

Benchmarking Public-Private Partnerships Procurement 2015

A pilot in 10 economies



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Introduction

Inadequate infrastructure in developing countries is a major constraint on growth. Many governments face the challenge of low quality or non-existent infrastructure, often deriving from insufficient funding, poor planning, or ineffective delivery and maintenance. Public-Private Partnerships (PPPs) can help improve the quality of infrastructure “by vesting control rights with the private sector, bundling into one contract the design, construction, operation, and maintenance of the facility, and by transferring the risk of cost and time overruns to the private partner”ⁱ. Well-structured PPPs create the right incentives to maintain high performance records.ⁱⁱ They also tend to realign incentives in long-term service contracts so that responsibility for service delivery is transferred to the party with most to gain from sustained high performance. An appropriate PPP preparation and bidding process leads to a more efficient use of resources because the private partner will have a stake in the long-term implications of the cost of the infrastructure. In addition to these benefits, PPPs offer an opportunity to conduct “more informed and realistic selection procedures” by assessing long-term commitments and risk and shifting the focus from inputs to outputs (and even outcomes)ⁱⁱⁱ.

However, developing infrastructure and public services through PPPs also presents new challenges. Without the appropriate regulatory provisions in place, PPPs could be used to bypass public financial management controls, creating undetected fiscal risks. PPPs, as one of the alternatives to deliver public services and infrastructure, can also be poorly planned and selected if not adequately integrated within the broader context of public investment. Finally, achieving the efficiency improvements ultimately “depends on the government effectively structuring, procuring, and managing the PPP project over its lifetime – to achieve competition tension, real risk transfer and ensure anticipated performance improvements materialize in practice.”^{iv}

Private sector participation in infrastructure provision has expanded over the last decade in developing economies. The use of PPPs is rising again after a setback in the period around the 2007-2008 financial crisis. PPP investments amounted to \$80 billion per year on average during the period 2007 to 2013. The use of PPPs is now widespread among developing economies, with 134 economies implementing PPPs between 2002 and 2013^v. The negative impact of the financial crisis on fiscal space and constraints in developing economies to access long-term finance have only increased the relevance of private sector participation in infrastructure and service delivery^{vi}. In this context, the Group of Twenty (G20) Investment and Infrastructure Working Group has sought to engage with international organizations, including the World Bank, to “foster the conditions necessary to encourage productive and efficient public-private partnerships in infrastructure.”

The *Benchmarking Public-Private Partnerships Procurement 2015* report aims to support and enhance the decisions that feed into policy-making by highlighting key aspects of a country’s PPP legal and regulatory framework. The project that the report is based on follows the successful approach undertaken by the World Bank Global Indicators Group, which, with its Doing Business^{vii} project, has a recognized track-record of measuring a country’s laws and regulations and leveraging reform. The Doing Business project assesses the business climate of 189 economies against recognized good practices. Since its inception in 2003, the Doing Business project has inspired close to 2,000 reforms in business regulation.

Data-based indicators have been recognized as critical to shaping public awareness and to decision-making when it comes to global governance. Their simplicity, communicability, and transparency can promote greater consistency in the decision-making process (Davis et al., 2010). That is why the Doing Business indicators are recognized to be influential and successful in attracting the attention of senior

policymakers, government officials, and the business community in many of the World Bank’s client countries (Independent Evaluation Group [IEG], 2008).¹

Building on the Doing Business methodology, the analysis conducted in the *Benchmarking Public-Private Partnerships Procurement 2015* project highlights a number of factors that affect PPP systems. For this first pilot stage conducted during 2015, it relies on a series of data points that are not aggregated at a topic level and are not ordered to produce a ranking of each country’s performance. Specifically, the project analyzes laws, regulations, and practices in the main stages of the PPP project cycle: PPP preparation, procurement, and implementation/contract management. It also touches on the issue of unsolicited proposals. The analysis of the PPP project cycle is preceded by an overall assessment of the legal framework and institutional structures to support PPPs (Table 1). In selecting the covered topics, the team considered whether an area is affected by public policy, regulatory, and administrative frameworks, or whether it mostly depends on other factors that are not actionable. It also considered whether public authorities can take short-term actions in the areas measured, or whether the topic lends itself to long-term reforms. These identified areas were further evaluated through rigorous consultations with experts.

TABLE 1. BENCHMARKING PPP PROCUREMENT

Regulatory Framework and Institutional Arrangements for PPPs	•Overall assessment of the regulatory and institutional framework governing PPPs: Existence of specific PPP laws and regulations, role of PPP Units and Ministry of Finance, etc.
Preparation of PPPs	•Assessment of the preparatory activities taking place prior to launching the PPP procurement
Procurement of PPPs	•Assessment of the activities and requirements for the selection of the private partner
Unsolicited Proposals	•Assessment of specific regulatory issues when dealing with unsolicited proposals for PPPs
PPP Contract management	•Assessment of activities and contract provisions with an impact on the implementation of the PPP

The *Benchmarking PPP Procurement* data aims to highlight areas for improvement and will guide policymakers throughout the regulatory reform cycle, serving as a diagnostic tool and a benchmarking instrument against recognized good practices. The data aim to meet different stakeholders’ needs for information, analysis, and policy action.

For policymakers and government agencies involved in PPP projects, *Benchmarking Public-Private Partnership Procurement 2015* will help identify those areas in which change is needed, presenting models for reform. Consistent and objective data can inform decision-making policymakers seeking to develop or refine the regulatory and institutional framework that governs the implementation of PPPs. In addition, the Benchmarking Public-Private Partnerships Procurement project can be a useful tool for officials from the Ministry of Finance responsible for financial management of PPP projects by providing benchmarking information regarding the involvement of the Ministry of Finance in the PPP project cycle.

Private sector companies involved in PPP projects and those denied an opportunity to participate due to lack of transparency or efficiency will also benefit from this work. The data will assess the PPP framework of a given economy. The move toward more efficient systems can engage private sector companies in communicating the benefits and risks of PPPs to government officials and will enhance private sector confidence.

Finally, the academic and research community, together with other individuals interested in PPPs and their role in providing public infrastructure and public services, will be able to use the Benchmarking PPP Procurement data to address demands for better information. Advisors working on PPP projects may benefit as well from global experience and cross-country analysis.

Like any type of dataset, Benchmarking PPP Procurement figures present limitations, mainly in three areas: substantive, when it comes to the content and thematic coverage of the data points; methodological, when it comes to the questionnaire design and data collection; and limitations related to the potential interpretation and use of the data.

The substantive limitations reside in the fact that the data points are limited in scope, as they do not measure the full range of factors that affect the PPP system of a given economy. In terms of methodological limitations, users must also bear in mind that the data points are based on hypothetical case study assumptions to allow for comparability across countries. The case study assumptions focus on development of physical infrastructure. Therefore, it does not cover specific issues applicable to the development of social infrastructure in particular. Also, while under the case study assumptions the example of a project in the transportation sector is used, the survey instrument does not cover specific issues that affect each particular sector where PPPs are possible (transportation, energy, water sanitation, etc.). Finally, also when interpreting the data, users must keep in mind the case study assumptions, since the results cannot be automatically generalized to other situations.

The *Benchmarking Public-Private Partnerships Procurement* 2015 report is organized in four sections following this introduction. The report starts by offering an overview of the project's methodology. It then reviews trends for a selected number of policy areas offering the reader an in-depth, cross-country view of the analyzed data points. Finally, a brief summary of lessons learned and next steps are presented. The subsequent annexes reveal additional policy findings across the 10 countries surveyed.

In the coming years, the Benchmarking PPP Procurement project aims to extend its geographical coverage. Over time, the number of economies surveyed will increase to reach 189 economies across the globe. Finally, the data points presented may potentially be aggregated into indicators next year, with scores assigned to each economy measured. The Benchmarking PPP Procurement project may introduce country rankings in future years, after the project's methodology has been stabilized. Feedback is welcome on the data, methodology, and overall project design in order to make future *Benchmarking Public-Private Partnership Procurement* reports and even more useful resource.

The Pilot Methodology

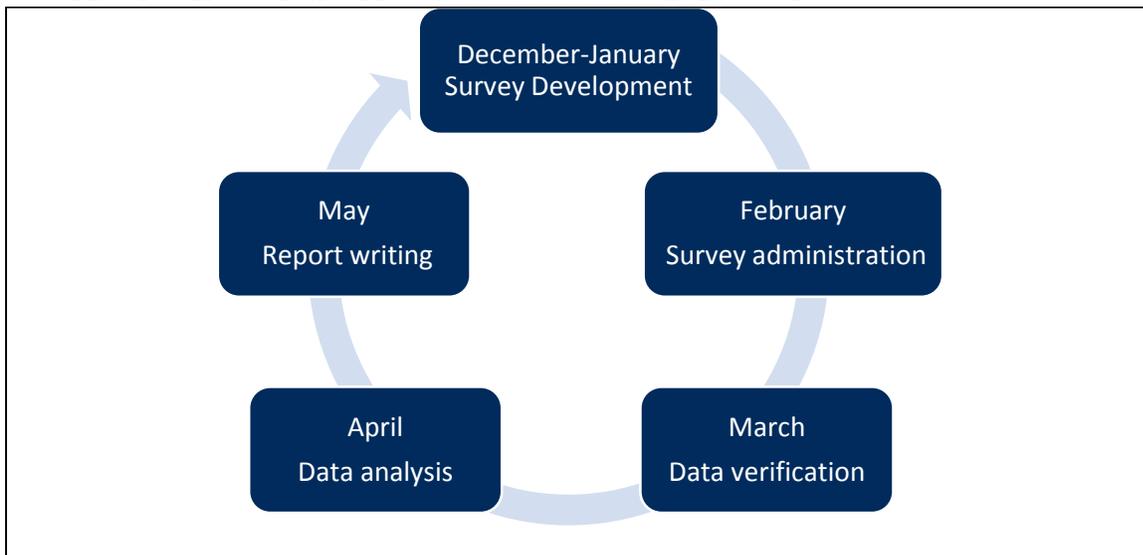
Defining the approach

In order to determine the right angle of approach for the methodology, the Benchmarking PPP Procurement team relied on extensive research and frequent consultation with experts. A thorough review of academic literature was conducted to identify internationally-accepted good practices and recognized impediments to efficiency in PPP transactions. Concurrently, PPP specialists from the project's Expert Consultative Group were consulted on a regular basis^{viii} and helped operationalize those best practices into questions to support a valid cross-country comparison.

The survey instrument includes a total of 50 prioritized questions that were organized under five thematic areas. A survey instrument was designed to capture the laws and practices in force and measure them against the benchmarks. This survey was then administered to more than 500 respondents in the pilot countries (after careful review by internal and external experts).

Once collected, the data was subjected to several rounds of verification. Quality control mechanisms were developed to safeguard its reliability. The team's extensive research and analysis corroborated the main findings and reinforced the quality of the data. Frequent interaction with contributors via email and phone interviews helped clarify discrepancies.

FIGURE 1. THE CYCLE OF THE PILOT BENCHMARKING PPP PROCUREMENT PROJECT



Theme and nature of the coverage

The survey instrument developed by the Benchmarking PPP Procurement team covers the main aspects of the PPP project cycle² after a first section on the legal framework and institutional arrangements for PPPs and a specific section on unsolicited proposals:

- Regulatory and institutional framework for PPPs³: This section evaluates the existence of a transparent and clear regulatory framework for PPPs. It also explores the current institutional arrangements for PPPs, including the PPP procuring authorities, the existence of a specific PPP Unit (or other government authorized agency with similar functions), and the required intervention of the Ministry of Finance.
- Preparation for PPPs: This section covers the activities that the procuring authority and other relevant actors must perform before launching the procurement process. It measures whether the regulatory framework provides for an assessment of the PPP project in the broader context of public investment, what studies are conducted to inform the decision to pursue a PPP, and additional matters that the procuring authority needs to address before publishing the call for tenders (as preparing a draft PPP contract or obtaining necessary permits).
- Procurement of PPPs: This section of the survey covers the main stages of the procedure to select the private partner. It evaluates, for example, whether the regulatory framework follows best practices in terms of transparency and fairness of the process, whether expert evaluation of the bids is required, and contains specific provisions regarding the lack of competition in the process.
- Unsolicited proposals for PPPs: This section is based on the specific case study assumption that the procuring authority receives an unsolicited proposal from a group of companies. It assesses in the first place whether the regulatory framework allows for the submission of unsolicited proposals. If that is the case, it further evaluates whether a specific procedure is in place to evaluate the consistency of the unsolicited proposals among other investment projects, and whether a competitive procedure is required to select the private partner.
- PPP implementation and contract management: This section covers the activities of the procuring authority and the private partner during the life of the PPP contract as well as contents of the PPP contract that might impact on this period. It assesses the monitoring and evaluation system for PPPs as well as a number of aspects related to the life of the PPP contract: renegotiation, dispute resolution, lenders rights, and termination.

The analysis is based on two types of data points:

² For the purpose of this survey, the team defines PPP, irrespective of the terminology used in the particular legal framework of each economy, as any contractual arrangement between a public entity or authority and a private entity, for providing a public asset or service, in which the private party bears significant risk and management responsibility. 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.

³ The definition of “regulatory framework” covers all PPP laws, regulations, policies binding guidelines or instructions, other legal texts of general application, judicial decisions, and administrative rulings that established 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.)

- *De jure* data points assess the compliance of PPP regulatory frameworks with internationally recognized good practices in terms of efficiency, transparency, and accountability. Besides the overall assessment of the legal framework and the institutional arrangements, these data points capture the legal requirements regarding the three main stages in the PPP project cycle - preparation, procurement, and contract management -- as well as those related to unsolicited proposals.
- *De facto* data points assess the current practice regarding the previously assessed legal requirements. First of all, a number of the regulatory questions are followed by a second question, which assesses whether the legal requirements are also respected in practice. In addition, a number of questions capture time and cost components, such as the perceived period of time between the PPP public procurement notice and the award of the contract. Respondents with significant and routine experience in the relevant transactions provided the *de facto* data.

These two series of data points complement each other to allow for a valid and thorough assessment of the rules in force and their actual impact on PPP practices.

Geographical coverage

The geographical coverage of the *Benchmarking Public-Private Partnerships Procurement 2015* report includes 10 economies: Cameroon, Colombia, the Arab Republic of Egypt, Ghana, Kenya, Nigeria, Peru, South Africa, Tanzania, and Tunisia. These 10 economies belong to three different regions: Sub-Saharan Africa (SSA), Middle East and North Africa (MENA), and Latin America and the Caribbean (LAC). While most of the economies covered in the pilot stage of the project are located in Africa, the project team aims to scale up progressively by replicating the standardized methodology developed during the pilot.

TABLE 2. ECONOMIES COVERED IN BENCHMARKING PPP PROCUREMENT

Region	Countries
Sub-Saharan Africa (SSA)	Cameroon, Ghana, Kenya, Nigeria, South Africa, and Tanzania
Middle East and North Africa (MENA)	Egypt, Arab Rep. , and Tunisia
Latin America and the Caribbean (LAC)	Colombia, and Peru

Collecting and comparing standardized data

Standardized data is indispensable for valid cross-country comparisons. To achieve data standardization, the project methodology is based on standard case study assumptions, which provide a hypothetical scenario that guide local respondents when completing the survey questionnaire. By using replicable case study assumptions, the data is comparable across economies. Also, as data collection is easily replicable and can overcome deep structural differences that could jeopardize comparison, it can easily be applied to a larger number of economies in a secure and cost-efficient way.

BOX 1. CASE STUDY ASSUMPTIONS FOR BENCHMARKING PPP PROCUREMENT

- The private partner (the Project Company or PPPCo) is a Special Purpose Vehicle (SPV)⁴ established by a consortium of privately owned firms.
- The procuring authority is a national/federal authority that is planning to procure the services for: the design, build, finance, operation and maintenance of, for example, an infrastructure project in the transportation sector (i.e., a highway) with an estimated investment value of \$150 million (or the equivalent in your local currency). To this end, the procuring authority initiates a public call for tenders, following a competitive PPP procurement procedure. The call for tender attracts six bids, including PPPCo's bid. PPPCo's offer is complete and includes all required documents. It is unambiguous and provides a price quotation free from errors on the part of PPPCo.
- For unsolicited proposals, the assumption is that the procuring authority receives an unsolicited proposal from the consortium of companies to be integrated in PPPCo.

The goal of the case study assumptions is to enable comparability. In the case of PPPs, achieving comparability is complicated due to the wide variation of PPP transactions and frameworks under which PPPs are developed. The case study assumptions try to cover a relevant set of PPP features without excessively limiting the scope of the coverage of the questionnaire. We define PPPCo as an SPV established by a group of companies since this is the most common vehicle used given the size and complexity of PPP projects. The assessment focuses on the regulatory framework at a federal level and doesn't delve into a subnational assessment of PPP frameworks. The development of PPPs varies widely across sectors, and so to increase the comparability of our results, the case study assumptions focus on physical infrastructure and specifically mention the example of highways. For the Benchmarking PPP Procurement project, the estimated value assumption is indicated in \$150 million (or the equivalent in the local currency). We try to capture projects that are big and complex enough to merit the use of the PPP route, while still including projects that may be undertaken in smaller economies.

Data was collected from practitioners who bring a wealth of knowledge related to PPP systems. These include lawyers with extensive professional experience advising clients on PPP transactions, laws, and regulations; government officials working on PPP transactions; and consultants and academics familiar with PPPs. This approach has allowed the team to combine input from private sector practitioners with feedback from public sector officials who are key actors in PPPs.

Respondents were selected based on their expertise, interest, availability, and willingness to contribute to the project on a pro bono basis. The Benchmarking PPP Procurement project team identified its potential pool of respondents based primarily on the following sources:

- International guides identifying leading providers of legal services, including their specialization, in each country. The guides include Chambers and Partners, IFRL, Legal 500, Martindale, HG Lawyers' Global Directory, Who is Who Legal Directory, Lexadin and country specific legal directories.
- Large international law and accounting/consulting firms with extensive global networks, whether offices or local partner groups.
- Members of the American Bar Association, country bar associations, chambers of commerce, and

⁴The 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).

other membership organizations.

- Professional services providers, PPP experts and PPP operators identified on the web sites of embassies, PPP units, PPP procuring authorities, local universities and business chambers, and other local organizations.
- Professional service providers recommended by World Bank Group staff.

Current limitations and long term approach

The Benchmarking PPP Procurement project data points are proxies that attempt to capture important dimensions of the quality and efficiency of PPP legal and institutional frameworks. Understanding the data's scope of coverage is fundamental to its interpretation.

For the pilot phase, the project is limited in scope for practical reasons, since there is a limit to the number of areas that can be measured, and the questions in each area need to be relatively specific to ensure comparability across countries. Nonetheless, it is worth noting that the data points capture dimensions/characteristics of PPP systems that have a clear benefit for governments over the long term.

It is also worth noting that the Benchmarking PPP Procurement project excludes cases of fraud and corruption. The survey does not ask questions on either the regulatory framework against fraud or corruption or contributors' perceptions of the issue.

For the progress report, the data points for 2015 are not aggregated at a topic level and are not ordered to produce a ranking of an economy's performance. The team will consider introducing country rankings in future years, after the project's methodology has been stabilized.

Initial Pilot Results

In this section, a few number of policy areas have been selected from the survey to offer the reader an in-depth, cross-country view of the analyzed data points.

Regulatory framework and institutional arrangements for PPPs

Establishing a clear foundation for the development of PPPs through a sound regulatory and institutional framework typically ensures an efficient implementation of PPPs and optimizes participation of the private sector. On the other hand, economies where the legal and institutional framework for PPPs is weak face greater challenges in handling PPPs given their complexity^{ix}. The following paragraphs present a summary of the surveyed economies on three key components of the foundations for developing PPPs: (i) the existing regulatory framework, (ii) the existence, location, and role of the PPP Unit, and (iii) the intervention of the Ministry of Finance.

Regulatory framework

There is a wide variation when it comes to how countries have set up their legal framework for PPPs. Whereas some countries have adopted specific PPP laws and regulations, others have just amended the existing regulatory framework to allow PPPs (for example, by introducing PPPs in their general procurement laws and regulations). At a minimum, the regulatory framework must establish the use of PPP as an admissible mechanism for the provision of public infrastructure and services^x. Ultimately, irrespective of the way the regulatory framework for PPPs is set up in each economy, it should clearly establish the applicable procedures as well as the rights and obligations of the parties in a PPP.

Among the countries surveyed for this project, specific laws for PPPs have been adopted in Cameroon, Colombia, the Arab Republic of Egypt, Kenya, Peru, and Tanzania. In all of these countries except the Arab Republic of Egypt and Kenya, the PPP laws are complemented by the broader public procurement regulatory framework. For example, in Colombia the PPP law expressly states that the general procurement framework governs the PPP procurement process for matters not specifically regulated in the PPP law (and there are similar explicit provisions in Peru and Tanzania as well).

In the Arab Republic of Egypt, the law expressly excludes the application of the public procurement law. In Kenya, too, the law abrogates provisions that include “concessioning” within the scope of the public procurement law.

South Africa, on the other hand, does not have a specific PPP law. PPPs and overall public procurement are regulated by the Treasury Regulations 16 and 16A, respectively, along with a number of very detailed “Practice Notes” governing both the approval and procurement process (the PPP Manual) and the suggested content of the PPP contract (The Standardized PPP Provisions). Ghana and Nigeria have not passed PPP laws either, but their governments have issued PPP policies to guide the action of procuring authorities when procuring PPPs. In Nigeria, the Act that created the PPP Unit also regulates part of the process^{xi}. While in both cases these PPP policies are a testimony to the government’s support of the use of PPPs, they are not binding and enforceable in the same way as an enacted law⁵. Finally, the Tunisian

⁵ For the purpose of the subsequent analysis, we have taken into account and included provisions contained in the PPP policies in both Ghana and Nigeria for the sake of completeness. The reader should bear in mind that, while our contributors indicated that these policies guide the actions of the procuring authorities, they are not binding or enforceable in the same way as legislation.

Parliament is currently working on a new PPP law, but currently PPPs are governed by the Concessions Law^{xii}.

Role of the PPP Unit

According to the Organisation of Economic Co-operation and Development (OECD), a PPP Unit is defined as “any organisation set up with full or partial aid of the government to ensure that necessary capacity to create, support, and evaluate multiple public-private partnership agreements are made available and reside in government.”^{xiii}

PPPs are complex transactions, the implementation of which requires legal, technical, and financial knowledge outside the scope of expertise of the procuring authorities. Given the need for specialized and elaborate skills to undertake PPP projects, setting up a PPP Unit can support the implementation of the PPP program, especially when entrusted with responsibilities such as offering technical support, PPP promotion, and project gatekeeping. Table 3 below shows the roles of the different PPP units in the surveyed economies.

TABLE 3. PPP UNITS AND THEIR ROLES

Economy	PPP Unit ⁱ	PPP Policy guidance and capacity building	PPP Promotion	Technical Support	Gatekeeping (Approval of PPP Projects)	Procurement of PPPs
Cameroon	National PPP Council CARPA (Independent/Prime Minister’s Office)	✓	✓	✓	✓	✗
Colombia	National Planning Department – DNP (Independent agency)	✓	✓	✓	✓	✗
Egypt, Arab Rep.	PPP Central Unit (Ministry of Finance)	✓	✓	✓	✗	✓
Ghana	Public Investment Division (Ministry of Finance)	✓	✓	✓	✗	✗
Kenya	PPP Unit (National Treasury)	✓	✓	✓	✗	✗
Nigeria	Infrastructure Concession Regulatory Commission - ICRC (Independent Agency)	✓	✓	✓	✗	✗
Peru	Proinversion (Independent/Ministry of Finance)	✓	✓	✓	✓	✓
South Africa	PPP Unit (National Treasury) ⁱⁱ	✓	✓	✓	✓	✗
Tanzania	PPP Center (Prime Minister’s Office)	✓	✓	✓	✗	✗
Tunisia	Concession Follow Up Unit (Prime Minister’s Office)	✓	✗	✓	✗	✗

Source: *Benchmarking PPP Procurement 2015*

ⁱ We consider the PPP Unit the one suggested by the majority of our contributors. In Colombia, Peru, Tanzania, and Tunisia, specific units to deal with PPPs also exist within the structure of the Ministry of Finance.

ⁱⁱ The PPP Unit has now been absorbed into the Government Technical Advisory Component, which is an independent entity which reports into the National Treasury.

There are three main variations when it comes to the location of the PPP Units among the surveyed economies. In the Arab Republic of Egypt, Kenya, and Ghana, the PPP Units are integrated within the corresponding Ministry of Finance or National Treasury. In Cameroon, Colombia, Nigeria, and Peru, PPP Units are independent agencies (even if falling under the supervision of the Ministry of Finance or the Prime Minister's Office). This is also the case in South Africa, where the PPP Unit is part of the Government Technical Advisory Component, an independent body under the supervision of the National Treasury. Finally, in Tunisia and Tanzania, the PPP Unit is directly located within the Prime Minister's Office. In Colombia, Peru, Tanzania, and Tunisia, besides the agency identified as the PPP Unit, specific units to deal with PPPs also exist within the Ministry of Finance.

Regarding the responsibilities entrusted to them, all PPP units perform PPP policy guidance, promotion, and technical support, with the exception of the Concession Follow-Up Unit in Tunisia that does not have a specific role in promoting PPPs. On the other hand, with the exception of the Arab Republic of Egypt and Peru, none of the PPP Units of the 10 pilot economies conduct procurement of PPPs. In a limited number of economies measured, the PPP Unit also has a gatekeeping role. In the Arab Republic of Egypt, Ghana, Kenya, Nigeria, Tanzania, and Tunisia, although the formal approval is not granted by the PPP Units, they advise the bodies which formally approve PPPs. In Colombia and Peru, approval of the PPP Unit is required but other agencies also intervene in the approval process. Cameroon is the only economy where the PPP unit exclusively approves PPP projects.

Intervention of the Ministry of Finance

The Ministry of Finance (or Central Budgetary Authority or equivalent) must have a clear role when developing PPPs, especially regarding affordability and public commitments^{xiv}. PPPs always entail commitments for the public sector. These public commitments can be direct liabilities (as in the case of availability payments⁶ or capital subsidies) or contingent liabilities (such as government guarantees and other implicit liabilities). To ensure fiscal affordability of PPPs as well as the adequate consideration of the government budget constraints, priorities, and overall fiscal situation, the Ministry of Finance should participate in the preparation of PPPs along with the procuring authorities^{xv}.

In general, all the surveyed economies provide for some degree of intervention of the Ministry of Finance when developing PPPs. However, the level of involvement of the Ministry of Finance as established by the regulatory framework varies widely across economies. In South Africa, the National Treasury has overall responsibility for approving the implementation of PPPs. As soon as a potential PPP project is identified, it must be registered with the National Treasury. To proceed with the procurement phase, the procuring authority requires prior written approval from the Treasury on the project's feasibility study. Subsequently, the procuring authority must obtain approval from the Treasury after the evaluation of bids in order to appoint the preferred bidder. A final Treasury approval is required once the procurement award is granted but before signing the contract^{xvi}.

In Colombia and Peru, the regulatory framework provides for the participation of the Ministry of Finance throughout the PPP project cycle. In Colombia, the Ministry of Finance must approve the project's contingent liabilities before launching the bidding process, then review and grant no objection to the

⁶ A regular payment or subsidy over the lifetime of the project, usually conditional on the availability of the service or asset at a contractually specified quality. The payment may be adjusted with bonuses or penalties related to performance. (World Bank Reference Guide. 2.0)

financial conditions and clauses of the PPP contract^{xvii}. In Peru, the Ministry of Finance must issue a favorable opinion to use the PPP alternative if they require guarantees or co-financing and a favorable opinion regarding fiscal responsibility and budgetary capacity in co-financed PPP projects^{xviii}. In Cameroon, the regulatory framework expressly requires the advice of the Minister of Finance “on the budgetary sustainability of the project, notably on the coherence of financial commitments with appropriations availability and their impact on public finances,”^{xix} while in Kenya the feasibility report of PPP project must be submitted to the Debt Management Office within the National Treasury for assessment and approval of the fiscal risk and contingent liabilities of the project^{xx}.

In both Ghana and Nigeria, the role of the Ministry of Finance is expressly covered in the PPP Policy. In Ghana, The National Policy on PPPs requires the Ministry of Finance and Economic Planning to grant approval in the following stages: 1. The approval of pre-feasibility and project viability; 2. Review and approval of the full Feasibility Report; 3. Review of project documentation, including the draft of the PPP Agreement /Concession; 4. Review and recommendation of the evaluation report. In Nigeria, according to Section 6 of the National Policy on PPPs, “the Ministry of Finance will have an important role in public financial management of PPP projects, and in evaluating and managing fiscal risks that may result from the terms of the agreements. (...)”.

Finally, in the Arab Republic of Egypt, the PPP Central Unit is under the supervision of the Ministry of Finance, which takes part in the PPP Supreme Committee that approves PPP projects. However, a specific role for the Ministry of Finance itself is not clearly established. Similarly, in Tunisia, a PPP Head Office was recently created within the Ministry of Finance but its role, beyond a general call for coordination, is not expressly regulated.

PPP preparation

The PPP preparation phase encompasses different elements from project appraisal to drafting the PPP contract^{xxi}. A key element in the preparation of any PPP is selecting an investment project within the broader context of public investment. The regulation of this aspect showed significant variation among the surveyed economies.

PPP within the broader context of public investment

PPPs are a modality of public infrastructure and public services provision. As a consequence, a first step for a successful PPP is to identify PPP projects within the broader context of public investment planning^{xxii}. Ideally, assessment and prioritization of PPPs should happen within a unified framework of public investment management^{xxiii}. An adequate planning and prioritization of public investment, including those projects to be implemented as PPPs, supports an optimal use of public resources and a greater socioeconomic impact of public infrastructure and services.

Detailed provisions regarding the prioritization and assessment of PPPs among other public investment projects are at play in Peru. The PPP law expressly requires that PPPs that are co-financed with public resources must be declared viable along with all other public investment projects in the context of the National Public Investment System^{xxiv}. In Ghana, according to the National Policy on PPPs, every PPP project “shall emanate” from the National Infrastructure Plan prepared by the National Development Planning Commission in collaboration with the procuring authorities (or will need to be approved by this National Development Planning Commission otherwise).

An explicit mention of this aspect of PPPs also appears in the Arab Republic of Egypt, where the regulatory framework considers PPP a mere mechanism to implement projects already incorporated in the Social and Economic Development Plan^{xxv}. Similarly, in Nigeria, every procuring authority prioritizes its infrastructure projects and such priority projects may be qualified for concession^{xxvi}. In Kenya, every year the procuring authorities must submit to the PPP Unit a list of PPP projects they intend to undertake, in line with their development programs, for approval and subsequent broadcast^{xxvii}. On the other hand, in Cameroon, South Africa, Tanzania, and Tunisia, the regulatory framework does not specifically mention any requirement to assess and prioritize PPPs within the broader context of public investment planning.

PPP appraisal

Once a project has been identified, it is necessary to assess whether it has the appropriate features to be procured as a PPP. Successful PPP programs establish appraisal criteria that a project must satisfy in order to be implemented as a PPP. This typically involves assessing the project against four main criteria: feasibility and economic viability of the project (including its financial viability or bankability), value for money of the PPP, fiscal responsibility, and commercial viability. Moreover, any potential PPP project must go through a structuring phase that includes the identification, assessment, and intended allocation of the risks. Table 4 below shows which of the assessments mentioned here are legally required in the surveyed economies.

TABLE 4. APPRAISAL STUDIES FOR PPPS.

Economy	Socio-economic impact	Financial Viability or bankability	Affordability assessment	Comparative assessment	Market assessment	Risk identification, assessment, and allocation
Cameroon	✓	✓	✓	✓	✓	✓
Colombia	✓	✓	✓	✓	✗	✓
Egypt, Arab Rep.	✓	✓	✗	✓	✓	✓
Ghana	✗	✓	✓	✓	✗	✓
Kenya	✓	✓	✓	✓	✓	✓
Nigeria	✓	✓	✓	✓	✓	✓
Peru	✓	✓	✓	✓	✗	✓
South Africa	✓	✓	✓	✓	✓	✓
Tanzania	✓	✓	✓	✓	✗	✓
Tunisia	✗	✗	✗	✗	✗	✗

Source: *Benchmarking PPP Procurement 2015*

The regulatory framework in Tunisia is the only one that does not require procuring authorities to conduct a set of studies before launching the procurement process for a concession⁷. All other regulatory frameworks specifically require that several studies must be conducted to ensure the feasibility of the PPP

⁷ Contributors referenced Article 13 (bis) of the Decree N 2010-1753 as amended by Decree No. 2013-4631 as relevant. However, this provision only establishes the criteria that the procuring authority should use to grant the concession; it does not require studies to be conducted before initiating the tender. It stipulates that: "The Licensor shall base the award of concessions on the criterion of the economic, social and environmental development of the concession, and in particular: The project cost and duration, the amount of the fee paid to the grantor and the amount of compensation that the concessionaire receives in return for services, quality of service and quality of work, if any, and the proposed elements for measuring, the qualifications and experience of the staff assigned to the contract, the criteria for monitoring and control of the concession, contribution to regional development, the environmental characteristics of the project, the transfer of technology and know-how, the ability to create jobs and self-employment, improving the employability of the concession workers."

project. In the Arab Republic of Egypt, however, there is no express provision regarding affordability assessment, and the National Policy on PPPs in Ghana does not expressly require a socio-economic impact assessment⁸. Only in Cameroon, the Arab Republic of Egypt, Kenya, Nigeria, and South Africa are there specific regulatory mentions related to market testing or commercial assessment. For example, in South Africa, the PPP Manual (Module 4: PPP Feasibility Study) stipulates that the solution options analysis should include a market capability and appetite assessment.

PPP Procurement

Given the financial magnitude of PPP projects and the extent of public resources potentially committed, the procurement process of a PPP should be transparent and fair, and promote competition. The following analysis shows results on a few issues where the regulatory provisions reveal interesting variations among the surveyed economies.

Bid Evaluation Committee

The bid evaluation committee will have the responsibility of making or recommending key decisions during the PPP procurement process. This is why a bid evaluation committee (or equivalent body) should be established no later than the beginning of the procurement phase. Given the complexity of PPPs, and since the committee evaluates the bid and applies the award criteria, it requires substantial technical expertise. Ideally, the regulatory framework should establish the composition of the committee^{xxviii}.

In all economies' measures except Colombia's, the regulatory framework of all surveyed economies requires the establishment of a bid evaluation committee. (In Colombia, although the regulatory framework does not require it, it does entitle procuring authorities to create such a committee^{xxix}). A number of regulatory frameworks mention the need for the members of the committee to have specific skills and expertise. In the Arab Republic of Egypt, for example, the committee must be "comprised of technical, legal, and financial experts" and in Nigeria it must "include suitably qualified individuals and at least one person experienced in public procurement." In Ghana, the committee members must have "the required expertise to evaluate tenders," whereas in Cameroon "technical capacities in analyzing bids" and "an appropriate level of expertise and experience" are required. In South Africa, Colombia, and Peru, the regulatory framework is silent on the composition of the bid evaluation committee. On the other end of the spectrum, the composition of the bid evaluation committee is regulated in detail in Kenya, where the law requires the presence of members from different public agencies, including the attorney general's office. However, a set of required technical skills or expertise is not provided.

Lack of competition / Sole bidder

Early project development involves a significant investment of resources on the part of private sector firms (e.g., feasibility studies, license agreements, etc.) that are only recoverable if their bid is ultimately successful. This may deter competitive bidding and lead to governments only receiving one bid. Receiving only one bid may raise concerns about the value provided by the bidder^{xxx}. In this case, the procuring

⁸ The National Policy on PPPs in Ghana establishes that "the contracting authority shall undertake and submit to MOFEP-PID a full feasibility study and appraisal of the proposed project. The full feasibility report should – In respect to a PPP project pursuant to which the Contracting Authority will incur any financial commitments, demonstrate affordability of the PPP for the institution; set out the proposed allocation of financial, technical and operational risks between the institution and the private party; demonstrate the anticipated value for money to be achieved by the PPP; provide detailed estimates of viability gap and the need for incentives; and explain the capacity of the institution to procure, implement, manage, enforce, monitor and report on the PPP."

authorities are faced with two options: they may either re-tender, or conduct comprehensive due diligence before selecting the sole bidder^{xxxii}. However, only a flawed bidding process (insufficient publicity, restrictive award criteria, and lack of market-based pricing) could justify the rejection of the sole bidder.^{xxxii}

The regulatory framework in Tanzania requires “two compliant tenders as a condition precedent,” effectively ruling out the option of a sole bidder.

In South Africa, the regulatory framework provides the most detailed procedure to ensure effective competition without necessarily requiring cancellation. More specifically, it requires the procuring authorities to: “(i) Ascertain the likely reasons for the limited interest, and revisit the request for qualifications and the feasibility study to see what assumptions could be revised to increase market interest (...); (ii) If any changes to assumptions in the feasibility study are made, secure a revised Treasury Approval; and (iii) carry out a second pre-qualification exercise (...)”. If the feasibility study is not revised, the procuring authority will have to “carry out the pre-qualification exercise again, with a wider circulation to attract a suitable number of bidders, or continue with the limited number of pre-qualified bidders, but with a revised procurement plan that uses the public sector comparator prepared in the feasibility study as an active ‘competitor’ for the bids”^{xxxiii}. In Nigeria, the existing regulation is not as detailed, but while the regulatory framework allows for direct negotiation with the sole bidder, it requires the procuring authority to ensure that the bid is “technically and financially responsive compared to market prices.”^{xxxiv}

In Cameroon, Colombia, the Arab Republic of Egypt, and Tunisia, the regulatory frameworks expressly consider this issue but allow selecting the sole bidder as long as the bid specifications are met. This issue is not expressly addressed in the other economies measured (Ghana, Kenya, and Peru).

Transparency and disclosure

Transparency and disclosure of PPPs improves governance and management of fiscal cost, and results in a better understanding of the impact on service delivery^{xxxv}. Three specific issues will be analyzed in this respect: publication of the award notice, publication of the full PPP contract, and notification of the procurement process results to unsuccessful bidders (including the grounds for selection).

Among the surveyed economies, the regulatory frameworks in Cameroon, Ghana, Kenya, Nigeria, South Africa, and Tanzania provide for the publication of the award notices but do not require the publication of the full PPP contract. In both Ghana and Kenya, the publication of the PPP award is expressly required to include some additional information. For example, in Kenya the publication of the award notice must also inform readers about (a) the nature of the project; (b) the scope of the project; (c) the successful bidder; (d) the project cost at net present value; (e) the project value and tariff; and (f) the duration of the project. In Nigeria, the new ICRC Guidance on Disclosure of Project and Contract Information will provide for a summary of the PPP contract to be publically available once adopted. The regulatory frameworks in both Colombia and Peru require the full PPP Contract to be published and included in the corresponding public registries of PPPs. In Peru, no specific provision requires the publication of the award notice but our contributors believe that, in practice, appropriate publicity is ensured^{xxxvi}.

Finally, in the Arab Republic of Egypt and Tunisia, the regulatory framework does not expressly require publication of the award notice. In Tunisia, the tender documents will regulate this matter, while in the Arab Republic of Egypt, the award must take place in a public hearing open to all bidders, but there is no

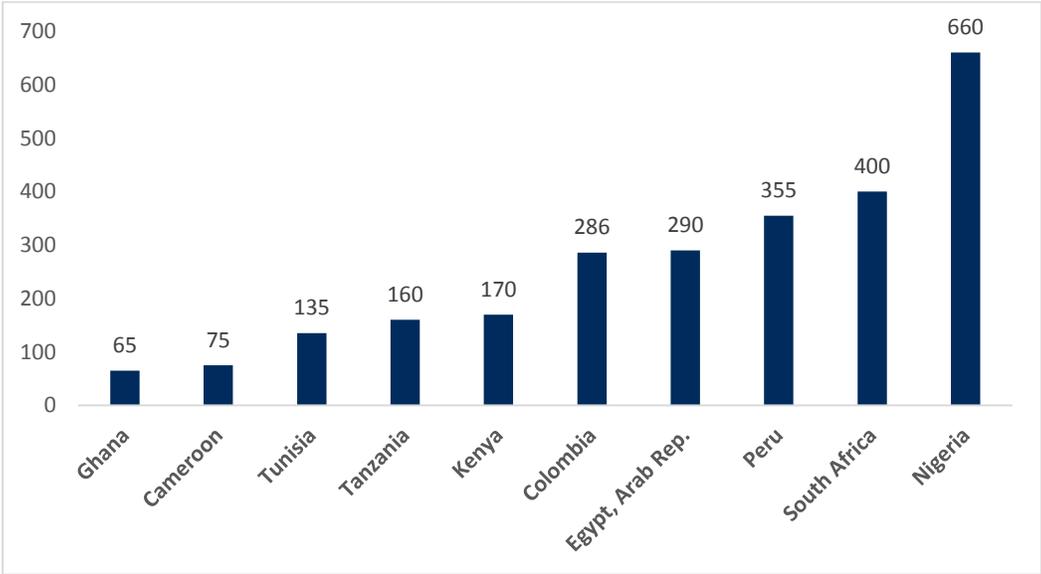
specific provision regarding its publication. In addition, neither of their regulatory frameworks provides for the publication of the full PPP contract.

Regarding the communication of the results to the unsuccessful bidders, the regulatory framework in Colombia is the only one among the surveyed economies that expressly requires procuring authorities to notify all bidders of both the result of the PPP procurement process and the grounds for the selection of the winning bid^{xxxvii}. In Tunisia and Tanzania, the regulatory framework expressly stipulates that the procuring authorities must make the grounds for the selection of the winner available to the unsuccessful bidders. In South Africa, while not expressly provided for in the regulatory framework, our contributors indicated that the practice is to provide unsuccessful bidders with the reasons for selecting the winner. Finally, in the remaining surveyed economies, the regulatory frameworks state that the non-selected bidders should be notified of the outcome, but do not require that the grounds for selection be included.

Time from public notice to contract award

Given the complexity and size of the projects, procurement of PPPs can be a lengthy process. A longer process increases transaction costs that need to be accounted for when opting for a PPP. On the other hand, the same complexity of the projects requires a thorough evaluation of the bidder’s qualifications and their proposals. This may involve several stages that are necessarily time consuming if adequately conducted. Figure 2 below presents the length of the PPP procurement process for all the surveyed economies, from public notice up until PPP contract awarding⁹.

FIGURE 2. CALENDAR DAYS FROM PUBLIC NOTICE TO PPP CONTRACT AWARD



Source: Benchmarking PPP Procurement 2015

In Colombia, the Arab Republic of Egypt, Peru, and South Africa, the number of calendar days from the publication of the PPP public notice to the awarding of the PPP ranges from the high 200s to 400 days (around one year). In Nigeria, contributors indicated that this period of time was even longer (almost two years). In Kenya, Tanzania, and Tunisia, the time from the public notice to the awarding of the PPP contract

⁹ The results in figure 1 aggregate the responses of our contributors by presenting the median of the received answers. It is therefore a purely indicative figure based on our contributors’ experience.

is lower (around 150 days) but still substantially longer than the less than one hundred days indicated for Cameroon and Ghana.

Unsolicited proposals

Unsolicited proposals allow governments to benefit from the knowledge and ideas of the private sector but can also create new challenges. One of the important issues arising from unsolicited proposals is that because they originate in the private sector, they are outside of the public sector investment planning framework. It is thus necessary to establish a clear process to assess unsolicited proposals, ensuring consistency with public sector priorities and needs, especially when requiring public commitments^{xxxviii}. Among the surveyed economies, only the Arab Republic of Egypt does not regulate unsolicited proposals for PPPs. The South African regulatory framework states that PPP unsolicited proposals should follow the same procedure and comply with the same requirements as if originated in the public sector^{xxxix}, although the National Treasury does not encourage their use.

In Ghana, the National Policy on PPPs expressly requires unsolicited proposals to be “consistent with the national development agenda, serve the public interest, needs, and priorities of the Contracting Authority.”^{xl} Similar provisions are present in both Nigeria—where the PPP project must be “in line with the national development goals of the relevant MDAS”^{xli}—and Tanzania.

The regulatory frameworks of both Peru and Colombia provide the most detailed mechanisms for assessing unsolicited proposals. In Colombia, unsolicited proposals are evaluated in two stages: prefeasibility and feasibility. In the prefeasibility stage, the procurement authority must verify that the unsolicited proposal is of public interest given the sectorial policies and investment priorities. In Peru, the specific evaluation procedure established by the regulatory framework includes assessing the “relevance and consistency of the unsolicited proposal with the national, regional or local priorities.”

PPP Contract Management

Given the long-term nature of PPP contracts, their management is a crucial aspect that is sometimes left under-regulated. It involves setting up appropriate institutional structures for interaction with the private partner, monitoring and evaluating milestones, and dealing with changing circumstances that affect the PPP contract. Specifically, the regulatory provisions regarding renegotiation vary significantly among the surveyed economies.

Renegotiation of the PPP contract

Given the complexity as well as long duration of PPP contracts, renegotiation may be unavoidable in certain projects. Whereas, ideally, parties would try their best to design PPPs to secure long-term sector efficiency and foster compliance with the contract conditions by both the government and the operator, often renegotiation may be the only avenue available to avoid claiming failure. Both the public and the private sector have motivations to renegotiate under some circumstances, but to the extent possible renegotiations should be limited^{xlii}. The regulatory framework plays a role in controlling parties’ expectations to renegotiate by establishing certain conditions and limits.

In Cameroon and the Arab Republic of Egypt, the regulatory frameworks expressly stipulate that the conditions under which renegotiations happen will be established by the PPP contract. In Ghana, Kenya, Nigeria, and South Africa, the regulatory framework expressly requires the approval of the procuring authorities and for the contract amendment to meet certain requirements. For example, in Kenya, the

PPP project, when amended, should continue to provide value for money, be affordable, transfer the appropriate level of risk to the private party, and ensure an efficient and effective provision of the service to the public and the protection and preservation of the environment. In South Africa, "the relevant treasury will approve a material amendment only if it is satisfied that the PPP agreement, if so amended, will continue to provide (a) value for money; (b) affordability; and (c) substantial technical, operational and financial risk transfer to the private party."^{xliii}

In Colombia, Peru, and Tunisia, the regulatory framework expressly limits PPP contract amendments. In Colombia, changes in the scope or the duration cannot imply increasing the original value of the PPP contract by more than 20 percent.^{xliv} The regulatory framework does not specifically address limiting or regulating changes in the risk allocation of the PPP contract. In Peru, changes during the first three years of the contract are limited to the following cases: i) the correction of clerical errors, ii) the requirements of allowed creditors related to the stage of financial closing, and iii) the accuracy of operational issues that impede the performance of the contract. After that period, if an amendment implies an increase of more than 15 percent of the original cost of the project, the procuring entity should evaluate initiating a new procurement procedure^{xlv}.

Among the 10 surveyed economies, Tunisia has the most detailed regulation in this respect. It requires a new award procedure for any change considered substantial, including changes in the economic balance in favor of the dealer, and the modification of the scope of the contract to include supplies or works not initially covered^{xlvi}. Also, the extension of the duration of a concession is limited to the following expressly regulated cases: i) for reasons of general interest and for a duration not exceeding two years; ii) in the event of a delay of completion or interruption of the management due to unforeseeable and foreign events to the will of the parties to the contract; and (iii) when the concessionaire is constrained, for the good performance of the service subject of the contract and at the request of the conceding party or after his approval, to achieve the new works not provided for in the initial contract, likely to modify the general economy of the concession^{xlvii}.

Lessons Learned and Next Steps

The data collected during this pilot stage shows significant variation in PPP-related regulatory provisions and practices among the surveyed economies. Given the project's nature and resource constraints, not all relevant factors affecting the PPP project cycle were covered, and only a limited number of them were assessed in depth. However, these preliminary results already present interesting comparative information that helps readers understand the subtle differences underlying different regulatory frameworks for PPPs. In the future, this benchmarking information may be useful when designing regulatory reforms by providing a straightforward comparison of current regulatory provisions and practices in a number of economies. As the Benchmarking PPP Procurement project evolves, the coverage and design of the survey instruments will be refined. Building on the lessons learned from this pilot exercise, an expansion of the thematic coverage may be considered in the future to measure additional impediments to private firms' access to PPP contracts.

Acknowledgements

The *Benchmarking Public-Private Partnerships Procurement 2015* report was prepared by a team lead by Tania Ghossein under the general direction of Federica Saliola and Augusto Lopez Claros. Members of the core team included Mikel Tejada Ibañez, Tabea Hoefig, and Byron Sacharidis. The team would also like to acknowledge the valuable support received in different stages of the project from Sophie Pouget and Elisabeth Danon.

The project was made possible with the financial support from the Public-Private Infrastructure Advisory Facility (PPIAF) and the expert technical support from the World Bank Public-Private Partnerships Cross Cutting Solutions Area. The team would like to thank in particular the active involvement and support of Clive Harris and Fernanda Ruiz-Nuñez. The team would also like to thank our many other colleagues at the World Bank Group for their valuable guidance: Jeffrey John Delmon, Victoria Hilda Rigby Delmon, Felipe Goya, Jay-Hyung Kim, Anand Kumar, Clelan Mandri-Perrott, Rui Monteiro Mark M. Moseley, Shyamala Shukla and Satheesh Kumar Sundararajan.

The team is indebted to the following individuals for pro bono feedback and guidance at various stages of the project, and in particular during the development of the survey instrument:

Walid Abdelwahab and Fida Rana (Islamic Development Bank), Christopher Carrigan (George Washington Trachtenberg School of Public Policy and Public Administration), Deborah DeMasi (George Washington Law School), John Forrer (George Washington Business School and Trachtenberg School of Public Policy and Public Administration), Jose Luis Guasch (Former World Bank), Ian Hawkesworth (Organization for Economic Cooperation and Development), Andrew J. Kline (American University School of Public Administration), Lawrence Martin (University of Central Florida), Andrés Rebollo, Marcos Siqueira and, David Van Slyke (Maxwell School of Public Administration).

The team is also grateful to Georgetown University Law Center and McCourt School of Public Policy for supporting the project with an externship program for students to conduct research for the project.

This report would have not been possible without the generous contributions of a network of legal experts, private sector operators, academics, government officials, and other professionals routinely administering or advising on the relevant legal and regulatory requirements in the 10 surveyed economies.

The report was edited by Alison Buckholtz and designed by Victoria Adams-Kotsch.

ANNEX. KEY DATA POINTS

TABLE 5. LEGAL FRAMEWORK FOR PPPs

Economy	Description
Cameroon	<p>PPPs in Cameroon are currently governed by Law No. 2006/012 of December 29, 2006, enacting the general regulations of Partnership Contracts ("Law No. 2006/012"); Decree No. 2008/035 of January 23, 2008, organizing and creating the National Partnership Contracts Support Council - <i>Conseil d'Appui à la Réalisation des Contrats de Partenariat</i>, CARPA- ("Decree No. 2008/035"), and Decree No. 2008/0115/PM of January 24, 2008 regulating the Law No. 2006/012 ("Decree No. 2008/0115/PM"). Other applicable laws and regulations are: Law No. 2008/009 of July 16, 2008, enacting the accounting, financial, and tax system applicable to partnership contracts; Order No. 186/CAB/PM of November 15, 2011, to fix terms and conditions for the collection of fees payable for partnership contracts, as well as Decree No. 2012/148 of March 21, 2012 to amend and supplement certain provisions of Decree No. 2008/035 of January 23, 2008 relating to the organization and functioning of the National Partnership Contracts Support Council. Finally, our contributors have indicated that since PPPs are also public contracts, the PPP regulatory framework is complemented by Decree No. 2004/275 of September 24, 2004, which instituted the public contracts code (Decree No. 2004/275).</p>
Colombia	<p>PPPs in Colombia are currently governed by the Law 1508 of 2012 on Public-Private Partnerships (the "PPP Law") and Decree 1467 of 2012 regulating the PPP Law (the "PPP Regulations") along with other decrees and resolutions complementing and modifying the latter¹⁰. The aforementioned Law and associated decrees mainly regulate the PPP approval system and some PPP procurement particularities. As established by Article 3 of the PPP Law, the general procurement framework (Law 80 of 1993, Law 1150 of 2007 on Public Administration Contracts Regime and Law 1510 of 2013) governs the PPP procurement process for matters not specifically regulated by the PPP Laws and Regulations. Finally, Decree 063 of January 14, 2015, regulating the particulars of the implementation of PPPs in the drinking water and basic sanitization sector, and Law 1608 of 2013 on transportation infrastructure projects apply to PPPs in sectors.</p>
Egypt, Arab Rep.	<p>PPPs in the Arab Republic of Egypt are governed mainly by the following laws and regulations: The Law no. 67 of 2010 regulating Partnership with the Private Sector in Infrastructure Projects, Services and Public Utilities (the "PPP Law") and the Executive Regulations of Law no. 67 of 2010, issued by virtue of the Prime Ministerial Decree no. 238 of 2011 (the "PPP Executive Regulations"). This is complemented by the Prime Ministerial Decree no. 1875 of 2010 on the structure and competence of the PPP Supreme Committee. The First Article of the PPP Law expressly excludes the application of other related frameworks for PPPs stating in its second paragraph that: "... and these contracts [PPP Contracts] shall not be governed by (...) Tenders and Bids Law no. 89 of 1998, and any other specific laws related to granting concessions of public utilities].</p>
Ghana	<p>Ghana does not have a standalone PPP Law, and therefore PPPs are currently governed by the National Policy on Public Private Partnerships, 2011 (the "National Policy on PPPs"). According to our contributors, the National Policy on PPPs sets out guidelines for the</p>

¹⁰ Decree 0100 of January 25, 2013, which modifies Decree 1467 of 2012; Decree 301 of February 17, 2014, which modifies Decree 1467 of 2012; Decree 1553 of August 15, 2014, which modifies Decree 1467 of 2012; Decree 2043 of 2014, of October 15, 2014 which modifies Decree 1467 of 2012.

	interim regulation of PPPs pending the adoption of a PPP Law. However, to the extent that the National Policy on PPPs is not an act of parliament, it is neither binding nor enforceable. That notwithstanding, it is the policy that guides PPPs and it is to be followed by the MDAs when procuring PPPs. PPPs are new in Ghana and therefore the provisions of the National Policy on PPPs have to a large extent not been implemented. The PPP Policy is complemented by the Ministry of Finance and Economic Planning PPP Toolkit for Unsolicited Proposals, December 2012 (the " Toolkit for Unsolicited Proposals "). Procurement of PPPs must be done in accordance with the Public Procurement Act, 2003 (" Public Procurement Act ") as specifically stated in the PPP Policy that reads as follows: "The procurement procedure (...) must ensure that PPP activities are within the scope of the public procurement act shall be undertaken under the Public Procurement Act."
Kenya	PPPs in Kenya are governed by Law 15 of 2013 on Public-Private Partnerships (the " PPP Act ") and the Public Private Partnership Regulations published in December 2014 (the " PPP Regulations ") ¹¹ . Before the PPP Act was enacted, the Government issued a Policy Statement on PPPs to articulate its commitment to PPPs. Article 92 of the PPP Act expressly abrogates the provisions regarding "concessioning" previously included in Article 92 of the Public Procurement and Disposal Act (Act 3 of 2005), therefore making the PPP Act and associated regulations the applicable regulatory framework for PPPs.
Nigeria	PPPs in Nigeria are mainly governed by the Infrastructure Concession Regulatory Commission Establishment Act 2005 (the " ICRC Act "); the National Policy on Public Private Partnership 2008 (the " PPP Policy "); the Public Private Partnership Manual of the Infrastructure Concession Regulatory Commission 2012; the ICRC Guide for Implementing Unsolicited Proposals for PPPs; and the Guidance on Contract Disclosure issued by the ICRC (the latter guidelines are still in draft version, according to our contributors). Also, according to our contributors the general procurement laws and regulations are applicable: the Public Procurement Act 2007 (the " Public Procurement Act "); the Public Procurement Goods and Works Regulations 2007 (" Public Procurement Regulations "); and and the Public Procurement Procedure Manual 2011 (the " Procurement Manual ").
Peru	PPPs in Peru are mainly governed by the Legislative Decree 1012 Framework Law on Public Private Partnerships for the creation of productive employment, and establish rules for the Expedited Process for the Promotion of Private Investment. It was approved in May 2008 (the " PPP Law ") and the Supreme Decree 127-2014-EF Regulation of Legislative Decree 1012 was approved in May 2014 as amended (the " PPP Regulation "). Procurement of PPPs continues to be regulated by the Supreme Decree 059-96-PCM Consolidated Text of the Regulations with force of law governing the granting in concession of infrastructure and utilities public works to the private sector published in December 1996 (the " Concessions Law ") and the associated Supreme Decree 060-96-PCM Regulation of the Consolidated Text of Binding Rules. The latter regulates the concession of infrastructure and public service works to the private sector and was approved in December 1996 ("the Concessions Regulation "). Also expressly mentioned as applicable to PPPs is the Law 27293 of National Public Investment System, approved in June 2000 (the " National Public Investment Law "). Other relevant regulations are the following: Resolution 3656 of 2012, which establishes the parameters for the evaluation of the Public-Private Partnerships mechanism as a

¹¹ The Public Private Partnership Regulations published on the official gazette on October 17, 2014 through Legal Notice No. 148 of 2014 were not enacted as there was a requirement for the same to be presented to parliament within seven days of publication, which did not happen. These therefore lapsed. To cure this, exactly the same regulations were published on the official gazette in December 2014 through Legal Notice No. 171 of 2014, and these are the regulations now in force.

	method of project execution; Decree 1610 of July 30, 2013, which regulates Article 26 of the PPP Law the Guidelines for the Admission of co-financed unsolicited proposal prepared by the Proinversion and published on January, 2015; and the Directive 004-2009-PROINVERSION regarding Processing and Evaluation of Private Initiatives in Investment Projects, approved by Resolution of Proinversion 278-01-2009 in March 2009.
South Africa	PPPs in South Africa are regarded as a specialized form of procurement, and thus the starting point is the regulatory framework governing public sector procurement. Public procurement is regulated under: Section 217 of the Constitution of South Africa; Section 51(1) (a) (iii) of the Public Finance Management Act (“ PFMA ”) 1 of 1999; Treasury Regulation 16A to the PFMA; the Preferential Procurement Policy Framework Act 5 of 2000, and the Preferential Procurement Regulations (adopted in 2011); the broad-based Black Economic Empowerment Act 53 of 2003; and the Promotion of Administrative Justice Act 3 of 2000. In addition to the above, the following legislation regulates the feasibility, procurement, and implementation of PPPs: Treasury Regulation 16 to the PFMA (adopted in 2005 and amended in 2007 and 2013), as well as the PPP Manual issued as various National Treasury Practice Notes by the PPP Unit in the National Treasury, the Standardized PPP Provisions issued as National Treasury PPP Practice Note 1 of 2004, and the Practice Note 11 of 2008-2009 on Unsolicited Proposals.
Tanzania	PPPs in Tanzania are governed by the Public Private Partnership Act No. 18 of 2010 as amended by the Public Partnership Amendment Act No. 3 of 2014 (the “ PPP Act ”) and the Public Private Partnership Act, No. 18 of 2010 – Regulations of 2011 (the “ PPP Regulations ”). There are currently (as of March 10, 2015) draft amendments to the PPP Regulations, which are expected to be adopted in 2015. The Public Procurement Act, No. 7 of 2011, and the Public Procurement Act - Regulations of 2013 (as the “ Public Procurement Act ” and the “ Public Procurement Regulations ”) regulate PPP procurement (as expressly provided by Section 17 (2) of the PPP Act).
Tunisia	The Tunisian Parliament is working on a specific PPP law which has not been finalized yet. Currently, PPPs in Tunisia are governed by the Law No. 2008-23 of Concessions (hereinafter referred as the “ Concessions Law ”). Based on the Concessions Law, two main decrees have been enacted in order to describe the concessions procedures and regime: Decree No. 2010-1753 of July 19, 2010 setting the conditions and procedures of the concessions granting (complemented by Decree No. 2013-4631 of November 18, 2013), and Decree No. 2013-4630 of November 18, 2013 creating the Concessions Follow-up Unit within the Government Presidency (<i>Unité de Suivi des Concessions au sein de la Présidence du Gouvernement</i>). This substituted for and repealed the original Decree No. 2008-2965 of September 8, 2008, creating the Concessions Follow-up Unit.

TABLE 6. INSTITUTIONAL ARRANGEMENTS FOR PPPs

Economy	Description
<p>Cameroon</p>	<p>The Prime Minister is the highest authority regarding partnership contracts and holds the contract awarding authority. He can delegate this authority to the public entity initiating the project that in any case is responsible for signing the contract (Article 2 of Decree No. 2008/0115/PM). CARPA (<i>Conseil d'Appui à la Réalisation des Contrats de Partenariat</i> - National Partnership Contracts Support Council) is the public entity with expertise on PPPs and responsible for appraisal and approval of PPP feasibility studies before the call for tenders (Article 6 and 7 of the Law No. 2006/012). CARPA is organized in detail by Decree No. 2008/035 that describes its general mission as "to contribute, through its expertise, in creating or renewing public infrastructures and equipment, as well as improving the quality of the public service within the framework of bigger technical and financial projects to be achieved through a partnership agreement." In addition to the procuring authorities and CARPA, the Ministry of Finance also participates in the PPP project cycle as provided by Article 6 of the Law No. 2006/012 (its opinion on the project is required before the call for tenders).</p>
<p>Colombia</p>	<p>According to Article 3 of the PPP Law, all procuring authorities are allowed to open procuring procedures by means of PPP. The National Planning Department is in charge of planning and, in general, overseeing the use of PPPs in the country. It does so by issuing a favorable opinion regarding the justification of using the PPP mechanism to develop certain projects and also administers and regulates the operation of the Single Register of PPPs. The Ministry of Finance and Public Credit must approve the evaluations of contingent liabilities that public entities prepare to justify the use of PPPs (Articles 11.3 and 36 of the PPP Law), evaluate the financial conditions of the PPP projects, approve the contractual clauses proposed by the public entities (Article 23 of the PPP Law) and keep a registry of the contracts that are structured under the PPP scheme (Article 27 of the PPP Law). The National Council of Social and Economic Policy (CONPES) must approve PPP contracts that have an execution term of longer than 30 years (Article 6.1 of the PPP Law) and define each year the annual limit to public commitments for PPPs (Article 26 of the PPP Law), while the Superior Council for Fiscal Policy (CONFIS) must authorize public commitments for each PPP project (Article 26 of the PPP Law) and approve the use of public resources for PPP contracts (Article 14 of the PPP Regulations).</p>
<p>Egypt, Arab Rep.</p>	<p>Administrative authorities allowed to procure PPPs under the PPP Law are defined by Article 1 of the PPP Law as: "Ministries and Service and Economic Public Authorities, and any other public legal person designated as such by a decree issued by the Prime Minister." Article 16 of the PPP Law establishes the PPP Central Unit within the Ministry of Finance, and PPP satellite units may be established, when necessary, within the Administrative Authorities. The PPP Central Unit "shall be competent to provide technical, financial, and legal expertise to the Supreme Committee for PPP Affairs and to the PPP satellite units at the Administrative Authorities. It shall also lay out and follow-up procedures to tender and conclude PPP contracts and their execution, and prepare and publish studies, information, and statistics related to PPP projects, both locally and internationally. The PPP Central Unit also shall be competent for the selection of advisors for the tender of PPP projects and contracting with them in accordance with the rules and procedures stated in the Executive Regulations of this Law." Besides the procuring authorities and the PPP Central Unit, Article 14 of the PPP Law establishes the Supreme Committee for PPP Affairs chaired by the Prime Minister and containing members from several Ministries and the PPP Central Unit. It is</p>

	responsible, among other functions, for endorsing the use of the PPP structure in projects by Administrative Authorities (Article 15 of the PPP Law).
Ghana	<p>According to the National Policy on PPPs, the PPP procuring authorities in Ghana are the Ministries, Department & Agencies (MDAs) and the Metropolitan, Municipal & District Assemblies (MMDAs), in consultation with the various departments of the Ministry of Finance in particular the Public Investment Division. When necessary, procuring authorities, especially sector ministries, will be encouraged to set up Project Management Units (PMUs) to assist in the project identification, needs and options analysis, initial definition of PPP concepts and PPP contract management, monitoring, reporting, and evaluation. The Ministry of Finance is in general responsible for issuing standardized PPP provisions and a PPP manual/guidelines for the effective management of PPP projects. The Public Investment Division within the Ministry of Finance is responsible for developing the legal, institutional, and regulatory framework for the PPP program. Within the Public Investment Division, the Project and Financial Analysis Unit should perform the screening of projects to ensure consistency with the National Infrastructure Plan and the verification that the use of the PPP option is preferable and beneficial relative to direct public investment. Also within the Public Investment Division, the PPP Advisory Unit provides advice to the various contracting authorities in the public sector to enhance the identification and preparation of feasibility analysis, alongside structuring, negotiations, and procurement of PPP projects. Outside the Public Investment Division, the Debt Management Division ensures fiscal sustainability for PPP projects and the Budget Division incorporates PPP projects into the annual budgeting exercise. Depending on the size of the project, as provided by the National Policy on PPPs Approval Schedule, the PPP Approval Committee, the Cabinet, the Parliament, or the General Assembly of the MMDA are responsible for approving PPPs. Other entities involved to some extent in the PPP process are: the Ministry of Trade and Industry (facilitating the participation of SMEs in the PPP process by promoting indigenous Ghanaian enterprises); the National Development Planning Authority (preparing the National Infrastructure Plan from which every PPP initiated by the procuring authorities emanates); the Attorney General's Department (ensuring that PPP agreements conform with the laws of Ghana); and the relevant Regulatory Authorities.</p>
Kenya	<p>Under the PPP Act, a procuring authority is referred to as a Contracting Authority and defined as “a State department, agency, State corporation or county government which intends to have a function undertaken by it performed by a private party”_(sic) (Section 2 of the PPP Act). According to Sections 23 and 24 of the PPP Act, contracting authorities are required to submit lists of PPP projects they intend to undertake in line with their development programs. These lists are assessed and approved, hierarchically, by the PPP Unit, the PPP Committee, and the National Cabinet. The PPP Committee acts as the main regulator of PPPs in Kenya, and approves PPP project proposals submitted by the contracting authorities (Section 7 and 31 of the PPP Act). The Public Private Partnership Unit within the National Treasury serves as the secretariat and technical arm of the Committee. The PPP Unit is responsible for promoting PPPs, offering technical support to Government Agencies procuring PPP Projects and making recommendation on the approval or rejection of projects prior to submission to the PPP Committee (Article 14 of the Act). The National Treasury, through the Cabinet Secretary for Finance, oversees the operations of the PPP Unit and PPP Committee, and submits a memorandum to the National Cabinet for the approval of a PPP project (Section 54 of the PPP Act). In addition, the Debt Management office, in consultation with the Cabinet Secretary for Finance, must</p>

	<p>give its approval to the project feasibility report prepared by the Contracting Authority (Section 35 of the PPP Act). Lastly, after successful procurement and identification of a Private Party, and successful negotiation with the contracting party, the Debt Management Office and the Cabinet Secretary for the Treasury must approve the consequent project report and risk assessment report (Section 53 of the PPP Act).</p>
<p>Nigeria</p>	<p>In Nigeria, all Federal Government ministries, departments, and agencies (MDAs), as well as state governments, can procure PPP projects. At the national level, the Infrastructure Concession Regulatory Commission (ICRC) is responsible for issuing guidelines on PPP policies, processes, and procedures and acts as a national center of PPP expertise (including the PPP Resource Centre with the PPP Toolkit) and promotion. According to Section 2(2) of the ICRC Act, the Federal Executive Council must approve PPP projects (Section 6 of the National Policy on PPP requires the ICRC to provide opinion to the Federal Executive Committee on whether projects submitted for Federal Executive Council approval meet the requirements of the regulation). The Federal Ministry of Finance is involved in the financial management of PPP projects as well as in evaluating and managing fiscal risks that may result from the terms of the agreement. Together with the Ministry, the Debt Management Office needs to be satisfied that any contingent liabilities are manageable within the government's economic and fiscal forecasts. Finally, the National Council on Public Procurement and the Bureau of Public Procurement is involved regarding some aspects of the procurement process as provided by the Public Procurement Act, Regulations, and Manual.</p>
<p>Peru</p>	<p>According to the PPP Law, the corresponding Promoting Organism of Private Investment (OPIPs from its Spanish name: <i>Organismos Promotores de la Inversión Privada</i>) in each governmental agency (ministries at the national level) is responsible for developing PPPs. However, Proinversion (Private Investment Promotion Agency <i>Agencia de la Promoción de la Inversión Privada</i>) will act as OPIP for projects that involve investments over 15,000 UIT (tax unit), cover multiple sectors, or originate in unsolicited proposals (Article 6 of the PPP Regulations). Besides its role as OPIP, Proinversion is a public entity ascribed to the Ministry of Economy and Finance responsible for executing the national policy of private investment promotion. Proinversion promotes the incorporation of private investment in public services works and infrastructure projects through PPPs, based on public and private initiatives of national scope, as well as by advising subnational public entities when requested. Furthermore, it offers information services and orientation to investors, and contributes to consolidate a favorable and appealing environment for private investors, in accordance with economic plans and integration policies. The Directorate-General of Private Investment Policy and Promotion of the Ministry of Economy and Finance (MEF, from its original Spanish name <i>Ministerio de Economía y Finanzas</i>) has the following responsibilities: (i) issue a favorable opinion for the incorporation to the private investment promotion process of PPP projects, when they require guarantees or co-financing, (ii) issue an opinion in the design stage of investment projects classified as self-sustaining when they require the granting of guarantees from the Peruvian Government, (iii) for investment projects classified as co-financed, the project's design, including the analysis of the PPP modality, will be the respective OPIP's responsibility, and will need the favorable opinion of the MEF relating fiscal responsibility and budget capacity. The final design of the PPP contract will require a favorable opinion by the MEF regarding fiscal responsibility and budget capacity, over the amount of the maximum co-financing to be granted in the contract. Without a favorable opinion by the MEF, any subsequent act will be void. The MEF is the authorized entity to issue regulations for the appraisal of quantifiable contingent</p>

	<p>commitments and income flows from the exploitation of projects subject to PPP contracts, as well as for the adequate registry of firm commitments and quantifiable contingencies, guarantees, and other connected instruments and collaterals. Finally, the MEF also grants support and assistance to public entities for the identification of projects to be developed through PPPs. Other entities involved in the PPP process are the National Audit Office, which produces a report regarding the legality of the PPP contracts, and the regulatory agencies, which perform oversight and regulatory activities, conduct audits, and impose penalties over PPPs developed in sectors of their responsibility.</p>
South Africa	<p>There are a number of government institutions that may enter into a PPP for the provision of services under their mandate. These entities are national departments (as defined in the PFMA), constitutional institutions (as defined in the PFMA), and public entities listed in schedule 3 of the PFMA and any subsidiaries of these public entities¹². A PPP Unit was initially established in the National Treasury as the body that oversees and is required to authorize the PPP process on a national government level. It existed until recently as a separate department within the National Treasury. The PPP Unit has now been absorbed into the Government Technical Advisory Component, which is an independent entity that reports to the National Treasury.</p>
Tanzania	<p>According to the PPP Act, any ministry, government department or agency, or statutory corporation may act as PPP procuring authority. The PPP Act as amended replaces the Public Private Partnership Coordination Unit (located within the Tanzania Investment Center) with the PPP Centre to be constituted within the Office of the Prime Minister. It also sets up a PPP Technical Committee to recommend PPP projects for approval by the National Investment Steering Committee (established in the Tanzania Investment Act). Under the Ministry responsible for finance, a PPP Unit is responsible for fiscal risk allocation and other financial matters under the PPP Act. An amendment to the PPP Regulations (draft under consideration and expected to be approved in 2015, as of March 2015) will fully implement this new institutional arrangement. According to the PPP Act, as amended, at the beginning of the year, every contracting authority will submit to the PPP Centre a list of potential PPP projects (Section 5 of the PPP Act). Section 9 of the PPP Act provides for the contracting authority to submit PPP project proposals together with the feasibility study to the PPP Centre for consideration and to seek approval of the Minister of Finance where the terms of the agreement involve public finance. The PPP Centre is responsible for providing technical support to contracting authorities, promoting PPPs, and forwards recommended projects to the PPP Technical Committee (Section 5 of the PPP Act). The PPP Technical Committee considers PPP proposals and makes recommendations to the National Investment Committee for final approval of PPPs (Section 6 of the PPP Act). The PPP Act as amended also creates the Public Private Partnerships Facilitation Fund.</p>

¹² Large state owned companies, referred to as "major public entities" listed in Schedule 2 of the PFMA are not required to comply with the PPP regulatory framework (Treasury Regulation 16). This is because major public entities are for the most part financially self-sufficient and unlike the above public entities, do not require treasury approval to conclude transactions constituting future financial commitments, or to provide guarantees, indemnities or security.

Tunisia	<p>The Concessions Law does not determine a unique PPP procuring authority, but mentions in Article 3 that the public service is procured under the control of the public entity entitled to grant it. This includes the Prime Minister and the Ministries of each relevant sector (the States) and any other public establishment or enterprise whose establishment charter allows them to grant concessions. The Concession Follow-Up Unit is established within the Prime Minister’s Office to advise the government regarding concession and issue opinions. In particular it should coordinate concession operations, provide support to public authorities on developing concessions and PPPs, issue opinions about evaluation, granting, control and monitoring concessions, assisting public authorities in the promotion of concession, etc. (Article 2 of the Decree No. 2013-4630). However, the Concession Follow-Up Unit does not perform a gatekeeping role approving concessions; only the procuring authority has the power to do so. The Concession Follow-Up Unit should ensure coordination with the Finance Minister regarding the financial aspects of concessions. However, according to our contributors, the Ministry of Finance has only recently created the PPP Head Office to perform these functions.</p>
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TABLE 7. INTERVENTION OF THE MINISTRY OF FINANCE

Economy	Legal provisions
Cameroon	The regulatory framework requires the intervention of the Ministry of Finance to prepare a PPP. According to Article 6.2 of Law No. 2006/012 “the call for tenders must be necessarily preceded by the motivated opinion of the Ministry of Finance. Section 8 of Decree No. 2008/0115/PM further develops this provision by stating: “(1) The advice from the Minister of Finance depends on the budgetary sustainability of the project, notably on the coherence of financial commitments with appropriations availability and their impact on public finances.”
Colombia	The regulatory framework provides that the Ministry of Finance must approve the project's contingent liabilities before launching the bidding process (Article 31 and 37 of the PPP Regulations) and review and grant no-objection to the financial conditions and contract clauses of the PPP contract (Article 26 of the PPP Law).
Egypt, Arab Rep.	The regulatory framework does not specifically provide for a particular intervention of the Ministry of Finance. However, the Minister of Finance is a member of the PPP Supreme Committee and acts as the Committee's Chairman whenever the Prime Minister is absent (Article 14 of the PPP Executive Regulations). Also, the President of the PPP Central Unit, whose approval is required to procure a PPP, works under the direct supervision of the Minister of Finance. Further, the PPP Central Unit is under the direct supervision of the Ministry of Finance (Article 16 of the PPP Executive Regulations).
Ghana	The National Policy on PPPs requires the Ministry of Finance and Economic Planning to grant approval in the following stages: 1. The Approval of Pre-feasibility and Project Viability 2. Review and Approval of the full Feasibility Report. 3. Review of project documentation, draft PPP Agreement/Concession. 4. Review and Recommendation of the Evaluation Report (Approval Schedule and paragraphs 47, 48, 49, 52, 54, and 61 of the National Policy on PPPs).
Kenya	The regulatory framework provides for the intervention of the National Treasury in the following stages. Pursuant to Section 24(2) of the PPP Act, the Cabinet Secretary approves a national priority list of projects based on recommendations by the PPP Committee and PPP Unit. Section 35(3) of the PPP Act requires the PPP Unit to submit the feasibility report to the Debt Management Office for assessment and approval of the fiscal risk and contingent liabilities of the project. Finally, Section 53(4) of the PPP Act also requires that following negotiations with successful bidders, the project report setting out the negotiated terms should be sent by the PPP Unit to the Debt Management Office for confirmation of its initial approval issued at feasibility stage, based on final contract and preferred bidder submission. Furthermore, Clause 3.8 of the Policy Statement requires all public entities including county governments, local authorities, and the PPP Unit to seek approval from the state department responsible for Finance/Treasury for all direct and contingent exposure arising from any given PPP project.
Nigeria	Although the regulatory framework does not require a formal "approval" from the Ministry of Finance, the procuring entity is required to consult and engage with the Federal Ministry of Finance prior to commencing any PPP project. According to Section 6 of the PPP Policy, "the Ministry of Finance will have an important role in public financial management of PPP projects, and in evaluating and managing fiscal risks that may result from the terms of the agreements. The Ministry will need to ensure that the forecast costs for the Government—including any subsidies that may be required to make a project financially viable or to ease the transition for poor households to a full cost recovery tariff—are affordable over the life

	<p>of the contract and within the Medium Term Expenditure Framework. Costs and contingent liabilities will need to be reviewed as the project design and risk valuations are refined during the project preparation and procurement phases, and any significant changes to the initial estimates reported to the Ministry. Together with the Ministry of Finance, the Debt Management Office (DMO) will need to be satisfied that any contingent liabilities are manageable within the Government’s economic and fiscal forecasts. The DMO will need to be consulted in advance by project teams within an MDA that is considering the involvement of multilateral agencies such as IFC, MIGA or IDA in providing guarantees or other financial instruments.”</p>
Peru	<p>The regulatory framework in Peru provides for the Ministry of Economy and Finance (MEF) to: (i) Issue favorable opinions for incorporation into the private investment promotion process of PPP projects, when they require guarantees or co-financing; (ii) issue an opinion in the design stage of investment projects classified as self-sustaining when they require the granting of guarantees from the Peruvian Government; (ii) for investment projects classified as co-financed, issue a favorable opinion regarding fiscal responsibility and budget capacity; (iii) issue a favorable opinion of the final design of the PPP contract regarding fiscal responsibility and budget capacity, over the amount of the maximum co-financing to be granted in the contract. Without a favorable opinion of the MEF, any subsequent act issued within the private investment promotion process, including the awarding, will be void. (Articles 8, 9.1, 9.2, 9.3, 9.5, and Seventh Final Complementary Provision of the PPP Law, and Articles 8 and 14 of the PPP Regulations.)</p>
South Africa	<p>The regulatory framework provides for the intervention of the National Treasury on PPPs as regulated by the Treasury Regulations 16.3 to 16.6 governing the Treasury Approval of PPPs. As soon as a possible PPP is identified, that PPP must be registered with the relevant treasury. The procuring authority cannot proceed with the procurement phase of the PPP without prior written approval from the Treasury on the feasibility study (Treasury Approval: I). The procuring authority must not only obtain an approval from the Treasury before issuing the procurement documentation and after the evaluation of bids, but also before appointing a preferred bidder (Treasury Approval: IIA and IIB). Finally, Treasury approval is required once the procurement procedure ends but before signing the contract (Treasury Approval: III).</p>
Tanzania	<p>Regulation 28 (1) of the PPP Regulations states that the Finance Unit (Ministry of Finance) shall, if satisfied with the contents of the feasibility study and findings regarding the financial implications and other financial matters, forward the feasibility study together with its recommendations to the Minister of Finance for approval. In addition, Section 5 (2) of the PPP Act (as amended by the PPP Amendment Act) requires the PPP Centre to forward all findings and materials to the PPP Technical Committee. Section 7 of the PPP Act further outlines the members of the PPP Technical Committee and includes the Minister of Finance.</p>
Tunisia	<p>According to Article 8 of Decree No. 2010-1753, the State Comptroller must be part of the special sub commission responsible for conducting a PPP, and the Ministry of Finance has recently created a PPP Head Office (only one employee affected when this report was drafted). However, the regulatory framework does not provide for any additional specific intervention of the Ministry of Finance regarding PPPs or concessions.</p>

TABLE 8. ASSESSMENT AND PRIORITIZATION OF INVESTMENT PROJECTS, INCLUDING PPP

Economy	Legal provisions
Cameroon	The regulatory framework in Cameroon does not expressly require the government to assess and prioritize (for example, within the framework of a national public investment system) public investment projects, including those to be procured as PPP.
Colombia	The general framework for public investment and national planning, as established by Article 339 and Title XII of the Constitution of Colombia (Constitution of Colombia), applies to PPPs. The National Council on Social and Economic Policies (CONPES) is in charge of prioritizing the economic sectors in which public-private investment is needed. CONPES issues documents whereby it establishes the rank in priorities to perform public investment. The National Council on Social and Economic Policies (CONPES) is the principal advisor of the National Government in aspects that are related to economic and social development. Contributors confirm that assessment and prioritization of PPPs happens in practice.
Egypt, Arab Rep.	Article 2 of the PPP Executive Regulations implies that PPPs should be included in the Social and Economic Development Plan. ("The Administrative Authority that desires to implement one or more of its projects incorporated in the Social and Economic Development Plan through Public Private Partnerships [...].") According to most contributors, this is respected in practice.
Ghana	According to the National Policy on PPPs, "The National Development Planning Commission (NDPC), in collaboration with Contracting Authorities, shall prepare the National Infrastructure Plan (NIP). Every PPP project initiated by Contracting Authorities shall emanate from this plan or the approved development plan of the Contracting Authorities, if not; prior approval should be sought from NDPC." According to most contributors, this is respected in practice.
Kenya	Under Sections 23 and 24 of the PPP Act, procuring authorities are required to submit lists of PPP projects they intend to undertake in line with their development programs. The lists are assessed and approved, hierarchically, by the PPP Unit, the PPP Committee, and the National Cabinet. Also, Section 14 (2) (h) of the PPP Act provides that in performing its functions the PPP Unit is required to rate, compile and maintain an inventory of public private partnerships projects that are highly rated and which are likely to attract private sector investment. Finally, Section 25 of the PPP Act requires the PPP Unit to publish in electronic and print media, the national priority list of projects that has been approved. Most contributors consider that these provisions are respected in practice.
Nigeria	Section 2(1) of the ICRC Act provides that every Federal Government Ministry, Agency, Corporation or body shall prioritize its infrastructure projects and such priority projects may be qualified for concession. Contributors are split regarding whether this requirement is implemented in practice.
Peru	Article 7.1 of the PPP Law states: "The public entities will identify the levels of service being pursued, from a diagnostic about the actual situation, pointing out the importance in the national, sectorial, regional, and local priorities, in the frame of which the investment projects are developed. A PPP may be developed over more than one Public Investment Project, as long as this has been declared viable under the scope of the SNIP (National Investment System)." Also, Article 7 of the PPP Regulations requires an Evaluation Report to incorporate the project into the PPP promotion process including: "(...) b) Relevance and consistency with the local, regional or national priorities as applicable; (...) m) Feasibility Declaration in accordance with the National Public Investment System." This second

	requirement only applies to co-financed projects, as also stated by Article 9.2 of the PPP Law: "Investment projects conducted as Public-Private Partnerships and classified as co-financed shall fulfill all the requirements and processes established in the National Public Investment System Law (...)." Contributors consider that these provisions are effectively respected in practice.
South Africa	The regulatory framework in South Africa does not expressly require the government to assess and prioritize (for example, within the framework of a national public investment system) public investment projects, including those to be procured as PPPs.
Tanzania	The regulatory framework in Tanzania does not expressly require the government to assess and prioritize (for example, within the framework of a national public investment system) public investment projects, including those to be procured as PPPs. However, it is worth noting that the approval process for PPPs requires first a recommendation by the PPP Technical Committee and a final approval by the National Investment Committee.
Tunisia	The regulatory framework in Tunisia does not expressly require the government to assess and prioritize (for example, within the framework of a national public investment system) public investment projects, including those to be procured as PPPs.

TABLE 9. BID EVALUATION COMMITTEE

Economy	Legal provisions
Cameroon	According to Section 22 of the Decree No. 2008/0115/PM: "(1) On expiry of the deadline affixed by the competitive regulation, the files are received by the public contractor initiator of the project, it becomes the responsibility of the latter to transmit the file to a special committee for partnership contract for unfolding and analysis of tenders. (2) The special commission quoted in the previous paragraph is an ad hoc commission created by the Prime Minister's decree, which fixes its organization and functioning. (3) The special commission is created seven days before the going through the bids. It is presided over by a person appointed by the Prime Minister. His members are experts coming from the expert organism of the originator of the project or any other administrations having technical capacities in analyzing bids." Contributors confirm that this happens in practice.
Colombia	Pursuant to Article 27 of the Law 1510 of 2013, procuring authorities are entitled to (but not required to) establish an evaluation committee in connection with their public procurement processes. The evaluation committee may be comprised by public officers and/or private parties engaged for the purposes of the evaluation. The regulatory framework does not, however, provide for the committee members to meet certain technical qualifications.
Egypt, Arab Rep.	Article 29 of the PPP Law states "a committee shall be formed by virtue of a decree of the competent authority of the administrative authority comprised of technical, legal, and financial experts to receive the bids and review them technically and financially [...]." Contributors consider that the requirements for technical, legal, and financial experts are respected in practice.
Ghana	Section 19 of the Public Procurement Act states that each procurement entity shall appoint a tender evaluation panel with the required expertise to evaluate tenders and assist the Tender Committee in its work. No further provision exists in the regulatory framework regarding technical qualifications of the committee members.
Kenya	Section 39 (1) of the PPP Act provides for the creation of the prequalification committee for the purpose of prequalifying bidders. Pursuant Section 47 of the PPP Act, a contracting authority constitutes a proposal evaluation team for the purpose of evaluating bids submitted to it by bidders. Although the regulatory framework does not explicitly specify the technical qualifications for committee members in charge of bid evaluation, Section 47 (2) of the PPP Act provides that "A proposal evaluation team constituted under subsection (1) shall consist of- (a) at least one representative of the contracting authority nominated by the Cabinet Secretary in the relevant State department; (b) a representative of the node established within the contracting authority; (c) a representative from the relevant regulatory body; (d) a representative of the unit; and (e) a representative of the Attorney-General."
Nigeria	Section 22 of the Public Procurement Act establishes the Tenders' Board, which creates a technical evaluation sub-committee charged with the responsibility of bid evaluation. Also, Clause 3.2 of Part 1 of the PPP Policy states that the evaluation committee should include suitably qualified individuals and at least one person experienced in public procurement. Contributors consider that these requirements are respected in practice.
Peru	Article 4 and 8 of the Concessions Law foresee the establishment of Special Committees to support the activities of the relevant Promoting Organism of Private Investment (OPIP) when granting concessions. The role of the Special Committee on granting the concessions is further regulated in the Concessions Regulations (Articles 14 to 24). Specifically, Article

	14 of the Concessions Regulations states: "In order to grant concessions, the corresponding Special Committee will convoke a Public tender or Comprehensive Project Tender, national or international when it is the case" while Article 20 indicates that "The Special Committee will evaluate the proposals (...)". However, the regulatory framework does not specify that the committee members should meet certain technical qualifications.
South Africa	According to Treasury Regulation 16A.6.2 (b), the corresponding institution's supply chain management policy will specify the composition of its bid evaluation committee and the technical skills required for each specific procurement. Contributors consider that, in fact, these technical skill requirements are respected in practice.
Tanzania	Section 40 (1) of the Public Procurement Act provides that for each tender, an Evaluation Committee shall be formed which conducts the evaluation and reports to the Procurement Management Unit. Section 40 (4) of the same Public Procurement Act provides that members of the Evaluation Committee shall be of an appropriate level of expertise and experience, depending on the value and complexity of the procurement requirement. Contributors confirm that these requirements are respected in practice.
Tunisia	Article 8 of the Decree No. 2010-1753 provides that "The mission of approval of the invitation to tender file, opening, examination, classification and the adoption of the regulation applicable to the grant of the concession is entrusted to a special sub commission in charge of the elaboration of the preparatory stages for the grant of the concerned concession whose creation, composition and functioning methods are the subject of decision of the conceding party. The members exercising within the unit of the concessions follow-up created in accordance with Decree No. 2008-2965 referred to above, cannot belong to the composition of the special sub commissions created in accordance with the provisions of this article."

TABLE 10. TIME TO SUBMIT PROPOSALS - IN CALENDAR DAYS

Economy	Days	Legal Requirements
Cameroon	20	Section 27 of the of the Decree No. 2008/0115/PM states that after the prequalification the procuring authority will invite the bidders to present their final proposals "within a deadline which shall not exceed 20 days." Also, Section 17 (4) of the Decree No. 2008/0115/PM indicates that "The opinion of the tender of manifestation on interest determines the deadline and format of this manifestation of interest" but this refers to the initial manifestation of interest.
Colombia	N/A	The minimum legal period is not explicitly provided for in the regulatory framework. In fact, Article 30.5 of the Law 80 of 1993 indicates that such period will be fixed on the tender documents. In any case, the term to submit the bids must respect at least the term to submit observations to the bidding documents, set forth in Article 23, Law 1510 of 2013 (10 working days term to submit commentaries to the bidding rules). If the bidding process has a pre-qualification stage, Article 17 of PPP Regulations sets forth that within this stage the period that the potential bidders must submit their prequalification documents will be at least of 15 calendar days.
Egypt, Arab Rep.	N/A	The minimum legal period is not explicitly provided for in the regulatory framework.
Ghana	42	Section 53 of the Public Procurement Act provides that no less than 6 weeks shall be granted in the context of International Competitive Bidding.
Kenya	N/A	The minimum legal period is not explicitly provided for in the regulatory framework.
Nigeria	42	Section 25 (2) of the Public Procurement Act provides for publication "not less than six weeks before the deadline for submission of the bids for the goods and works."
Peru	30	Article 26 of the Concessions Law states that between the second publication of the summoning (for two consecutive days) and the deadline for the proposal's presentation, there must be at least 30 calendar days.
South Africa	21	Treasury Regulation 16A.6.3 establishes that the accounting authority must ensure that "(...) c) bids are advertised in at least the Government Tender Bulletin for a minimum period of 21 days before closure, except in urgent cases when bids may be advertised for such shorter period as the accounting officer or accounting authority may determine."
Tanzania	90	Regulations 120(3) and 187(1) of the Public Procurement Regulations require a minimum period of processing time for tenders. Schedule 8 of the Public Procurement Regulations detail the adequate time given to bidders to prepare their bids. Time allotments vary from 4 to 90 calendar days depending on the stage of the tendering process. For large works, 90 days are prescribed.
Tunisia	30	Article 4 of the Decree No. 2010-1753 provides that "The concessions are granted after call for tender by way of invitation to tender published 30 days at least before the date limit fixed for the reception of the candidacies by way of press and eventually by any other mean of material or immaterial publicity."

TABLE 11. ESTABLISHING DIALOGUE BETWEEN THE PROCURING AUTHORITY AND POTENTIAL BIDDERS

Economy	Legal provisions
Cameroon	Section 26 of Decree N° 2008/0115/PM regulates the prequalification dialogue. Also, according to this regulation and specifically as expressed in subsection (3), each candidate is treated equally and the procuring authority cannot provide one of the candidates with information likely to help him above the others.
Colombia	Article 30.4 of the Law 80 of 1993 indicates that if required by any potential bidder, a public hearing will be held with the objective of clarifying the content and scope of the tender documents. As a result of the public hearing, the procuring entity could introduce amendments to the tender documents if it so decides. As regulated by Article 30.4 of Law 80 of 1993, the dialogue will take place in a public hearing where all potential bidders can participate and any amendment to the tender documents resulting from the public hearing will be published according to Article 25 of Decree 1510 of 2013.
Egypt, Arab Rep.	In the pre-qualification stage, according to Article 21 of the PPP Law: qualified Investors may be invited “for private preliminary meetings and sessions to discuss issues related to the project specifications and initial preliminary conditions. All enquiries and replies shall be made available to all qualified Investors. A qualified Investor may stipulate that the Competent Authority of the Administrative Authority may not disclose any confidential data related to its reservations or its economic or financial expectations. Dealing with qualified Investors shall be in a manner that secures equal opportunity and fairness.” Also, Article 50 of the PPP Executive Regulations states that "Following the invitation and prior to bids’ submission, the Administrative Authority, along with the Unit, may invite qualified investors to meetings to discuss their inquiries on the project documents." Moreover, detailing the provisions of Article 23 of the PPP Law, Article 63 provides that the Competent Authority can “conduct as phase one, a competitive dialogue with the purpose of obtaining the necessary clarifications on the elements of technical and financial offers in this phase.” While for the pre-qualification stage Article 21 of the PPP Law provides that all enquiries and replies shall be made available to all qualified investors, no such a provision is established by either the PPP Law or the PPP Executive Regulations in order to disclose the content and results of the dialogue established between potential bidders and the procuring authority.
Ghana	There is no specific regulatory provision that regulates the possibility of establishing dialogue between the procuring authority and the bidders.
Kenya	Section 45(1) of the PPP Act provides that a contracting authority may, in consultation with the PPP unit and with the approval of the PPP Committee, hold a competitive dialogue with each bidder to define the technical or financial aspects of the project in the manner prescribed under the Act. While, pursuant to section 41(3) of the PPP Act, any enquiry and response in relation to a bid is required to be communicated to all shortlisted bidders, Section 45(3) of the PPP Act stipulates that the discussions held during a competitive dialogue with potential bidders are confidential and should not be disclosed to any party by any party to the discussions. Therefore, disclosure only happens in the context of either updated bidding parameters that are normalized for all bidders, or a new opportunity for all bidders to make a best and final offer against a final set of bidding parameters as a result of the competitive dialogue process.
Nigeria	Section 39(5) of Public Procurement Act allows the procuring entity, at the first stage, to engage in negotiations with the bidders with respect to aspects of their tenders. In addition, Section 92 of the Public Procurement Regulations (consultant services) and Section 73 of

	<p>the Public Procurement Regulations (goods and works) allows for the arrangement of pre-proposal meetings whereby potential bidders meet with representatives of the procuring entity to seek clarification/understanding of the project and bid requirements. In addition, both Regulations require that minutes of the pre-proposal meetings be provided to all prospective candidates, including those who do not attend the meeting. On a similar note, Part 1:2:3 of the PPP Policy states regarding the option of holding a bidders' conference: "A record of any questions and answers should be made and subsequently circulated to the tenderers."</p>
Peru	<p>There is no specific regulatory provision that regulates the possibility of dialogue with the bidders. It is important to mention that even though there is no applicable law that obligates the authorities to meet the possible bidders, in fact, it is customary for bidders to meet with the corresponding authorities or Proinversion before the concession granting. Further, it is standard that tender documents include the possibility of dialogue between the procuring authority and the potential bidders.</p>
South Africa	<p>The PPP Manual (Module 5: PPP Procurement, page 43) advises to hold clarification meetings during the preparation of proposals. According to the PPP Manual (Module 5 - PPP Procurement), these meetings "will allow bidders to get clarity on issues in the RFP, and the institution to gauge bidder participation and commitment. These meetings should be scheduled well in advance, should allow for one-on-one meetings with bidders, and there must be a formal process for recording all such meetings and confirming points made during the meetings."</p>
Tanzania	<p>There is no specific regulatory provision that regulates the possibility of competitive dialogue. While dialogue is not specifically addressed, contributors point out that it is also not prohibited.</p>
Tunisia	<p>Article 23 (bis)_of Decree No. 2010-1753 as modified by Decree No. 2013-4631 provides that "The licensor may use the competitive dialogue procedure in the case of a restricted tender, due to the complexity of the project, characterized by the inability of the licensor to define the technical means capable meet its requirements, or establish the legal or financial project". Pursuant Article 23 (sexies), disclosure is not allowed for confidentially reasons, unless with the consent of the bidder to whom the related confidential information belongs.</p>

TABLE 12. REQUIREMENT TO SUBMIT FINANCIAL MODELS

Economy	Legal provisions
Cameroon	According to Section 10(1) of the Law No. 2006/012, the PPP contract shall be awarded to the candidate who submitted the most economically advantageous bid. However, no other provision of the legal framework specifically requires the bidder to include a financial model with the proposal.
Colombia	The regulatory framework does not specifically require bidders to present a financial model with their proposal. Article 23.4 of the PPP Regulations requires a financial model, but only for unsolicited proposals. Article 12.1 of the PPP Law refers to the financial capacity of the bidders, but not to a financial model for the PPP project.
Egypt, Arab Rep.	Article 57 of the PPP Executive Regulations states that: "The financial offer envelope should include the forms and financial documents stated in the tender document [...]." In addition, Article 43 of the PPP Executive Regulations indicates that "The tender documents should include the following information in particular: Project specifications as well as technical and financial conditions that need to be in both the technical and financial offers." Moreover, Article 57 of the PPP Executive Regulations explicitly requires the bidders to submit "financial models."
Ghana	The regulatory framework does not specifically require bidders to present a financial model with their proposal.
Kenya	The regulatory framework does not specifically require bidders to present a financial model with their proposal. Section 44(1) and 45(2) of the PPP Act requires a bidder who intends to bid for a project to complete and submit a technical bid and financial bid. However, a financial model is not explicitly required by the law, but this requirement is usually included in the tender documents as regulated by Section 43 of the PPP Act.
Nigeria	According to Paragraph 4.3 of Part 1 of the PPP Policy, "All of the pricing information, including financing costs, will be included in a financial model which will be submitted as part of the bid. This will be used to calculate the annual payment that the Authority will make (or, in the case of a concession, the tariffs to be paid by the user and/or the payments to be made to the Authority from the net project revenues) for the services provided."
Peru	The regulatory framework does not specifically require bidders to present a financial model with their proposal. Neither the PPP Law nor the PPP Regulations cover the bidding process in detail. Although Article 25 of the Concessions Law does establish potential evaluation criteria, the law does not require bidders to present a financial model with their proposal.
South Africa	The PPP Manual (Module 5 - PPP Procurement) states regarding the financial and project structure, that: "The RFP must require bidders to submit financial models that allow the institution to thoroughly interrogate the proposal (be it a compliant or variant bid) in detail. The response from bidders will depend on the nature of their approach to funding the project. Corporate finance will be provided from the balance sheet of a private company, while project finance involves limited recourse debt funding to a special purpose vehicle. Regardless of the differences, the institution needs enough information to be able to analyze the funding structure and to determine whether or not it can be provided and sustained through the project. The project participants, including all forms of funding and the terms and conditions of funding, are crucial. Bidders must demonstrate in their bids how the interest rate risk will be managed by means of hedging arrangements and how their interest rate hedging arrangements, if any, will achieve value for money. Furthermore, they must demonstrate during the RFP stage, how exchange rate and currency risks will be

	managed and how they impact on affordability." In conclusion, the regulatory framework specifically requires a detailed financial model to be included in PPP proposals.
Tanzania	The regulatory framework does not specifically require bidders to present a financial model with their proposal.
Tunisia	The regulatory framework does not specifically require bidders to present a financial model with their proposal. According to Article 7 and 13 of Decree 2010-1753, bidders are required to submit only a financial proposal. As part of the financial proposal, bidders must provide a certificate stating that the candidate is not in bankruptcy or receivership, along with a tax certificate and a shareholder agreement.

TABLE 13. LACK OF COMPETITION / SOLE PROPOSALS

Economy	Legal provisions
Cameroon	The regulatory framework does not establish special provisions to award PPPs in the case that only one proposal is submitted. In fact, 8(3) of the Law No 2006/012 provides that the same procedure apply to award a PPP contract when only one proposal is submitted.
Colombia	The regulatory framework does not establish special provisions to award PPPs in the case that only one proposal is submitted. In fact, Article 30 of Decree 1510 of 2013 stipulates in this respect, “The Procuring Authority may award the PPP, even if only one offer was submitted, provided that the enabling conditions and the specifications of the public tender are met.”
Egypt, Arab Rep.	According to Article 32 of the PPP Law and Article 81 of the PPP Executive Regulations, the tender procedure may be cancelled unless the PPP Supreme Committee approves the Competent Authority's acceptance of the only proposal upon two conditions: (i) the public interest requires not to repeat the tender procedure or there is no benefit in such repetition; and (ii) the only proposal is technically accepted and is consistent with the conditions and qualification.
Ghana	The regulatory framework does not establish special provisions to award PPPs in the case that only one proposal is submitted.
Kenya	The regulatory framework does not establish special provisions to award PPPs in the case that only one proposal is submitted.
Nigeria	Section 5 of the ICRC Act allows the relevant MDA to undertake direct negotiation, in the event that only one contractor or project proponent submits a bid. Sections 87 of the Public Procurement Regulations (procurement of consultant services) provides that where one proposal is received, the procuring entity may evaluate the proposal and if satisfactory, invite for contract negotiations or continue with the one remaining candidate to negotiations and contract award. Section 111 of the Public Procurement Regulations (procurement of goods and works) provides that such a bid be technically and financially responsive compared to market prices, and otherwise in order before it can be accepted and following evaluation, be awarded to the sole bidder.
Peru	The regulatory framework does not establish special provisions to award PPPs in the case that only one proposal is submitted.
South Africa	<p>The PPP Manual (Module 5 - PPP Procurement) states, regarding the number of pre-qualified bidders, that: “Where only two or even only one bidder pre-qualifies, the project is placed at a great disadvantage, because competitive bidding is essential for getting value for money. In principle, under South African procurement law – and subject to the institution’s procurement policy – it is not necessary to cancel a bidding process if only one bid is made. However, this may be an indication that the project has not been well structured or conceived and the institution should follow the guidance below.</p> <ul style="list-style-type: none"> • Ascertain the likely reasons for the limited interest, and revisit the RFQ documentation and the feasibility study to see what assumptions could be revised to increase market interest. Any changes in the feasibility study must be evaluated for changes in affordability, value for money and risk transfer. • Secure a revised Treasury Approval if any changes to assumptions in the feasibility study are made. • Carry out a second pre-qualification exercise if the project assumptions have been changed and if a revised Treasury Approval has been secured. • If the feasibility study is not revised:

	<ul style="list-style-type: none"> – carry out the pre-qualification exercise again, with a wider circulation to attract a suitable number of bidders, or – continue with the limited number of pre-qualified bidders, but with a revised procurement plan that uses the PSC prepared in the feasibility study as an active ‘competitor’ for the bids.”
Tanzania	According to Section 25(3) (d) of the PPP Regulations, government participation in a PPP requires “a competitive bidding process resulting to a minimum of two compliant tenderers as a condition precedent.”
Tunisia	Only when competitive dialogue is used, Article 23 (quarter) of the Decree No. 2010-1753 as modified by the Decree No. 2013-4631 stipulates, “The tender rules can fix a minimum and a maximum number of candidates who will be admitted to present an offer. The minimum number cannot be lower than three. When the number of candidates satisfying the selection criteria of candidacies is lower than the minimum number, the licensor can continue the procedure with the only selected candidates.”

TABLE 14. TIME FROM PUBLIC NOTICE TO AWARDING -IN DAYS

Economy	Days	Legal Requirements
Cameroon	75	The regulatory framework does not provide for a specific timeframe. Due to many administrative bottlenecks, contributors indicate that is difficult to estimate how long it may take from the point of public notice to awarding.
Colombia	286	The regulatory framework does not provide for a specific timeframe. Time from public notice to awards can vary greatly and depends on the complexity of the PPP.
Egypt, Arab Rep.	290	The regulatory framework does not provide for a specific timeframe. In practice, the number of days between publication of the PPP public procurement notice and award of the PPP depends on the specifics of each case. Ever since issuance of the PPP Law in 2010, the political scene in the Arab Republic of Egypt has been constantly changing. This fact, coupled with the political and social changes that have taken place, make it extremely difficult to assess the timeframe for the tender of a PPP project.
Ghana	65	The regulatory framework does not provide for a specific timeframe. Time from public notice to awarding depends on submissions by the contracting authority and the MDA Schedule.
Kenya	170	The regulatory framework does not provide for a specific timeframe. Time from public notice to awarding varies significantly from one project to another depending on the nature of the goods/services being procured.
Nigeria	660	The regulatory framework stipulates that the number of calendar days from public notice to awarding is at least 12 weeks (six weeks from date of publication in newspaper and not more than three months from date of bid opening to date of award) (Section 25(2) (i) Public Procurement Act). These timelines, in practice, may be exceeded subject to the specifics of each PPP project.
Peru	355	The regulatory framework does not provide for a specific timeframe. Time from public notice to awarding varies depending on the complexity of the project and the interest of the market.
South Africa	400	The regulatory framework does not provide specific time periods for different stages of the PPP project cycle.
Tanzania	160	The regulatory framework does not provide for a specific timeframe. Time from public notice to awards can vary greatly and depends on the complexity of the PPP.
Tunisia	135	The regulatory framework does not provide for a specific timeframe. Time from public notice to awards varies depending on the specifics of the case.

TABLE 15. COMMUNICATING RESULTS OF PROCUREMENT PROCESS TO ALL BIDDERS

Economy	Legal provisions
Cameroon	The regulatory framework specifies that candidates who were not selected are informed of results. According to Section 30(2) of Decree N° 2008/0115/PM: "In the same deadlines, candidates whose bids were not preselected are informed." However, there is no specific provision requiring the contracting authority to inform bidders of the grounds for the selection of the winning bid.
Colombia	According to Article 30.11 Law 80 of 1993, the result of the PPP procurement process, including the grounds for the selection of the winning bid, will be communicated to all the bidders within five calendar days following the awarding. Contributors confirm that in practice the outcome, as well as the grounds of selection of the winning bid, are provided to bidders.
Egypt, Arab Rep.	Article 76 of the Executive Regulations of the PPP Law states: "The committee for receipt and study of bids shall convene at the time and venue set for opening the financial envelopes, and shall commence its work by ensuring that envelopes are tightly sealed, and that all bidders or their representatives are present, then it should open the envelopes in the order of their numbering. The chairman of the Committee shall announce the values of each bid, on which the financial evaluation will be based. All committee members as well as attending bidders or its representatives shall sign on the minutes' report of the session." Article 78 of the PPP Executive Regulations states that a "successful bidder shall be notified by means of a letter of award sent thereto by acknowledged receipt registered mail, after the acknowledgment of the Supreme Committee to the recommendation of the Competent Authority for the selection of the successful bidder and approving concluding the contract. The Administrative Authority shall then return the bid bond to bidders whose technical bids were rejected at first claim after the date of announcing the opening of financial envelopes session. It shall also return the bid bond to the unsuccessful bidders at first claim on the day following the expiry of bids or the day following signing the PPP contract with the Project Company which was established by the successful bidder, whichever date is earlier." Given these provisions, contributors indicate that all bidders are aware of the outcome of the procurement process, but the grounds for selecting the winning bid are not expressly notified to the bidders.
Ghana	The regulatory framework provides that bidders are communicated the outcome of the procurement process, but not the grounds for selecting the winning bid. Section 39(2) and Section 65(9) of the Public Procurement Act requires the procuring authority to provide all the bidders with the results, but does not specify that the grounds for the selection of the winning bid should be included. Contributors have indicated, however, that in practice the grounds are included in the notification.
Kenya	The regulatory framework provides that bidders are communicated the outcome of the procurement process, but not the grounds for selecting the winner. Section 56 (3) of the PPP Act states "the contracting authority shall communicate the decision of the Cabinet or Parliament as the case may be, in writing, to all bidders who participated in the bidding of the project." However, there is no specific provision requiring the contracting authority to inform bidders of the grounds for the selection of the winning bid.
Nigeria	Section 56 of the PPM requires that the procuring entity notify all bidders of the result of the procurement process. However, there is no requirement for the procuring entity to disclose the grounds for the selection of the winning bid. The ICRC Guidance Note on Project & Contract Disclosure (Part 2: Contract Information) does not contain any provision

	<p>in relation to the disclosure of the grounds for the selection of the winning bid. The referenced provision speaks to communication of information with respect to timelines on the PPP contract to ascertain the degree of progress that has been made and does not relate to any obligation on the part of the Procuring Authority to provide bidders with the result of the PPP procurement process, including grounds for selection of the winning bids. The ICRC Guidance Note on Project and Contract Disclosure is still a draft and yet not finalized. On the other hand, Sections 33(3) of the Public Procurement Act provides that “notice of the success of its bid shall immediately be communicated to the successful bidder.” Contributors confirm that in practice, apart from the highest bid, no other grounds of selection are provided to bidders.</p>
Peru	<p>The regulatory framework provides that bidders are communicated the outcome of the procurement process, but not the grounds for picking the winning bid. Article 22 of the Concession Regulations indicates that “the concession will be granted to the owner of the most convenient proposal; by Resolution of the Special Committee that will be communicated to all bidders on the date established in the bidding terms.” Contributors confirm that in practice the outcome, but not the grounds of selection of the winning bid, are provided to bidders.</p>
South Africa	<p>The regulatory framework does not require the contracting authority to inform bidders of the outcome of the procurement process or disclose the grounds of selection of the winning bid. However, the National Treasury recommends that the procuring authority inform the unsuccessful bidders of the outcome of the PPP process. The reasoning for furnishing the results of the PPP procurement process speak to why the unsuccessful bidder was unsuccessful and not necessarily why the successful bidder was preferred. For the sake of transparency, the procuring officer will usually articulate the reasons for not selecting the unsuccessful bidder with reasons as to why the successful bidder was preferred. Although in practice, the reasoning provided is usually vague. Treasury Regulation 16 provides that it is the responsibility of the accounting officer/authority of the procuring authority to design and manage the procurement procedure with a system that is fair, equitable, transparent, competitive, and cost-effective, and includes a preference for the protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination in compliance with the relevant legislation (i.e., Broad-Based Black Empowerment Act 53 of 2003). The regulatory framework allows for a degree of flexibility and allows each procuring authority the freedom to select their own procurement procedures according to their unique requirements and within the broad constitutional requirements of fairness, equitability, transparency, competitiveness and cost-effectiveness.</p>
Tanzania	<p>The regulatory framework provides in Regulation 10 of the Public Procurement Regulations regarding transparency and fairness that: “The procuring entity is to keep records accessible to any authorized person or body and information on project particulars shall be made available to the general public. The records kept by the procuring entity include all procurement, selection, or disposal proceedings in which it is involved, and such records shall prescribe the tenderers who have responded to advertisements or were approached to tender or to submit expression of interest or proposal, the successful tenderers, the unsuccessful tenderers and the reasons.” In the case of simultaneous negotiations, Regulation 155 (13) of the Public Procurement Regulations provides that “a notice of rejection will be provided to each tenderer that does not win a bid together with the reasons thereof.” Contributors confirm that this happens in practice.</p>

Tunisia	The regulatory framework provides that bidders who request the procuring authority to provide information are communicated the outcome of the procurement process and the reasons for their procurement outcome. Article 17 Decree 2010-1753 bidders would have to submit a request to the procuring authority to obtain information. Article 17 of the Decree No. 2010-1753 provides that: "In all cases, the conceding party shall, within a deadline not exceeding two months as from the date of reception of a request for this purpose, notify in writing any tenderer who asks it during the month following the date of declaration of the result of the invitation to tender, the reasons for his tender rejection." Contributors confirm this occurs in practice.
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TABLE 16. AWARD NOTICE AND PUBLICATION OF THE PPP CONTRACT

Economy	Legal provisions
Cameroon	Section 30(1) of Decree No. 2008/0115/PM stipulates that: "Further to the prequalification report, the public administration which is owner of the project appoints and publishes the name of the contractor who is informed, within a deadline which shall not exceed 10 days." Also, according to Section 33(4) of Decree No. 2004/275, any decision by the contracting authority or delegated contracting authority to award a public contract shall be published, including the price and deadline, in the Journal of Public Contracts (JDM). However, the regulatory framework does not require the procuring authority to publish the full PPP contract entered into with the selected bidder.
Colombia	The procuring authority must publish the award notice as well as the full PPP contract and other contractual documents on the Public e-Procurement Portal (<i>Sistema Electrónico de Contratación Pública - SECOP</i> : www.contratos.gov.co) as stipulated by Articles 3 and 19 of Decree 1510 of 2013. Articles 25 and 27 of the PPP Law provide also for the creation of the Single Register of PPP (<i>Registro único de Asociación Público Privada - RUAPP</i>) that must be public and register all PPP contracts. Contributors confirm that the publication of contracts happens in practice.
Egypt, Arab Rep.	According to Article 76 of the PPP Executive Regulations, the awarding of a PPP happens in a public hearing. However, the regulatory framework does not require the procuring authority to publish either the award notice or the full PPP contract entered into with the selected bidder.
Ghana	Section 39(2) and Section 65(9) of the Public Procurement Act requires the procuring authority to publish the award notice in the Public Procurement Bulletin. This should include the names of firms or individuals awarded contracts, the start and completion dates, and the value of the contracts. However, the regulatory framework does not require the procuring authority to publish the full PPP contract entered into with the selected bidder, only for the publication of the contract award.
Kenya	The regulatory framework does not require publication of the full PPP contract. However, according to Section 60 of the PPP Act: "A contracting authority shall, upon the execution of a project agreement by the parties, publish in at least two newspapers of national circulation and in the electronic media, the results of the tender together with the following information: (a) the nature of the project; (b) the scope of the project; (c) the successful bidder; (d) the project cost at net present value; (e) the project value and tariff; and (f) the duration of the project."
Nigeria	Section 19(1) (j) of Public Procurement Act mandates to "announce and publicize the award in the format stipulated by this Act and guidelines as may be issued by the Bureau from time to time." In this sense, Paragraph 64 of the Procurement Procedures Manual provides that the award of all contracts should be notified to the Bureau of Public Procurement and published in two national dailies. According to the ICRC Guideline on Disclosure of Project and Contract Information, PPP contracts are to be published on the ICRC website. However, our contributors indicated that the ICRC Guidance Note on Contract Disclosure is still a draft and not finalized or enacted. In practice, there is an increasing trend of publishing contracts on ICRC's and/or the procuring authority websites.

Peru	There is not a specific provision in the regulatory framework stating that the procuring authority shall publish the award notice. However, in all cases the bid documents establish the awarding moment is a public act and all bidders may attend. Quoting the general principle of transparency included in Article 5 of the PPP Law, contributors indicate that the publicity of the award notice is ensured in practice. On the other hand, however, Article 34 of the PPP Regulations provides for the signed version of the PPP contract to be available to the public in the PPP Public Registry managed by the Ministry of Economy and Finance. Contributors indicate that the Registry is in the implementation stage, but in practice PPP contracts are currently published on the website of the procuring authority.
South Africa	Treasury Regulation 16A6. 3 (d) provides that "awards are published in the Government Tender Bulletin and other media by means of which the bids were advertised." However, the regulatory framework does not require the procuring authority to publish the full PPP contract entered into with the selected bidder.
Tanzania	Section 20 of the Public Procurement Regulations provides that the procuring authority shall publish the contract award information and Section 236 provides that the results of a tender award shall be published in the Journal and Tenders Portal on a regular basis. However, the regulatory framework does not require the procuring authority to publish the full PPP contract entered into with the selected bidder.
Tunisia	Article 13 of the Decree No 2010-1753 stipulates that "the tender rule specifies in particular: (...) the declaration method of the provisional successful tenderer choice and the signature of the concession contract." Thus, the regulatory framework does not require in all cases publication of the award notice, leaving this aspect to be regulated by the tender rules. Moreover, the regulatory framework does not require the procuring authority to publish the full PPP contract entered into with the selected bidder.

TABLE 17. UNSOLICITED PROPOSALS

Economy	Legal provisions
Cameroon	The submission of unsolicited proposals is acceptable according to Article 5(2) of the Decree No. 2008/0115, which states that (1) The initiation of projects eligible in the system of partnership contracts or partners depends on the public contractors, decentralized territorial embodiments, and public establishments. (2) The provisions of the previous paragraph remain relevant even when the proposal of the project is done by a private entity. In this case, the private operator concerned can benefit from an advantage within a public competitive tender. However, the regulatory framework does establish a specific procedure to evaluate unsolicited proposals.
Colombia	Unsolicited proposals (<i>Iniciativas Privadas</i>) are admitted and regulated in Articles 14 to 21 of the PPP Law and further developed in Articles 19 to 38 of the PPP Regulations. These provisions establish a specific and detailed procedure to evaluate unsolicited proposals in two stages: prefeasibility stage and feasibility. Among these provisions, Article 15 of the PPP Law indicates that in the prefeasibility stage the procurement authority must verify whether the unsolicited proposal is of public interest given the sectorial policies and investment priorities.
Egypt, Arab Rep.	The regulatory framework does not provide for the possibility of unsolicited proposals for PPP in the Arab Republic of Egypt.
Ghana	According to paragraph 62 of the National Policy on PPPs, the submission of unsolicited proposals is permitted and their examination takes place on a case-by-case basis following the provisions of the PPP Toolkit for Unsolicited Proposal. Both the National Policy on PPPs and the PPP Toolkit for Unsolicited Proposals state that unsolicited proposals should be “consistent with the national development agenda, serve the public interest, needs and priorities of the Contracting Authority as well as long term strategic plan for investment in that sector” and assessed against long term strategies, national development plans and investment needs in specific sectors.
Kenya	Section 61 of the PPP Act and Section 52 of the PPP Regulations establish the conditions under which a contracting authority may consider privately initiated investment proposals. All unsolicited proposals must meet the three tests of value for money, affordability and risk transfer (sub-section (3)). Second, each unsolicited proposal must be covered by one or more of the exceptional grounds stipulated (urgency, high intellectual property related costs, uniqueness of provider or technology, or circumstances specially permitted by the Cabinet Secretary). Third, every unsolicited proposal must be supported by a project proposal - and PPP Regulations require project proposals to be both technical and financial proposals, sufficiently detailed to support an assessment of the three PPP tests. Fourth, every contracting authority must generate negotiating criteria from each unsolicited proposal submitted, and forward these to the PPP Unit for review and recommendation to the Committee. Fifth, no unsolicited proposal can be negotiated without a PPP Committee approval that it could be negotiated. Clause 3.10 of the Policy Statement provides that Privately Initiated Investment Proposals will be limited to projects that demonstrate genuine innovation and/or use of proprietary technology, economic viability and satisfy the principles of public interest. However, the regulatory framework does not expressly require ensuring consistency of the unsolicited proposal with the existing government planning/priorities.
Nigeria	The regulatory framework allows for and regulates unsolicited proposals in the ICRC Guide for Implementing Unsolicited Proposals for PPPs. Clause 3.2 indicates a specific procedure

	to evaluate unsolicited proposals and states as the first condition for an unsolicited proposal to be implemented that "(a) The project serves a credible public interest; (b) The project is in line with the national development goals of the relevant MDA."
Peru	Article 14 of the PPP Law establishes that: "The unsolicited proposal is the mechanism by which the Private Sector submits PPP projects before Government entities (...)". Article 15 of the PPP Law and Articles 20 to 27 of the PPP Regulations regulate a specific evaluation procedure for unsolicited proposals. Specifically, for self-sustainable unsolicited proposals, Article 22.1 of the PPP Regulations requires the opinion of the competent entities regarding the "relevance and consistency of the unsolicited proposal with the national, regional or local priorities." For co-financed unsolicited proposals, Article 27.1 of the PPP Regulations indicates: "(...) PROINVERSION will submit to the entities all the Unsolicited Proposals that rely on their competence for them to emit an opinion about the consistency between them and their strategic objectives. The entities will indicate the order of priority of the unsolicited proposals they deem consistent with their priorities."
South Africa	Paragraph 4.2.2 of the Practice Note 11 of 2008/2009: Unsolicited Proposals provides that "If the unsolicited proposal is a PPP, the accounting officer or accounting authority must comply with the requirements of Treasury Regulation 16 and the Practice notes relevant thereto)." As expressed before, the regulatory framework in South Africa does not expressly require the government to assess and prioritize (for example, within the framework of a national public investment system) public investment projects. However, regarding unsolicited proposals, it is important to notice that according to our contributors, the National Treasury is not in favor of unsolicited proposals. The view of the National Treasury is that unsolicited bids are difficult to manage and threaten to violate constitutional protections of fair administrative process and competitive procurement. The National Treasury encourages institutions to listen to innovative ideas from the private sector, but in so doing, advises against acquiring associated intellectual property rights, and making any commitments that will undermine procurement. If the ideas seem promising, institutions should register the project with the National Treasury following the Treasury Regulations and advance through the project cycle of PPPs as regulated.
Tanzania	Section 16 of the PPP Act and Regulation 36 of the PPP Regulations also allow for the submission of unsolicited proposals. Regulation 11 (d) of the PPP Regulations provides that the procuring authority may reject the project concept of an unsolicited proposal if it does not fall under the priorities set by the contracting authority or the Government plans. Pursuant Regulation 9(h) of the PPP Regulations, such a project concept must include a statement showing how the proposed project supports the Government's development plans.
Tunisia	Article 11 of the Concessions Law and Article 28 of the Decree No. 2010-1753 allows for the submission of unsolicited proposals and Article 29 of the same Decree N 2010-1753 states that: "The public person who received an unsolicited tender is bound to examine the possibility of the realization of the project or the exercise of the activity subject of the tender within the framework of a concession and this notably on the legal, economic and technical level and it may, for this purpose, be assisted by any person whose opinion is considered to be useful for the evaluation of the unsolicited tender." However, the regulatory framework does not expressly require ensuring that the unsolicited proposal is consistent with the existing government planning, strategy and priorities.

TABLE 18. RENEGOTIATION OF THE PPP CONTRACT

Economy	Legal provisions
Cameroon	The regulatory framework addresses the issue of renegotiation in Article 5 of Law No. 2006/012, which establishes that the PPP contract must include necessary provisions regarding the conditions (either by agreement or by unilateral decision of the procuring authority) to modify terms of the contract or its termination, This should especially take into account the evolution of the procuring authority needs, technological innovations, or changes in financial conditions obtained by PPPCo. Renegotiation is a matter to be addressed in the contract and therefore the regulatory framework does not limit or regulate changes in the scope, the risk allocation, or the investment plan/duration of the contract.
Colombia	According to Article 7 of the PPP Law, no changes in the scope or duration are allowed during the first three years after the awarding, or after three-fourths of the duration of the PPP contract. Moreover, according to Article 13 and 18 of the PPP Law, changes in the scope or the duration of the contract cannot imply increasing the original value of the PPP contract by more than 20 percent. The regulatory framework does not specifically address (limiting or regulating) changes in the risk allocation of the PPP Contract.
Egypt, Arab Rep.	According to Article 34 of the PPP Law, precise contract amendments is one of the particular questions to be regulated by the contract. Specific guidelines included: " (...) g. regulating the right of the Administrative Authority to amend the conditions of the project's construction, equipment, maintenance, operation, and utilization and other obligations of the Project Company, in addition to the basis and mechanisms of compensation for such amendments." Since following the PPP Law contract amendment is a matter to be contractually agreed upon, the regulatory framework does not limit or regulate specifically changes in scope, the risk allocation or the investment plan/duration of the contract.
Ghana	Section I of the National Policy on PPPs briefly regulates "Amendments and Variations of PPP Agreement/Concessions" and states: "(...) 4. A prior written approval of MOFEP-PID is required for any material amendments to a PPP Agreement/Concession, including any material variation to the outputs or any waivers contemplated or provided for in the PPP Agreement/Concession. 5. MOFEP-PID will approve a material amendment only if it is satisfied that the PPP Agreement/Concession, if so amended, continue to provide Value for money; affordability; and substantial technical, operational and risk transfer to the private party."
Kenya	Section 64 of the PPP Act regarding amendment or variation of project agreements provides that: "(1) A party who intends to make any amendment or variation to a project agreement in relation to the terms and conditions specified therein, the outputs of a project or any waivers specified in the agreement shall apply for, and obtain the approval of the Committee. (2) The Committee shall not approve an amendment, variation or waiver to a project agreement under subsection (1) unless it is satisfied that the agreement, if so amended or varied, shall ensure— (a) the project continues to provide value for money; (b) the project continues to be affordable as verified by the Debt Management Office, where such amendment, variation or waiver has a financial implication; (c) the continued transfer of appropriate risks to the private party; (d) the continued provision of efficient and effective service to the public; and (e) the continued protection and preservation of the environment. (3) The approval of the Committee under subsection (2) shall be in writing." Consequently, while the regulatory framework contains a detailed regulation of

	the PPP contract amendment or variation regime, it does not specifically limit or regulate changes in scope, the risk allocation, or the investment plan/duration of the PPP contract.
Nigeria	<p>The regulatory framework in Nigeria addresses renegotiation of PPPs in several provisions. Part 3:2:6 of the PPP Policy states: "Because PPP contracts are long-term, it is likely that the authority's requirements will need to be modified at some point to provide levels of service that are appropriate to changing political or economic requirements. The extent of any changes should be reasonable and in proportion to the scope of the original requirement and the project team should try to anticipate the changes that may be required and factor them into the project requirements during the project preparation phase. However, in the event that changes to the requirement become necessary during the contract term, the authority will need to provide compensation or adjust payment to the contractor if additional construction or higher maintenance and operational costs result from the change. Some of these costs may be passed on to users through an adjustment to the tariff where appropriate. The contract will protect the position of the authority and may require additional works or services to go through a separate tender process or be benchmarked against market prices in order to ensure that the contractor's costs are fair and reasonable. The Contractor must comply with all relevant legislation throughout the contract period, even if this results in higher costs. However, if new legislation discriminates against the contractor, or PPP projects generally, then the contractor may seek compensation."</p> <p>Also regarding contract amendment, Paragraph 88.3 of the Procurement Manual provides that: "Contract amendment may become necessary as a result of the application of additional or reduced requirements by the Procuring Entity, agreements to extend the time schedule, or from accepted increases or decreases in prices. The Supervising Department will: Identify and agree with the Supplier, Contractor, Service Provider, or Consultant the specific clauses in the contract which need to be changed, and the new values or terms and conditions which are to apply; Prepare a draft contract amendment document for approval by the relevant authority together with a report justifying the reasons for the amendment; Obtain approval from the relevant authority (and no objection to amendment of Contract terms from the Bureau); Distribute copies in the same way as the original contract."</p> <p>Despite the previously mentioned provisions, the regulatory framework does not specifically limit or regulate changes in scope (besides advising changes in the scope to be proportionate), the risk allocation, or the investment plan/duration of the PPP contract.</p>
Peru	<p>The regulatory framework specifically addresses contract renegotiation in Article 15 of the PPP Regulations. According to this provision, if the renegotiation changes the object of the contract or implies an additional investment of more than a 15 percent of the original cost of the project, the public entity should evaluate the convenience of conducting a new procurement process. Also, changes in PPP contracts during the first three years from the date of its signature are limited in the following cases: i) The correction of material errors, ii) The requirements of allowed creditors related to the stage of financial closing, and iii) The accuracy of operational issues that impede the performance of the contract. After this period, other modifications are allowed, but must follow the established procedure. This includes approval by the corresponding regulator and the Ministry of Economy and Finance in case the proposed amendment affects co-financing conditions or government guarantees. No further provision expressly limits changes in the risk allocation of the contract or in the duration/investment plan.</p>
South Africa	Treasury Regulation 16.8.2 provides that "The relevant treasury will approve a material amendment only if it is satisfied that the PPP agreement, if so amended, will continue to provide (a) value for money; (b) affordability; and (c) substantial technical, operational and

	<p>financial risk transfer to the private party." Treasury Regulation 18.1 states "The prior written approval of the relevant treasury is required for any material amendments to a PPP agreement, including any material variations to the outputs therein, or any waivers contemplated or provided for in the PPP agreement." Both the PPP Manual (Module 6. Managing the PPP Agreement) and the National Treasury PPP Practice Note Number 01 of 2004 (Standardized Public-Private Partnerships Provisions) contain a detailed suggested framework to deal with "Variations" (as denominated by the South African regulatory framework), but do not expressly set any limit to changes in the scope, the risk allocation or the duration/investment plan of the PPP Contract. The National Treasury has, however, released a Practice Note limiting the circumstances under which a procurement contract can be amended. This specifies changes in scope of up to 15 percent of the value of the PPP Agreement or R15m, whichever is lesser, are permitted (Section 3.9.3 of the National Treasury Instruction Note on enhancing compliance monitoring and improving transparency and accountability in supply chain management).</p>
Tanzania	<p>The regulatory framework in Tanzania does not expressly limit or regulate changes in the scope, the risk allocation, or the investment plan/duration of the contract, and this is a matter usually regulated in the PPP contracts.</p>
Tunisia	<p>The regulatory framework provides a detailed regime of contract modification. First, According to Article 33 (quarter) of Decree 2010-1753, as modified by the Decree 2013-4631, "Without prejudice to the provisions of Article 21 of Law No. 2008-23 of 1 April 2008 concerning the concession regime, a substantial change in terms of a current concession contract is considered, for the purposes of this Order, as a new award of concession and require a new concession award procedure in accordance with this decree. The change is considered substantial when one of the following conditions is met: (b) it changes the economic balance of the contract in favor of the dealer; (c) the modification the scope of the contract so that it encompasses supplies, services or works not initially covered. The contract changes are not considered substantial when they were provided in the contract documents in the form of review clauses or options clear, precise and unambiguous." Moreover, according to Article 38 of the Concessions Law, "The duration of the concession can be extended only in the following cases: For reasons of general interest and for a duration not exceeding two years; In the event of a delay of completion or interruption of the management due to unforeseeable and foreign events to the will of the parties to the contract; or when the concessionaire is constrained, for the good performance of the service subject of the contract and at the request of the conceding party or after his approval, to achieve the new works not provided for in the initial contract, likely to modify the general economy of the concession. The duration of extension must be limited, in this case, to the deadlines necessary to restore the financial equilibrium of the contract and to preserve the continuity of the public service. The extension of the concession duration may intervene only once at the concessionaire's request and on the basis of a justified report established by the conceding party justifying the extension. The extension has to be the subject of a contract annexed to the initial one."</p>

TABLE 19. DISPUTE RESOLUTION MECHANISM

Economy	Legal provisions
Cameroon	The regulatory framework does not establish a compulsory dispute resolution mechanism during the implementation of PPPs. Article 5 of the Law No. 2006/012 states that the PPP contract must include terms for dispute prevention and resolution and conditions to use arbitration. In a similar way, Article 37 of the Decree 2008/0115 also provides for the PPP contract to regulate the terms for “out of court” dispute resolution and conditions to use arbitration. A comparable provision is provided by Article 91{1} of Decree 2004/275.
Colombia	PPP contracts can include arbitration, mediation, conciliation, and negotiation clauses (as expressly allowed by Article 68 to 75 of the Law 80 of 1993 regulating dispute resolution for public contracts), but there is no specific or mandatory provision in this respect in the regulatory framework.
Egypt, Arab Rep.	Besides the possibility of using arbitration, or any other non-judicial means of dispute resolution agreed upon in the PPP contract (specifically allowed by Article 35 of the PPP Law), Article 39 of the PPP Law creates the Petition Committee as follows: “A petition committee shall be formed, chaired by the Minister of Finance, and with the membership of two deputies to the President of the State Council to be selected by the President of the State Council, and the Head of the PPP Central Unit, as well as a non-government member expert to be selected by the chairman of the committee. The petition committee shall be competent to consider all petitions and complaints submitted by Investors during the procedure of tendering, entering into, and executing PPP contracts. If the subject matter of the petition is an administrative decision, the petition shall be made within 30 days from the date of its notification of the decision or of becoming aware of such decision. A claim for the cancellation of such decision shall not be accepted before a petition is filed. The Executive Regulations shall provide for the procedures of considering and settling petitions. The decision of the petition committee shall be final and binding.” This Committee and its procedural rules are further regulated by Articles 89 to 95 of the PPP Executive Regulations.
Ghana	The regulatory framework does not regulate any specific dispute resolution mechanisms for PPPs.
Kenya	Section 62 of the PPP Act provides for the minimum contractual obligations that should be included in any project agreement and refers to the Third Schedule to the PPP Act. Also, Section 63(3) of the PPP Act provides that upon the approval of the PPP Committee, it may be agreed to resolve disputes arising under the project agreement through arbitration, or any other non-judicial means of dispute resolution agreed upon in the project agreement as specified in paragraph 18 of the Third Schedule. In this sense, Paragraph 18 of the Third Schedule to the PPP Act specifies that one such obligation is that a project agreement provides that the contract must include a mechanism for dispute resolution including resolution of disputes by way of arbitration or any other amicable dispute resolution mechanism. Section 67 of the PPP Act establishes a Petition Committee but just for complaints arising during the PPP tendering process.
Nigeria	Section 16 (26) of the Public Procurement Act provides that “all procurement contract shall contain provisions for arbitration as the primary form of dispute resolution. Section 54 of the Public Procurement Act regulates the administrative review systems for complains arising during the implementation of a contract. Besides these provisions, the regulatory framework does not establish any specific dispute resolution mechanisms for PPPs.
Peru	Article 9.6 of the PPP Law and Articles 16 and 37 to 51 of the PPP Regulations provides for the participation of a third neutral party (the "amiable compositeur") in the dispute

	<p>resolution through direct contact between the parties. In case this does not work, the parties will submit their controversy before a Dispute Resolution Board, which will be formed by one to three experts. Also, the parties can rely on arbitration following the guidelines included in the PPP Regulations.</p>
South Africa	<p>Part S:86 of the National Treasury Practice Note Number 01 of 2004 (Standardized Public-Private Partnerships Provisions) prescribes a dispute resolution procedure that must be included in PPP agreements. Disputes should, in the first instance, be referred to the institution and private party liaison officers (in the case of the institution, the project officer) for them to try to find a solution. If they are unable to do this within an agreed period, the dispute should be referred to the accounting officer/authority of the institution and the chief executive of the private party. If PPP agreement cannot be reached at this level either, the matter should be referred to an independent mediator or to an adjudicator to determine the outcome as part of the fast-track dispute resolution procedure. Only if the informal and formal procedures of this escalation process have been exhausted should the dispute be settled in court.</p>
Tanzania	<p>Section 14 of the PPP Act provides for “any dispute arising from the agreement entered into in terms of this Act shall be resolved through negotiation, mediation or arbitration.” Besides this general provision, Section 46(2) of the PPP Regulations states that “(...) the accounting officer shall maintain a mechanism or procedures for (...) (d) resolving disputes and differences with the private party.” However, aside from this general regulation, the regulatory framework does not set up specific dispute resolution mechanisms for PPPs.</p>
Tunisia	<p>The regulatory framework does not regulate any specific dispute resolution mechanisms for PPPs.</p>

TABLE 20. LENDERS' STEP-IN RIGHTS

Economy	Legal provisions
Cameroon	Article 100(b) of the Decree 2004/275 stipulates that the contracting authority or the delegated contracting authority may accept, if necessary, offers that may be made by the creditors for the continuation of the services in the case of bankruptcy of the contract holder.
Colombia	Article 30 of the PPP Law states that in case of failure of the contractor, funders may continue execution of the contract to completion directly or through third parties.
Egypt, Arab Rep.	Article 38 of the PPP Law states "The contracting administrative authority shall be entitled to conclude direct agreements with the financing institutions and the project company, to regulate the method of payment of the financial obligations of the administrative authority to the project company and the financing institutions. Such agreements may include a provision whereby the Ministry of Finance guarantees the administrative authority in the fulfillment of its contractual obligations, and the right of the financing institution to step in and assume the role of the project company in executing the provisions of the PPP contract, or to appoint a new investor after the approval of the competent authority, in case the project company defaults in either performing its material obligations, or meeting the quality levels established by law or in the PPP contract, in a manner that entitles the competent authority to terminate the PPP contract."
Ghana	The regulatory framework does not expressly establish any regulation regarding lenders' step-in rights.
Kenya	Section 62 of the PPP Act requires that parties to a project agreement specify the minimum contractual obligations required to be met by the parties as set out in the third schedule of the PPP Act. Under Clause 2, 22, and 25 of the Third Schedule of the PPP Act, one of those minimum obligations that should be specified includes the rights of either the contracting authority or lenders, in cases of private party default, to step in.
Nigeria	Part 1:4.4 of the PPP Policy considers that "There will normally be a Direct Agreement between the lenders and the Authority giving them the option to step in and replace the contractor prior to any termination for contractor default," but no other provision of the regulatory framework specifically regulates this aspect.
Peru	The regulatory framework does not expressly establish any regulation regarding lenders' step-in rights.
South Africa	Part O: Clause 73 of the National Treasury PPP Practice Note Number 01 of 2004 (Standardized Public-Private Partnerships Provisions) contains a template Financier Direct Agreement, which provides lenders with step-in rights under certain circumstances and for a defined period.
Tanzania	The regulatory framework does not expressly establish any regulation regarding lenders' step-in rights.
Tunisia	According to Article 26 of the Concessions Law, "The contract specifies the cases of serious failure which generate the forfeiture of the concessionaire by the conceding party after warning him by a registered letter with acknowledgement of receipt and granting him the deadline fixed by the contract in order to fulfill his commitments. In this case, the creditors, whose rights are registered, are informed by a registered letter with acknowledgement of receipt, before the time limit fixed by the first paragraph of this article and before the date by the decision of forfeiture, and this, to allow them to propose to the conceding party the substitution of the forfeited concessionaire with another person. The transfer of the concession to the proposed person is subjected to the agreement of the conceding party."

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- ^{vii} Launched in 2003, Doing Business measures the ease of doing business in 189 countries based on measures of regulatory quality, agency efficiency and compliance cost to the private sector. By providing quantitative data to compare business regulation environments across economies and over time, Doing Business encourages countries to strive towards more efficient regulation. It offers measurable benchmarks for reform and serves as a resource for investors, analysts, and others interested in the business climate of each country. The Doing Business findings have been used by more than 80 countries to shape their reform agendas and monitor improvements on the ground. It has generated more than 2000 reforms to date.
- ^{viii} The Expert Consultative Group (ECG) comprises leading PPP legal experts and other PPP practitioners from many organizations, among which the World Bank Group—including both the World Bank and IFC; University; Organisation for Economic Co-operation and Development (OECD); Inter-American Development Bank (IADB); Asian Development Bank (ADB), Islamic Development Bank (IDB), The George Washington University; American University, Georgetown University, University of Central Florida and Maxwell School of Public Administration
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- ^{xv} Shendy, Riham. 2014. *Implementing a framework for managing fiscal commitments from public private partnerships: operational note*. Washington DC; World Bank Group.
- ^{xvi} Treasury Regulations 16.3 to 16.6
- ^{xvii} Articles 31 and 37 of the PPP Regulations and Article 26 of the PPP Law
- ^{xviii} Articles 8 and 9 of the PPP Law and Articles 8 and 14 of the PPP Regulations
- ^{xix} Section 8 of Decree No. 2008/0115/PM
- ^{xx} Section 53(4) of the PPP Act
- ^{xxi} World Bank Reference Guide (2014)
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The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry, no matter how small, should be recorded to ensure the integrity of the financial data. This includes not only sales and purchases but also expenses, income, and transfers between accounts.

The second part of the document provides a detailed overview of the accounting cycle. It outlines the ten steps involved in the process, from identifying the accounting entity to preparing financial statements. Each step is explained in detail, with examples provided to illustrate the concepts.

The third part of the document focuses on the classification of accounts. It discusses the different types of accounts, such as assets, liabilities, equity, revenue, and expense accounts, and how they are used to record and summarize business transactions.

The fourth part of the document covers the process of journalizing and posting. It explains how to create journal entries based on the information provided in the source documents and how to post these entries to the appropriate T-accounts in the ledger.

The fifth part of the document discusses the process of balancing the accounts. It explains how to calculate the ending balances for each account and how to ensure that the total debits equal the total credits, which is a fundamental principle of accounting.

The sixth part of the document covers the preparation of financial statements. It discusses the different types of financial statements, such as the balance sheet, income statement, and statement of cash flows, and how they are prepared based on the data from the ledger.

The seventh part of the document discusses the process of closing the books. It explains how to transfer the balances of the temporary accounts (revenue, expense, and dividend accounts) to the permanent accounts (equity accounts) at the end of the accounting period.

The eighth part of the document covers the process of correcting errors. It discusses the different types of errors that can occur, such as omissions, commissions, and transpositions, and how to identify and correct them.

The ninth part of the document discusses the process of auditing. It explains the role of an auditor in verifying the accuracy and reliability of the financial statements and the underlying transactions.

The tenth part of the document covers the process of preparing the final financial statements. It discusses the different types of financial statements, such as the balance sheet, income statement, and statement of cash flows, and how they are prepared based on the data from the ledger.