

PPP COMPARATIVE TABLE

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E. Examples of PPP Projects	
Examples of PPP Projects	<i>What kinds of projects were already awarded as PPP projects (definition of PPP varies from country to country)?</i>

	Description	1. Brunei Darussalam	2. Cambodia
A. Regulatory/ Institutional Setting	Laws and Regulations for PPP	<p>Major Related Regulations</p> <p>National Vision (Wawasan Brunei) 2035 launched in 2008 depicted a long-term development vision which is supported by a 5-year National Development Plan (RKN) and 10-year Outline of Strategies and Policies for Development (OSPD). The OSPD provides rationales for promoting PPP based on international standards in its infrastructure development.</p> <p>Procurement of PPP projects is generally supported by the English common law which the country adopts. Currently, the Department of Economic Planning and Development has been developing National PPP Guidelines to streamline the procurement process.</p>	<p>Major Related Regulations</p> <p>There is no specific regulatory framework for PPP. Several laws and regulations designed to serve general investment cover PPP projects.</p> <ul style="list-style-type: none"> • Law on Concessions (2007) governs and facilitates infrastructure projects via concessions. The concession contract is defined to include build–operate–transfer, build–transfer–operate, modernize–operate–transfer, lease or management contract, or some other forms. Eligible sectors for the concessions under the law are: power, transportation, water supply/sanitation, telecommunication/information technology, tourism related projects, gas/oil, sewerage/drainage, solid waste management/treatment, health/education/sport facilities, special economic zones, and agricultural related infrastructure. The law also prescribes selection procedure and organization of concessionaire, or concession period termination. • Law on Investment (1994), as amended (2003) stipulates procedures, guarantees, or incentives for investment projects made by foreign as well as domestic investors. • Sub-Decree on Build Operate and Transfer (BOT) (1998) • Sub-Decree on the implementation of the Amended Law of Investment (2005) <p>(*There are several initiatives underway to upgrade its enabling regulatory environment for PPP with the support of multilateral agencies, including an amendment to the Law on Concessions, enactment of comprehensive regulations, and the establishment of PPP procedural guidelines.)</p>
	Government Organizations for Promoting PPP	<p>Department of Economic Planning and Development (DEPD, JPKE), Prime Minister's Office Brunei Economic Development Board (BEDB)</p> <ul style="list-style-type: none"> • JPKE is in charge of evaluation and endorsement of National Development Projects. It is assigned to take a leading role in overseeing PPP projects. • BEDB of the Prime Minister's Office is responsible for developing new economic opportunities through attracting foreign and domestic investments or delivering infrastructure projects. 	<p>Ministry of Economy and Finance (MEF) Council for Development of Cambodia (CDC) Ministry of Commerce</p> <ul style="list-style-type: none"> • MEF is responsible for assessing and approving the liabilities of the government under proposed projects. It is now under the procedure for the establishment of centralized agencies, PPP Unit and Risk Management Unit, in the MEF. The main role of the PPP unit is going to be feasibility study, human assistance to line ministries, procurement procedure, negotiation and evaluation of projects, while that of the Risk Management Unit will be assessment of contingent liability which result from government guarantees as well as risk assessment from project investment for line ministries' consideration.D7 • CDC is the one-stop service organization for investment activities. The Cambodian Investment Board (CIB) under the CDC takes coordination and implementation roles in evaluating and approving application for private investments except for SEZs. • Ministry of Commerce is responsible for regulating business enterprise law, commercial registration law and regulations, and secured transaction law.

3. Indonesia	4. Lao PDR	5. Malaysia
<p>General Regulations on PPP</p> <ul style="list-style-type: none"> • Presidential Regulation No. 38 (2015) Cooperation between Government and Business Entity in the Provision of Infrastructure • Minister of National Development Planning/ National Development Agency No. 4 (2015) Procedure for Cooperation between Government and Business Entity in the Provision of Infrastructure <p>Other Major Related Regulations</p> <ul style="list-style-type: none"> • Presidential Regulation No. 2 (2015) National Medium Term Development Plan of 2015–2019. • Law No. 2 (2012) Land Procurement for Public Interest • Presidential Regulation No. 71 (2012) Land Acquisition for Public Projects, as amended by Presidential Regulation No. 40 (2014) & No. 99 (2014) & No. 30 (2015) • National Land Agency Regulation No. 5 (2012) Technical Guidelines for Implementation of Land Procurement • Presidential Regulation No. 75 (2014) Acceleration of Priority Infrastructure Provision • Presidential Regulation No. 78 (2010) Infrastructure Guarantee for Public Private Partnership Infrastructure Project through Infrastructure Guarantee Entity • Ministry of Finance Regulation No. 260/PMK.011 (2010) Implementation Guidelines for Infrastructure Guarantee in Public Private Partnership Projects • Ministry of Finance Regulation No. 100/PMK.010 (2009) Infrastructure Financing Company • Ministry of Finance Regulation No. 223/PMK.011 (2012) Fiscal Support for Construction Cost in Public Private Partnership Projects • Ministry of Finance Regulation No. 38/PMK.01 (2006) Guidance for Controlling and Management of Risks in Provision of Infrastructure • Government Regulation No. 27 (2012) Environmental Permit • Presidential Decree No. 39 (2014) List of Business Fields Closed and Business Fields Open with Conditions to Investment 	<p>Major Related Regulations</p> <p>There exists no specific law concerning PPP. Some related laws provide a basis for the projects under private investments.</p> <ul style="list-style-type: none"> • Business Law (first issued in 1994, latest amendment in 2009) allows investors to establish business enterprises in all economic sectors and ensures their rights and benefits. • Investment Promotion Law (first issued in 1998, latest amendment in 2009) stipulates principles, regulations and measures/ incentives regarding the promotion and management of domestic and foreign investments. The law refers to three categories for private investment, namely (i) general business, (ii) concessions, and (iii) development of special economic zones(SEZ). The sectors in the concession transactions include land, resources, energy, aviation, telecommunications, insurance and financial services. <p>Along with these laws, there are pertinent laws and regulations such as Public Investment Law, Environmental Protection Law, Environmental and Social Impact Assessment Regulation (ESIA), Decree on Competition, Regulation on Bidding, and Anti-Corruption Law.</p> <p>(*The Lao PDR government is currently developing the framework for PPP with support of the Asian Development Bank. The initiative includes development of a Prime Minister's PPP Decree and the fourth draft dated on 14 September 2014 was disclosed.)</p>	<p>General Regulations on PPP</p> <ul style="list-style-type: none"> • Privatization Guidelines (1985) This has been superseded by the Privatization Masterplan. • Privatization Masterplan (March 1991) Contains overall governing policy, objectives and rationale, implementation issues and constraints, action plan, implementation models and approaches, as well as institutional framework. • PPP Guidelines (November 2009) Contains definition and objectives of PPP, criteria, PPP models, and process workflow. <p>Other Major Related Regulations</p> <ul style="list-style-type: none"> • Amendment to Land Acquisition Act 1960 Section 3(1) of the Act was amended in 1991 to empower State Authority to acquire private land for use by persons or corporations to implement projects which are beneficial to economic development of Malaysia. Previously, land acquisition was restricted for the purpose of public use or public utility. • Facilitation Fund Guidelines (Last Updated May 2015); Contains definition and objectives of Facilitation Fund, negative list and procedures to apply for the Fund. • Amendment to Schedule 3, Income Tax Act 1967 The amendment introduced in 2010 allows privatization projects and PPP projects implemented using BLMT model to enjoy the benefits of an Industrial Building Allowance. • Stamp Duty (Remission) (No. 4) Order The order issued in 2010 provides remission of stamp duty for service agreements signed between companies and government. This remission helps to reduce transaction cost for PPP projects.
<p>Committee for Acceleration of Prioritized Infrastructure Development (KPIIP) National Development Planning Agency (BAPPENAS) Ministry of Finance (MOF) (Coordinating Ministry for Economic Affairs (CMEA))</p> <p>PPPs are promoted through the collaboration of certain government agencies:</p> <ul style="list-style-type: none"> • BAPPENAS, through its PPP unit of the Directorate for PPP Development (PKPS), is in charge of PPP policy formulation, provision of guidance, or dissemination of information. • MOF assesses the necessity for government support by way of tax incentives, finance or guarantees. A PPP unit under the MOF has been established as the champion for project preparation and enabling environment to accelerate the PPP agenda. • Minister of CMEA chairs an inter-ministerial steering committee, KPIIP, with members comprising of the Minister of BAPPENAS, Minister of Finance, and Head of National Land Agency (BPN). 	<p>No dedicated PPP unit exists. There are key institutional ministries for investment projects such as:</p> <p>Ministry of Planning and Investment (MPI) Ministry of Finance (MOF)</p> <ul style="list-style-type: none"> • MPI is a key actor involving management of investment project. Investment Promotion Department (IPD) under the MPI administers the foreign investment system and reviews investment applications in accordance with the Investment Promotion Law. One-stop-service unit of the Investment Promotion Department is a window for providing information, undertaking investment consideration, issuing concession registration certificate, and issuing notifications in relation to the investment issues. • MOF is responsible for financial management of projects. 	<p>Public – Private Partnership Unit, Prime Minister’s Department</p> <p>This unit, also known as Unit Kerjasama Awam Swasta (UKAS), is responsible for promoting, planning, coordinating, controlling, monitoring, facilitating and ensuring the effectiveness of PPP projects.</p>

	Description	1. Brunei Darussalam	2. Cambodia
B. Financial Support	Project Development Fund (PDF)	There is no fund acting as a PDF.	There is no fund acting as a PDF. (*Noted that ADB has been supporting the establishment of a PDF.)
	Government Support (Guarantees & Subsidies)	Subsidies may be provided by special investment vehicles of the government such as the Brunei Investment Agency (BIA), Darussalam Assets and Brooketon Sdn Bhd.	Except for power projects with a government guarantee, financial support has not been provided by the government.
C. Land and Buildings	Foreign Ownership for land and buildings	Ownership of land is granted only to citizens of Brunei Darussalam in general. Locally incorporated or registered companies may be registered as a lessee of up to 60 years over an industrial or commercial property. Locally incorporated or registered companies may also submit the application for a temporary occupation permit of state land for industrial or agricultural purposes to the government.	Ownership of land by investors for the purpose of carrying on a Qualified Investment Project (QIP) is restricted to natural persons holding Cambodian citizenship and Cambodian entities only. The use of land shall be permitted to investor, including concessions, unlimited long-term leases and limited short-term leases that are renewable. The investor is also admitted to have the right to own and pledge as security the real and personal property on the land (Article 16, Amended Law on Investment 2003).
	Land Acquisition(LA) Support by Government	Acquisition of lease title by companies is subject to lengthy and opaque procedures. Only limited progress has been made in streamlining these procedures.	There is no set of framework for land acquisition or the right to use land.

3. Indonesia	4. Lao PDR	5. Malaysia
<p>MOF relies on PT Sarana Multi Infrastruktur (SMI) for project development funding. PT SMI was established by the Government of Indonesia for facilitating infrastructure project development through advisory and project preparation services, such as an assist in feasibility study/market sounding, preparation of tender documents, or capacity building. The institution is also assigned a function of financing (from senior loans to mezzanine and equity) to infrastructure projects, including regional projects.</p>	<p>There is no fund acting as a PDF.</p> <p>(*A Project Preparation Facility shall be set up, according to the draft Prime Minister's PPP Decree)</p>	<p>There is no fund acting as a PDF so far.</p>
<p>Indonesia Infrastructure Guarantee Fund (IIGF) IIGF provides the guarantee to mitigate the government-related contractual risk (mainly, financial obligations of Government Contracting Agencies) in PPP projects. (*For IPP projects undertaken under the Electricity Law (not under a PPP framework), the MOF may issue a Business Viability Guarantee Letter (BVGL) to guarantee obligations of a state-owned electricity off-taker, PLN.)</p> <p>Viability Gap Funding (VGF) VGF was established as a program of MOF based on MOF Regulation No. 223 (2012). The fund contributes a part of construction cost of well-prepared PPP projects in the form of cash to enhance the project's financial viability.</p> <p>Other forms of support, such as availability payments, tax incentive, licencing, or land acquisition may be provided in accordance with applicable laws and regulations or the approval by the MOF.</p>	<p>Financial framework for private investments is still under development.</p> <p>As a general procedure foreign-invested companies may be eligible for tax incentives; enterprises engaging in certain promoted activities or investment projects located in certain geographic areas may be eligible for incentives under the Investment Promotion Law.</p>	<p>No government guarantee for long term funding. Corporations participating in PPP programme have to rely on their financial strength and the nature of the concession (some with offtake agreement by the Government) to secure funding.</p> <p>Facilitation Fund RM20 billion (approx. USD6.2 billion) is allocated to the Facilitation Fund under the Tenth Malaysia Plan to encourage private investments in Malaysia in strategic areas which have been identified under the National Key Economic Area Policy as well as to undertake land costs in tolled road projects.</p>
<p>Right to own land (Hak Milik or HM) is limited to individuals of Indonesian nationality and certain legal entities (e.g., government banks, religious groups). For this reason, any limited liability companies (Perseroan Terbatas or PT) are not allowed to obtain HM, irrespective of their shareholding structure.</p> <p>Nevertheless, foreign companies (in the form of Penanaman Modal Asing or PMA) as well as domestic companies may hold the following land related rights:</p> <ul style="list-style-type: none"> • Right to Build (Hak Guna Bangunan or HGB); • Land Cultivation Rights Title (Hak Guna Usaha or HGU); and, • Right to Use (Hak Pakai or HP). <p>Among them, most foreign companies hold HGB to construct and own buildings on land. HGB is granted for a maximum of 80 years (through extension and renewal), and could be sold, transferred, or encumbered by a mortgage.</p>	<p>Ownership of land belongs exclusively to the nation (or national community) and is not granted even to the Lao PDR citizens.</p> <p>Under the Investment Promotion Law, foreign investors with registered investment capital of US\$500,000 or above are entitled to buy land use rights from the government according to a certain limit and procedure.</p> <p>Investors who wish to use government-owned land must apply for a concession and then obtain approval by the prime minister or the Council of Ministers.</p>	<p>There is no restriction for foreigners to own land and buildings except for the following categories:</p> <ul style="list-style-type: none"> • Malay Reserve Land; • Real estate valued less than RM500,000 (approx. US\$161,000) per unit; • Low cost houses; and, • Real estate reserved by state authority for bumiputera interest in any development project.
<p>For toll road projects, to ease the land acquisition, several forms of Land Funds (e.g., Land Capping Fund to compensate land price increases) have been set up by the government.</p> <p>The government has provided a basis of land acquisition support by Law No. 2 (2012) and its implementing regulations. These are intended to clarify and speed up the expropriation procedures through stipulating steps/timeframe for the acquisition and assigning BPN (National Land Agency) coordinating roles in compensation or other issues.</p>	<p>There is no set of framework for land acquisition or the right to use land.</p>	<p>Following the 1991 amendment to the Land Acquisition Act, State Authority can acquire private land for use by corporations if it is satisfied that the proposed projects are beneficial to economic development of the country.</p>

	Description	1. Brunei Darussalam	2. Cambodia
D. Selection Process	Project Process and Guidelines	<p>The national PPP Guideline that is being developed will streamline the project development process for PPP.</p> <p>Basic steps will be:</p> <p>(i) the Department of Planning (DOP) of JPKE conduct paper works for initial evaluation based on submitted proposals;</p> <p>(ii) A Working Committee for the National Development Plan (JKK) reviews a project;</p> <p>(iii) After comprehensive analysis and market testing, the JKK submits the proposal to the National Committee for the national development plan (JKTR) for its approval; and</p> <p>(iv) A core project team conducts drafting of tender documents or Request for Proposal (RFP), evaluation, or contract signing with concerned agencies.</p>	<p>The selection and organization procedure stipulated in the Law on Concessions is as follows:</p> <ol style="list-style-type: none"> 1. Selection of the Concessionaire by Contracting Authority through international/national bidding or by negotiation; 2. Obtaining approvals to the final terms of the Concession Contract (the maximum concession period is 30 years); 3. Issuance of a notification of award to the selected candidate; 4. Establishment of a legal entity under the laws of the Kingdom of Cambodia that will implement the project within 60 days upon receiving the notification of award; and 5. Signing of the Concession Contract within 6 months (extendable by prior agreement) of the notification of award. <p>As a general rule based on the Investment Law, the projects are required to obtain approval from different agencies depending on the scale of capital expenditure:</p> <p>(i) More than US\$50 million: the Council of Ministers (ii) Between US\$2 million and USD 50 million: CDC (iii) Less than US\$2 million: the Provincial Municipal Investment Committee.</p>
	Project lists		-
	Unsolicited Proposal	PPP projects are required to be consistent with the National Vision (Wawasan Brunei) 2035. In general, only solicited projects are considered.	PPP projects in the country have been undertaken essentially on unsolicited basis. A company with 100% foreign equity may propose and implement PPP projects.
E. Examples of PPP Projects (Already awarded projects. *Note that the listed projects are broadly considered as PPP.)	<ul style="list-style-type: none"> • Ong Sum Ping apartment building project • Upgrading and extension of Brunei's international airport • Major extension of the coastal highway • Expansion of satellite connectivity networks • Development and management of undersea fibre optic cable links 	<ul style="list-style-type: none"> • Hydropower IPP (e.g., Russei Chrum Kraom River, Orussei, Kirirom III) • Airport BOT (e.g., Phnom Penh International, Sihanouk International, New Siem Reap International) • National Road No. 4 • Prek Pnov Bridge 	
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3. Indonesia	4. Lao PDR	5. Malaysia
<p>Identification of PPP projects is first initiated by government contracting agencies (GCAs). A multi-criteria analysis (MCA) is being promoted to evaluate potential projects. Preliminary study reviews factors such as technical and economic rationale, demand sustainability, support from stakeholders (through public consultation), compliance with laws and regulations, conformity with the National Development Plan, spatial plan, value for money, potential revenues, and project financing scheme. BAPPENAS then screens and assesses each project considering the level of readiness and benefits for society in accordance with the national development plan. The final outcome is issued as the list of PPP plan.</p> <p>The project preparation and transaction stage for solicited projects follow the steps below:</p> <ol style="list-style-type: none"> 1. Preparation study of a PPP by a GCA, which includes: <ul style="list-style-type: none"> - (Pre-) feasibility study - Submission of a proposal to MOF for government's fiscal support - Obtaining of determination of location (if there is a need for land acquisition) 2. Market sounding 3. Determination location 4. Prequalification, bidding, and contract signing 5. Financial closure <p>The maximum foreign ownership in a company carrying out an infrastructure business is stipulated in the Presidential Regulation No. 39 (2014) concerning List of Business Fields Closed to Investment and Business Fields Open, with Conditions, to Investment.</p>	<p>The Investment Promotion Law requires the Concession business to take the following procedures:</p> <ol style="list-style-type: none"> 1. Submission of the application to the one-stop-service of the Planning and Investment authority for consideration and then the application will be proposed to the government or provincial authorities for further consideration. 2. Selection of investors through comparison, tender or the assessment by the Planning and Investment authority in collaboration with relevant sectors and local authorities. 3. Issuance of a concession registration certificate to the investors by the Planning and Investment authority. 4. The investor immediately start business operation and shall conduct business operation within 90 days. <p>In addition to this, there is a requirement by the Investment Promotion Law that the registered capital of concession businesses shall not be less than 30% of the total capital (the total capital is equal to the registered capital plus long-term debt plus other equity).</p>	<p>PPP projects have to fulfill the following criteria:</p> <ul style="list-style-type: none"> • They are in line with strategic needs and priority of the government. • Output specifications can be clearly identified and quantified. • Projects with technological obsolescence risk will not be considered. • Sponsor must be financially strong and able to establish an SPV to undertake PPP project. • For accommodation-based PPP projects, economic life of the underlying assets must not be less than 20 years. <p>Proposals originate from line ministries as well as directly from the private sector. They are screened and evaluated by the PPP Unit based on the criteria above. Decision to undertake PPP projects rests with the Cabinet. Approval of the Cabinet is sought at three stages – agreement in principle; endorsement on successful bidder; and approval for the terms and conditions of the concession.</p> <p>PPP projects are commonly offered on tender basis (open or restricted). Only under special circumstances, such as the critical component of the project involves intellectual property rights or they require urgent implementation, Government may opt for direct negotiation method.</p> <p>PPP projects are evaluated on four aspects – technical, business model, financial, and contractual. The weightage for these components varies according to projects. PPP projects have to undergo value management process. The results of VM process will be incorporated in the final technical specification of the project.</p>
<p>BAPPENAS issues a PPP Book which presents the national PPP pipeline and each project's status.</p>	<p>-</p>	<p>Certain projects may be announced by the government.</p>
<p>Business entities are eligible to propose PPP projects to the implementing agencies or local governments in accordance with the eligibility criteria specified in Article 14 in the Presidential Regulation No. 38 (2015).</p> <p>Under the unsolicited projects, the project proponent is entitled to receive one of the forms of compensation. The compensations include: (i) additional points (10%) in the evaluation, (ii) a right to match the offer of the first-ranked bidder, or (iii) financial compensation for intellectual property (related to feasibility study).</p>	<p>IPP projects, for instance, have been based primarily on unsolicited proposals.</p>	<p>Private sector can propose projects to the government. The procedure of awarding the project ranges from direct negotiation (if it involves IP or no other interested bidders) to restricted tender (limited number of bidders) or open tender.</p>
<ul style="list-style-type: none"> • Central Java Coal Fired Power Plant • Bali Nusa Dua Benoa Toll Road • Solo - Kertosono Toll Road (a part of Trans-Java toll road) • Six toll roads in Jakarta (e.g., Kemayoran–Kampung Melayu) • Solid Waste Management Improvement Bandung 	<ul style="list-style-type: none"> • Hydropower IPP (e.g., Nam Theun–Hinboun, Nam Theun 2, Nam Ngum 3, Nam Ngiep 1, Xepun–Xenamnoy) • Nam Ngum Bridge 	<ul style="list-style-type: none"> • Tolled Roads (e.g., West Coast Expressway) • Independent Power Producers (IPPs) • SMART tunnel project • Mass Rapid Transit in Greater Kuala Lumpur • Management of Solid Waste
<p>June, 2015</p>	<p>June, 2015</p>	<p>June, 2015</p>

	Description	6. Myanmar	7. Philippines
A. Regulatory/ Institutional Setting	Laws and Regulations for PPP	<p>Major Related Regulations</p> <p>There is no specific law concerning PPP. PPP transactions adhere to the following related regulations.</p> <ul style="list-style-type: none"> • Foreign Investment Law (1988) replaced by New Foreign Investment Law (promulgated in 2012) stipulates the forms of investments by a foreigner (includes 100 % foreign capital, joint venture with local capital, and company under a contractual relationship with a local investor), restricted business areas for foreign capital, duties and rights of the investors, etc. The Law is detailed by Notifications such as Ministry of National Planning and Economic Development Notification No.11 (2013), or Myanmar Investment Commission Notification No.1 (2013) and No. 49/ No. 50/ No .51 (2014). • Myanmar Citizen Investment Law (1994) replaced by New Myanmar Citizen Investment Law (2013) mirrors the Foreign Investment Law and governs investments by Myanmar citizens or contracts between citizens and the government. • State Law and Order Restoration Council's Notification (10/1995) Formation of Privatization Commission chaired by Secretary General 1 of State Law and Order Restoration Council (at present, vice president) and SOEs are privatized by auctioning, leasing and joint venture to local and foreign investors. <p>In addition to these, the Law, Regulation, Act, and Notification applied by concerned Ministry govern individual projects.</p>	<p>General Regulations on PPP</p> <ul style="list-style-type: none"> • Republic Act No.6957 (1990) BOT Law • Republic Act No.7718 (1994) An Act amending certain sections of Republic Act No. 6957, entitled 'An Act authorizing the financing, construction, operation and maintenance of infrastructure projects by the private sector, and for other purposes.' • Implementing Rules and Regulations of RA No.6957, as amended by RA No.7718 • Republic Act No. 7160 (1991) An Act providing for a local government code of 1991. • Republic Act No.8974 (2000) An Act to facilitate the acquisition of right-of-way, site or location for national government infrastructure projects and for other purposes. • Republic Act No.8975 (2000) An Act to ensure the expeditious implementation and completion of government infrastructure projects by prohibiting lower courts from issuing temporary restraining orders. Preliminary injunctions or preliminary mandatory injunctions, providing penalties for violations thereof, and for other purposes. <p>Other Major Related Regulations</p> <ul style="list-style-type: none"> • Executive Order No. 423 (2005) Repealing executive order No.109-A dated September 18, 2003 prescribing the rules and procedures on the review and approval of all government contracts to conform with Republic Act No.9184, otherwise known as The Government Procurement Reform Act. • Executive Order No.8 (2010), as amended by Executive Order No.136 (2013) Reorganizing and renaming the Build–Operate and Transfer (BOT) Center to the Public-Private Partnership (PPP) Center of the Philippines and transferring its attachment from the Department of Trade and Industry to the National Economic and Development Authority and for other purposes. • Executive Order No.78 (2012) Mandating the inclusion of provisions on the use of alternative dispute resolution mechanisms in all contracts involving Public-Private Partnership projects, Build-Operate and Transfer projects, Joint Venture agreements between the government and private entities and those entered into by local government unit
	Government Organizations for promoting PPP	<p>No dedicated PPP unit exists. In addition to Concerned Agencies for respective sector/ project, there are key institutional bodies such as:</p> <p>Ministry of National Planning and Economic Development (MNPED) Myanmar Investment Commission (MIC) Directorate of Investment and Company Administration (DICA) & Project Appraisal and Progress Reporting Department (PAPRD) under the MNPED</p> <ul style="list-style-type: none"> • MNPED is responsible for the formulation of national development plans and the enhancement of the economic development of the state. • MIC is a government-appointed body which appraises and approves investment related proposals in accordance with the Foreign Investment Law. • DICA under the MNPED is a window for individual investment projects through scrutinizing and issuing permits for investment proposals. • PAPRD under the MNPED is a focal point of the Privatization programme. 	<p>Public-Private Partnership (PPP) Center attached to National Economic and Development Authority (NEDA)</p> <p>The PPP Center is tasked with facilitating the development of PPP projects, providing advisory services and monitoring PPP implementation and contract compliance.</p> <p>The PPP Center directly reports to a PPP Governing Board established by EO No. 136 (2013), which sets the strategic direction of the PPP Program and creation an enabling policy and institutional environment for PPP.</p>

8. Singapore	9. Thailand	10. Viet Nam
<p>General Regulations on PPP</p> <p>Having a sound and solid regulatory framework, PPP projects follow general laws together with guidance provided in the Public Private Partnership Handbook.</p> <ul style="list-style-type: none"> • The Public Private Partnership Handbook Followed by the Best Sourcing Framework introduced in 2003, the handbook was published by MOF in 2004 and revised in 2012. The handbook presents a definition of PPP, principals on structuring of PPP, detailed PPP procurement process, and PPP management issues. PPP scope in the handbook broadly includes joint ventures and other strategic partnerships. The main rationale for introducing PPP here is to tap into private sector expertise and competitive advantage and seek value for money in the delivery of public goods and services. 	<p>General Regulations on PPP</p> <ul style="list-style-type: none"> • The new Private Investment in State Undertaking Act B.E. 2556 (2013) (PPP Act) has been effect since 4 April 2013 to replace the Private Participation in State Undertaking Act B.E. 2535 (1992). The new Act aims to streamline the project approval process through the PPP Policy Committee. <p>Other Major Related Regulations</p> <ul style="list-style-type: none"> • The Constitution of the Kingdom of Thailand B.E. 2550 (2007) • Expropriation of Immovable Property Act B.E. 2530 (1987) • Procurement of Immovable Property for Public Transportation Affair Act B.E. 2540 (1997) for the use of immovable property without transferring of ownership+K7. 	<p>General regulations on PPP</p> <ul style="list-style-type: none"> • Decree 15/2015/ND-CP: On Public Private Partnership Investment Form. • Decree 30/2015/ND-CP: Providing detailed regulations for implementation of the Law on Tendering Regarding Selection of Investor (PPP Investor Selection). <p>Decision 71/2010 on providing pilot regulation on PPP investment form and Decree 108/2009 on BOT, BTO, and BT are unified into Decree 15/2015 for universal application to any PPP investment form.</p> <p>Other Major Related Regulations</p> <ul style="list-style-type: none"> • Law on Public Investment (2014) is very first law to provide for the state management of public investment. • Law on Investment (2014) is the amendement of Law on Investment (2005) to provide the investment activity of private sector. • Law on Construction (2014) is the amendement of Law on Construction (2003) to provide for the State management of construction • Law on Tendering (2013) is the amendement of Law on Tendering (2005) to provide for the state management of tendering for public investment and procurement. • Decree 218/2013/ND-CP Providing detailed regulations for implementation of Law on Corporate Income Tax.
<p>Ministry of Finance (MOF) PPP Advisory Council</p> <p>There is no separate body dedicated to PPP. MOF plays the central coordinating role in relation to PPP. PPP Advisory Council was established by MOF at the same time that the PPP Handbook was published in 2004. The mission of the Council is to promote awareness of PPP, draft policy framework and facilitate cross-agency matters. (However, this agency has not been particularly visible in the market and has not functioned as a proactive 'PPP champion' within government)</p>	<p>The Committee of Private Investment in State Undertaking State Enterprise Policy Office (SEPO) Ministry of Finance</p> <ul style="list-style-type: none"> • The Committee of Policy on Private Investment in State Undertaking (PPP Policy Committee), chaired by the Prime Minister, is established to define the PPP strategic plan and to approve PPP projects in principle. • The SEPO is a secretariat office for the PPP Policy Committee as a central PPP unit. The key roles of this unit are to prepare strategic plans, provide recommendation on project's feasibility, and provide database and information about PPP scheme. 	<p>Ministry of Planning and Investment (MPI)</p> <p>MPI is the coordinating ministry among ministries and provincial level people's committee for execution of PPP projects and assist the Government to uniformly administer investment activities in the PPP form on a nation wide basis. MPI is expected to be an advisor for investors preparing a PPP project.</p> <p>The government has established the State Steering Committee for PPP, to assist the authorized state body to formulate and commence project. Decision No. 1624/QĐ-TTg of the Prime Minister dated 29 October 2012, assigns Vice Prime Minister Hoang Trung Hai to chair the committee. Deputy chairpersons are the Minister of Planning and Investment and the Deputy Minister of Finance. The group also includes representatives of the Government Office, the State Bank of Viet Nam, the Ministry of Justice, the Ministry of Industry and Trade, the Ministry of Transport, the Ministry of Construction, and other relevant bodies.</p>

	Description	6. Myanmar	7. Philippines
B. Financial Support	Project Development Fund (PDF)	There is no fund acting as a PDF.	The Project Development and Monitoring Facility (PDMF) was established by government and foreign donors as a revolving fund for pre-investment studies, including pre-feasibility studies, feasibility studies, preparation of tender documents, draft contracts, bidding processes and contract negotiations to bid award stage as well as for ensuring effective project monitoring. The PDMF Board composed of oversight government agencies sets the policy while the PPP Center is tasked to administer the PDMF.
	Government Supports (Guarantees & Subsidies)	There is no set of framework for PPP projects except for general incentives by way of tax, guarantees for nationalization or termination, or other forms under the Foreign Investment Law.	Case by case approach, but no guarantee is given for unsolicited projects. (*it is recognised that there are ongoing initiatives to institutionalize a Viability Gap Funding or Contingent Liability Fund).
C. Land and Buildings	Foreign Ownership for land and buildings	Foreign investors are not allowed to purchase land itself. They may obtain usufruct rights by leasing from the government or by forming a joint venture with a government agency. Under the New Investment Law investors may lease land both from private entity/person as well as the government with permission of the MIC. Lease term can be 50 years and application for 10-year extension may be granted twice (70 years in total) to the foreign investors.	The 1987 Constitution described the nationality limitations on land ownership. Corporations at least 60% of whose capital is owned by Filipino citizens may acquire private lands. Such corporations cannot own public land and can only hold the same by way of lease.
	Land Acquisition(LA) Support by Government	There is no supporting framework for land acquisition or the right to use land specific to PPP.	Department of Public Works and Highways has allocations for public infrastructure project, including allocation for land acquisition. PPP Strategic Support Fund (PPSSF) was established to cover costs for Right-of-Way (ROW) acquisition and related costs (incl. resettlement cost). The fund is a lump-sum appropriation included in an implementing agency's budget.

8. Singapore	9. Thailand	10. Viet Nam
<p>There is no special fund acting as a PDF for domestic projects.</p> <p>(*Aspiring to be a regional infrastructure hub, the government and World Bank established the Infrastructure Finance Centre of Excellence (IFCOE) to help support regional governments develop commercially viable infrastructure projects, including through consultancy and feasibility studies to individual projects. Also, IE Singapore, an agency under the Ministry of Trade and Industry, has launched the Asian Infrastructure Centre of Excellence (AICOE) with ADB to identify infrastructure needs and create bankable projects in Asia.)</p>	<p>The Private Investment Promotion Fund is to be established by the Ministry of Finance in the new PPP Act to support the preparation of PPP strategic plan and project feasibility studies. The PDF is managed under the committee chaired by the Permanent Secretary of Ministry of Finance.</p>	<p>There is the concept of Project Development Facility (PDF). ADB and AFD have provided about US\$30 millions for PDF to the Government. The circular on the use of the PDF is expected to be issued in 2nd quarter 2015. The investor shall reimburse the cost incurred for project formulation by the authority to PDF.</p>
<p>It is understood that in certain circumstances, provision of government subvention is permitted. Nevertheless, the government generally prefers a fully self-financing operator. Up to date, favorable financial environment of the country has enabled investors to raise the large portion of funding through debt financing from commercial lenders without government guarantees.</p> <p>(*For overseas infrastructure projects by Singapore-based companies, the government established Clifford Capital with various shareholders to provide project financing guaranteed by the government)</p>	<p>Case by case approach. In PPP Gross Cost Model in Transportation sector, Government pays the Private for provided services according to rates set as opposed to PPP Net Cost Model.</p>	<p>Government guarantee such as minimum revenue guarantee, foreign currency conversion guarantee, a certain level of foreign exchange rate guarantee may be provided based on the result of feasibility study and negotiation between the investor and the authority. So far, there is no written rule what conditions are eligible for applying government guarantee.</p>
<p>There are two types of land tenure: freehold and leasehold. The freehold title is divided into: Grant in Fee Simple (GFS) and Statutory Land Grant (SLG). The freehold under GFS is absolute title whereas SLG is subject to the terms under States Act. The leasehold is mainly 30, 60, 99, and 999 years period and is under the agreement with landlord or the State.</p> <p>Private sector in some of the PPP projects, for instance, obtains land through sub-lease contract with a government body with a head lease between the body and the Singapore Land Authority.</p>	<p>Thai citizens are allowed to own immovable assets while foreigners are able to obtain ownership for land and buildings under conditions specify in the Land Law, Private, Commonly-owned Housing Act, Investment Promotion Act and Industrial Estate Authority of Thailand Act.</p> <p>The Land Code generally prohibits the ownership of land by foreigners in Thailand, except that they are authorized by the Board of Investment (BOI). However, the Condominium Act allows some foreigners to own condominium if they meet one of five criteria: 1) Foreigner who hold a residence permit, 2) Foreigner who bring the entire purchase price from aboard in a foreign currency, 3) Foreigner permitted to enter Thailand under the Investment Promotion Act, 4) Juristic person having some land rights as foreigners as provided in the Land Code, 5) Juristic person having BOI privileges in Thailand.</p>	<p>Land is public property. The state will allocate or lease land to individuals or organizations. Holding a Certificate of Land Use Right (CLUR) is evidence of registration of the Land Use Right. Ownership of houses and other assets attached to land such as construction works is acknowledged in the CLUR and the owner registers its ownership of assets in accordance with the provisions of the Law on Land 2013 and other relevant laws. The provincial-level People's Committee issues the CLUR. Foreign invested organizations established under the laws of Viet Nam are entitled to be issued a CLUR. Foreign organizations established under foreign laws are not given a CLUR.</p>
<p>Land Acquisition Act enables the compulsory acquisition of private land to support major infrastructure projects which meet public benefit and interest through compensations based on market value. If landowners are dissatisfied with the statutory compensation, they can appeal to the Appeals Boards for Land Acquisition.</p>	<p>There are three main laws that govern land acquisition.</p> <ul style="list-style-type: none"> • The Constitution of the Kingdom of Thailand B.E. 2550 (2007) • Expropriation of Immovable Property Act B.E. 2530 (1987) • Procurement of Immovable Property for Public Transportation Affair Act B.E. 2540 (1997): for the use of immovable property without transferring of ownerships. <p>The Government has responsibility to acquire the land for the project. The pricing is determined by the committee, set up for each project, based on several factors such as market price, location, value.</p>	<p>According to Decree 15 Article 45, the provincial People's Committee is responsible for site clearance and for completing procedures for allocation or lease of land to implement the project in accordance with the Law on Land, the project contract, and related contracts. As part of the investment incentives granted by the government, the investors are exempt from or are entitled to a reduction of land use fees with respect to that area of land allocated by the state, or are exempt from or entitled to a reduction of land rent for the duration of project implementation consistent with the Law on Land.</p>

	Description	6. Myanmar	7. Philippines
D. Selection Process	Project Process and Guidelines	A tender procedure for projects prepared by concerned agencies and can be found in tender form and agency website. Airport concession projects, for instance, have been conducted by two stage procurement procedure, Prequalification and Tender.	Under Republic Act No.7718 and its Implementing Rules and Regulations, the implementing agency/local government units (IAs/LGUs) can implement their PPP/BOT projects through any of the following implementation modes: 1. Public Bidding (Solicited Mode) The IA/LGU chooses to procure their priority infrastructure and development projects through transparent and competitive public bidding process. The IA/LGU requests for bids for its priority infrastructure projects, approved by the approving body, from project proponents that have been pre-qualified through the bidding process. 2. Unsolicited Mode The IA/LGU may accept unsolicited proposals from project proponents to undertake projects on a negotiated basis. There shall be no direct government guarantee, subsidy or equity for unsolicited proposals.
	Project lists	-	The PPP Center publishes and constantly updates a Status of PPP Projects or other publications which present PPP projects in the pipeline.
	Unsolicited Proposal	PPP projects in the country have been undertaken essentially on unsolicited basis. A company with 100% foreign equity, joint venture and BOT system may propose and implement PPP projects.	The unsolicited proposal may be subjected to a challenge by competitors. If no comparative or competitive proposal or no complying bid is received by the IA/LGU, the original proponent shall immediately be awarded the contract. In case a challenger submits a price proposal better than that submitted by the original proponent, the latter shall have the right to match such price proposal within 30 working days. Should the original proponent fail to match the price proposal of the challenger within the specified period, the contract shall be awarded to the challenger. Otherwise, the contract is awarded to the original proponent.
E. Examples of PPP Projects (Already awarded projects. *Note that the listed projects are broadly considered as PPP.)	<ul style="list-style-type: none"> • BOT power projects • International Airport concessions (Yangon, Mandalay) • Nationwide telecommunications license (ooredoo and telenor groups) 	<ul style="list-style-type: none"> • Daang-Hari SLEX Link Road • NAIA Expressway Phase II • Mactan-Cebu International Airport Passenger Terminal Building • School Infrastructure Project Phases I and II • Modernization of the Philippine Orthopedic Center • Automatic Fare Collection System • LRT Line1 Cavite Extension and O&M • Integrated Transport System-Southwest Terminal Project 	
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8. Singapore	9. Thailand	10. Viet Nam
<p>The procurement procedure set out in the Public-Private Partnership Handbook is as follows:</p> <ol style="list-style-type: none"> 1. Invitation for Expressions of Interest 2. Prequalification of Bidders 3. Request for Proposal from Selected Bidders 4. Market Feedback Period 5. Issue of Final Tender 6. Closing of Tender 7. Contract Award/ Financial Close 	<p>The new PPP Act provides a fundamental change in project identification and approval process by introducing a systematic guideline as follows:</p> <ol style="list-style-type: none"> 1. The PPP Policy Committee is to develop a five years strategic plan to define a policy which covers investment policy in state undertakings, types of projects that are suitable for PPP in each sector and priority, investment target and time frame. This PPP strategic plan must be submitted to the Cabinet for approval before announcement in the Government Gazette. 2. For the project exceeding one billion baht, the host Agency must submit the project feasibility study to the managing Ministry for consideration before submitting it to SEPO. The study must include project rational which complies the PPP strategic plan, project costs, cost comparison and value for money between using annual government statement of expenditure and PPP, PPP alternatives, project impacts, and risk management. The study must be conducted by the external consultant who are in the SEPO's list. 3. The consideration process by SEPO must be done within sixty days before submission to the Committee. 4. If the project requires government's budget, agency's budget, or debt guaranteed by the MOF, after the Committee agree with such project, the project must be sent to the Cabinet for final approval. 	<ol style="list-style-type: none"> 1. The project is consistent with the approved Master plan 2. Project proposal: Preparation – Evaluation – Approval 3. Announce in public the list of PPP project calling investor 4. Feasibility study report: Preparation – Evaluation – Approval 5. Preparation of bidding documents 6. Bidding 7. Contract negotiation 8. Issuance of Investment Registration Certificate 9. Implementation of project 10. Supervision 11. Accounting finalization of investment capital within 6 months after completion of construction 12. Transfer of project facility according to contract
-	-	Calling investment PPP project list will be in public by each authority.
It is understood that the public sector is basically open to proposals by the private sector.	The unsolicited proposal is prohibited under the PPP law. All projects must be announced for Request for Proposal through the host agency.	Unsolicited proposal is accepted with 5 percent cost advantage in bidding. If the proposing investor failed in bidding, the proposing investor can claim the cost including the feasibility study, from the winner of the bidding, subject to agreement with the authority in advance. Generally, state capital can be used only for site clearance and settlement for unsolicited project although solicited project can be provided viability gap funding (VGF). There is an exception that an unsolicited proposal can use VGF provided by foreign donors if the project is within the category eligible to use the fund by foreign donors.
<ul style="list-style-type: none"> • Singapore Sports Hub • ITE College West • Tuas Desalination Plant • NEWater Plant (Ulu Pandan, Changi) • TradeXchange 	<ul style="list-style-type: none"> • BTS Sky Train, MRTA Blue Line, MRTA Purple Line • Power IPPs, small power producers (SPPs) • Sri Rat–Bangkok Outer Ring Road Expressway 	<ul style="list-style-type: none"> • Foreign BOT power projects (Phu My 2.2, Phu My 3, Mong Duong 2) • Thu Duc 2, Kenh Dong 2 Water Supply Treatment Plant BOO • Phu My Bridge BOT • Hanoi-Hai Phong Highway • BOT Projects of National Road No 1 and No 14 Expansion
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