



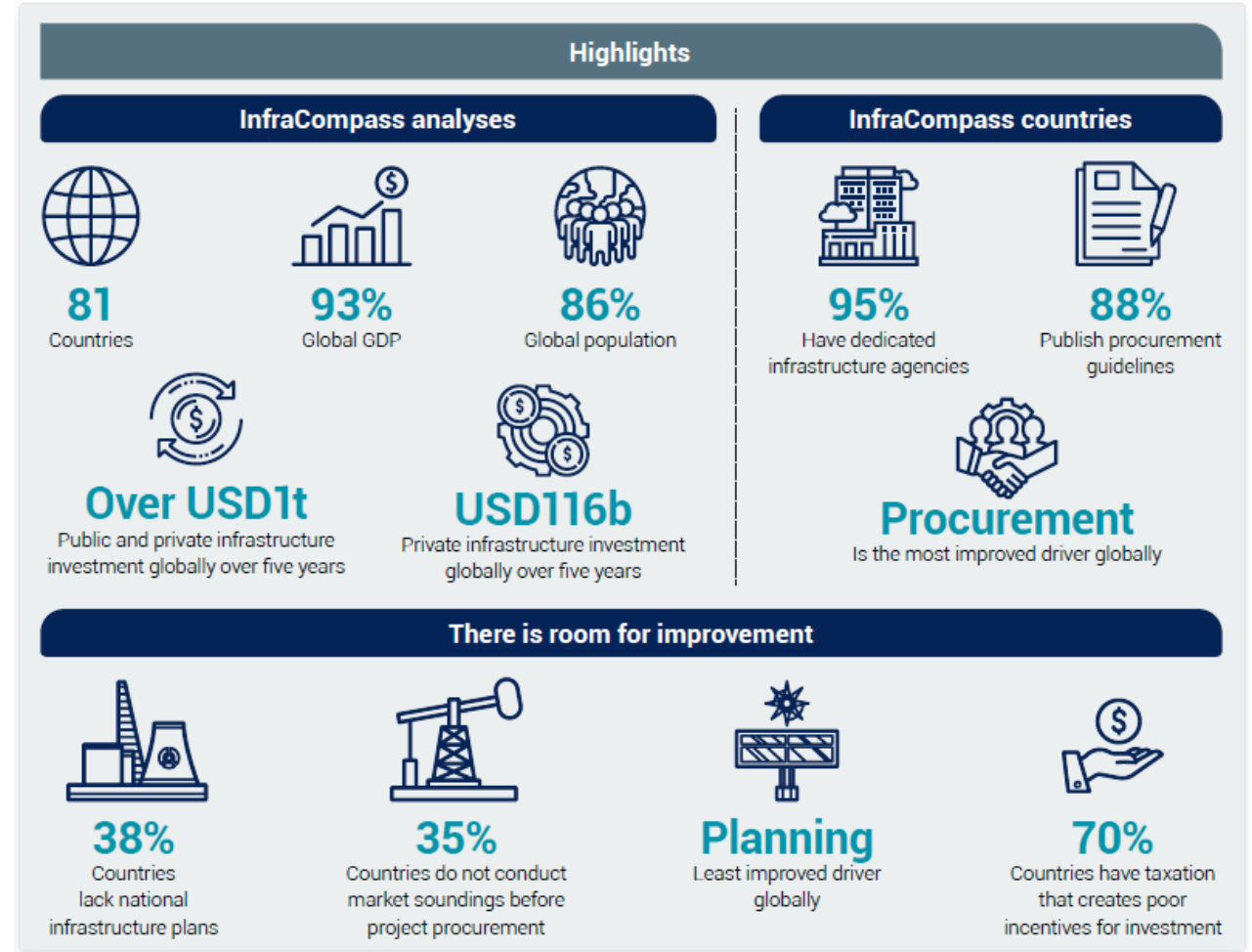
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# **PPP Enabling Environments in Emerging Markets**

**Melbourne University  
Faculty of Law  
LAWS70113: PPP Law  
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# The Global Infrastructure Hub *InfraCompass 2020\** Report



\*available at <https://infracompass.gihub.org/>

## GI Hub *InfraCompass 2020* – Policy Drivers

	<b>Governance</b>	Governance and institutional settings
	<b>Regulatory framework</b>	Investment policy and economic regulation
	<b>Permits</b>	Clarity and consistency of the permits and land acquisition process

## GI Hub *InfraCompass 2020* – Delivery Drivers



### **Planning**

Planning and infrastructure appraisal processes



### **Procurement**

Efficiency of government contracting and procurement



### **Activity**

The extent and nature of recent infrastructure investment activity and extent of private sector involvement over the last five years, relative to the size of the economy

# GI Hub *InfraCompass 2020* – Funding and Financing Drivers



**Funding  
capacity**

The capacity of governments to invest in infrastructure over time



**Financial  
markets**

The availability and cost of funding for infrastructure

## GI Hub *InfraCompass 2020* – Key Factors for Each Driver

- **Governance** – **protections for creditors** to recover their investment if a business or project fails
- **Regulatory frameworks** – ability of the government to **formulate and implement sound regulations** to promote infrastructure investment and delivery
- **Permits** – **reliability and transparency of land administration** processes
- **Planning** – transparent public **infrastructure project pipelines** to allow industry to prepare for projects and citizens to have a say
- **Procurement** – **transparency** of procurement processes
- **Activity** – a strong recent **track record of investment** in infrastructure by governments and the private sector, relative to GDP
- **Funding capacity** – **credit rating of the government** to borrow money for infrastructure spending
- **Financial markets** – overall **depth of the local financial market** to sustain relatively large financial transactions

# InfraCompass 2020 – Philippines – Overall Performance



Drivers	Rank (/76)	Rank change (2017-20)	Score (/100)	Emerging	Aspiring	Contender	Top performer	Global leader
Governance	59	–	47					
Regulatory frameworks	32	↓ 5	63					
Permits	61	↓ 9	48					
Planning	7	↑ 24	98					
Procurement	40	↑ 32	75					
Activity	21	↑ 5	45					
Funding capacity	39	↑ 1	37					
Financial markets	36	↑ 1	38					

## InfraCompass 2020 – Philippines – Policy Metrics

GOVERNANCE		REGULATORY FRAMEWORKS		PERMITS	
Post-completion reviews?	Yes –	Effect of taxation on incentives to invest	41.2 ↓	Cost to start a business	53.2 ↓
Infrastructure or PPP unit/ agency?	Yes –	Prevalence of foreign ownership	54.9 ↓	Dealing with construction permits	62 ↑
Recovery rate	21.1 ↓	Product market regulation, network sectors	58.3^ –	Quality of land administration	41.7 ↑
Rule of law	40.4 ↓	Regulatory (including competition) quality	50.9 ↑	Registering property	68.8 –
Shareholder governance	33.3 ↑	Strength of insolvency framework	87.5 –	Time required to start a business	27.1 ↓
Political stability and absence of violence	31.3 ↑	Investment promotion agency?	Yes –		

### Metric key:

↑ Increase from InfraCompass 2017

↓ Decrease from InfraCompass 2017

– No change from InfraCompass 2017



## **b InfraCompass 2020\*** – Philippines – Delivery Metrics

PLANNING		PROCUREMENT		ACTIVITY	
Published project pipeline?	Yes –	Average procurement duration – transaction RFP	40.5 ↓	Infrastructure investment	44.8 ↑
Published infrastructure plan?	Yes ↑	Degree of transparency in public procurement	50 –	Private infrastructure investment	67.9 ↓
Preparation of PPPs	85 ↓	Published procurement guidelines?	Yes ↑	Value of closed PPP infrastructure deals	43.6 ↑
Economic analysis assessment?	Yes –	Procurement of PPPs	76 –	Value of closed infrastructure deals with foreign equity sponsorship	23.3 ↓
Market sounding and/or assessment?	Yes –	PPP contract management	88 –		
Environmental impact analysis?	Yes –				

# InfraCompass 2020 – Philippines – Funding and Financing Metrics

FUNDING CAPACITY		FINANCIAL MARKETS	
GDP per capita	4.2 ↑	Domestic credit to private sector	31.9 ↑
Gross government debt	69.2 ↓	Financing through local equity market	55.2 ↓
Long term GDP growth trend	55.2 ↑	Stocks traded	8 ↓
Summary credit rating	60 ↑	Financial depth	49.4 ↑
		Financial stability	91.1 ↑

# The World Bank Analysis – PPP Procurement Arrangements

## Benchmarking Infrastructure Development 2020\* – Philippines



### Procurement of PPPs

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Answer: ✓ Yes ✗ No / Score: ● Good regulatory practice ● Area for improvement

Questions	Answer	Basis
> The required qualifications of the bid evaluation committee members		
> Does the procuring authority issue a public invitation for bids/ tender notice of the PPP project?	✓	📖
> Are foreign companies subject to any of the following restrictions when participating in the bidding process?		
● Does the procuring authority grant the potential bidders a minimum period of time to submit their bids? <u>Calendar days</u>	✓	📖
> What are the procurement procedures available and/or set as default for PPPs?		
● Do the tender documents detail the procedure of the procurement process providing the same information to all the bidders?	✓	📖
> Do the tender documents unambiguously specify the qualification requirements (or the pre-qualification requirements when applicable) making them available to all potential bidders as part of the tender notice/ invitation for bids?	✓	📖
> Can interested parties/potential bidders submit questions to clarify the public procurement notice and/or the bidding/tender documents?	✓	📖
> Besides questions and clarifications, can the procuring authority conduct pre-bidding conference?	✓	📖
● Does the procuring authority require the bidders to prepare and present a financial model with their proposals?	✗	
> Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?	✓	📖
> In the case where only one proposal is submitted (sole proposals), how does the procuring authority deal with them?		
> Does the procuring authority publish the contract award notice?	✓	📖
> Does the procuring authority provide all the bidders with the result of the PPP procurement process?	✓	📖
> Is there a standstill (or pause) period after the contract award and before the signing of the contract in order to allow unsuccessful bidders to challenge the award decision?	✗	
● Does the regulatory framework restrict negotiations with the selected bidder between the award and the signature of the PPP contract in order to prevent an unfair disadvantage to the other bidders?	✓	📖
> Does the regulatory framework allow for complaint review mechanisms pertaining to the PPP bidding/tendering process?	✓	📖
> Does the procuring authority publish the PPP contract? (notwithstanding the protection of commercially sensitive information)	✗	

\*available at  
<https://openknowledge.worldbank.org/handle/10986/34608>

# Case Study – Queen 'Mamohato Memorial Hospital, Lesotho



# The World Bank Analysis – Lessons Learned

## Independent Evaluation Group 2016 Report on Health PPPs\*



### Lessons Learned

As the development community and the World Bank Group increasingly partner with the private sector to enhance the delivery of health services, this review stresses **five lessons**:

1. When advising governments on the various models for providing health services, both the IFC and the World Bank should act as one Bank Group and **discuss the whole range of options**, from the public and mixed options to the other possible types of PPPs, in the context of the country's state of reform, overall maturity, and track record in using PPPs.
2. To be better positioned to deliver such strategic advice, the Bank Group should **better integrate** its sector reform and policy work with its structuring and financing of PPPs.

\*available at <https://ieg.worldbankgroup.org/evaluations/public-private-partnerships-health>

# The World Bank Analysis – Lessons Learned (cont.)

## Independent Evaluation Group 2016 Report on Health PPPs



3. **Access for the poor and affordability** need not only be systematically considered at the design stage, but also tracked to ensure that the poor actually benefit from PPPs.
4. The recently developed Bank Group–IMF PFRAM tool for assessing **fiscal implications** should be systematically applied to structuring PPPs that have substantial fiscal implications.
5. The new practice of preparing **post-completion reports** after the PPPs have gone into operations should be mainstreamed so that post-completion reports are conducted after sufficient time, given the long contractual life of PPPs.

# A Final Word: The World Bank September 2020 Practice Note

## PPP Legal Frameworks Post COVID-19\*



Importantly, the impacts of the COVID-19 crisis have highlighted certain critical aspects under PPP policy and legal frameworks that underpin the preparation and implementation of good-quality and sustainable PPP projects. These include:

- A PPP definition that allows the kind of private sector innovations that may inform and help future handling of crises and external shocks like the current pandemic. Likely changes in project priorities that may need to be reflected comprise a shift towards more activity in the health care sector and PPPs related to digital development.
- Solid public investment planning and strengthened rules for fiscal treatment of PPPs to better deal with the type of emergency situations currently faced and resulting fiscal risks.
- Robust project preparation that underscores sustainability and resilience of any considered project. Specifically, impacts of large-scale disruptions will need to be factored into respective feasibility studies, including risk assessments and financial models.
- Procurement processes and metrics that contribute to achieving greater resilience of PPP projects and measures.

\*available at <https://pppknowledgelab.org/ppp-community-forum/webinars/ppp-legal-frameworks-post-covid-19> (this summary is from a World Bank blog, at <https://blogs.worldbank.org/ppps/making-ppp-legal-frameworks-fit-post-covid-19>)



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