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MUNICIPAL READINESS

Municipal Public-Private Partnership Framework

01

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1.0

Introduction to and Instructions for the Municipal Readiness Tool

This module presents municipal practitioners with a series of fundamental questions concerning the municipality's institutional capacity and the applicable legal and regulatory framework to provide a basic assessment of whether the municipality is ready to pursue a PPP project or program. It is not essential that a jurisdiction or municipality demonstrates all the characteristics outlined in this module before attempting to implement a PPP. However, the following tool can help a municipality better assess its institutional strengths and weaknesses in terms of capacity to implement a PPP and identify reforms that may be needed to obtain sufficient expertise, capacity, and legal authority to use PPPs.

This tool is organized around six general statements that, if true, tend to indicate the municipality is well positioned to pursue a PPP. Each statement is accompanied by a brief explanation of its relevance and followed by a non-exhaustive series of illustrative questions designed to walk practitioners through a set of more specific topics that are generally relevant to the accuracy of the statement. After reviewing these questions—and with due consideration to any additional, relevant information that may not be directly addressed by these questions—practitioners should indicate the extent to which they agree or disagree with each general statement.

This readiness tool has been influenced by the following sources, which will also be helpful for any municipality looking to identify ways to improve its investment climate for PPP:

- The World Bank Group, A Checklist for Public-Private Partnership Projects (prepared by the World Bank Group for the G20 Investment and Infrastructure Working Group August 22, 2014), available at: <https://ppp.worldbank.org/public-private-partnership/library/checklist-public-private-partnership-projects-submitted-world-bank-g20-investment-and-infras>.
 - The World Bank Group, Country Readiness Diagnostic for Public-Private Partnerships (The World Bank Group June 2016), available at: <http://pubdocs.worldbank.org/en/943711467733900102/Country-PPP-Readiness-Diagnostic-Tool.pdf>.
 - The World Bank Group, Urban Regeneration Decision Tool, available at: <https://urban-regeneration.worldbank.org/survey>.
 - The World Bank Group's City Resilience Program, Rapid Capital Assessment (sample assessment). For additional information and resources, refer to: <https://www.gfdr.org/en/crp>.
 - Public-Private-Partnership Legal Resource Center (PPPLRC), <https://ppp.worldbank.org/public-private-partnership/>.
- The World Bank, Procuring Infrastructure Public-Private Partnerships Report 2018 (The World Bank 2018), available at: <https://ppp.worldbank.org/public-private-partnership/library/procuring-infrastructure-ppps-2018>.
 - The City Creditworthiness Initiative, City Creditworthiness Self-Assessment and Planning Toolkit, available at: <http://www.citycred.org/>.

2.0

The Municipal Readiness Tool

Statement 1 - Creditworthiness

Statement	Response				Explanation
	Strongly Agree	Somewhat Agree	Somewhat Disagree	Strongly Disagree	
The municipality is a creditworthy, reliable counterparty for prospective infrastructure PPPs, with a history of timely debt repayment and honoring contractual commitments.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	The municipality's creditworthiness affects the likelihood that private investors will be interested in contracting with the municipality, as well as the cost of financing such projects. Even where the municipality assumes no regular payment obligations under a PPP, a history of timely debt repayment will bolster its credibility as a contractual counterparty and provide assurance that it will honor any payment obligations that might arise in the event of project termination. In addition, some basic provisions related to municipal debt management are also directly applicable to implementing, monitoring, and evaluating a PPP project. PPPs entail long-term, contractual commitments such that potential PSPs must have confidence that the municipality will respect its contractual obligations for the duration of the project, which is best evidenced by the municipality's experience in this regard. The assessment of municipal creditworthiness involves a number of different characteristics. This section captures a few of these characteristics. Further reference should be made to www.citycred.org for a simple assessment tool. The more the municipality's financial management systems are adapted to address issues relevant to PPP, the better.

Question on Creditworthiness

Statement	Response				Considerations
	Strongly Agree	Somewhat Agree	Somewhat Disagree	Strongly Disagree	
1.1 Are financial statements prepared and audited annually?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	A first-level assessment is of the municipality's internal systems, for example, whether it issues account and are those accounts audited. These mechanisms help investors and financiers understand the financial standing of the municipality. Any lack of transparency or accountability will make investors and financiers nervous. Equally, they will want to understand the municipality's exposure to other investments, including PPP, to be sure that the municipality is monitoring and managing that exposure proactively.
1.2 Are accounts managed on an accrual basis?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
1.3 Are regular audits conducted? By a third-party, independent auditor?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
1.4 Is there any system for fixed and movable asset management and accounting?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
1.5 Are municipal PPP liabilities monitored under its accounting system?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
1.6 Is there a designated entity and/or separately staffed office responsible for debt planning and management?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
1.7 Has the municipality obtained a domestic credit rating?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
1.8 Has the municipality obtained an international credit rating?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	

Statement	Response				Considerations
	Strongly Agree	Somewhat Agree	Somewhat Disagree	Strongly Disagree	
1.9 Has the municipality borrowed money from banks in the last three years? • If so, has it timely satisfied (that is, has not defaulted and is not in breach of any of) those debt obligations?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Investors and financiers will want to know how much experience the municipality has in borrowing money commercially, from banks and from bond markets, domestically and internationally; each involves commercial know-how and discipline that will give investors and lenders comfort that the municipality will manage its PPP projects well.
1.10 Does the municipality have an existing lending relationship with one or more commercial banks for long-term borrowing of one year or more?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
1.11 Has the municipality issued bonds domestically in the last three years? • If so, has it timely satisfied (that is, has not defaulted and is not in breach of any of) those debt obligations?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
1.12 Has the municipality issued bonds internationally in the last three years? • If so, has it timely satisfied (that is, has not defaulted and is not in breach of any of) those debt obligations?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	

Statement	Response				Considerations
	Strongly Agree	Somewhat Agree	Somewhat Disagree	Strongly Disagree	
1.13 Does the municipality have any other recent experience with any kind of borrowing (concessional or commercial, short term or long term)? • Does the municipality use any short-term borrowing (for example, overdraft facilities, loans, lines of credit) to maintain liquidity? • Has it timely satisfied (that is, has not defaulted and is not in breach of any of) those debt obligations?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
1.14 Are there clear regulations or rules on municipal borrowing?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Oversight on municipal borrowing and PPP projects, for example, from central government, can provide comfort to investors and financiers, but may also represent additional delay, cost, and complexity.
1.15 Is there national or state/provincial government authority monitoring the municipality's financial condition on an annual (or more frequent) basis?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
1.16 Are there any caps or other restrictions on the amount or type of debt the municipality can accrue?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
1.17 Are there any written policies or procedures on debt service?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
1.18 Are there any safeguards against late or missed payments?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	

Statement	Response				Considerations
	Strongly Agree	Somewhat Agree	Somewhat Disagree	Strongly Disagree	
1.19 Does the municipality have a history of respecting its contractual obligations and paying amounts due on time? • For example, is there any recent history of delays in payments to suppliers or contractors over 60 days?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	PPP is generally a contract-based relationship. If the PSP cannot trust the municipality to respect its contractual obligations, additional protections such as guarantees will be needed, adding to the cost and complexity of the project. Ideally the municipality can show that it plans to be a credible partner to the PSP by showing how well it has treated its private partners in the past.

Statement 2 - Internal Capacity

Statement	Response				Explanation
	Strongly Agree	Somewhat Agree	Somewhat Disagree	Strongly Disagree	
The municipality has sufficient internal capacity to carry out a PPP, including the ability and funding to obtain outside technical assistance if needed.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<p>Successfully preparing, procuring, and implementing a PPP can require significant costs, in terms of labor time, financial commitments, and procuring expert advice. Ultimately, these investments are likely to pay large dividends, both economic and social, by ensuring that the resulting project provides the most VFM for the municipality, limiting the risks involved (including environmental and social risks) and reducing the burden on the municipality over the course of the PPP agreement.</p> <p>Nonetheless, many municipalities will not have the needed internal capacity, especially when undertaking their first PPP project(s) or program. Internal human resource capacity can and should be developed over time through appropriate hiring, formal trainings, and direct, on-the-job experience with PPPs. In many respects, expertise is best acquired by actually working on a PPP (that is, learn-by-doing), provided that emphasis is placed on knowledge sharing to ensure that lessons learned are shared among staff and preserved within institutions despite staffing changes.</p> <p>In the interim, gaps in internal capacity can be overcome by mobilizing capable, third-party consultants, as well as by leveraging expertise from other government departments and entities at the local and national levels. Note that accessing additional sources of funding for the development of PPP projects, including hiring high-quality consultants, is addressed in Statement 3.</p>

Question on Internal Capacity

Statement	Response				Considerations
	Strongly Agree	Somewhat Agree	Somewhat Disagree	Strongly Disagree	
<p>2.1 Has the municipality previously attempted a PPP? If so</p> <ul style="list-style-type: none"> • Were past attempts deemed successful? • Has there been continuity among key staff involved? • Were formal lessons learned or other knowledge transfer mechanisms deployed to retain institutional knowledge? 	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	The best way to develop PPP capacity is by doing PPPs. The more experience the municipality has, the more comfortable potential investors and financiers will be.
<p>2.2 Are there enough available and sufficiently qualified (by training and/or experience) staff to oversee the day-to-day supervision of PPPs?</p> <ul style="list-style-type: none"> • Does the municipality have its own, internal PPP team, whether as a permanent or ad hoc office, committee, unit, and so on? • If so, does that unit have dedicated staff? 	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Capable and experienced staff need to be allocated to PPPs generally, and dedicated to specific projects as and when needed. Clearly, the more developed the PPP program, the more projects are in the pipeline, the more staff can be dedicated to PPP. Such dedicated, experienced individuals, ideally led by someone with sufficient seniority to make decisions and commit to deliver on promises, will be key to attracting good investors and financiers. Note that, in appraising the available staff, the municipality should consider the extent to which it may be able to borrow expertise from other government departments or entities, at the local or national level.
<p>2.3 Does the municipality have a designated team with commercial and financial skills who would be available to oversee PPP project, possibly drawing from relevant departments or offices as appropriate?</p> <ul style="list-style-type: none"> • Do the foreseeable members of such a team have experience with or exposure to PPP in their functional areas of expertise? 	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	

Statement	Response				Considerations
	Strongly Agree	Somewhat Agree	Somewhat Disagree	Strongly Disagree	
<p>2.4 Does the municipality have internal expertise on issues related to accounting, financial management, and commercial legal issues?</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<p>If the municipal government does not have PPP-specific expertise, then the next best thing is to have staff experienced in commercial transactions, with appropriate finance, accounting, and legal skills. The municipality should also consider if it has staff who may have other related and transferrable skillsets, such as staff who have previously worked on and delivered large or complex projects, including projects not directly related to infrastructure provision.</p>
<p>2.5 Does the municipality have identified staff who specialize in complex projects or have other, related skillsets and could be assigned to a PPP project team?</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
<p>2.6 Are there processes or policies for selecting a</p> <ul style="list-style-type: none"> • Project manager; • Contract manager; • Project team; and/or • Consultant(s) to provide technical assistance? 	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<p>In addition to a standing team focused on PPP, the municipality will need processes to assign the right staff to deliver each project. The key members of this team should commit to the project over the long term, even where the municipal government changes.</p>
<p>2.7 Is there likely to be continuity of key personnel (for example, across administrations, when the municipal government changes after elections)?</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
<p>2.8 With respect to hiring consultants for technical assistance, is there or will there be funds available to pay for such services?</p> <ul style="list-style-type: none"> • For example, is there a project preparation fund that could be used to hire consultants to complete feasibility studies and other preparatory work? 	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<p>Gaps in expertise and capacity should be filled with consultants. The municipality will need the ability to hire the best consultants for the job. In PPP, this can mean expensive consultants, possibly exceeding ceilings placed on public procurement. The municipality will need some mechanism to hire these high-quality consultants.</p>

Statement	Response				Considerations
	Strongly Agree	Somewhat Agree	Somewhat Disagree	Strongly Disagree	
2.9 Are there any regulations or policies that affect the municipality's ability to hire outside technical advisers? • For example, local hiring preferences, procurement rules that require competitive tender of consultancy services, and/or limit the remuneration payable for such services?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	

Statement 3 - External Assistance

Statement	Response				Explanation
	Strongly Agree	Somewhat Agree	Somewhat Disagree	Strongly Disagree	
The municipality is aware of and has access to external sources for funding and additional capacity, as needed, to help oversee, coordinate, and support PPPs.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Some countries have established specialized PPP teams at the national or regional level to facilitate, monitor, and/or regulate the use of PPPs. These institutions can be an important source of information and support, and may have review or approval authority with respect to PPPs. Regional or international organizations may also offer support to help a municipality deliver PPP, for example, the World Bank Group and the regional development banks (for example, the Asian Development Bank) can make funding and teams of experts available to help ensure that projects are well implemented, and that the municipality's investment framework is conducive to PPP.

Question on External Assistance

Statement	Response				Considerations
	Strongly Agree	Somewhat Agree	Somewhat Disagree	Strongly Disagree	
3.1 If there is a national or state/provincial PPP institution, does it have experience delivering PPP projects successfully?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	The providers of support must have more experience/capacity than the municipality to make a positive impact. In some cases, the municipality may be more experienced in PPP than the national or international institutions.

Statement	Response				Considerations
	Strongly Agree	Somewhat Agree	Somewhat Disagree	Strongly Disagree	
<p>3.2 If there is a national or state/provincial PPP institution, does it provide, or manage the provision of, any type of support for municipal PPPs, such as :</p> <ul style="list-style-type: none"> • Technical assistance for project preparation, or funding to procure such assistance from outside consultants (for example, a PDF); • Credit enhancement instruments for PPPs (for example, guarantees); • Grant funding for a portion of a project's capital expenditure to improve commercial viability; • Assistance with land acquisition; • Providing model or standard project documents (for example, concession agreements and tender documents); • Showcasing prospective PPP projects to attract investors or conducting market soundings; and/or • Assistance with or a streamlined permitting process for PPPs? 	○	○	○	○	<p>The nature of engagement will be critical. The municipality must be a willing, and ideally enthusiastic, recipient of support from the national or international institutions. The nature and extent of support is also critical. If national or international institutions provide capacity in an area where the municipality is weak, the impact will be more significant.</p>

Statement	Response				Considerations
	Strongly Agree	Somewhat Agree	Somewhat Disagree	Strongly Disagree	
<p>3.3 If there is a national or state/provincial PPP institution, does its mandate include the following:</p> <ul style="list-style-type: none"> • Coordinating different stakeholders involved? • Review and approval of PPP projects in some or all cases? • Monitoring and evaluating PPPs in the implementation stage? 	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
<p>3.4 Does the municipality have access to a government-led infrastructure co-financing facility that could be used to leverage private financing?</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<p>In some jurisdictions, government entities or funds may provide an additional source of equity, financing, and/or credit enhancements to mobilize private capital for infrastructure projects. Such facilities include sovereign wealth funds, national and subnational development banks, state-run lending and grant programs, and guarantee funds, among others. These state-run facilities may focus on a particular sector (for example, public transport) or infrastructure in general. Access to these public sources of development assistance and the ability to blend them with private capital in the same project can de-risk the project, making it more attractive to private investors and reducing the cost of capital. This can also help compensate for any perceived lack of creditworthiness on the part of the municipality, as well as investors' perceptions regarding the risk of investing in a particular region or country.</p>

Statement 4 - Planning and Budgeting

Statement	Response				Explanation
	Strongly Agree	Somewhat Agree	Somewhat Disagree	Strongly Disagree	
<p>The municipality's planning and budgeting policies are conducive to long-term infrastructure financing commitments and PPPs.</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<p>Effective budgeting and planning processes are critical to both identifying projects that are best suited to delivery as PPPs and to effectively managing and accounting for liabilities created by PPPs. The municipality should be confident that it has sufficiently effective and long-term budgeting and planning mechanisms to properly pursue and implement infrastructure PPP projects.</p>

Question on Planning and Budgeting

Statement	Response				Considerations
	Strongly Agree	Somewhat Agree	Somewhat Disagree	Strongly Disagree	
4.1 Is there a formal, approved development plan or strategy that identifies infrastructure needs and priorities for the municipality? • Are development plans available to stakeholders in the government, private sector, and civil society?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	A successful PPP program begins with good planning, namely a reliable process for identifying public infrastructure investment needs and then assessing which projects may be suited for delivery through PPPs.
4.2 Are PPPs explicitly included in the development plan or strategy as a mechanism for infrastructure delivery and service provision?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
4.3 Is there a budgetary system that does or would support multi-year fiscal commitments to infrastructure and PPPs, including government support to PPPs where needed?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Short-term budgeting rarely appreciates the long-term context of PPP.
4.4 Is the expenditure plan updated annually and well-synchronized with the development plans?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
4.5 Are there clear regulations or rules on managing contingent liabilities arising from PPP?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Any PPP might create contingent liabilities for the municipality. A system is needed to monitor and manage such liabilities.

Statement	Response				Considerations
	Strongly Agree	Somewhat Agree	Somewhat Disagree	Strongly Disagree	
<p>4.6 Is there a formal, approved spatial plan that identifies land use purposes and restrictions within the territory of the municipality?</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<p>A PSP will need to know that the project site may lawfully be used for the intended purpose, now and through the duration of the PPP agreement, and that the lawful owner of the site and any other entities with claims to the land (for example, leases, easements, rights of way) are readily identifiable. Any uncertainty over ownership, development rights, or usage rights with regard to the project site presents a substantial risk and will need to be resolved before pursuing a PPP.</p>
<p>4.7 Are there formal, transparent, and enforced regulations or ordinances related to land use, covering topics such as building density and height and functional uses (for example, zoning framework)?</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
<p>4.8 Is there a centralized and updated property cadastral database, registry for land parcel information, or other record system that provides reliable property records (for example, title registry and transfer, development and usage rights)?</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	

Statement 5 - Institutional Mandate

Statement	Response				Explanation
	Strongly Agree	Somewhat Agree	Somewhat Disagree	Strongly Disagree	
The municipality has clearly defined institutional mandates for infrastructure delivery and service provision	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	A PSP will want to make sure that the municipality is the right contract counterparty, and that the municipality has the authority and power to make and keep the promises set out in the PPP agreement. To this end, the municipality must clearly understand its legal mandate for infrastructure delivery and service provision, including whether service provision in any given sector is a shared responsibility (for example, where a municipal authority and a publicly owned utility both have roles in ensuring the provision of piped water to households). If responsibility is shared, the municipality will need to review the other entity's mandate and may need to involve it in any potential PPP. If institutional responsibility is not clearly defined, any uncertainty will need to be resolved before pursuing a PPP.

Question on Institutional Mandate

Statement	Response				Considerations
	Strongly Agree	Somewhat Agree	Somewhat Disagree	Strongly Disagree	
5.1 Does the municipality have the explicit authority to enter into long-term contracts? • For example, ones that last longer than the term of the municipality's chief officer?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	A PPP agreement may extend past the term in office of the public officials involved in negotiating and closing the deal. The parties to the PPP agreement need to be sure that the contract remains legally binding throughout its duration, irrespective of any change in municipal leadership.
5.2 If there are any prerequisites that must be met or approvals that must be obtained before the municipality can enter into such an agreement, are they known and manageable?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	

Statement	Response				Considerations
	Strongly Agree	Somewhat Agree	Somewhat Disagree	Strongly Disagree	
<p>5.3 Are there sectors for which the municipality has exclusive responsibility for delivering infrastructure projects and service delivery (for example, piped water supply, building and maintaining bus stops, collecting solid waste)?</p> <ul style="list-style-type: none"> • Is this responsibility clearly defined by law? 	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	The mandate of the municipality will influence the scope of the PPP program and help the municipality focus on key sectors. In addition, the municipality's mandate needs to be clear. If the mandate is shared, the other responsible parties need to be engaged in the relevant PPP project from the earliest stages.
<p>5.4 Are there any sectors in which service delivery is a shared responsibility?</p> <ul style="list-style-type: none"> • If so, what is the municipality's relationship with the other entity or entities, and is there a clear delineation in roles? 	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
<p>5.5 If the PSP will be involved in service delivery (for example, clean water supply), does the municipality have explicit authority to delegate responsibility for providing the service in question to a private entity?</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	

Statement 6 - Governing Law

Statement	Response				Explanation
	Strongly Agree	Somewhat Agree	Somewhat Disagree	Strongly Disagree	
The municipality is clearly empowered by law to prepare and implement PPP projects, under specific laws, regulations, or policies at the national, state/provincial, or municipal levels that are conducive to PPPs.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Whether or not the jurisdiction has established a specific legal or regulatory framework for PPP delivery, the municipality must have the mandate at law to prepare and implement PPPs, including the processes for project selection, preparation, and procurement, as well as access to institutions or funding sources that can facilitate PPP projects.

Questions on Governing Law

Statement	Response				Considerations
	Strongly Agree	Somewhat Agree	Somewhat Disagree	Strongly Disagree	
<p>6.1 Do applicable laws, regulations, and policies address the following:</p> <ul style="list-style-type: none"> • Respect for contractual obligations? • Enforcement of government obligations, in particular contractual ones? • The municipality's mandate to sign a PPP agreement; for what kind of projects/sectors? • Review and approval processes that would be applicable to PPP projects? • Delineation of institutional roles in identifying, screening, preparing, approving, and procuring projects that would be applicable to PPPs? 	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	The legal regime should address each of these issues to provide a clear framework for a PPP program. Any gap in the legal system will cause concern among potential investors and add to project risk and would need to be addressed contractually.

Statement	Response				Considerations
	Strongly Agree	Somewhat Agree	Somewhat Disagree	Strongly Disagree	
<ul style="list-style-type: none"> • Delineation of the sectors (for example, water supply, electrical power distribution, and public transit) in which PPPs would, or would not, be allowed? • Establishment of a framework for government support, including for PPPs? • Rules for public payments, which would be applicable to PPPs (for example, availability payments)? • Description of what types of PPP project structures (for example, BOT, DBFO, ROT) are, or are not, allowed? • Establishment of a clear and consistent process for preparing and procuring projects, including PPP? • Defining requirements, processes, and exceptions for competitive selection of the PSP, including for PPP? • Provision of standard terms and conditions for investments in infrastructure, including standard PPP agreements? • Defining requirements for transparency and disclosure before and/or after an investment project award or closing, including a PPP agreement? • Provision of processes for contract management, monitoring, and renegotiation? • Permitting or prohibiting unilateral contract modification and/or termination? 					

Statement	Response				Considerations
	Strongly Agree	Somewhat Agree	Somewhat Disagree	Strongly Disagree	
<ul style="list-style-type: none"> • Ability to change the ownership structure of a PPP and assign rights under a PPP contract? • Allowing the municipality to commit to compensation payments in the event of contract termination? • Protection for PSPs from expropriation? • Allowing for alternative forms of dispute resolution, such as international arbitration? • Provision of a process or otherwise indicate how to address a USP? • Establishment of clear processes and systems for obtaining any required licenses and permits, including by a PSP? 					
<p>6.2 Is it clear how a PPP project would be taxed (including withholding taxes, transfer taxes, and income taxes applied to any public contribution to the project)?</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	PPP structures may be new in the country or jurisdiction, in particular financing that is based on project revenues rather than asset value. The tax regime may need to be reformed to provide for such structures.
<p>6.3 Is the regime for the municipality acquiring any land needed for a PPP project clear and efficient?</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Land is often a challenge for PPPs. The PSP will ideally want to see all land acquired before bidding, or at least a system by which the PSP can see a clear line to accessing land and protecting any rights over land needed for the project. Refer to Questions 4.6 through 4.8, regarding land use planning, regulation, and property registration. Recall that the PSP will need to be confident in the status of the property interests and permissible uses with respect to the project site.
<p>6.4 Are there significant restrictions on foreign participation, ownership, investment, or repatriation of profits?</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Foreign investment can be a delicate political issue, but may be important to access foreign know-how and financing.

