

**BENCHMARKING PPP PROCUREMENT 2017 IN CHILE**

<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>	The following analysis focused on infrastructure awarded by the Ministry of Public Works under the mechanism of Public Works Concessions regulated by Decree No. 900/1996 issued by the Ministry of Public Works that refunds Decree with Force of Law No.164/1991 (Concessions Law) and Decree No. 956/1997 issued by the Ministry of Public Works (Concessions Regulations). Other types of infrastructure provisions with private sector participation, such as railways, ports and sanitation, are regulated by specific sectoral mechanisms and regulatory frameworks that will not be covered in this analysis. For instance, ports, using concessions regulated by the Law No. 19.542 that modernize the port sector and water provision and sanitation using concessions contracted by a SOE called ECONSSA <a href="http://www.econssachile.cl/">http://www.econssachile.cl/</a>
<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.concesiones.cl/quienes_somos/funcionamientodelsistema/Documents/Nueva%20Ley%20y%20Reglamento%202010.pdf">http://www.concesiones.cl/quienes_somos/funcionamientodelsistema/Documents/Nueva%20Ley%20y%20Reglamento%202010.pdf</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>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Energy generation and distribution</b>	No

<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Telecom</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<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>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Please identify the PPP procuring authorities in country_name and provide their website(s) (if available):</b>	The Coordination of Public Works Concessions, within the Ministry of Public Works, is the PPP unit, who takes the responsibility of every stage of concession projects development. www.concesiones.cl
<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>	The Coordination of Public Works Concessions, within the Ministry of Public Works, is the PPP unit, who takes the responsibility of every stage of concession projects development. www.concesiones.cl
<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 and international forums.</b>	Yes
<b>Technical support in implementing PPP projects.</b>	No
<b>Gatekeeping (approval of PPP projects).</b>	No
<b>Procurement of PPPs.</b>	Yes
<b>Oversight of PPP implementation.</b>	Yes
<b>Other</b>	No
<b>please specify:</b>	n/a
<b>Preparation of PPPs</b>	Score: 69
<b>Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 14, Number 3 of the Concessions Regulation provides that: the MOP will send: a) the bidding conditions and the Investment Prospectus to the Ministry of Finance for it to formally approve its terms. If no objections are received at the reception office of the Public Works Department, within the 30-day period as of delivery to the reception office of the Ministry of Finance, the bid documents will be deemed approved by that Ministry. The aforementioned term period will be put off each time the Ministry of Finance makes an objection or requires information from the MOP. In order to obtain the Ministry of Finance's approval, the MOP shall enclose to the conditions any studies and other documents supporting or substantiating the content of the bidding conditions.
<b>If yes, is a second approval by the Ministry of Finance or Central Budgetary Authority required before signing the PPP contract?</b>	Yes

<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 8 of the Concessions Law provides that: the Contract award, referred to in Article 1, will be processed through a Ministry of Public Works Supreme Decree, which shall, in addition, bear the signature of the Ministry of Finance.
<b>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?</b>	Yes
<b>If yes, please specify the relevant authority</b>	The Concessions Commission, the Ministry of Social Development, the Sectorial Ministry involved in the project and the General Comptroller of the Republic (Contraloría General de la República, CGR). However, the opinions of the Concession Commission and the Ministry of Social Development are not binding. The Concession Commission is a consulting body that advises the Minister of Public Works (Art. 1 bis of the Concession Law). The Ministry of Social Development has to review the social evaluation of the project and send a report to the MoF. The MoF can either approve or reject the project (Art 2 of the Concessions Law)
<b>and provide the relevant legal/regulatory provisions (if any):</b>	Article 1 bis of the Concession Law creating the Concession Council and regulating the intervention in the structuring process for Concessions, the "Ley 10.336, Ley Orgánica Constitucional de la Contraloría General de la República" and the "Resolución 1.600/2008 CGR, Fija normas sobre Exención del Trámite de Toma de razón". The General Comptroller Office approves the tender documents before the call for bids for a preventive control.
<b>If yes, is a second approval by the same authority required before signing the PPP contract?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	The Comptroller General has to also approve the signed contract. The Supreme Decree awards the contract that must be signed by the President of the Republic and by the Minister of Finance (Article 8 of the Concessions Law). The contract must later be approved by the Comptroller General, which approval is mandatory to close the contract. Finally, the PPPCo should sign a transcription of the award decree (Article 9 of the Concessions Law).
<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</b>	Yes

<b>investment system)?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>Article 2 of the Concessions Law also establishes that the evaluation of PPP proposals shall consider compliance with the provisions contained in the regional urban development plans and in the municipal, inter-municipal and metropolitan zoning planes, if any.</p> <p>Article 1.bis of the Concession Law states that the Concession Commission shall give the following information: (1) the kind of structure that is to be developed under this law, (2) the projects and modalities of the concession system, considering, among other antecedents, the regional development plans and municipal, inter-municipal and metropolitan zoning plans, if any as well as the social evaluation approved by the appropriate planning entity (the Ministry of Social Development for the national level), as regulated by the National Planning System established by Law N° 20.53 of 2011.</p>
<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 details a specific procedure to ensure the consistency of PPPs with other public investment priorities.</b>	Yes
<b>If yes, please specify:</b>	The regulatory framework provides for the inclusion of PPPs in the national public investment system (see Art 2, last paragraphs of the Concessions Law,).
<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>	No
<b>The regulatory framework does not include any provisions.</b>	No
<b>Other</b>	No
<b>please specify:</b>	n/a

<p><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></p>	<p>Most of the projects.</p>
<p><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></p>	<p>Yes</p>
<p><b>Relevant legal/regulatory provision (if any)</b></p>	<p>Article 2, final section of the Concessions Law provides that: The projects to be executed through the concession system shall be supported, as an internal document of the Administration, and prior to the call for tender, by the report produced by the national planning entity, which shall be based on a technical-economic evaluation establishing its social profitability. In the case of hospitals or projects other than highways this can be substituted by a cost effectiveness analysis in practice.</p>
<p><b>Is there a specific methodology?</b></p>	<p>Yes</p>
<p><b>If yes, elaborate.</b></p>	<p>Assessment methodology to obtain social return qualification developed by the Social Development Ministry according to the provisions of the National Planning System regulated by Law N° 20.53 of 2011 (<a href="http://sni.ministeriodesarrollosocial.gob.cl/evaluacion/ex-ante/metodologias/">http://sni.ministeriodesarrollosocial.gob.cl/evaluacion/ex-ante/metodologias/</a>).</p>
<p><b>Affordability assessment, including the identification of the required long term public commitments (explicit and implicit)</b></p>	<p>Yes</p>
<p><b>Relevant legal/regulatory provision (if any)</b></p>	<p>General studies by the Planning Direction of the Ministry of Public Works are required before launching a PPP (Art. 15 of the Ministry of Public Works Statutory Law). These studies include an affordability analysis by the Ministry of Finance (section g) of Art. 14 of the Ministry of Public Works Statutory Law). In fact, a public investment prospectus is approved before the call for tenders and the bidding terms are made available for the interested bidders. Moreover the</p>

	Ministry of Finance has to keep track and elaborate a yearly report on the contingent liabilities arising from Concessions according to Article 40 of the Financial Management Law (D.L. N° 1.263 de 1975).
<b>Is there a specific methodology?</b>	Yes
<b>If yes, elaborate</b>	Spreadsheet of future commitments, with a 25 years scope.
<b>Risk identification, allocation and assessment (risk matrix)</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	Practice.
<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>	Practice.
<b>Is there a specific methodology?</b>	Yes
<b>If yes, elaborate</b>	Practice.
<b>Comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives</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>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>	All of the projects.
<b>Does the procuring authority include a draft PPP contract in the request for proposals?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	The tender documents themselves are the contract, along with the regulatory framework and the winner's technical and financial bid. The awarding of the PPP contract will be materialized through a Supreme Decree issued by the Ministry of Public Works that shall be published in the Official Gazette. After its publication the PPP contract will be deemed executed (Article 3 of the Concessions Law).
<b>If no, please elaborate (provide examples):</b>	n/a
<b>Have standardized PPP model contracts and/or transaction documents been developed?</b>	Yes
<b>If yes, please specify and provide a government-supported website where the mentioned standards are available or provide an electronic copy of them:</b>	Practice.
<b>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.</b>	No



<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Urban and zoning permits.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Other permits.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Does the procuring authority make available to PPPCo the necessary land or right of way to develop the PPP project (if any)? Land</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 15 of the Concessions Law provides that: If assets and rights have to be expropriated for the construction of the works and its supplementary services; the same will take place in virtue of the declaration of public utility as established in Article 105 of Ministry of Public Works supreme decree N°294, of 1984, and in accordance with the procedure established in the statutory decree N°2.186, of 1978. Any disbursements, expenses or costs arising from the proceedings or the contracts, that this article refers to, will be borne by the concession holder. However, the State may totally or partially pay for the expropriations if so established in the bidding conditions.
<b>If no, please elaborate (provide explanation):</b>	n/a
<b>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</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>If no, please elaborate (provide explanation):</b>	According to the Article 16th of "Ley de Concesiones", this is responsibility of the PPPCo: Each time the modification of existing rights of way are deemed necessary for the execution of works under concession, the concession holder shall reestablish them, at its own cost, and within the term periods set forth by the Ministry of Public Works in the bidding conditions.

<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>	<p>No</p>
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>n/a</p>
<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>	<p>364</p>
<b>Obtaining the required approvals from other relevant authorities:</b>	<p>270</p>
<b>Preparing the draft PPP contract:</b>	<p>180</p>
<b>Obtaining any permits, land and/or right of way that the procuring authority must provide according to the regulatory framework:</b>	<p>400</p>
<b>PPP Procurement</b>	<p style="text-align: right;">Score: 83</p>
<b>Are the bid evaluation committee members required to meet specific qualifications?</b>	<p>Yes</p>
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any)</b>	<p>According to Article 22 of the Concession Regulations: The Bid Evaluation Commission will be formed of, at least, a professional representing the Director of the Public Works Department, one from the Head of Service related to the Works, one from the Ministry of Public Works, and one</p>

	appointed by the Minister of Finance. The bidding conditions may include the appointment of additional members.
<b>If no, please elaborate (provide examples):</b>	n/a
<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>	Yes
<b>If yes, please specify:</b>	The evaluation committee needs to be composed of professionals representing different areas of the Ministry of Public Works, the Minister of Finance and the Administrative body that has the legal jurisdiction over the type of infrastructure.
<b>The regulatory framework requires generally sufficient qualification without detailing the specific qualifications required to be a member of the bid evaluation committee.</b>	No
<b>The regulatory framework does not include any provisions.</b>	No
<b>Other</b>	No
<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</b>	According to article 14.2 of the Concessions Regulations: Calls for tenders will be published in the Official Gazette, at least on one occasion and, on another, in a newspaper with national circulation.

<b>legal/regulatory provisions (if any):</b>	
<b>If yes, is the public procurement notice published online?</b>	Yes
<b>If yes, please specify the website:</b>	www.concesiones.cl
<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>	90
<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>	Article 17 of the Concessions Regulations establishes that the tender documents must include, among other aspects: (...) c) Form, date, time and place of the presentation of the bids, requirements to be fulfilled by the bidders, and information that must be included in the technical and economic bids; (...) g) Systems of evaluation of the bids and award procedure.
<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>	Article 6.bis of the Concession Law regulates the possibility of call for a pre-qualification of bidders: "The Ministry of Public Works may call for the pre-qualification of bidders in order to select the interested parties, through a process comprising one or more stages (...)".
<b>If yes, do the tender documents specify the prequalification criteria in order to make them available to all of the bidders?</b>	Yes

<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 6.bis of the Concessions Law indicates that the pre-qualification of bidders will be based on the "uniform, objective and reasonable requirements established in the appropriate pre-qualification conditions".
<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>	Most of the projects.
<b>Can interested parties/potential bidders submit questions to clarify the public procurement notice and/or the request for proposals?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 18 of the Concession Regulations permits and regulates "Questions and Clarifications regarding the bidding conditions".
<b>If yes, does the procuring authority disclose those questions and clarifications to all of the potential bidders?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 18.2 of the Concessions Regulations states that: The replies as well as the questions made by the bidders, as well as the clarifications, rectifications, amendments or additions that the MOP wishes to make to the bidding conditions, will be included in communications called clarifying circulars, directed to all the bidders, with a minimum advance notice of 10 days prior to the date of the opening of the technical bid. If the MOP makes modifications in a time period of less than 10 days, it must change the date of reception and opening of the technical bid to a date at least 10 days after the last modification. The clarifying circulars must be put at the disposal of the bidders in the place indicated in the bidding conditions.
<b>Among the PPP procurement processes conducted within the last two (2) years where questions were</b>	All of the projects.

<p>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 prepare and present</p>	No

<b>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>	The provisions mentioned by our contributors refer to the economic proposal but do not make a specific reference to the financial model.
<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>	According to article 7 of the Concessions Law: "The bid for the works that is the subject matter of the concession will be decided after evaluating the technically acceptable bids, according to the particular characteristics of the works, and based on one or more of the following factors, depending on the evaluation system that the Ministry of Public Works may establish in the Bidding conditions: (...) The definition of these factors and their application to award the concession will be established by the Ministry of Public Works in the Bidding Conditions.
<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>	All 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

<p>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 awarding a PPP contract where only one proposal is submitted.</p>	<p>n/a</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>225</p>



<b>Does the procuring authority publish the award notice?</b>	Yes
<b>If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):</b>	According to Article 8 of the Concessions Law, the contract award, referred to in Article 1, will be done through a Ministry of Public Works supreme decree, which shall, in addition, bear the signature of the Ministry of Finance. The contract will be executed once the awarding supreme decree is published in the Official Gazette.
<b>If yes, is the public procurement award notice published online?</b>	Yes
<b>If yes, please specify the website:</b>	www.concesiones.cl
<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>	The tender documents describe how the bidders will be informed of the results of the PPP procurement process. However, even if the Concession Law does not establish a mandatory communication of the adjudication, under Articles 16 and 45 of Law No. 19,880 on Administrative Procedure, the procurement process is public and must be notified to the bidders.
<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>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Economic offer and bids evaluation record is signed by all bidders according to the Transparency Law. Also, as already mentioned, under Articles 16 and 45 of Law No. 19,880 on Administrative Procedure, the procurement process is public and must be notified to the bidders. Moreover, Articles 27 and 28 of the Concessions Regulations are applicable and mandate that the assessment files be published.
<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>	Yes

<b>If yes, please provide the relevant legal/regulatory provisions:</b>	Article 21.8 of the Concession Regulations establishes that "No new bid or counter-bid will be accepted after the act of opening the technical bid", also, according to the already mentioned Article 8 of the Concessions Law, "The contract will be executed once the awarding supreme decree has been published in the Official Gazette".
<b>Among the PPP procurement processes conducted within the last two (2) years, in how many of them were the terms and conditions changed between the award and the signature of the PPP contract? Please elaborate:</b>	Some of the projects.
<b>Does the procuring authority publish the PPP contract?</b>	Yes
<b>If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):</b>	Transparency Regulation "Ley 20.285/2008 Sobre Acceso a la Información Pública". Any information that sustains the administration's decisions is considered public information, with some exemptions. The information has to be published in an active way, or be provided on demand to the interested people.
<b>If yes, is it published online?</b>	Yes
<b>If yes, please specify the website:</b>	<a href="http://www.concesiones.cl">www.concesiones.cl</a>
<b>Does the regulatory framework establish any exceptions where the procurement process described above does not apply or allows for a "fast track" procedure?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Unsolicited proposals</b>	Score: 83
<b>Does the regulatory framework allow for the submission of unsolicited</b>	Yes

<b>proposals? (if no, skip to section F)</b>	
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	Article 2 and Articles 4 to 12 of the Concessions Law (Title II) and the Concessions Regulations allow and regulate the submission of unsolicited proposals (private initiative).
<b>If yes, please specify, to the best of your knowledge, the percentage of PPP investments in your country approved as unsolicited proposals during the last five (5) years:</b>	15%
<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>	Articles 5 to 10 of the Concessions Regulations establish and evaluation procedure for the unsolicited proposals.
<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>	Article 6.1 of the Concessions Regulations establishes that: In order to evaluate whether there is any initial interest in the project submitted, the MOP may review the antecedents with the Ministry of Finance, MIDEPLAN (Ministry of Planning) and other ministries or other competent public entities.
<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</b>	No

<b>to ensure the consistency of PPPs with other public investment priorities.</b>	
<b>If yes, please specify:</b>	n/a
<b>The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures 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 unsolicited proposals approved within the last two (2) years, how many of them were a part of the existing government priorities? Please elaborate:</b>	All 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 12 of the Concession Regulations states that "The bidding of private initiative projects will take place as provided in Title III hereof" (referring to the general bidding process).
<b>Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the</b>	Yes

<b>proponent) to prepare their proposals?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 13 of the Concession Regulations indicates that: With at least 60 days prior to the opening of the bids referred to by Article 21 hereof, the MOP will inform all interested parties of the content of the economic bid, through a publication in a newspaper with national circulation. Interested parties can also be informed through certified mail addressed to the short-listed bidders, whenever the procedure was started with the pre-qualification of bidders, as indicated in Article 13 hereof, or, in the absence of any pre-qualification, to all those who have purchased the bidding conditions.
<b>and the time in calendar days:</b>	60
<b>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.</b>	No
<b>Developer's fee (reimbursing the original proponent for the project development cost).</b>	Yes
<b>Bid bonus.</b>	Yes
<b>Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).</b>	No
<b>Other</b>	No
<b>please specify:</b>	n/a
<b>Please provide the relevant legal/regulatory provisions (if any):</b>	Articles 8 and 10 of the Concessions Regulations establish a developer's fee and a bid bonus respectively.
<b>PPP Contract Management</b>	Score: 87
<b>Has the procuring or contract management authority established a system to manage</b>	Yes

<b>the implementation of the PPP contract?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any)</b>	Article 29 of the Concession Law and Articles 38 to 44 of the Concession Regulations regulate the management system for the implementation of the PPP contract.
<b>If yes, which of the following tools does it include (check all that apply)? Establishment of a PPP contract management team.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Articles 38, 29 and 40 of the Concession Regulations establish the figure of the Fiscal Inspector to "supervise the Concession Contract".
<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

<p><b>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:</b></p>	<p>All of the projects.</p>
<p><b>Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract?</b></p>	<p>Yes</p>
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	<p>Article 29 of the Concession Law and Articles 38 to 44 of the Concession Regulations regulate the supervision of the Concession Contract.</p>
<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>	<p>Yes</p>
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	<p>Article 43 of the Concession Regulations establishes a set of information obligations for PPPCo:</p> <p>1.- The concession holder shall: Grant free access to the fiscal inspector to the project documents, plans, calculation reports, specifications, etc., related to the engineering project and in general, all the documents necessary for the work of supervising and monitoring compliance with the obligations arising from this concession contract;</p> <ul style="list-style-type: none"> <li>• Deliver the quarterly and annual financial statements of the concession holder, presented; in the format (FECU) required by the Superintendence of Securities and Insurance.</li> <li>• Inform the organization and upper management of the company when this is incorporated and every time a change occurs.</li> <li>• Report on the guarantees given by the concession holder in relation to the concession contract, and in particular the special public works concession pledge indicating the name and domicile of the creditors and guarantors.</li> <li>• Report on the special public works concession pledge on the payments committed by the Government to the concession holder at any title, in virtue of the concession contract, indicating the name and domicile of the creditors and guarantors.</li> <li>• Deliver the information regarding work-related accidents and professional illnesses, delivering, when applicable, the reports of those that occurred.</li> <li>• Supply</li> </ul>

	monthly information on complaints presented by users, identifying the user and the claim made. 2. - Despite the above, the bidding conditions may establish any other information that the concession holder shall deliver to the fiscal inspector.
<b>The procuring or contract management authority must periodically gather information on the performance of the PPP contract.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	According to article 29 of the Concessions Law: "The bidding conditions shall explicitly indicate the levels of service demanded for the exploitation stage, its respective indicators and sanctions. The Ministry of Public Works shall inspect and monitor the concession holder's compliance with its obligations, at both the works' construction and exploitation stages. In the event of non-compliance, the Ministry may impose the sanctions and fines established by the regulations and bidding conditions, notwithstanding the concession holder's right to resort to the mechanisms referred to in Article 36 bis.
<b>The procuring or contract management authority must establish a risk mitigation mechanism.</b>	No
<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>	Yes
<b>If yes, please specify the website:</b>	www.concesiones.cl
<b>Does the regulatory framework expressly regulate a change in the</b>	Yes



<b>structure (i.e. stakeholder composition) of PPPCo?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>Article 21 of the Concession Law provides that: From the execution of the contract, the concession holder may transfer the concession or the rights of the contracting company. The Ministry of Public Works will authorize such transfer provided that it fulfills the terms provided for in the paragraph below. Otherwise, it shall deny said authorization through a substantiated resolution. If sixty days after the request for authorization, the Ministry has still not expressed any decision, the request will be deemed granted. The voluntary or forced assignment of the concession shall be total, comprising all the rights and obligations in said contract and may only be assigned to an individual or a legal entity, or a group thereof, that meet the requirements to be a bidder, that is not subject to disabilities and complying with what is provided for in Article 9 hereof. More specific regulation is contained in Articles 30 and 65 of the Concessions Regulations.</p>
<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>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>According to Article 30.5 of the Concessions Regulations: "The successful bidder shall have at least 51% of the Concession Holding Company's rights and undertake not to transfer them, during the construction period, without the authorization of the Ministry of Public Works, without prejudice of what is provided for in Article 21 of MOP SD N° 900 of 1996. Furthermore, throughout all the concession period, the Concession Holding Company shall report to MOP any change in the Concession Holding Company's ownership rights, involving changes in the management's control.</p>
<b>In case of a change affecting the controlling interest, the replacing entity must meet the same technical qualifications as the original operator.</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>Article 65 of the Concession Regulations states that: 3.- The Ministry of Public Works will authorize the voluntary transfers of shares of the successful bidder, as long as the following requirements are met: a) that they are sold or transferred to one sole individual or legal entity in one sole, total and indivisible share package that is greater than or equal to 51% of the share capital; and b) that the buyers comply with the requirements of the bidders in the bid process that gave rise to the concession contract.</p>

<b>Flexibility to substitute non-controlling interest after the initial period.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	Article 21 of the Concession Law provides that: From the execution of the contract, the concession holder may transfer the concession or the rights of the concession holding company.
<b>Does the regulatory framework expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?</b>	Yes
<b>If yes, please provide the relevant legal/ regulatory provisions:</b>	According to Article 20 of the Concession Law: The Ministry of Public Works and the concession holder may agree to modify the characteristics of the works and services contracted.
<b>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.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	Articles 68, 69 and 70 of the Concessions Regulations. According to article 68 "During the construction stage, the MOP, at the request of the DGOP or of the concession holder, may substitute works or carry out additional works, as long as they do not imply a modification of the economic conditions of the contract (...)". Article 69 indicates that "The Ministry of Public Works may modify, for reasons of public interest, the characteristics of the works and services contracted from the moment when the contract is completed, and as a consequence, shall make compensation with the necessary indemnities in the case of detriments". It also provides that "The bidding conditions will establish the maximum amount of the investment that the concession holder could be obligated to make in virtue of that set out in the above sections, as well as the maximum time period within which the Ministry may order the modification of the works in concession. If the conditions do not state anything in this regard, the maximum amount of these new investments cannot exceed 15% of the total amount of the initial investment made by the concession holder, including the successive stages, in the event that the bidding conditions had stated that the investment in construction would be done in stages. Finally, Article 70 provides that: If during the term of the concession, the works are insufficient to provide the service and it is considered appropriate to expand or improve them, by the initiative of the State or at the request of the concession holder, a supplementary agreement to the concession contract will be signed.

<b>A change in the risk allocation of the contract.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>A change in the investment plan or duration of the contract.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	According to article 70 of the Concession Regulations: 1.- If during the term of the concession, the works are insufficient to provide the service and it is considered appropriate to expand or improve them, by the initiative of the State or at the request of the concession holder, a supplementary agreement to the concession contract will be signed. 2. - This supplementary agreement will include the individual conditions with which the works carried out shall comply, and their repercussion on the rate system or on any other factor of the economic system or on the term of the concession, and the Ministry of Public Works is authorized to include one or several of these factors at one time as compensation in this agreement. 3. - The bidding conditions may establish mechanisms for the execution and compensation of these works.
<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>	According to Article 23 of the Concessions Law: The Concession holder has to: Provide the service on a continuous basis, except for exceptional situations arising from acts of God or force majeure, whose effects will be evaluated by the contracting parties, agreeing of any measures as required to achieve the fastest and most efficient service resumption. The cost of the works will be agreed on by the contracting parties and, in the absence of said agreement, the parties may submit the matter to arbitration, which will determine, as indicated in the bidding conditions, the qualification, measures or evaluation, as the case may be. The parties will agree to pay the price as established in the concession contract.
<b>Material Adverse government action.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	Article 19 of the Concession Law establishes that "The concession holder may request compensation in case of any supervening action by any authority with public power if so justified, only when it meets the following requirements: the action takes place after the concession has been awarded; it could not be foreseen upon its awarding; is not a legal or administrative regulation issued with general effects, exceeding the scope of the appropriate concession's industry, and significantly altering the contract's economic regime.
<b>Change in the Law.</b>	No
<b>If yes, please provide the relevant</b>	n/a

<b>legal/regulatory provisions:</b>	
<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 mechanism for PPPs?</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory provisions</b>	Articles 35, 36 and 36 bis of the Concession Law provide that: The regulatory framework establishes a Technical Panel to review disputes. Access to the review of the Technical Panel is voluntary. Besides this, the parties may initiate an arbitral or judicial review of disputes.
<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>	Articles 35, 36 and 36 bis of the Concession Law. The regulatory framework establishes a Technical Panel to review disputes. Access to the review of the Technical Panel is voluntary. Besides this, the parties may initiate an arbitral or judicial review of disputes.
<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>	<p>No</p>
<b>Other</b>	<p>No</p>
<b>please specify:</b>	<p>n/a</p>
<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 under threat of termination for failure to meet service obligations?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>According to Article 21 of the Concession Law and specifically Article 65.2 of the Concession Regulations: In those cases in which authorization is required, the Ministry of Public Works will always consent to the transfer in favor of the pledgee when this is a consequence of obligations guaranteed through the pledge of shares in the favor of any financial entity subject to the supervision of the Superintendence of Banks and Financial Institutions, of the Superintendence of Securities and Insurance, or of the Investment Funds regulated by Law N° 18.815, or of the Pension Fund Managing Companies, established in accordance with the regulations of Law Decree N°3500, of 1980, and in favor of any other individual or legal entity that complies with the requirements established in the bidding condition.</p>
<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>	<p>Yes</p>
<b>If yes, please specify:</b>	<p>According to Article 21 of the Concession Law: "The Ministry will always authorize the transfers to a pledgee, when these transfers are the result of the execution of obligations guaranteed with the pledge that is established in Article 43 hereof, in favor of any financial institution being supervised by the Superintendence of Banks and Financial Institutions, by the Superintendence of Securities and Insurance, or by the Investment Funds authority, regulated by Law N° 18.815, or by the Pension Fund Managers authority as established in accordance with the regulations contained in decree law N° 3500, of 1980, and, certainly, in favor of any other individual or legal</p>

	<p>entity meeting the requirements established in the bidding conditions. Should the pledgee fail to meet said requirements, it shall have a qualified operator in the term periods and terms as established in the bidding conditions".</p> <p>According to Article 65.2 of the Concession Regulations: In those cases in which authorization is required, the Ministry of Public Works will always consent to the transfer in favor of the pledgee when this is a consequence of obligations guaranteed through the pledge of shares in the favor of any financial entity subject to the supervision of the Superintendence of Banks and Financial Institutions, of the Superintendence of Securities and Insurance, or of the Investment Funds regulated by Law N° 18.815, or of the Pension Fund Managing Companies, established in accordance with the regulations of Law Decree N°3500, of 1980, and in favor of any other individual or legal entity that complies with the requirements established in the bidding condition.</p>
<b>The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.</b>	No
<b>The regulatory framework prescribes that a direct agreement should be signed with the lenders.</b>	No
<b>Other</b>	No
<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>	<p>Article 27 of the Concessions Law establishes that: The concession will terminate due to the following causes: 1.- Expiration of the term period at which it was granted, including modifications thereto, if any; 2.- Mutual agreement between the Ministry of Public Works and the concession holder. The Ministry may only be a party to the agreement if the creditors, having furnished a pledge in their favor as provided in Article 43, would give their consent to release it in writing, or would previously accept said early termination in writing; 3.- Concession holder's gross non-compliance with its obligations; and 4.- Those as provided in the bidding conditions. Article 28 also regulates serious non-compliance.</p>
<b>and provide the relevant legal/regulatory provisions:</b>	Article 27 and 28 of the Concessions Law.
<b>If yes, does the regulatory framework also establish the consequences for</b>	Yes

<b>the termination of the PPP contract?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>Articles 28, and 28 bis of the Concession Law regulate the effects of the termination in several cases, and mandates in general that: "The concession holder will have the right to a compensation equivalent to the value of the investments that have been effectively made for the provision of the service in accordance with the concession contract", specifying a very detailed regulation of how to determine this amount.</p>
<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>	<p>No</p>
<b>Please describe:</b>	<p>n/a</p>
<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>	<p>Yes</p>
<b>Please describe:</b>	<p>Amendments to the "Reglamento de Concesiones" modifying the Unsolicited Proposals mechanism. Also, a bill was presented in July 2015 to amend the Concession Law. The amendments seek to create better coordination amongst public entities, establish permanent medium and long terms planning, amongst others changes. This bill was not presented with urgency to Congress and has not had any significant progress in its approval.</p>