

BENCHMARKING PPP PROCUREMENT 2017 IN COSTA RICA

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:	Costa Rican government has not created a specific regulatory framework for procuring PPPs with that denomination but this kind of partnerships have been regulated by the application of the following laws on which the presented analysis will be based: General Law of Concessions (Law 7762 of 1998) as modified by Law 8696 of 2008, Law 8643 of 2008 and Law 8114 of 2001 (the Concession Law) as well as the General Concession of Public Works with Public Services Regulation No 27098-MOPT (the Concession Regulations) and the Regulation of Private Sector Projects Concession of Public Works or Public Works Concession with Public Service No. 31836 -MOPT (the Unsolicited Proposal Regulation). Other related laws are: article 3 of the General Procurement law (Law No. 7494 of 1995); Constitutive Law of the Aqueduct and Sewer Authority (Law 2726 of 1961); Telecommunication Sector Modernization Law (Law 8660 of 2008); Municipal Code (Law 7794 of 1998); Regulation Law of the activity of the Public Companies Mixed Economy (Law 8828 of 2010).
and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:	www.cnc.go.cr
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:	According to article 2 regarding the scope of the Concession Law, energy services are excluded from the application of the Concession Law.
Telecom	Yes
If yes, please provide the relevant legal/regulatory provisions:	According to article 2 regarding the scope of the Concession Law, telecommunications are excluded from the application of the Concession Law.
Health	Yes
If yes, please provide the relevant legal/regulatory provisions:	According to article 2 regarding the scope of the Concession Law, health services are excluded from the application of the Concession Law.
Education	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Other	Yes
If yes, please provide the relevant legal/regulatory provisions:	For the specific cases of the Ports of Limón, Caldera and Puntarenas, they cannot be granted as a concession, only new works can be procured according to Concession Law.
Please identify the PPP procuring authorities in country_name and provide their website(s) (if available):	In general according to article 5 of the Concession Law the National Concessions Council (Consejo Nacional de Concesiones, www.cnc.go.cr) will be conducting the procurement process for Concessions. When the object of the Concession belongs to a decentralized entity or to a State Owned Enterprise they might agree the National Concession Council to also conduct the procurement process of do it themselves following the Concession Law.
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, and its website (if available):	National Concessions Council (Consejo Nacional de Concesiones, www.cnc.go.cr).
If yes, what are the main responsibilities of the PPP Unit (check	Yes

all that apply). PPP regulation.	
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.	Yes
Oversight of PPP implementation.	Yes
Other	No
please specify:	n/a
Preparation of PPPs	Score: 54
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):	Practice
If yes, is a second approval by the Ministry of Finance or Central Budgetary Authority required before signing the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to article 5 of the Concession Law, the Ministry of Finance will be required to sign the Concession contract.
Besides the procuring authority	No

<p>and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before launching the procurement process?</p>	
<p>If yes, please specify the relevant authority</p>	n/a
<p>and provide the relevant legal/regulatory provisions (if any):</p>	n/a
<p>If yes, is a second approval by the same authority required before signing the PPP contract?</p>	Yes
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>According to article 5 the contract will be subscribed by the National Concession Council or the relevant Ministry depending on the object of the Contract and the President of the Republic (besides the Ministry of Finance as already mentioned). Moreover, according to article 30 of the Concession Law the General Comptroller must ratify the Concession Contract.</p>
<p>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)?</p>	Yes
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>SNIP-MIDEPLAN, Ley del Sistema Nacional de Inversión Pública. Pursuant to article 14 of the Executive Decree N° 34694-PLAN-H, concessions are included in the SNIP.</p>
<p>If yes, which of the following options best describes the way your government prioritizes PPP projects? (Please select only one).</p>	Yes

<p>The regulatory framework provides for the inclusion of PPPs in the national public investment system and/or details a specific procedure to ensure the consistency of PPPs with other public investment priorities.</p>	
<p>If yes, please specify:</p>	<p>SNIP-MIDEPLAN, Ley del Sistema Nacional de Inversión Pública</p>
<p>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.</p>	<p>No</p>
<p>The regulatory framework does not include any provisions.</p>	<p>No</p>
<p>Other</p>	<p>No</p>
<p>please specify:</p>	<p>n/a</p>
<p>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:</p>	<p>None of the projects</p>
<p>Which of the following assessments are conducted when identifying and preparing a PPP? (check all that apply): 10.1. Socio-economic analysis (cost-benefit analysis of the socio-economic</p>	<p>Yes</p>

impact of the project)	
Relevant legal/regulatory provision (if any)	According to article 7 of the Concession Regulations, the preparation of a Concession must include: 7.2.1 General Studies – which are those designed to determine whether there is sufficient technical, social and economic evidence to justify the object of the concession.
Is there a specific methodology?	No
If yes, elaborate.	n/a
Affordability assessment, including the identification of the required long term public commitments (explicit and implicit)	Yes
Relevant legal/regulatory provision (if any)	Practice
Is there a specific methodology?	No
If yes, elaborate	n/a
Risk identification, allocation and assessment (risk matrix)	Yes
Relevant legal/regulatory provision (if any)	Practice
Is there a specific methodology?	No
If yes, elaborate	n/a
Financial viability or bankability assessment.	Yes
Relevant legal/regulatory provision (if any)	According to article 7 of the Concession Regulations: 7.2.3 Feasibility studies are those that establish whether a draft concession is economically and socially profitable, and financially and technically feasible.
Is there a specific methodology?	No
If yes, elaborate	n/a
Comparative assessment to evaluate whether a PPP is the best option when compared to other	Yes

procurement alternatives	
Relevant legal/regulatory provision (if any)	Practice
Is there a specific methodology?	No
If yes, elaborate	n/a
Market assessment (showing evidence of enough interest in the market for the project)	Yes
Relevant legal/regulatory provision (if any)	Practice
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:	Some 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):	According to article 12 of the Concession Regulations the tender documents will include a draft of the PPP contract.
If no, please elaborate (provide examples):	n/a
Have standardized PPP model contracts and/or transaction documents been developed?	No
If yes, please specify and provide a government-supported website where the mentioned	n/a

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.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 7.2.4 mentions that the feasibility studies will include all the necessary environmental studies as indicated by the Ministry of Environment.
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	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
If no, please elaborate (provide explanation):	There is no legal provisions to regulate this topic. In practice, the necessary land could be provided by the procuring authority to the private partner.
Does the procuring authority make available to PPPCo the necessary land or right of way to develop the PPP	No

project (if any)? Right of way	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
If no, please elaborate (provide explanation):	There is no regulation on this matter. The usual procedure to guarantee the right of way is by means of an expropriation process conducted by the procuring authority.
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:	385
Obtaining the required approvals from other relevant authorities:	800
Preparing the draft PPP contract:	90
Obtaining any permits, land and/or right of way that the procuring authority must provide according to the regulatory framework:	800
PPP Procurement	Score: 68
Are the bid evaluation committee	No

members required to meet specific qualifications?	
If yes, please specify and provide the relevant legal/regulatory provisions (if any)	n/a
If no, please elaborate (provide examples):	No legal requirements other than not having conflicts of interest.
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 required to be a member of the bid evaluation committee.	n/a
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):	According to article 21 of the Concession Law the procurement notice will be published in the official gazette.
If yes, is the public procurement notice published online?	Yes
If yes, please specify the website:	https://www.imprentanacional.go.cr/gaceta/
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):	Article 17 of the Concession Law: 45 days for public works and 60 days for public services
and the time in calendar days :	45
Do the tender documents detail the stages of the procurement process?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 12 of the Concession Regulations establishes that is among the content of the tender documents the terms and conditions for the different stages of the procurement procedure that might include prequalification if specified according to article 11
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):	According to article 11 of the Concession Regulations, whenever the Public Administration considers it necessary, a prequalification stage may be included in the procurement procedure.
If yes, do the tender documents specify the prequalification criteria in order to make them	Yes

available to all of the bidders?	
If yes, please provide the relevant legal/regulatory provisions (if any):	Practice
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	None of the projects
Can interested parties/potential bidders submit questions to clarify the public procurement notice and/or the request for proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 14 of the Concession Regulations establishes the possibility of asking for clarifications.
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):	Article 14 of the Concession Regulations further regulates that if, as a consequence of the consultations tender documents are modified such modifications should be published in the official gazette. It further states, that even if the clarifications do not imply a modification of the tender documents, the procuring authority will have to disclose them.
Among the PPP procurement processes conducted within the last two (2) years where questions were submitted, in how many were the questions and	None of the projects

clarifications disclosed to all of the potential bidders? Please elaborate:	
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 legal/regulatory provisions (if any):	n/a
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 criteria stated in the tender documents?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to article 28.2 of the Concession Law: "The application of the evaluation criteria and the method for their calculation will be defined in the procurement notice".
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:	No data
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	n/a

one). The regulatory framework details a specific procedure that the procuring authority must follow before 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:	548
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 27.3 of the Concession Regulations: "The award agreement will be duly reasoned and published in "La Gaceta""

If yes, is the public procurement award notice published online?	Yes
If yes, please specify the website:	https://www.imprentanacional.go.cr/gaceta/ www.cnc.go.cr
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):	Practice
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):	Practice
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:	Practice
Among the PPP procurement processes conducted within the last two (2) years, in how many of them were the terms and	No data

<p>conditions changed between the award and the signature of the PPP contract? Please elaborate:</p>	
<p>Does the procuring authority publish the PPP contract?</p>	Yes
<p>If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):</p>	Practice
<p>If yes, is it published online?</p>	Yes
<p>If yes, please specify the website:</p>	www.cnc.go.cr
<p>Does the regulatory framework establish any exceptions where the procurement process described above does not apply or allows for a "fast track" procedure?</p>	No
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	n/a
<p>Unsolicited proposals</p>	Score: 83
<p>Does the regulatory framework allow for the submission of unsolicited proposals? (if no, skip to section F)</p>	Yes
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	Article 20 of the Concession Law allows and briefly regulates unsolicited proposals. Unsolicited proposals are further regulated in detail by the Executive Decree 31836-MOPT (hereinafter referred as "the Executive Decree 31836").
<p>If yes, please specify, to the best of your knowledge, the percentage of PPP investments in your country approved as unsolicited</p>	0

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):	<p>According to article 20 of the Concession Law: The procuring authority will examine unsolicited proposals, and if considered feasible, of public interest and consistent with the National Development Plan, shall procure them. The process to evaluate unsolicited proposals is regulated in detail in the Executive Decree 31386 (articles 14 and following). Article 14 summarizes the process explaining that: The proposal of the private sector will be in accordance with the procedure laid down in the following articles and comprises two stages. In the first, hereinafter "application", the proponent will deliver the information and preliminary studies of the project - profile or prefeasibility level, depending on the nature and magnitude of the project so the procuring authority can assess whether the project lies within its sphere of competence, whether it is possible to be granted through a concession of public work or public service and whether public interest is involved in their implementation. In case the procuring authority, in a duly reasoned decision, indicates there is public interest in the project in accordance with the terms approved by the Administration, will start a second stage, hereinafter "proposition", in which the proponent will submit the necessary studies to determine the technical and financial feasibility, and their social, environmental and legal feasibility (...).</p>
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):	As already mentioned, article 20 of the Concession Law requires unsolicited proposals to be consistent with the National Development Plan.
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	Yes

investment priorities.	
If yes, please specify:	Articles 14 to 19 of the Executive Decree 31386 contain a specific procedure for the evaluation of unsolicited proposals that, among other things have to take into account their consistency with the National Development Plans as required by article 20 of the Law.
The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.	No
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:	No data
Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 20 of the Concession Law states that the original proponent will participate in equality with other bidders in the competitive procurement process to award the Concession. Following this provision, article 24 of the Executive Decree 31836 establishes that the procuring authority will be ultimately responsible of preparing the public procurement notice and, if the unsolicited proposal is accepted, will proceed with the call for tenders, within a maximum of one year after the final approval of the unsolicited proposal. Also, article 36 of the same Executive Decree 31836 establishes that the procurement process will follow the rules applicable to other Concessions.
Does the procuring authority grant a minimum period of	Yes

time to additional prospective bidders (besides the proponent) to prepare their proposals?	
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 36 of the same Executive Decree 31836 establishes that the procurement process will follow the same rules applicable to other Concessions: Article 17 of the Concession Law establishes the following periods: 45 for public works and 60 days for public services.
and the time in calendar days:	45
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.	No
Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).	No
Other	No
please specify:	n/a
Please provide the relevant legal/regulatory provisions (if any):	The developers' fee is regulated in articles 31 to 34 of the Executive Decree 31836. Specifically, article 31.2 states that: If the procurement process results in a signed contract and the original proponent is not the winner or part of the winning consortium, the proponent will have the right to recover the amount that the Administration has accepted as development costs project and established in the bid.
PPP Contract Management	Score: 71
Has the procuring or contract management authority established a system to manage	Yes

the implementation of the PPP contract?	
If yes, please provide the relevant legal/regulatory provisions (if any)	Article 36 and following of the Concession Law regulate the regime for the implementation of the Concession. Similarly, articles 47 and following of the PPP Regulations further detail the regime for the implementation of the Concession contract
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 48.2 of the Concession Regulations indicates that: For the effective exercise of the oversight and control responsibility, the procuring authority will designate a body that will assume the obligation to promptly take necessary measures for the concessionaire to comply with the conditions, specifications and deadlines established in the contract and other obligations implicit in it, for the execution of the works or the operation of the services.
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

<p>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 contract management team? Please elaborate:</p>	<p>None of the projects</p>
<p>Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Articles 36 and 37 of the Concession Law and article 48 of the Concession Regulations establish the powers to oversight and control the implementation of the Concession.</p>
<p>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.</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>The procuring or contract management authority must periodically gather information on the performance of the PPP contract.</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Practice</p>

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?	Yes
If yes, please specify the website:	www.cnc.go.cr
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 30 and 31 of the Concession Law and article 45 of the Concession Regulations regulate the composition and formation of the SPV to implement the Concession and also changes to its structure.
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).	Yes

If yes, please provide the relevant legal/regulatory provisions:	<p>According to article 31 of the Concession Law: If one of the partners is a construction company and wants to leave the Concession, that is only possible if it: a) owns less than forty-nine percent (49%) of the capital; b) gives the participation to one of the other partners; c) has completed the construction phase of the award, having received the granting authority under the works envisaged for this stage, according to the provisions of the poster and the contract.</p>
In case of a change affecting the controlling interest, the replacing entity must meet the same technical qualifications as the original operator.	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions:	<p>According to article 45.4 of the Concession Regulations: To authorize the transfer of rights and obligations of the concessionaire or transfer of the shares of the concessionaire, the procuring authority should verify that the characteristics and conditions of the potential assignee improve and not adversely affect the attainment of public interest pursued by the grant, according to the stage of implementation.</p>
Flexibility to substitute non-controlling interest after the initial period.	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions:	<p>n/a</p>
Does the regulatory framework expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?	<p>Yes</p>
If yes, please provide the relevant legal/ regulatory provisions:	<p>Article 48 of the Concession Law regulates modifications of the Concession contract due to new investment agreed.</p>
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.	<p>Yes</p>
If yes, please provide the relevant	<p>The procurement notice shall fix the maximum amount of investment that the private partner can be obliged to make under the provisions of the preceding paragraph and the</p>

legal/regulatory provisions:	maximum term within which the procuring authority may order modification the works. In any case, the changes may not exceed twenty five percent (25%) of the total amount of the initial investment as agreed in the concession 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 57 of the Concession Law: 1. If there is public interest and supported in technical studies, the concession's duration may be extended. For that, the procuring authority must obtain the approval of the Comptroller of the Republic 2. The sum of the original term plus approved extensions shall not exceed the term maximum established for any concession in the first paragraph of Article 56 (50 years).
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:	According to article 16 of the Concession Law and article 52 of the Concession regulations force majeure might be compensated with an extension of the Concession period. According to article 58 of the Concession Law it might also imply a temporary suspension of the Concession.
Material Adverse government action.	Yes
If yes, please provide the relevant legal/regulatory provisions:	According to article 60 of the Concession Law, impossibility to carry on the Concession due to government actions can result in its termination.
Change in the Law.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Refinancing.	Yes
If yes, please provide the relevant legal/regulatory provisions:	Article 31 regulates the modification of established user fees. Also, articles 46 and 47 regulate the financing of the Concession and require the private partner to communicate any changes in the financial structure.
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?	Yes
If yes, please specify and provide the relevant legal/regulatory provisions	Article 39 of the Concession Law regulates alternative resolution of disputes in Concessions and allows for either establishing a specific dispute resolution mechanism in the contract or to recourse to arbitration.
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.	No
If yes, please specify:	n/a
The regulatory framework prescribes that a dispute resolution mechanism should be regulated in the contract.	No
The regulatory framework provide the parties with recourse to arbitration but no other alternative dispute resolution mechanism and also provides the parties with recourse to arbitration.	Yes
Other	No

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?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
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.	n/a
If yes, please specify:	n/a
The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.	n/a
The regulatory framework prescribes that a direct agreement should be signed with the lenders.	n/a
Other	n/a
please specify:	n/a
Does the regulatory framework expressly establish the grounds for termination of a PPP contract?	Yes

If yes, please specify:	<p>The Concession Law sets for grounds for contract termination (article 59) as well as grounds for contract expiration (article 60). Grounds for contract termination are: i) Lack of constitution of the guarantees stipulated in the contract, and ii) Any gross un-fulfillment to the obligations stipulated in the contract. Grounds for contract extinction are: i) Expiration of the concession duration; ii) Impossibility of fulfillment in virtue of state actions; iii) Termination due to public interest; iv) Agreement between the Administration and the private partner; v) Contract termination in virtue of gross un-fulfillment of private party's obligations; and vi) Any other stipulated in the contract</p>
and provide the relevant legal/regulatory provisions:	<p>Articles 59 and 60 of the Concession Law</p>
If yes, does the regulatory framework also establish the consequences for the termination of the PPP contract?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions:	<p>Articles 60 to 63 of the Concession Law and articles 78 and 79 of the Concession Regulations. Specifically, article 63 of the Concession Law regulates the compensation for extinction and states that: To determine the compensation, the concepts to be taken into account are actual investment, a utility up to fifty percent (50%) of the lost profits as well as the current state of goods and losses that may have been caused.</p>
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?	<p>Yes</p>
Please describe:	<p>The Government has expressed its intention to merge the National Concessions Council (Consejo Nacional de Concesiones) with the National Roads Authority (Consejo Nacional de Vialidad) which will require amendments to the correspondent laws and regulations. This may happen at any moment between now and the end of the current Government on May 2018.</p>
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	<p>No</p>

adopted AFTER June 1, 2016?	
Please describe:	n/a