risk mitigation mechanism which considers the evolving nature of risks throughout the project lifecycle (guidelines, specific processes, insurance regime, etc.) | [ ]  |       |

* + - 1. Which of the following options best describes the required qualifications of the PPP contract management team members? (Please select only one)

[ ]  The membership of the PPP contract management team is specified and/or its members are required to meet detailed qualifications. **If yes,** please specify and provide the relevant legal/regulatory provisions:       [ ]  The PPP contract management team members are required to meet sufficient qualification without specific details. **If yes,** please provide the relevant legal/regulatory provisions:       [ ]  The PPP contract management team members are not required to meet any specific qualifications. Please elaborate and provide examples:      * + - 1. Based on your experience, **in practice**, how often does the PPP contract management team have competence in performing its duties?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate:**      * + - 1. Based on your experience, **in practice**, how often are the management systems in place sufficient to ensure proper PPP contract implementation?

[ ]  Always [ ]  Often [ ]  Occasionally [ ]  Rarely [ ]  Never **Please elaborate**:       |

|  |
| --- |
| * + 1. **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.)?**
 |
| [ ] Yes. **If yes**, please provide the relevant legal/regulatory provisions:      [ ] No* + - 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)?

**[ ]** Yes. **If yes**, please provide the relevant legal/regulatory provisions:      **[ ]** No* + - 1. **If yes**, is the PPP contract construction performance information made publicly available online?

**[ ]** Yes. **If yes,** please specify the website**:**      **[ ]** No* + - 1. Based on your experience, **in practice**, how often is the construction progress properly monitored?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate:**      * + - 1. Based on your experience, **in practice**, how often is PPP contract construction performance information available on a regularly updated website?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate:**       |

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| --- |
| * + 1. **Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract implementation after construction?**
 |
| [ ] Yes. **If yes**, please provide the relevant legal/regulatory provisions:      [ ] No* + - 1. **If yes**, which of the following tools does it include (check all that apply)?

|  |  |  |
| --- | --- | --- |
| **Tools**  | **Included in the monitoring and evaluation system** | **Relevant legal/regulatory provisions** |
| Payments are linked to performance | [ ]  |       |
| Performance is assessed against output/ Key performance indicators (KPI) set in the tender documents and the PPP contract | [ ]  |       |
| The procuring or contract management authority can abate (reduce) payments for non-performance of operating obligations under the PPP contract | [ ]  |       |
| The private partner must provide the procuring or contract management authority with periodic operational and financial data | [ ]  |       |
| The procuring or contract management authority must periodically gather information on the performance of the PPP contract | [ ]  |       |
| The PPP contract performance information must be available to the public (e.g. by request or in the official gazette/bulletin board) | [ ]  |       |
| The PPP contract performance information must be available online | [ ] **If yes,** please specify the website**:**       |       |

* + - 1. Based on your experience, **in practice**, how often is the contract performance of the PPP properly monitored?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate:**      * + - 1. Based on your experience, **in practice**, how often is PPP contract performance information available on a regularly updated website?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate:**       |

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| --- |
| * + 1. **Is there an economic/technical regulator to oversee the implementation of PPP contracts?**
 |
| [ ] Yes. **If yes**, please provide it name and website       and the relevant legal/regulatory provisions establishing its mandate:      [ ] No. * + - 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). **If yes**, please provide the relevant legal/regulatory provisions:      [ ]  Managerial autonomy (freedom to determine the use of its budget and organization of resources) **If yes**, please provide the relevant legal/regulatory provisions:      [ ]  Tariff setting authority. **If yes**, please provide the relevant legal/regulatory provisions:      [ ]  Dispute resolution authority. **If yes**, please provide the relevant legal/regulatory provisions:      * + - 1. Based on your experience, **in practice**, to what extent does the regulator perform its duties independent of political intervention?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ]  Never **Please elaborate:**       |

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| --- |
| * + 1. **Are foreign companies restricted from repatriating the income resulting from the operation of a PPP project?**
 |
| **[ ]** Yes. **If yes**, please provide the relevant legal/regulatory provisions:      **[ ]** No* + - 1. Based on your experience, **in practice**, how often can the private party repatriate the income resulting from a PPP project?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ]  Never **Please elaborate**:       |

|  |
| --- |
| * + 1. **Does the regulatory framework (including standard contractual clauses) expressly regulate changes in the ownership structure (i.e. stakeholder composition) of the private partner** **and/or assignment of the PPP contract?**
 |
| [ ] Yes. **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:      [ ] No* + - 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). **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:      [ ]  Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator. **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:      [ ]  In other cases, flexibility to change the ownership structure and/or assign the contract. **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:      * + - 1. Based on your experience, **in practice**, how often is there a change in the structure of the private party or assignment of the PPP contract?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate**:      * + - 1. Based on your experience, **in practice**, how often do the clauses established in the PPP contract satisfactorily deal with changes in the ownership structure of the private partner and/or assignment of the PPP contract?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate**:       |

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| --- |
| * + 1. **Does the regulatory framework (including standard contractual clauses) expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?**
 |
| [ ] Yes. **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:      [ ] No* + - 1. **If yes**, is an approval from a government authority, other than the procuring authority, required?

[ ] Yes. **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:      [ ] No* + - 1. **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. **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:       * + - * 1. **If yes**, is there a threshold for which a new tendering process is required?

[ ] Yes. If yes, please provide the relevant legal/regulatory/standard contractual provisions:       and please elaborate:      [ ] No[ ]  A change in the risk allocation of the contract. **If yes**, please provide the relevant legal/regulatory/ standard contractual provisions:      [ ] A change in the financial and/or economic balance of the contract. **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:      [ ]  A change in the duration of the contract. **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:      [ ]  A change in the agreed price or tariff or annuity payments. **If yes,** please provide the relevant legal/regulatory/standard contractual provisions:      * + - 1. Based on your experience, **in practice**, how often is a PPP contract modified/amended?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ]  Never **Please elaborate**:      * + - 1. Based on your experience, **in practice**, how often is a PPP contract modified/amended **outside** the circumstances established by the regulatory framework?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ]  Never **Please elaborate**:      * + - 1. Based on your experience, **in practice**, how often does the procuring/contract management authority bid out a new contract for additional works that involve significant changes in the scope of the originally awarded contract, instead of modifying/amending the contract?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ]  Never **Please elaborate**:      * + - 1. Can the procuring/contract management authority modify a PPP contract *unilaterally*?

[ ] Yes. **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:      [ ] No* + - 1. Based on your experience, **in practice**, how often do *unilateral* PPP contract modifications occur?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate**:       |

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| --- |
| * + 1. **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):
 |
| * + - 1. [ ]  Force Majeure. **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:
			2. [ ]  Material Adverse Government Action[[6]](#footnote-7). **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:
			3. [ ]  Change in the Law. **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:
			4. [ ]  Refinancing. **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:
			5. [ ]  Subcontracting and replacement of the subcontractors. **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:
			6. Based on your experience, **in practice**, how often do the clauses established in the PPP contract satisfactorily deal with the circumstances identified above?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate**:       |

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| --- |
| * + 1. **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?**
 |
| [ ] Yes. **If yes**, please specify and provide the relevant legal/regulatory/standard contractual provisions:      [ ] No* + - 1. If yes, is arbitration available as an option?

[ ] Yes. Domestic arbitration only. **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:      [ ] Yes. Domestic arbitration and international arbitration. **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:      [ ] No* + - 1. If applicable, are arbitration awards enforceable by local courts?

[ ] Yes. **If yes**, please elaborate and provide the relevant legal/regulatory/standard contractual provisions:      [ ] No* + - 1. Are other Alternative Dispute Resolution (ADR) options available (including mediation or dispute resolution boards)?

[ ] Yes. **If yes**, please elaborate and provide the relevant legal/regulatory/standard contractual provisions:      [ ] No* + - 1. Based on your experience, **in practice**, how often is arbitration or other ADR the designated choice for these disputes in PPP contracts?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ]  Never **Please elaborate**:      * + - 1. Based on your experience, **in practice**, how often are arbitration awards enforced?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ]  Never **Please elaborate**:       |

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| * + 1. **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?**
 |
| [ ] Yes. **If yes**, please provide the relevant legal/regulatory/standard contractual provisions:      [ ] No* + - 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. **If yes,** please specify and provide the relevant legal/regulatory/standard contractual provisions:     [ ]  The regulatory framework prescribes that a direct agreement should be signed with the lenders. **If yes,** please specify and provide the relevant legal/regulatory/standard contractual provisions:     [ ]  The regulatory framework prescribes that the lender step-in rights should be regulated in the contract. **If yes,** please specify and provide the relevant legal/regulatory/standard contractual provisions:     [ ]  Other, please specify:      * + - 1. Based on your experience, **in practice**, how often have lenders used step-in rights in the circumstances mentioned above?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ]  Never **Please elaborate**:       |

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| * + 1. **Does the regulatory framework (including standard contractual clauses) expressly address the grounds for termination of a PPP contract?**
 |
| [ ] Yes. **If yes**, please specify and provide the relevant legal/regulatory/standard contractual provisions:      [ ] No* + - 1. Based on your experience, **in practice**, how often do the clauses established in the PPP contract satisfactorily deal with contract termination?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate**:      * + - 1. **If yes**, does the regulatory framework (including standard contractual clauses) also addresses the consequences for the termination of the PPP contract?

[ ] Yes. **If yes**, please specify and provide the relevant legal/regulatory/standard contractual provisions:      [ ] No* + - 1. Based on your experience, **in practice**, how often are the consequences for the termination of the PPP contract enforced?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ]  Never **Please elaborate**:      * + - 1. Based on your experience, **in practice**, how often is the private partner compensated for the termination of the PPP contract caused by the grantor’s default?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ]  Never **Please elaborate**:       |

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| * + 1. **Please provide any additional information or comments on the answers to the question(s) above and indicate which one(s) you are referring to:**
 |
|       |

1. **Unsolicited Proposals**

In **Section F** below, we would like to ask you a few questions regarding **Unsolicited Proposals**. As a result, disregard our previous case study assumptions. Instead, **and only for the purpose of Section F**, please assume that the procuring authority receives an unsolicited proposal regarding, for example, an infrastructure project in the transportation sector (i.e., national highway) with an estimated value of USD 150 million from a consortium of privately-owned firms before initiating any activities towards the procurement of the project.

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| * + 1. **Are unsolicited proposals in [country\_name]: (choose only one)**
 |
| [ ] Explicitly prohibited by the legal framework? (If prohibited, skip to section G)[ ] Explicitly allowed by the legal framework?[ ] Not regulated by the legal framework, but do happen in practice?[ ] Not regulated by the legal framework, and do not happen in practice? (if not done in practice, skip to section G)**If the legal framework explicitly prohibits or allows unsolicited proposals**, please provide the relevant legal/regulatory provisions     * + - 1. **If USPs are allowed and/or happen in practice**, based on your experience, how often are unsolicited proposals submitted to the Government?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate:**       |

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| * + 1. **Does the procuring authority conduct an assessment to evaluate unsolicited proposals? (if not, skip to question 50)**
 |
| [ ] Yes. **If yes**, please specify and provide the relevant legal/regulatory provisions:      [ ] No* + - 1. Based on your experience, **in practice**, how often are such evaluations conducted for unsolicited proposals?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate:**      * + - 1. **If yes,** is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?

[ ] Yes. **If yes**, please provide the relevant legal/regulatory provisions:      [ ] No* + - 1. Based on your experience, **in practice**, how often are such vetting procedures/ or pre-feasibility analysis conducted for unsolicited proposals?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate:**       |

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| * + 1. **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. **If yes,** please specify and provide the relevant legal/regulatory provisions:      [ ]  The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal. **If yes**, please provide the relevant legal/regulatory provisions:      [ ]  The regulatory framework does not include any provisions, but the procuring authority evaluates the consistency of USPs with other government investment priorities in practice. If yes, please elaborate:      [ ]  The procuring authority does not evaluate unsolicited proposals against existing government priorities. Please elaborate and provide examples:      * + - 1. Based on your experience, **in practice**, how often are USPs part of the broader government public priorities/public investment system?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate**:       |

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| * + 1. **Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?**
 |
| [ ] Yes. **If yes**, please provide the relevant legal/regulatory provisions:      [ ] No* + - 1. Based on your experience, **in practice**, how often does the procuring authority initiate a competitive PPP procurement procedure when proceeding with unsolicited proposals?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate:**       |

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| * + 1. **Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?**
 |
| [ ] Yes. **If yes**, please provide the relevant legal/regulatory provisions:       and the time in calendar days:      [ ] No* + - 1. Based on your experience, **in practice**, how many days does the procuring authority actually grant to additional bidders to submit their bids after unsolicited proposals have been presented? (Please select one only):

[ ] Between 0 and 30[ ] Between 31 and 90[ ] Between 91 and 180[ ]  More than 181**Please elaborate**:       |

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| * + 1. **Does the procuring authority use any of the following incentive mechanisms to reward/compensate the submission of unsolicited proposals?** (check all that apply)**:**
 |
| * + - 1. [ ]  Access to the best and final offer (BAFO) process and/or automatic shortlisting.
			2. [ ]  Developer’s fee (reimbursing the original proponent for the project development cost).
			3. [ ]  Bid Bonus.
			4. [ ]  Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).
			5. [ ]  Other, please specify:

Please provide the relevant legal/regulatory provisions:      * + - 1. Based on your experience, **in practice**, how often does the procuring authority use one of the mechanisms above to reward/compensate unsolicited proposals?

[ ] Always [ ] Often [ ] Occasionally [ ] Rarely [ ] Never **Please elaborate:**       |

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| * + 1. **Please provide any additional information or comments on the answers to the question(s) above and indicate which one(s) you are referring to:**
 |
|       |

1. **Additional Information**

|  |
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| * + 1. **What are the main areas of improvement that will enhance the participation of the private sector in PPP projects in your country? Please select only three issues from the list below.**
 |
| * + - 1. Stronger PPP regulatory framework [ ]
			2. Predictability and continuity of legal and regulatory regime [ ]
			3. Better enforceability of the regulations [ ]
			4. Consistent political backing on the PPP program [ ]
			5. Development of a pipeline of well-prepared projects [ ]
			6. Adequate project preparation (capacity and funding) [ ]
			7. More efficient and transparent procurement process [ ]
			8. Availability of affordable debt [ ]
			9. Availability of de-risking instruments [ ]
			10. Higher return to investors [ ]
			11. Availability of reliable government funding [ ]
			12. Zero tolerance to fraud and corruption [ ]
			13. Public compliance with obligations [ ]
			14. Other. Please specify: [ ]
 |

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| * + 1. **Please rate the extent to which, in your country, the PPP framework is an impediment to private sector’s participation in PPPs:**
 |
| [ ]  No problem | [ ]  Minor obstacle | [ ]  Moderate obstacle | [ ]  Major obstacle | [ ]  Very severe obstacle |

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| * + 1. **How can we improve this survey?**
 |
|       |

## **Thank you very much for participating in this project and completing the survey. We greatly appreciate your contribution!**

## **Please note that your contact information will be published, so that we can recognize the contributors who participated in this survey. However, none of your responses will be attributed directly to you or your organization. Please check the information you do not want us to publish. We do not publish mobile phone numbers.**

## **Primary Contributor Information:** Please check the box next to information you **do not** want us to **publish**.

## .

|  |  |  |
| --- | --- | --- |
|  | Name |  |
|  | Title (Mr., Ms., Dr.) |  | [     ] |
| Do not publish [ ]   | First nameLast name |  | [     ][     ] |
| *Never published* | Position *(e.g. manager,**associate, partner)* |  | [     ] |
| Profession *(e.g. judge, lawyer, architect)* |  | [     ] |
|  | Contact details |
| Do not publish [ ]  | Firm name |  | [     ] |
| Website |  | [     ] |
| Do not publish [ ]  | E-mail address |  | [     ] |
| Do not publish [ ]  | Phone |  | [     ] |
| *Never published* | Fax |  | [     ] |
| Mobile phone  |  | [     ] |
| Do not publish [ ]   | Firm address |  |  |  |
| Street |  | [     ] | P.O. box  |  | [     ] |
| City |  | [     ] | State/province |  | [     ] |
| Zip/postal code |  | [     ] | Country |  | [     ] |

## **en** **a0QC0000008W9SPMA0** **a048000000AVBPyAAP** **a0580000005PhRYAA0** **111**

## **Additional Contributor(s):** If there are more people whom you would like us to acknowledge, kindly send us an e-mail.

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| --- | --- | --- | --- | --- |
| Name | Occupation | Email | Phone | Address |
| [title] [first name][last name] | [firm][position][profession] | [     ] | [phone] [mobile]  | [street][state/province][city/country] |
| [title] [first name][last name] | [firm][position][profession] | [     ] | [phone][mobile] | [street][state/province][city/country] |
| [title][first name][last name] | [firm][position][profession] | [     ] | [phone][mobile] | [street][state/province][city/country] |

n   id

**Referrals:** Please help us expand our list of contributors by referring us to other public-private partnerships experts (lawyers, academics, public officials, private sector operators etc.) who could respond to the *PPP* questionnaire of the *Benchmarking Infrastructure Development* initiative.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| First name | Last name | Position | Firm | Address | Phone | E-mail |
| [      ] | [      ] | [      ] | [      ] | [      ] | [      ] | [      ] |
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1. The Special Purpose Vehicle (SPV), also Special Purpose Company (SPC) or Special Purpose Entity (SPE), is a company specifically formed to undertake a specific project (in this case the PPP project. [↑](#footnote-ref-2)
2. "Public asset or service" refers to projects related to basic services where there is not a competitive unregulated market for their provision. Therefore, it excludes activities such as Cell licenses, real estate and mineral resource exploitation. [↑](#footnote-ref-3)
3. If possible, please provide a link to a government–supported website where the mentioned methodology is available or provide an electronic copy of it. [↑](#footnote-ref-4)
4. Market sounding and/or assessment refers to a procedure that evaluates potential interest from contractors, providing insight into the likely level of market interest and providing the procuring authority with an opportunity to adjust the project scope if necessary to ensure private sector participation and to improve competition. [↑](#footnote-ref-5)
5. A financial model is an analytical tool that allows the user to assess the financial robustness of the project by representing its expected financial performance, including cash flows, returns, etc. Not to be confused with a financial proposal. [↑](#footnote-ref-6)
6. Material Adverse Government Action means any act or omission by the procuring authority or other relevant authority, which occurs during the term of the PPP Contract and which has a material adverse effect on (i) the ability of the private partner to comply with any of its material obligations under this PPP Contract and/or (ii) the cost or the profits arising from such performance. [↑](#footnote-ref-7)