

BENCHMARKING PPP PROCUREMENT 2017 IN COLOMBIA

Regulatory and Institutional Framework for PPPs	
Does the regulatory framework in your country allow procuring PPPs?	Yes
Yes. If yes, please specify the relevant regulatory framework and the year of adoption:	PPPs in Colombia are regulated by the following laws and regulations in which this analysis will be based: a) Law 1508/ 2012 "PPP Law"; b) Presidential Decree 1082 of 2015 (it compiles all the regulation related to PPP such as the decrees 1467 and 2043 of 2012, the Decree 1610 of 2013, the Decrees 1026 and 1553 of 2014, the Decree 063 of 2015 and the Decree 1510 of 2013); c) Resolution 3656 of 2012 of the National Planning Department; d) Law 80 of 1993 "Public Procurement General Law modified by the Law 1150 of 2007; e) Law 1753 de 2015 "National Development Plan;" and f) Sector specific regulatory frameworks. According to article 3 of the PPP Law the process for selecting the private partner will be regulated by the Law 80 of 1993 and the Law 1150 of 2007 for those matters not specifically regulated by the PPP Law.
and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:	https://www.dnp.gov.co/programas/participaci%C3%B3n-privada-%20y-en-proyectos-de-infraestructura/asociaciones-publico-privadas/Paginas/marco-normativo-app.aspx ; http://sintesis.colombiacompra.gov.co/
Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors? Transportation.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Water and irrigation	No
If yes, please provide the relevant legal/regulatory provisions:	n/a

Energy generation and distribution	Yes
If yes, please provide the relevant legal/regulatory provisions:	Article 3 of the PPP Law provides that regulated sectors which have their own private investment regime will not be subject to the PPP Law, unless the required particularities are regulated (i.e. private investment in those sectors are allowed but are not covered by PPP Law). These sectors are telecommunications, energy (public utilities), ports and terminals, mining, oil and gas.
Telecom	Yes
If yes, please provide the relevant legal/regulatory provisions:	Law 1341 of 2009 and Decree 1078 of 2015.
Health	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Education	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Other	Yes
If yes, please provide the relevant legal/regulatory provisions:	Article 3 of the PPP Law provides that regulated sectors which have their own private investment regime will not be subject to the PPP Law unless the required particularities are regulated (i.e. private investment in those sectors are allowed but are not covered by PPP Law). These sectors are telecommunications, energy (public utilities), ports and terminals, mining, oil and gas.
Please identify the PPP procuring authorities in country name and provide their website(s) (if available):	In Colombia, PPPs can be procured by several authorities. In general, any government agency – national or subnational- is able to procure a PPP, in relation with assets or services that ought to be provided/managed/supervised by such entity.
In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?	Yes
If yes, please indicate its name,	National Planning Agency (Departamento Nacional de Planeación): https://www.dnp.gov.co/paginas/Inicio.aspx#googtrans/gl/en

and its website (if available):	National Infrastructure Agency (Agencia Nacional de Infraestructura): http://ani.gov.co/ Ministry of Finance and Public Credit (www.minhacienda.gov.co).
If yes, what are the main responsibilities of the PPP Unit (check all that apply). PPP regulation.	Yes
PPP policy guidance and capacity building for other public authorities.	Yes
PPP promotion among the public and/or private sectors in national and international forums.	Yes
Technical support in implementing PPP projects.	Yes
Gatekeeping (approval of PPP projects).	Yes
Procurement of PPPs.	No
Oversight of PPP implementation.	Yes
Other	No
please specify:	n/a
Preparation of PPPs	Score: 88
Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	a) Article 11.3 of the PPP Law provides that: When the PPP modality is chosen for public procurement, the Ministry of Finance has to give its approval regarding the valuations of contingent liabilities; b) Article 26 PPP Law: Requires that the Council for Fiscal Policy (Consejo de Política Fiscal - CONFIS,) which is an attached agency of the Ministry of Finance, approves future payment commitments to be made by the relevant governmental entity. Also, that article provides that the Ministry of Finance could object the financial conditions and/or contractual texts proposed by the authority.

If yes, is a second approval by the Ministry of Finance or Central Budgetary Authority required before signing the PPP contract?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before launching the procurement process?	Yes
If yes, please specify the relevant authority	<p>According to Article 26 of the PPP Law: At the National Level, the Ministry of each sector must issue a prior favorable opinion of PPP projects, in particular on whether the initiative can be contained in the sector limit amount (future sector budget compromises) defined by CONPES.</p> <ul style="list-style-type: none"> - The National Planning Department –DNP- that verifies that the project will generate value for money under the mechanism of PPP versus the traditional public procurement, must issue a prior favorable opinion of the PPP projects - CONPES must issue a favorable opinion on the term of the projects that require a period longer than 30 years given their nature and their conditions (limit established by the PPP law). <p>According to Article 27 of the PPP Law: At the Subnational level (Territorial Entities), the Office of Territorial Planning must issue a favorable opinion on the PPP project. This office verifies that the project will generate value for money under the mechanism of PPP versus traditional public procurement.</p> <ul style="list-style-type: none"> - If the project is co-financed by the Nation, DNP must issue a prior favorable opinion of PPP projects. - Financial institutions at the National order as sub national validators: For projects at the subnational level, it is necessary to have a financial validation from a financial institution at the National level, before the procuring authority submits the project to the Ministry of Finance.
If yes, please specify and provide the relevant legal/authority provision (if any)	PPP Law - Articles 26 and 27; Decree 1082/2015 - Title 2 - about PPP, Chapter 1 - Regulation of the PPP Law, Sections 5 - PPP Projects, 6 - PPP Projects Approvals and 11 - Regulation of Article 26 of the PPP Law.
If yes, is a second approval by the	No

same authority required before signing the PPP contract?	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Does the government integrate the prioritization of PPP projects with all other public investment project prioritization? (E.g. in the context of a national public investment system)?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>According to the Law 1753 of 2015 - Article 206: The competent public entity shall verify whether PPP Projects, other than the national level transportation infrastructure projects, fit sectoral policies and prioritization of projects to be developed. Moreover, the Article 15 of the PPP Law provides that: When an unsolicited proposal is presented to a public entity, the Entity will evaluate it and verify, among other aspects, whether the proposal is consistent with the entity's priorities. (Decree 1082/2015 - Article 2.2.2.1.5.4.) Article 25: The registration of projects will be done by the PPP Registry (RUAPP). This record will incorporate those projects that the National or subnational Government deem a priority. Decree 1082/2015 -Article 2.2.2.1.11.2: The Ministry or Head of sector will be responsible of the project prioritization. Article 2.2.2.1.11.3: Future budget commitments will be part of the Medium Term Expenditure Framework (Marco de Gasto de Mediano Plazo "MGMP"). Finally, the commitments must be prioritized in the programming process by the Ministry of the sector.</p>
If yes, which of the following options best describes the way your government prioritizes PPP projects? (Please select only one). The regulatory framework provides for the inclusion of PPPs in the national public investment system and/or details a specific procedure to ensure the	Yes

consistency of PPPs with other public investment priorities.	
If yes, please specify:	The regulatory framework provides for the inclusion of PPPs in the national public investment system. Prioritization of PPP projects must be consistent with the National Development Plan (a law created as a strategic guideline for public policy made by the President of the Republic through his government team). Its development, socialization, evaluation and monitoring is a direct responsibility of the DNP and the projects have to be registered in the Bank of Programs and National Investment Projects - BPIN. According to Article 339 of the Colombian Political Constitution of 1991, the National Development Plan indicates, among other points, the goals and priorities of public action, and national level public investment projects. This goes along with the following legal provisions: PPP Law - Article 25: The registration of projects will be done by the PPP Registry (RUAPP). This record will incorporate those projects that the National or subnational Government deem a priority. Decree 1082/2015 -Article 2.2.2.1.11.2: The Ministry or by the Head of the sector will be the responsible of project prioritization. Article 2.2.2.1.11.3: Budget future commitments will be part of the Medium Term Expenditure Framework (Marco de Gasto de Mediano Plazo "MGMP"). in its programming process the Commitments must be prioritized by the Ministry of the sector.
The regulatory framework prescribes the need for PPPs to be consistent with all other investment priorities without establishing a specific procedure to achieve that goal.	No
The regulatory framework does not include any provisions.	No
Other	No
please specify:	n/a
Among the PPP projects procured within the last two (2) years, how many of them were prioritized along with all other public investment projects? Please elaborate:	All of the projects.
Which of the following assessments are	Yes

conducted when identifying and preparing a PPP? (Check all that apply): 10.1. Socio-economic analysis (cost-benefit analysis of the socio-economic impact of the project)	
Relevant legal/regulatory provision (if any)	Article 11.2 of the PPP Law establishes that among the requirements to open the selection process for the execution of PPP projects, the public entity must have a cost-benefit evaluation of the project, which assess its social, economic, and environmental impact over the directly affected population.
Is there a specific methodology?	Yes
If yes, elaborate.	As a helping tool, the procuring entity can use the "Metodología General para Formulación y Evaluación de Proyectos de Inversión Pública – MGA [https://www.sgr.gov.co/Proyectos/MGA.aspx], of the National Planning Department https://colaboracion.dnp.gov.co/CDT/Participacin%20privada%20en%20proyectos%20de%20infraestructura/Guia%20de%20APP%20%20Capitulo%202%202016.pdf
Affordability assessment, including the identification of the required long term public commitments (explicit and implicit)	Yes
Relevant legal/regulatory provision (if any)	Article 26 of the PPP Law and Articles 2.2.2.1.6.3 and 2.2.2.1.6.4 of Decree 1082/2015 indicates that CONFIS, (<i>after a favorable opinion of the Ministry of the Sector, DNP, and the registration in the National Investment Project Bank-BPIN-</i>), could authorize long term public commitments. Article 11.1 of the PPP Law requires the procuring authority to prepare the relevant economic and financial feasibility. Based on these studies the Ministry of Finance will approve the assessment of contingent liabilities (Article 11.3 of the PPP Law), and CONFIS will approve the future public commitments assessing budgetary affordability (Article 26 of the PPP Law).
Is there a specific methodology?	Yes
If yes, elaborate	Manual regarding contingent liabilities and containing a methodology to calculate the fiscal impact of PPPs: http://www.minhacienda.gov.co/HomeMinhacienda>ShowProperty?nodeId=%2FOCS%2FMIG_6047857.PDF%2F%2FidcPrimaryFile&revision=latestreleased
Risk identification, allocation and assessment (risk matrix)	Yes

Relevant legal/regulatory provision (if any)	Numeral 11.5 of Article 11 of the PPP Law establishes that before opening the selection process, the procuring entity must prepare the risk identification, the estimation, and the allocation matrix.
Is there a specific methodology?	Yes
If yes, elaborate	The Colombian Procurement Agency (Colombia Compra Eficiente), the National Planning Department and the Ministry of Treasury have designed different handbooks to guide the elaboration of the risk matrix. http://www.colombiacompra.gov.co/sites/default/files/manuales/cce_manual_riesgo_web.pdf
Financial viability or bankability assessment.	Yes
Relevant legal/regulatory provision (if any)	Article 11.1 of the PPP Law and Article 2.2.2.1.5.5 of Decree 1082/2015 indicate that the procuring entity must have all the financial studies and detailed financial models before opening the selection process.
Is there a specific methodology?	Yes
If yes, elaborate	There are several guides that the DNP and the Ministry of Finance have developed as to those matters: https://colaboracion.dnp.gov.co/CDT/Participacin%20privada%20en%20proyectos%20de%20infraestructura/Guia%20de%20APP%20%20Capitulo%203%202016.pdf ; https://www.dnp.gov.co/programas/participación-privada-%20y-en-proyectos-de-infraestructura/asociaciones-publico-privadas/Paginas/guias-app.aspx ;
Comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives	Yes
Relevant legal/regulatory provision (if any)	Article 11.3 of the PPP Law indicates that before opening the selection process, the procuring entity is required to justify the use of the PPP mechanism for the execution of the project. Article 2.2.2.1.5.1. of Decree 1082/2015 establishes that the procuring entity cannot open the selection process for the execution of a PPP project without: <ul style="list-style-type: none"> - Having compared the public initiative project with the unsolicited proposal project; and - Having considered criteria that demonstrate which initiative is more convenient according to public interest and policies.
Is there a specific methodology?	Yes
If yes, elaborate	Public private comparative model, multi-criteria analysis and value-for-money. https://colaboracion.dnp.gov.co/CDT/Participacin%20privada%20en%20proyectos%20de%20infraestructura/Nota%20Técnica%204.pdf
Market assessment (showing evidence of enough interest)	Yes

in the market for the project)	
Relevant legal/regulatory provision (if any)	Articles 11 and 14 of the PPP Law establish the assessments that need to be done before starting the procurement of the PPP projects. Also, Technical Note 5 provides a description of the products to be delivered by the arrangers in the project's feasibility stage for making the project justification "NOTA TÉCNICA 5 – DESCRIPCIÓN DE LOS PRODUCTOS A ENTREGAR POR PARTE DE LOS ESTRUCTURADORES EN LA ETAPA DE FACTIBILIDAD DEL PROYECTO PARA LA REALIZACIÓN DE LAS JUSTIFICACIONES DEL PROYECTO." The above mentioned Note is issued by the DNP, and it is included as part of the market assessment studies to have an indication of the interest of the market to design, construct, operate and keep the selected project. https://colaboracion.dnp.gov.co/CDT/Participacin%20privada%20en%20proyectos%20de%20infraestructura/Nota%20T%C3%A9cnica%205%202016.pdf -- Page 16.
Is there a specific methodology?	No
If yes, elaborate	n/a
Among the PPP projects procured within the last two (2) years, for how many of them were all of the required assessments conducted? Please elaborate:	All of the projects.
Does the procuring authority include a draft PPP contract in the request for proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<ul style="list-style-type: none"> - For public finance initiative PPP projects: Article 30.2 of Law 80 of 1993 (applicable as stated by Article 9 of the PPP Law) indicates that the procuring authority will prepare the terms of the contract that will detail specifically the object of the contract and the rights and obligations of the parties. - Also, for unsolicited proposals, Article 2.2.2.1.5.5 of the PPP Regulations include, among the documentation to be prepared, the draft PPP contract. - For private finance initiative PPP projects, private investors must include a draft of the PPP contract according to Article 2.2.2.1.5.5 of Decree 1082 of 2015.
If no, please elaborate (provide examples):	n/a
Have standardized PPP model contracts and/or transaction documents been developed?	Yes
If yes, please specify and provide a government-	Standardized model contract for Concession of Cuarta Generación (4G) highways: http://www.ani.gov.co/proyecto/general/cuarta-generacion-de-concesiones-1068

supported website where the mentioned standards are available or provide an electronic copy of them:	
Does the procuring authority obtain the permits necessary to develop and operate the PPP project before calling for tenders in any of the following areas? Environmental permits.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Urban and zoning permits.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Other permits.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Does the procuring authority make available to PPPCo the necessary land or right of way to develop the PPP project (if any)? Land	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	For transportation infrastructure: Article 20 of Law 1682 of 2013 establishes that: The land acquisition is a responsibility of the State -Government,- and therefore, the public entity responsible of the project may advance the administrative expropriation of the land according to the regulatory framework and procedures provided for those cases.

If no, please elaborate (provide explanation):	n/a
Does the procuring authority make available to PPPCo the necessary land or right of way to develop the PPP project (if any)? Right of way	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	For transportation infrastructure: Article 20 of Law 1682 of 2013 establishes that: The land acquisition is a responsibility of the State -Government,- and therefore, the public entity responsible of the project may advance the administrative expropriation of the land according to the regulatory framework and procedures provided for those cases.
If no, please elaborate (provide explanation):	n/a
Does the regulatory framework establish any exceptions where the preparation process described above does not apply or allows for a “fast track” procedure?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
What is the average number of calendar days that the procuring authority spends on each of the following activities to prepare a PPP project? Conducting the required assessments:	240
Obtaining the required approvals from other relevant authorities:	180
Preparing the draft PPP contract:	194

Obtaining any permits, land and/or right of way that the procuring authority must provide according to the regulatory framework:	331
PPP Procurement	Score: 75
Are the bid evaluation committee members required to meet specific qualifications?	No
If yes, please specify and provide the relevant legal/regulatory provisions (if any)	n/a
If no, please elaborate (provide examples):	According to Article 2.2.1.1.2.2.3. of Decree 1082/2015, a bid evaluation committee is not mandatory. Even if a bid evaluation committee is established, there are no specific requirements regarding the committee members' qualifications. However, the members of the evaluation committee are subject to the regime of disabilities and incompatibilities and conflicts of interest provided for in the Constitution and in the law.
If yes, which of the following options best describes the required qualifications of the committee members? (Please select only one). The regulatory framework details the qualifications required and/or the specific membership of the bid evaluation committee.	n/a
If yes, please specify:	n/a
The regulatory framework requires generally sufficient qualification without detailing the specific qualifications	n/a

required to be a member of the bid evaluation committee.	
The regulatory framework does not include any provisions.	n/a
Other	n/a
please specify:	n/a
Does the procuring authority issue a public procurement notice of the PPP?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	<p>Numeral 3 of Article 30 of Law 80 of 1993 provides that: According to the public procurement process, the notice for the bidding process opening will be published in the public entity's website and in the Public Procurement Electronic System –SECOP- (Sistema Electronico para la Contratacion Publica).</p> <p>Article 2.2.1.1.2.1.2 of Decree 1082/2015 provides that: The call for tenders has to contain the information established in this provision, which is related to general and specific information of the public procurement process.</p>
If yes, is the public procurement notice published online?	Yes
If yes, please specify the website:	https://www.contratos.gov.co ; http://www.colombiacompra.gov.co/ ; https://www.dnp.gov.co/programas/participaci%C3%B3n-privada-%20y-en-proyectos-de-infraestructura/asociaciones-publico-privadas/Paginas/documentos-app.aspx
Does the procuring authority grant the potential bidders a minimum period of time to submit their bids?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Practice.
and the time in calendar days :	n/a
Do the tender documents detail the stages of the procurement process?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to the Article 2.2.1.1.2.1.3 of Decree 1082/2015, it is mandatory to indicate in the tender documents the schedule that must be followed during the entire procurement process.

If no, please elaborate (provide examples):	n/a
Does the procurement process include a pre-qualification stage to select a number of qualified bidders to present the full proposal?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>For public finance initiative PPP projects, Article 10 of the PPP Law and Article 2.2.2.1.4.5 of Decree 1082/2015 provide that a pre-qualification system may be applied by the procuring authority only to projects that exceed 70,000 minimum monthly legal wages (approx. US\$16'000,000).</p> <p>For private finance initiative PPP projects, Article 2.2.2.1.5.12 of Decree 1082 of 2015 indicates that the procuring authority may select from pre-qualified third parties interested in carrying out the PPP project.</p>
If yes, do the tender documents specify the prequalification criteria in order to make them available to all of the bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	For public finance initiative PPP projects: Numeral 3 of Article 2.2.2.1.4.6. of Decree 1082/2015 establishes that: The call for tenders in the prequalification phase shall include at least, among other information, the minimum requirements for the prequalification phase.
Among the PPP procurement processes conducted within the last two (2) years that had a prequalification stage, how many of them included prequalification criteria in the tender documents? Please elaborate	Most of the projects.
Can interested parties/potential bidders submit questions to clarify the public procurement notice	Yes

and/or the request for proposals?	
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Article 8 of the law 1150 of 2007 and Articles 2.2.1.1.7.1 and 2.2.1.1.2.1.4 of Decree 1082 of 2015: the call for tender notice and the tender documents have to be published on SECOP so that the interested parties can submit questions or request clarifications in the terms established for the bidding process.
If yes, does the procuring authority disclose those questions and clarifications to all of the potential bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>According to Article 2.2.1.2.1.1.2 of Decree 1082/2015, a hearing aiming to precise the content and the scope of the tender documents can take place at the request of an interested party. Also, Article 24 of Law 80 of 1993 provides that according to the Transparency Principle of the public procurement process in Colombia, the interested parties shall have the opportunity to know and debate all the actions of the process and, there must be phases in the process to submit questions or request clarifications.</p> <p>Numeral 24 of Article 24 of Law 80 of 1993 provides that: The actions of the authorities are public and records containing them are open to the public.</p> <p>Article 2.2.1.1.7.1 of Decree 1082/2015 provides that the public entity has the obligation to release the documents of the process on the SECOP.</p>
Among the PPP procurement processes conducted within the last two (2) years where questions were submitted, in how many were the questions and clarifications disclosed to all of the potential bidders? Please elaborate:	All of the projects.
Besides questions and clarifications, can the procuring authority conduct other types of dialogue with the potential bidders?	No
If yes, please specify and provide the relevant	n/a

legal/regulatory provisions (if any):	
If yes, does the procuring authority disclose the content and the results of the dialogue to all of the potential bidders?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Among the PPP procurement processes conducted within the last two (2) years where any other type of dialogue was conducted, in how many was the content and the result of the dialogue disclosed to all of the potential bidders? Please elaborate:	n/a
Does the procuring authority require the bidders to prepare and present a financial model with their proposals ?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Practice.
If no, please elaborate (provide examples):	n/a
Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation	Yes

criteria stated in the tender documents?	
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Numeral 6 of Article 30 of Law 80 of 1993, the proposals must comply with all the provisions of the tender documents. Nevertheless, the procuring authority may accept technical and economic alternatives and exceptions, provided that they are not submitted as a condition for the contract award. Also, Paragraph 2 of Article 2 of Law 1150 of 2007 indicates that all the submitted proposals, with no exception, shall be evaluated in an objective manner through application of the tender documents rules exclusively.
Among the PPP procurement processes conducted within the last two (2) years, in how many of them was the evaluation of the bidders conducted in accordance with the criteria stated in the tender documents? Please elaborate:	All of the projects.
In the case where only one proposal is submitted (sole proposals), does the procuring authority follow any special procedure before awarding the PPP?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
If yes, what of the following options best describes the way the procuring authority deals with sole proposals? (Please select only one). The regulatory framework details a specific procedure that the procuring authority must follow before	n/a

awarding a PPP contract where only one proposal is submitted.	
Please specify:	n/a
The regulatory framework considers sole proposals valid as long as they meet the conditions outlined in the tender documents.	n/a
The regulatory framework does not allow the award of a PPP contract if only one proposal is submitted.	n/a
The regulatory framework does not include any provisions.	n/a
Other	n/a
please specify:	n/a
In practice, what is the average number of calendar days between the initial publication of the PPP public procurement notice and the award of the PPP? Number of calendar days:	210
Does the procuring authority publish the award notice?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	According to Article 2.2.1.1.7.1, and Article 2.2.2.1.8.3 of Decree 1082/2015, the award notice must also be published in the Electronic Public Procurement System (SECOP).
If yes, is the public procurement award notice published online?	Yes

If yes, please specify the website:	https://www.contratos.gov.co/puc/buscador.html ; www.secop.gov.co ; www.colombiacompra.gov.co
Does the procuring authority provide all the bidders with the result of the PPP procurement process?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 9 of Law 1150 of 2007 establishes that the contract award has to be done through a motivated resolution. Also, according to Article 30.11 of Law 80 of 1993, the result of the PPP procurement process, including the grounds for the selection of the winning bid will be communicated to all the bidders within the 5 following calendar days of the contract award.
If no, please elaborate (provide examples):	n/a
If yes, does the notification of the result of the PPP procurement process include the grounds for the selection of the winning bid?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 9 of Law 1150 of 2007 establishes that the contract award has to be done through a motivated resolution. Also, according to Article 30.11 of Law 80 of 1993, the result of the PPP procurement process, including the grounds for the selection of the winning bid will be communicated to all the bidders within the 5 following calendar days of the contract award.
Does the regulatory framework restrict or regulate in any way negotiations with the selected bidder between the award and the signature of the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions:	There is no specific legal provision that restricts the procurement entity negotiate with the selected bidder after awarding the contract. However, according to the article 9 of the Law 1150 of 2007 the award is irrevocable and binds the public entity and the tenderer. Therefore, this regulation indirectly prohibits the entity negotiate with the selected bidder between the award and the signature of the PPP contract.
Among the PPP procurement processes conducted within the last two (2) years, in how many of them were the terms and	None of the projects.

conditions changed between the award and the signature of the PPP contract? Please elaborate:	
Does the procuring authority publish the PPP contract?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	Article 2.2.1.1.7.1 of Decree 1082/2015 provides that the PPP contract is published via Internet on SECOP.
If yes, is it published online?	Yes
If yes, please specify the website:	www.secop.gov.co ; https://www.contratos.gov.co/puc/busador.html ; www.colombiacompra.gov.co
Does the regulatory framework establish any exceptions where the procurement process described above does not apply or allows for a “fast track” procedure?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Unsolicited proposals	Score: 92
Does the regulatory framework allow for the submission of unsolicited proposals? (if no, skip to section F)	Yes
If yes, please provide the relevant legal/regulatory provisions:	Title III of the PPP Law allows and regulates Unsolicited proposals for PPP Projects.
If yes, please specify, to the best of your knowledge,	12%

the percentage of PPP investments in your country approved as unsolicited proposals during the last five (5) years:	
Does the procuring authority conduct an assessment to evaluate unsolicited proposals?	Yes
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	Title III of the PPP Law indicates aspects of the process with unsolicited proposals such as: how unsolicited proposal projects shall be structured; the previous assessment of the unsolicited proposal; and evaluation, acceptance or rejection of the unsolicited proposal. These aspects are regulated by Articles 2.2.2.1.5.1 through 2.2.2.1.5.12 of Decree 1082/2015.
If yes, does it ensure that the unsolicited proposal is consistent with the existing government priorities?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>According to the PPP Law - Article 15: When an unsolicited proposal is presented to a public entity, the Entity will evaluate it and verify, among other aspects, whether the proposal is consistent with the prioritization of projects to be developed by the entity (PPP Regulatory Decree - Article 2.2.2.1.5.4.). Two stages need to be distinguished: prefeasibility stage and feasibility stage. In the feasibility stage the originator of the proposal must indicate the project's complete description including the minimum design in prefeasibility stage, construction, operation, maintenance, organization and exploitation of the project, its scope. The originator of the proposal must also request studies in the prefeasibility stage, specifications of the project, as well as estimate cost and funding sources.</p> <p>Within 3 months after receipt of the proposal in the prefeasibility stage, the competent public authority must decide if it is interested in the project. If the public authority is interested, the projects' originator may continue with project structuration in the feasibility stage. For the feasibility stage, the project's implementation must include: a detailed financial model (containing the project's value, a detailed description of stages and duration of the project, a justification of the term of the contract, an analysis of project-related risks, studies on environmental, economic and social impact, and studies on technical, economic, environmental, real estate property-related, financial and legal feasibility of the project).</p> <p>Within a maximum period of 6 months after receipt of the proposal in the feasibility stage, the competent public authority must assess the project and consult with third parties and other competent authorities. The period may be extended by a maximum term equal to half of the initial period. After expiry of the period, the competent authority has to both accept the project and indicate the conditions of acceptance, or to reject the project.</p>

If yes, which of the following options best describes how unsolicited proposals are evaluated against existing government priorities? (Please select only one). The regulatory framework details a specific procedure to ensure the consistency of PPPs with other public investment priorities.	No
If yes, please specify:	n/a
The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.	Yes
The regulatory framework does not include any provisions.	No
Other	No
please specify:	n/a
Among the unsolicited proposals approved within the last two (2) years, how many of them were a part of the existing government priorities? Please elaborate:	Most of the projects
Does the procuring authority initiate a competitive PPP procurement	Yes

procedure when proceeding with the unsolicited proposal?	
If yes, please provide the relevant legal/regulatory provisions (if any):	Articles 16, 17, 19 and 20 of PPP Law, and Articles 2.2.2.1.5.9 and 2.2.2.1.5.12 of Decree 1082/2015 establish that if a third party manifests his interest in executing a project that does not require public funds disbursement, in the conditions established between the procuring entity and the initial unsolicited party, the competent public entity shall open a public procurement process called "seleccion abreviada de menor cuantia" -minor quantity abbreviated selection process-. When it comes to an unsolicited proposal that requires disbursement of public resources, the procuring entity shall open a public bidding process.
Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 17 and 19 of PPP Law and Articles 2.2.2.1.5.9 and 2.2.2.1.5.11 of Decree 1082/2015.
and the time in calendar days:	180
Does the procuring authority use any of the following mechanisms to reward/compensate the presentation of unsolicited proposals? (check all that apply): Access to the best and final offer.	No
Developer's fee (reimbursing the original proponent for the project development cost).	Yes
Bid bonus.	Yes
Swiss challenge (If unsuccessful, the original proponent has the option to match the winning	Yes

bid and win the contract).	
Other	No
please specify:	n/a
Please provide the relevant legal/regulatory provisions (if any):	Article 2.2.2.1.5.10 of Decree 1082/2015 establishes the reward for unsolicited proposals that require public resources disbursement, and Numeral 3 Article 2.2.2.1.5.12 of Decree 1082/2015 establishes the Swiss challenge for unsolicited proposals that do not require public resources disbursement, when third parties have manifested interest in the execution of a PPP.
PPP Contract Management	Score: 66
Has the procuring or contract management authority established a system to manage the implementation of the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any)	Article 33 (2) of Law 1508 of 2015 establishes that in PPP contracts, the auditing must be contracted with a person who is independent from the contractor and the public entity. Article 2.2.2.1.2.6 of Decree 1082/2015 indicates that the contract may establish the obligation of the contractor to provide, design, and operate a system of management control for proper monitoring of infrastructure's availability, quality standards and service levels.
If yes, which of the following tools does it include (check all that apply)? Establishment of a PPP contract management team.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 33 of PPP Law provides that: In the Colombian regulatory framework, implementation of the PPP contract is supervised by two authorities: the Auditor (Interventor) who is a third party that monitors and oversees the contract's development directly, and a contract management team, who acts as a supervisor of the contract within the public entity.
Participation of the members of the PPP contract management team in the PPP procurement process.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a

Possibility to consult with PPP procurement experts when managing the PPP contract.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Elaboration of a PPP implementation manual or an equivalent document.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Other	No
please specify:	n/a
If there is a contract management team, in how many of the PPP projects procured within the last two (2) years did the management system and tools fully inform the contact management team? Please elaborate:	Most of the projects.
Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 33 of PPP Law provides that: In the Colombian regulatory framework, implementation of the PPP contract is supervised by two authorities: the Auditor (Interventor) who is a third party that monitors and oversees the contract's development directly, and a contract management team, who acts as a supervisor of the contract within the public entity.

	Article 2.2.2.1.2.6 of Decree 1082/2015 indicates that the contract may establish the obligation of the contractor to provide, design, and operate a system of management control for proper monitoring of infrastructure's availability, quality standards and service levels.
If yes, which of the following tools does it include (check all that apply)? PPPCo must provide the procuring or contract management authority with periodic operational and financial data.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Article 2.2.2.1.2.6 of Decree 1082/2015, the contract will establish the contractor's obligation to provide, design, and operate a management control system to monitor the infrastructure availability, quality standards, and service level.
The procuring or contract management authority must periodically gather information on the performance of the PPP contract.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Article 24 of PPP Law, the public resources and all other funds of the project shall be administered through a trust. The procuring authority will have the power to require any information that is deemed necessary, which shall be delivered directly to the procuring entity by the trust, in the terms and conditions established in the contract.
The procuring or contract management authority must establish a risk mitigation mechanism.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The PPP contract performance information must be available to the public.	No

If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Other	No
please specify:	n/a
Is PPP contract performance information publicly available online?	No
If yes, please specify the website:	n/a
Does the regulatory framework expressly regulate a change in the structure (i.e. stakeholder composition) of PPPCo?	Yes
If yes, please provide the relevant legal/regulatory provisions:	Article 41 of Law 80 of 1993 provides that: Public Procurement contracts are intuito personae, therefore, once signed, they cannot be ceded without prior authorization of the Procuring entity. Furthermore, Article 9 of the same law indicates that whenever an inability or incompatibility occurs to the contractor, the contract will be yielded with prior authorization of the procuring authority, or if this is not possible, the contractor will renounce to the execution of the contract.
If yes, which of the following circumstances are specifically regulated? (Check all that apply): Any change in PPPCo during an initial period (e.g. construction and first five years of operation).	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
In case of a change affecting the controlling interest, the replacing entity must meet the	Yes

same technical qualifications as the original operator.	
If yes, please provide the relevant legal/regulatory provisions:	According to Article 41 of Law 80 of 1993, Public Procurement contracts are <i>intuitio personae</i> , therefore, once signed, they cannot be ceded without prior authorization of the Procuring authority. This article means that a contractor is chosen in consideration to objective conditions: experience, organization, equipment, terms, technical expertise, and price. Hence, it is an obligation of the procuring authority to ensure that those conditions are maintained throughout the life of the contract.
Flexibility to substitute non-controlling interest after the initial period.	Yes
If yes, please provide the relevant legal/regulatory provisions:	Article 41 of Law 80 of 1993.
Does the regulatory framework expressly regulate the modification or renegotiation of the PPP contract (once the contract is singed)?	Yes
If yes, please provide the relevant legal/regulatory provisions:	According to article 7 of the PPP Law no changes in the scope or in the duration are allowed during the first three years since the award of the contract, neither after 3/4 of the duration of the PPP contract. Moreover, according to Articles 13 and 18 of the PPP Law, changes in the scope or the duration of the contract cannot imply increasing the original value of the PPP contract by more than 20 %. Likewise, Articles 18 and 21 of PPP Law indicates the process to follow in case of additions or prorogations of the PPP contracts derive from unsolicited proposal, whether such proposals require public resources disbursement or not. Finally, Article 2.2.2.1.4.3 of Decree 1082/2015 also regulates this matter.
If yes, which of the following circumstances are specifically regulated? (Check all that apply): A change in the scope and/or object of the contract.	Yes
If yes, please provide the relevant legal/regulatory provisions:	According to article 7 of the PPP Law, no changes in the scope or in the duration are allowed during the first three years since the award of the contract, neither after 3/4 of the duration of the PPP contract. Moreover, according to Articles 13 and 18 of the PPP Law, changes in the scope or in the duration of the contract cannot imply increasing the original value of the PPP contract by more than 20 %. On the other hand, Articles 5 and 27 of Law 80 of 1993 establish that contractors shall have the right, upon request, that the public entity restores the balance

	of the economic balance of the contract to a point of no loss by the occurrence of unforeseen situations that are not attributable to the contractors. If this balance is broken by default of the contracting public entity, the equation has to be reestablished to that that arisen at the moment of the signature of the contract.
A change in the risk allocation of the contract.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
A change in the investment plan or duration of the contract.	Yes
If yes, please provide the relevant legal/regulatory provisions:	According to article 7 of the PPP Law, no changes in the scope or in the duration of the PPP contract are allowed during the first three years since its award, neither after 3/4 of the duration of the PPP contract. Moreover, according to Articles 13 and 18 of the PPP Law, changes in the scope or in the duration of the contract cannot imply increasing the original value of the PPP contract by more than 20 %.
Does the regulatory framework expressly regulate the following circumstances that may occur during the life of the PPP contract? (Check all that apply): Force Majeure.	Yes
If yes, please provide the relevant legal/regulatory provisions:	Commercial Code.
Material Adverse government action.	Yes
If yes, please provide the relevant legal/regulatory provisions:	Commercial Code.
Change in the Law.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Refinancing.	No

If yes, please provide the relevant legal/regulatory provisions:	n/a
Other.	No
If yes, please specify and provide the relevant legal/regulatory provisions:	n/a
Does the regulatory framework establish a specific dispute resolution mechanism for PPPs?	No
If yes, please specify and provide the relevant legal/regulatory provisions	n/a
If yes, which of the following options best describes the dispute resolution mechanism for PPPs? (Please select only one). The regulatory framework details specific resolution mechanisms for disputes arising during the implementation of the PPP.	n/a
If yes, please specify:	n/a
The regulatory framework prescribes that a dispute resolution mechanism should be regulated in the contract.	n/a
The regulatory framework provide the parties with recourse to arbitration but no	n/a

other alternative dispute resolution mechanism.	
Other	n/a
please specify:	n/a
Does the regulatory framework allow for the lenders to take control of the PPP project (lender step-in right) if either PPPCo defaults or if the PPP contract is under threat of termination for failure to meet service obligations?	Yes
If yes, please provide the relevant legal/regulatory provisions:	Article 30 of the PPP Law provides that: In case of default of the contractor, lenders may continue the execution of the contract until its termination directly or through third parties.
If yes, which of the following options best describes the lender step-in right? (Please select only one). The regulatory framework expressly regulates the lender step-in rights.	Yes
If yes, please specify:	Article 30 of the PPP Law provides that: In case of default of the contractor, lenders may continue the execution of the contract until its termination directly or through third parties.
The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.	No
The regulatory framework prescribes that a direct agreement should be signed with the lenders.	No
Other	No
please specify:	n/a

Does the regulatory framework expressly establish the grounds for termination of a PPP contract?	Yes
If yes, please specify:	<p>1 - Unilateral Termination Causes: The public entity could terminate the contract in the following events: a) When the public service, or the public order requires it; b) Death or permanent physical disability of the contractor, if a he is natural person, or dissolution of the contractor's legal entity; c) By judicial interdiction or bankruptcy of the contractor; d) By payment default, bankruptcy or judicial liens of the contractor that seriously affect the performance of the contract.</p> <p>2 - Revocation: If the contractor breaches any of its obligations, in a way that directly affects the execution of the contract, which may lead to its withdrawal, the procuring authority can terminate the contract by an administrative act properly motivated, and order the liquidation of the contractor.</p>
and provide the relevant legal/regulatory provisions:	Articles 17 and 18 of Law 80 of 1993 establishe the situations where the public entities can terminate the contract.
If yes, does the regulatory framework also establish the consequences for the termination of the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions:	Article 32 of PPP Law: Early Termination Agreement. In PPP contracts, a clause will be included where the mathematical formula is established to determine any reciprocal benefits between the parties, as well as the early termination of the PPP contract, either by mutual agreement or unilaterally.
Are you aware of any reforms (in practice or in laws, regulations, policies, etc.) related to PPPs that: Took place in 2015, are ongoing and/or are planned to be adopted BEFORE June 1, 2016?	Yes
Please describe:	Decree 1082/2015 unified all the regulation regarding PPP and governmental contracting. Also Law 1753 of 2015 modified the threshold of the public funds that would apply to unsolicited offers in projects other than highways infrastructure projects, from 20% to 30% of the total investment.



Are you aware of any reforms (in practice or in laws, regulations, policies, etc.) related to PPPs that: 50.2. Are ongoing and/or are planned to be adopted AFTER June 1, 2016?	No
Please describe:	n/a