

**BENCHMARKING PPP PROCUREMENT 2017 IN ECUADOR**

<b>Regulatory and Institutional Framework for PPPs</b>	
<b>Does the regulatory framework in your country allow procuring PPPs?</b>	Yes
<b>Yes. If yes, please specify the relevant regulatory framework and the year of adoption:</b>	<p>PPPs in Ecuador are regulated by the Organic Law of Incentives for public-private partnerships - Ley Orgánica de Incentivos para Asociaciones Público Privadas-, published on the Official Gazette Supplement N 652 of December 18, 2015 (the PPP Law) and the Regulations of the Regime of public-private Collaboration enacted by Executive Decree N 582 - Reglamento del Régimen de Colaboración Público Privada-, published on the Official Gazette N 453 of March 6, 2015 (the Executive Decree N 582).</p> <p>In addition, the following laws form part of the regulatory framework previously regulating PPPs: i) Organic Law of the National System of Public Procurement - Ley Orgánica del Sistema Nacional de Contratación Pública - published on the Official Gazette Supplement N 395 of August 4, 2008 (the Public Procurement Law), ii) Organic Law of Public Enterprises - Ley Orgánica de Empresas Públicas - published on the Official Gazette Supplement 48 of October 16, 2009, iii) Law for the Modernization of the State, Privatization and Provision of Public Services by the Private Initiative - Ley de Modernización del Estado, Privatizaciones y Prestación de Servicios Públicos por Parte de la Iniciativa Privada, published in the Official Gazette Supplement No. 349, December 31, 1993.</p> <p>Moreover, sector specific regulation includes, for instance (ii) the Electric Energy Public Service Act ("Ley Orgánica del Servicio Público de Energía Eléctrica"), enacted on January 14th, 2015; (iii) The Telecommunication Act ("Ley Orgánica de Telecomunicaciones"), enacted on February 10th, 2015. The main focus of the present analysis will be the new regime as established by the new PPP Law.</p>
<b>and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:</b>	<a href="http://www.asambleanacional.gob.ec/es/leyes-aprobadas">http://www.asambleanacional.gob.ec/es/leyes-aprobadas</a>
<b>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.</b>	No

<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Water and irrigation</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	Article 318 of the 2008 Constitution: Water is a strategic national patrimony for public use, it is an inalienable and imprescriptible property of the State, [water] constitutes a vital element for nature and for the existence of human beings. All forms of privatization of water is forbidden; Article 6 of the 2014 Organic law for water resources, uses and exploitation of water - Ley Orgánica de Recursos Hídricos, Usos y Aprovechamiento del Agua-: It is prohibited: a) Any delegation to the private sector the management of water or any of the powers granted to the State by the constitution or statutes through the Water Central Authority or to the Autonomous Decentralized Governments; b) Indirect management, delegation or outsourcing of the provision of public services related with the water integral cycle by the private initiative; c) Any commercial agreement which imposes an economic regime based on profits for the management of water; d) All forms of mercantilization of the environmental water services for profits; e) Any form of contract or cooperation agreement that includes clauses that harms the conservation, sustainable management of water, biodiversity, human health, the human right to water, food sovereignty, human and nature rights; and, f) The granting of perpetual or indefinite licenses for the use or exploitation of water."
<b>Energy generation and distribution</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	Article 25 of the 2015 Organic law for the public service of electricity (Ley Orgánica del Servicio Público de Energía Eléctrica) states: The State, through the Ministry of Electricity and Renewable Energy, may delegate, in exceptional form, to enterprises of private capital, as well as enterprises of popular and solidarity economies, the participation in the electrical sector, in any of the following cases: 1. When it is necessary to satisfy the public, collective or general interest; 2. When public or mixed enterprises cannot meet the demand of the service; or, 3. When the projects at stake are based upon no-conventional renewable energies, and are enlisted in the Master Plan of Electricity.
<b>Telecom</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	Article 14 of the 2015 Organic Law of Telecommunications (Ley Orgánica de Telecomunicaciones) provides: Forms of Operations. In accordance to the Constitution of the Republic, the public services of telecommunications are rendered by the State directly, through public enterprises of telecommunications, or indirectly through delegation to mixed-economy enterprises in which the State holds the majority of the stock, or to the private initiative (...). Pursuant to article 15 : In order to grant titles of authorization by delegation, The Agency for the Regulation and Control of Telecommunications, shall take into account the following: (...) c) For the private initiative (...) (the Agency) will grant titles of authorization for the provision of public services of telecommunications and the use of the radio electric spectrum associated with such services, in the following cases: 1. When it is necessary and suitable for meeting the public, collective and general interest; 2. When the demand for the service cannot be covered by public and mixed-economy enterprises in which the State holds the majority of the stock; 3. When the State lacks the technical or economic capability; 4. When the services of telecommunications are being provided within a regime of competition by public and private enterprises; 5. When it is necessary in order to encourage competition

	in a specific market; and, 6. In order to guarantee the right of consumers to have public services of telecommunications of high quality with fair prices and tariffs.
<b>Health</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Education</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Other</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	According to article 13 of the PPP Law PPPs cannot be used to delegate oversight, regulatory and control functions of the State or management services of general interest that had constitutionally or legally excluded private participation.
<b>Please identify the PPP procuring authorities in country_name and provide their website(s) (if available):</b>	Every public entity manage their own PPP portfolio. This include any Ministry or Agency of the central government, Municipalities, Provincial Governments and other public institutions that have the sufficient authority to delegate to the private sector the provision of public services, or construction of large infrastructures. For example, in the case of a PPP for a highway construction the procuring authority itself would be the "Minister Transportation and Public Works" ( <a href="http://www.obraspublicas.gob.ec/asociacion-publico-privada-2013-2017">http://www.obraspublicas.gob.ec/asociacion-publico-privada-2013-2017</a> )
<b>In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?</b>	Yes
<b>If yes, please indicate its name, and its website (if available):</b>	Interinstitutional Committee for PPPs / Comité Interinstitucional de Asociaciones Público-Privadas
<b>If yes, what are the main responsibilities of the PPP Unit (check all that apply). PPP regulation.</b>	Yes
<b>PPP policy guidance and capacity building for other public authorities.</b>	No
<b>PPP promotion among the public and/or private sectors in national</b>	Yes

and international forums.	
Technical support in implementing PPP projects.	Yes
Gatekeeping (approval of PPP projects).	Yes
Procurement of PPPs.	No
Oversight of PPP implementation.	No
Other	No
please specify:	n/a
<b>Preparation of PPPs</b>	<b>Score: 33</b>
Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
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

<b>If yes, please specify the relevant authority</b>	The Interinstitutional Committee for PPP
<b>and provide the relevant legal/regulatory provisions (if any):</b>	According to Article 6.3 of the PPP Law the Committee has to approve the proposals submitted by the procuring authorities to develop projects under the PPP regime regulated by the mentioned law.
<b>If yes, is a second approval by the same authority required before signing the PPP contract?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>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)?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	PPP projects must be in line with the National Development Plan ("Plan Nacional del Buen Vivir"), as per article 280 of the Constitution. The National Secretary for Planning and Development (by participating on the approval as a member of the PPP Interinstitutional Committee as per article 5.3 of the PPP Law) oversees that by the project's prioritization is according to the "National Development Plan". Also, all of the projects including public investment must undergo a priority test and declaration by the National Planning Secretariat, according to the Public Finance and Planning Act <a href="http://www.finanzas.gob.ec/wpcontent/uploads/downloads/2012/09/CODIGO_PLANIFICACION_FINAZAS.pdf">http://www.finanzas.gob.ec/wpcontent/uploads/downloads/2012/09/CODIGO_PLANIFICACION_FINAZAS.pdf</a>
<b>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</b>	No

<b>details a specific procedure to ensure the consistency of PPPs with other public investment priorities.</b>	
<b>If yes, please specify:</b>	n/a
<b>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.</b>	Yes
<b>The regulatory framework does not include any provisions.</b>	No
<b>Other</b>	No
<b>please specify:</b>	n/a
<b>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:</b>	Some of the projects
<b>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 impact of the project)</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	According to article 3.6 of the PPP Law, the profitability of the public project must be calculated in aggregate contemplating the possible subsidies, and shall ensure coverage and social inclusion of vulnerable population.

<b>Is there a specific methodology?</b>	No
<b>If yes, elaborate.</b>	n/a
<b>Affordability assessment, including the identification of the required long term public commitments (explicit and implicit)</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	According to article 3.1 of the PPP Law during the structuring and evaluation of the PPP alternative the relevant authorities must take into consideration the ability of the Government to pay for the financial commitments, direct or contingent, arising from the execution of PPP contracts and ensure that PPPs do not compromise the sustainability of public finances or the regular provision of services.
<b>Is there a specific methodology?</b>	No
<b>If yes, elaborate</b>	n/a
<b>Risk identification, allocation and assessment (risk matrix)</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	According to article 3.2 of the PPP Law all PPP must undertake an identification and assessment of the risks and benefits of the project, which will be assumed, transferred or shared by the delegating public entity and the private partner, in accordance with the provisions of the contract.
<b>Is there a specific methodology?</b>	No
<b>If yes, elaborate</b>	n/a
<b>Financial viability or bankability assessment.</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	According to article 11 of the PPP Law the procuring authority will evaluate the decision and the economic and financial viability of procuring a PPP (along with its legal and technical viability).
<b>Is there a specific methodology?</b>	No
<b>If yes, elaborate</b>	n/a
<b>Comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives</b>	Yes

<b>Relevant legal/regulatory provision (if any)</b>	According to article 3.3 of the PPP Law projects procured as PPP should get the best result of the price-quality relationship ("value for money") and obtain the most economically advantageous conditions for end users of the work, goods or services.
<b>Is there a specific methodology?</b>	No
<b>If yes, elaborate</b>	n/a
<b>Market assessment (showing evidence of enough interest in the market for the project)</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>Is there a specific methodology?</b>	n/a
<b>If yes, elaborate</b>	n/a
<b>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:</b>	Most of the projects
<b>Does the procuring authority include a draft PPP contract in the request for proposals?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>If no, please elaborate (provide examples):</b>	At this moment, there is no a legal or regulatory provision on including a draft PPP contract in the request for poposal. However, based on other public procurement procedures, a draft agreement would likely be provided.
<b>Have standardized PPP model contracts and/or transaction documents been developed?</b>	No
<b>If yes, please specify and provide a government-supported website where the mentioned standards are</b>	n/a

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	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
If no, please elaborate (provide explanation):	Depending of the sector of the project, the contract between the delegating entity and the private entity (PPPCo) may contain provisions concerning the cooperation and commitments of the delegating entity for getting the land for the project. In fact, the 4th reformatory provision of the PPP Law presents a change to the Public Procurement Law, introducing particularities in the process of expropriation for the land which is necessary to develop PPPs making it possible to delegate this duty to the private partner.
Does the procuring authority make available to PPPCo the necessary land	No

<b>or right of way to develop the PPP project (if any)? Right of way</b>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>If no, please elaborate (provide explanation):</b>	Depending on the sector of the project, the contract between the delegating entity and the private entity may contain provisions concerning the cooperation and commitments of the delegating entity for getting the right of way for the project. Same provision as mentioned before applies.
<b>Does the regulatory framework establish any exceptions where the preparation process described above does not apply or allows for a "fast track" procedure?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	Article 21 of the PPP Law establishes that the President of the Republic, by executive Decree, can simplify processes and procedures under the authority of executive branch.
<b>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:</b>	28
<b>Obtaining the required approvals from other relevant authorities:</b>	185
<b>Preparing the draft PPP contract:</b>	25
<b>Obtaining any permits, land and/or right of way that the procuring authority must provide according to the regulatory framework:</b>	190
<b>PPP Procurement</b>	<b>Score: 20</b>

<b>Are the bid evaluation committee members required to meet specific qualifications?</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any)</b>	n/a
<b>If no, please elaborate (provide examples):</b>	The current legal framework does not provide any parameters required for the bid evaluation committee members. In the example of state own company, the Directory that awards the PPP contract is integrated by the representative of each Ministry or institutions involved.
<b>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.</b>	n/a
<b>If yes, please specify:</b>	n/a
<b>The regulatory framework requires generally sufficient qualification without detailing the specific qualifications required to be a member of the bid evaluation committee.</b>	n/a
<b>The regulatory framework does not include any provisions.</b>	n/a
<b>Other</b>	n/a
<b>please specify:</b>	n/a

<b>Does the procuring authority issue a public procurement notice of the PPP?</b>	Yes
<b>If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):</b>	Practice
<b>If yes, is the public procurement notice published online?</b>	No
<b>If yes, please specify the website:</b>	n/a
<b>Does the procuring authority grant the potential bidders a minimum period of time to submit their bids?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Practice
<b>and the time in calendar days :</b>	n/a
<b>Do the tender documents detail the stages of the procurement process?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	According to article 12 of the PPP Law, the procuring authority must prepare tender documents including administrative, technical and economic-financial basis, the contractual rules and, the procedure of the procurement process.
<b>If no, please elaborate (provide examples):</b>	n/a
<b>Does the procurement process include a pre-qualification stage to select a number of qualified bidders to present the full proposal?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Practice

<p><b>If yes, do the tender documents specify the prequalification criteria in order to make them available to all of the bidders?</b></p>	<p>No</p>
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	<p>n/a</p>
<p><b>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</b></p>	<p>Some of the projects</p>
<p><b>Can interested parties/potential bidders submit questions to clarify the public procurement notice and/or the request for proposals?</b></p>	<p>Yes</p>
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	<p>Practice</p>
<p><b>If yes, does the procuring authority disclose those questions and clarifications to all of the potential bidders?</b></p>	<p>Yes</p>
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	<p>Practice</p>
<p><b>Among the PPP procurement processes conducted within the last two (2)</b></p>	<p>Some of the projects</p>

<p>years where questions were submitted, in how many were the questions and clarifications disclosed to all of the potential bidders? Please elaborate:</p>	
<p>Besides questions and clarifications, can the procuring authority conduct other types of dialogue with the potential bidders?</p>	No
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p>	n/a
<p>If yes, does the procuring authority disclose the content and the results of the dialogue to all of the potential bidders?</p>	n/a
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	n/a
<p>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:</p>	n/a
<p>Does the procuring authority require the bidders to</p>	No

<b>prepare and present a financial model with their proposals ?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>If no, please elaborate (provide examples):</b>	There is not a specific regulation, it would it depends on each project.
<b>Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Practice
<b>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:</b>	Most of the projects
<b>In the case where only one proposal is submitted (sole proposals), does the procuring authority follow any special procedure before awarding the PPP?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>If yes, what of the following options best describes the</b>	n/a

<p>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 awarding a PPP contract where only one proposal is submitted.</p>	
<p>Please specify:</p>	<p>n/a</p>
<p>The regulatory framework considers sole proposals valid as long as they meet the conditions outlined in the tender documents.</p>	<p>n/a</p>
<p>The regulatory framework does not allow the award of a PPP contract if only one proposal is submitted.</p>	<p>n/a</p>
<p>The regulatory framework does not include any provisions.</p>	<p>n/a</p>
<p>Other</p>	<p>n/a</p>
<p>please specify:</p>	<p>n/a</p>
<p>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:</p>	<p>270</p>
<p>Does the procuring authority publish the award notice?</p>	<p>No</p>
<p>If yes, please specify the means of publication and</p>	<p>n/a</p>

<b>provide the relevant legal/regulatory provisions (if any):</b>	
<b>If yes, is the public procurement award notice published online?</b>	n/a
<b>If yes, please specify the website:</b>	n/a
<b>Does the procuring authority provide all the bidders with the result of the PPP procurement process?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Practice
<b>If no, please elaborate (provide examples):</b>	n/a
<b>If yes, does the notification of the result of the PPP procurement process include the grounds for the selection of the winning bid?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>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?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Among the PPP procurement processes conducted within the last two (2)</b>	Some of the projects

years, in how many of them were the terms and conditions changed between the award and the signature of the PPP contract? Please elaborate:	
Does the procuring authority publish the PPP contract?	No
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	n/a
If yes, is it published online?	n/a
If yes, please specify the website:	n/a
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
<b>Unsolicited proposals</b>	<b>Score: 75</b>
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:	According to article 11 of the PPP Law, the PPP project can be proposed by a private entity interested in becoming the private operator. In this case, the procuring authority is not obliged to accept this private initiative. In this sense, the PPP Law (first transitory provision) expressly affirms the validity regarding unsolicited proposals of the provisions contained in the Executive Decree 582.
If yes, please specify, to the best of your knowledge, the percentage of	30%

<b>PPP investments in your country approved as unsolicited proposals during the last five (5) years:</b>	
<b>Does the procuring authority conduct an assessment to evaluate unsolicited proposals?</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	Article 8 of the Executive Decree 582 regulates the evaluation of the unsolicited proposals (iniciativa privada): Within six months, from the receipt of a satisfactory unsolicited proposal, the procuring authority will assess whether the proposal is of sufficient public interest, which is determined by the following criteria: 1. Degree of contribution to meet the planning instruments of the procuring authority. 2. Extent of participation and role of the state in providing the service in question and management model. To evaluate the public interest in the proposal, the procuring authority may consult on its content with any other public body.
<b>If yes, does it ensure that the unsolicited proposal is consistent with the existing government priorities?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	As already mentioned, article 8 of the Executive Decree 582 includes as one of the criteria to consider an unsolicited proposal of public interest the degree of contribution to meet the planning instruments of the procuring authority. Also, article 11 of the same Executive Decree 582 mandates to include the unsolicited proposal (in case it is considered of public interest to conduct it) among the projects to be prioritized by the procuring authority, before launching the corresponding procurement process.
<b>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.</b>	Yes

<b>If yes, please specify:</b>	Article 11 of the same Executive Decree 582 mandates to include the unsolicited proposal (in case it is considered of public interest to conduct it) among the projects to be prioritized by the procuring authority, before launching the corresponding procurement process.
<b>The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.</b>	No
<b>The regulatory framework does not include any provisions.</b>	No
<b>Other</b>	No
<b>please specify:</b>	n/a
<b>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:</b>	Some of the projects
<b>Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 4 of the Executive Decree 582 indicates that the selection of the private partner will be subject to a public procurement process. Article 11 of the Executive Decree 582 expressly provides that any unsolicited proposal considered of public interest, will be prioritized by the public authority in order to conduct the corresponding public procurement process to select the private partner. The information of the unsolicited proposal will be used to prepare the tender documents. The procuring authority has no obligation of launching such procurement process. The proponent of the unsolicited proposal will be able to participate in the procurement process as long as it meets all the established requirements.
<b>Does the procuring authority grant a minimum period of time to additional</b>	Yes

prospective bidders (besides the proponent) to prepare their proposals?	
If yes, please provide the relevant legal/regulatory provisions (if any):	Practice
and the time in calendar days:	n/a
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).	No
Bid bonus.	No
Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).	No
Other	Yes
please specify:	Article 4 of the Executive Decree 582 indicates that the tender documents can establish benefits for the original proponent but no other provision specifies any of those benefits.
Please provide the relevant legal/regulatory provisions (if any):	n/a
<b>PPP Contract Management</b>	<b>Score: 36</b>
Has the procuring or contract management authority established a system to manage	Yes

<b>the implementation of the PPP contract?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any)</b>	Article 9 of the PPP Law establishes in general that the procuring authority is the responsible agency to monitor the development of the projects.
<b>If yes, which of the following tools does it include (check all that apply)? Establishment of a PPP contract management team.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Participation of the members of the PPP contract management team in the PPP procurement process.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Possibility to consult with PPP procurement experts when managing the PPP contract.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Elaboration of a PPP implementation manual or an equivalent document.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Other</b>	No
<b>please specify:</b>	n/a
<b>If there is a contract management team, in how many of the</b>	n/a

<p><b>PPP projects procured within the last two (2) years did the management system and tools fully inform the contact management team? Please elaborate:</b></p>	
<p><b>Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract?</b></p>	Yes
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	Article 9 of the PPP Law provides for the power of the authority to monitor the development of projects.
<p><b>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.</b></p>	No
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	n/a
<p><b>The procuring or contract management authority must periodically gather information on the performance of the PPP contract.</b></p>	No
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	n/a
<p><b>The procuring or contract management authority must</b></p>	No

<b>establish a risk mitigation mechanism.</b>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The PPP contract performance information must be available to the public.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Other</b>	No
<b>please specify:</b>	n/a
<b>Is PPP contract performance information publicly available online?</b>	No
<b>If yes, please specify the website:</b>	n/a
<b>Does the regulatory framework expressly regulate a change in the structure (i.e. stakeholder composition) of PPPCo?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>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).</b>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a

In case of a change affecting the controlling interest, the replacing entity must meet the same technical qualifications as the original operator.	n/a
If yes, please provide the relevant legal/regulatory provisions:	n/a
Flexibility to substitute non-controlling interest after the initial period.	n/a
If yes, please provide the relevant legal/regulatory provisions:	n/a
Does the regulatory framework expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?	No
If yes, please provide the relevant legal/ regulatory provisions:	n/a
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.	n/a
If yes, please provide the relevant legal/regulatory provisions:	n/a
A change in the risk allocation of the contract.	n/a
If yes, please provide the relevant	n/a

<b>legal/regulatory provisions:</b>	
<b>A change in the investment plan or duration of the contract.</b>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>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.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	Article 30 of the Civil Code
<b>Material Adverse government action.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	Article 15 of the PPP Law establishes the legal security of the PPP contracts and expressly mandates to regulate this aspect in the PPP contract. However, consequences are not specifically regulated.
<b>Change in the Law.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	Article 15 of the PPP Law establishes the legal security of the PPP contracts and expressly mandates to regulate this aspect in the PPP contract. However, consequences are not specifically regulated.
<b>Refinancing.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Other.</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory provisions:</b>	n/a
<b>Does the regulatory framework establish a specific dispute resolution</b>	Yes

<b>mechanism for PPPs?</b>	
<b>If yes, please specify and provide the relevant legal/regulatory provisions</b>	According to article 19 of the PPP Law: In the event of international arbitration, it shall be conducted by a Latin-American arbitral forum. The parties of the contract shall designate the competent arbitration forum in the Latin-American region. This is in accordance with article 422 of the Constitution. Article 20 on the other hand establishes a specific procedure to resolve controversies among the parties.
<b>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.</b>	Yes
<b>If yes, please specify:</b>	Article 20 of the PPP Law establishes a specific procedure to resolve controversies among the parties requiring the following sequence: i) Direct Negotiations, ii) mediation, iii) exhaust of the administrative process, iv) arbitration.
<b>The regulatory framework prescribes that a dispute resolution mechanism should be regulated in the contract.</b>	No
<b>The regulatory framework provide the parties with recourse to arbitration but no other alternative dispute resolution mechanism.</b>	No
<b>Other</b>	No
<b>please specify:</b>	n/a
<b>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</b>	No

<b>under threat of termination for failure to meet service obligations?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>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.</b>	n/a
<b>If yes, please specify:</b>	n/a
<b>The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.</b>	n/a
<b>The regulatory framework prescribes that a direct agreement should be signed with the lenders.</b>	n/a
<b>Other</b>	n/a
<b>please specify:</b>	n/a
<b>Does the regulatory framework expressly establish the grounds for termination of a PPP contract?</b>	Yes
<b>If yes, please specify:</b>	Pursuant to article 15 of the PPP Law, PPP contracts must include clauses dealing with caducity, early termination and any others established in the law.
<b>and provide the relevant legal/regulatory provisions:</b>	Article 15 of the PPP Law
<b>If yes, does the regulatory framework also establish the consequences for</b>	No

<b>the termination of the PPP contract?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>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?</b>	Yes
<b>Please describe:</b>	Regulations to the PPP Law
<b>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?</b>	No
<b>Please describe:</b>	n/a