



DECREE 434-20

REGULATIONS OF APPLICATION OF PUBLIC-PRIVATE PARTNERSHIPS



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PRESIDENT OF THE DOMINICAN REPUBLIC

NUMBER: 434-20

Available to the approval and enactment of the regulation implementing the Law 47-20 of Public-Private Partnerships, date twenty (20) February the year two thousand and twenty (2020). G.O. No.10972 of the twenty-first (21) of the month of February of the year two thousand and twenty (2020).

WHEREAS: It is fundamental to achieving the goals set in the National Development Strategy 2030 and in the next plans that may be defined by the Dominican government, to have collaboration, and institutional participation between the public and private sectors through partnerships or contractual mechanisms.

WHEREAS: That the formation and development of public-private partnership contracts require a consistent and predictable regulatory and institutional framework that establishes roles, responsibilities and clear processes for the public and private actors involved, regarding the contracting process, as well as the main distinctive elements of this type of contracting, such as the adequate regulation and distribution of risks.

WHEREAS: That, in this sense, Law no. 47-20, of the 20 February 2020, which approved the new institutional framework and processes for developing investment projects in the form of Public Private Partnership, which brings a new contractual arrangement between public and private agents for infrastructure development and provision of public services that result in satisfaction of the public interest and for the benefit of all people.

WHEREAS: That in compliance with the General Law of Free Access to Public Information No. 200-04 of July twenty-eight (28) of the year two thousand four (2004) and its Application Regulations approved by Decree No. 130-05 of February twenty-five (25) of the year two thousand five (2005), the proposal of the Regulation of application of the law No. 47-20 of Public Private Partnerships was placed in public consultation.

WHEREAS: That, during the public consultation process, observations were received from the National Council for Private Enterprise (CONEP), the Dominican Republic Industry Association (AIRO), the Dominican Association of Pension Funds (ADAFP), PMI Dominican Republic and OMG office of consultants, among the observations included are the following:

- a) Adding definitions to improve understanding of regulatory framework.
- b) Definition of deadlines for submission processes, evaluation, and award initiatives.
- e) Organization of the records and publications of the initiatives.





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- d) The request for reasons for the resolutions issued.
- e) Criteria for prioritizing sectors to present private initiatives.

WHEREAS: That Law No. 47-20 delegates to the Executive Branch the opinion of its general implementing regulations for proper and effective implementation, which involves certain conceptual clarification of the figure of public-private partnerships, its form, content, procedures and, in general, facilitate the interpretation and implementation of this law, and to determine the scope of legal and technical concepts of the norm, this without prejudice to the normative and regulatory powers to be able to develop the National Council for Public-Private Partnerships.

SEEN: Law no. 6-06 of Public Credit, of January 20, 2006.

SEEN: Law no. 423-06 of Organic Budget for the Public Sector, of November 17, 2006.

SEEN: General Law no. 200-04 of Free Access to Public Information, of July 28, 2004.

SEEN: Law no. 340-06 on Purchasing and Contracting of Goods, Services, Works, and their modifications, of August 18, 2006.

SEEN: Law No. 498-06 on Planning and Public Investment, of December 28, 2006.

SEEN: Law No. 176-07 of the National District and the Municipalities, of July 17, 2007.

SEEN: Law No. 41-08 on Public Function and creates the Secretary of State for Public Administration, current Ministry of Public Administration, of January 16, 2008.

SEEN: Law no. 189-11 for the Development of the Mortgage Market and the Trust in the Dominican Republic, of July 16, 2011.

SEEN: Law No. 247-12 Organic of the Public Administration, of August 9, 2012.

SEEN: Law No. 107-13 on the Rights of People in their Relationships with the Administration and Administrative Procedure, of August 8, 2013.

SEEN: Law no. 141-15 on Restructuring and Liquidation of Companies and Individuals Merchants, of August 7, 2015. It repeals articles 437 to 614 of the Commercial Code and Law 4582 of 1956, on the Declaration of Bankruptcy.

SEEN: Law no. 155-17 against money laundering and terrorist financing, of July 1, 2017.





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SEEN: Law No. 249-17 of the Stock Market of the Dominican Republic, of December 19, 2017, which modifies Law No. 19-00, of May 8, 2000.

SEEN: Law No. 47-20 on Public-Private Partnerships, of February 20, 2020.

SEEN: Decree No. 543-12, of September 12, 2012, which establishes the Regulation of the Law on Purchases and Contracts of Goods, Services, Works, repealing Regulation No. 490-07 of August 30, 2007.

In exercise of the powers conferred upon me by Article 128 of the Constitution of the Dominican Republic, I issue the following:

REGULATION OF APPLICATION OF LAW NUM. 47-20 OF PUBLIC-PRIVATE PARTNERSHIPS.

CHAPTER 1 FOR THE PURPOSE, SCOPE AND DEFINITIONS

Article 1. Purpose. The purpose of these regulations is to regulate the application of the Law of Public-Private Partnerships, no. 47-20, of February 20, 2020.

Article 2. Scope of application. This regulation is applicable throughout the national territory and regulates the organs and entities of the Public Administration under the dependence of the Executive Branch, decentralized and autonomous non-financial institutions, to social security institutions, non-financial public sector companies and city councils that contract with private agents, under the modality of public-private partnerships, the design, construction, operation, repair, expansion or maintenance of a good of social interest or the provision of a service of the same nature.

Paragraph I. Permits, licenses, authorizations and so-called concessions established in sectoral laws are outside the scope of this regulation, provided that they are not a long-term contract for the provision, management or operation of goods or services of social interest, in which there is total or partial investment by private agents, tangible or intangible contributions by the public sector, explicit or implicit risk distribution between both parties and the remuneration of the private agent is associated with performance in accordance with the provisions of the contract.





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Paragraph II. Non-profit public-private partnerships established and regulated in Chapter VI of Law no. 47-20, of the 20 February 2020, Public Private Partnerships, shall be governed by the provisions of the Act, the provisions of Chapters I and II of this Regulation, and Regulation of Non-Profit Public-Private which will be issued for this purpose.

Paragraph III. Public infrastructure projects or public services whose management is retained mainly by the public agent, financed with public resources and where the public agent receives the infrastructure or the asset once the construction is completed, maintaining the main associated risks, will be governed by the provisions of chapters I and II of this Regulation and the Regulation of public infrastructure and public services with public resources that will be issued for this purpose.

Article 3. Definitions. In addition to the definitions contained in the Public-Private Partnerships Law, No. 47-20, of February 20, 2020, and for the purposes of this regulation, the following definitions are established:

1. **Eligibility analysis:** Qualitative approach study aimed at establishing at an early stage the viability of a project being executed through the public-private partnership modality. The eligibility analysis will be carried out following the methodology dictated for such purposes by the National Council of Public-Private Partnerships.
2. **Analysis of fiscal impact:** Quantitative analysis focused on evaluating, according to the benefits, costs and fiscal risks identified from the initiatives, the budgetary commitments that the Dominican State would be acquiring, whether firm or contingent, with a view to guaranteeing the sustainability of public finances. The analysis of fiscal impact and its evaluation will be carried out following the methodology dictated for such purposes by the National Council of Public-Private Partnerships.
3. **Socio-economic analysis:** Quantitative study focused on evaluating the benefits and costs generated by a project over a reasonable period of use or useful life. This technical evaluation of the project analyzes and quantifies the social and economic benefits of the project and compares them with the costs of the project cycle in all its phases. The socioeconomic analysis and its evaluation will be carried out following the methodology dictated for such purposes by the National Council of Public-Private Partnerships.





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4. **Risk analysis:** Evaluation of the characteristics of the initiatives, projects, and contracts of public-private partnerships, which aims to identify, rank, quantify, assess, assign, mitigate, and monitor associated risks, as appropriate, aims to identify, rank, quantify, value, assign, mitigate, and monitor associated risks, as appropriate. The risk analysis will be carried out following the methodology dictated for such purposes by the National Council of Public-Private Partnerships.
5. **Analysis of value for money in its quantitative dimension:** Quantitative approach study focused on evaluating the difference between the cost of a project developed with exclusively public investment and a project developed through a public-private partnership, to determine which contracting modality creates more value in the long term. The analysis of value for money in its quantitative dimension and its evaluation will be carried out following the methodology dictated for such purposes by the National Council of Public-Private Partnerships.
6. **Multi-criteria analysis:** Study that aims to complement the quantitative dimension of the value for money analysis with a qualitative approach that is implemented through a series of questions, based on criteria and success factors present in the design and implementation of infrastructure contracting schemes and provision of public services by PPP taking into consideration the experience, lessons learned and best practices at the international level. The multi-criteria analysis and its evaluation will be carried out following the methodology dictated for such purposes by the National Council of Public-Private Partnerships.
7. **SNIP code:** It is a correlative number issued by the Ministry of Economy, Planning and Development, which implies that a project has been declared admissible for integration into the National Public Investment System after it has been verified, through a technical evaluation, that said project has been formulated and evaluated under the standards established in the Standards and Technical Procedures of the National Public Investment System; and therefore, it is enabled to receive resources from the national budget. This code remains from its opinion on admissibility to the SNIP, until its termination or dismissal.
8. **Private initiative on the same topic.** The same subject will be understood to be projects that, when addressing the same problem or related problems, have objects that substantially coincide with that of another initiative in terms of geographical area, destination, main activity, use of State property, and that studies are required to determine whether its acceptance generates negative effects on the development of the other initiative.





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9. **Law:** When referring to "the law" without specific indication of their number or name, it means the Law of Public-Private Partnerships, no. 47-20, of the 20 February 2020.
10. **Law No. 107-13:** It means Law No. 107-13, of August 8, 2013, on the Rights of People in their Relationships with the Administration and Administrative Procedure, and its modifications.
11. **Law No. 200-04:** It means General Law No. 200-04 of Free Access to Public Information, of July 28, 2004, and its modifications.
12. **Law No. 340-06:** It means Law No. 340-06 on Purchasing and Contracting of Goods, Services, Works, of August 18, 2006, and their modifications.
13. **Public originator:** In accordance with the provisions of paragraphs 3, 5 and 21 of article 3 of the Law, a public originator will be understood as the public agent that initiates the process of public-private partnerships by submitting an initiative, whether said public agent is the contracting authority.
14. **Public services and infrastructure project:** They are infrastructure projects and public services that involve the design, construction, provision, management or operation of goods or services of social interest, whose management is retained mainly by the public agent, financed with public resources, and where the public agent receives the asset once construction is completed, with the State retaining the main risks associated with the asset. These projects will be regulated by the Regulation of infrastructure and public services with public resources that will be issued for this purpose.
15. **Management company:** Company of exclusive corporate purpose constituted by the successful bidder, as established in article 50 of the Law, holder of the public-private partnership contract.
16. **Contract supervisor:** Role exercised by the contracting authority for the supervision of the due fulfillment of the public-private partnerships contract throughout its term. The role of supervisor of the contract will be exercised in coordination with the General Directorate of Public-Private Partnerships, in the terms and conditions established in this regulation and in the contract.





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CHAPTER II GENERAL DIRECTION OF PUBLIC-PRIVATE PARTNERSHIPS

Article 4. Functions and Powers. The General Directorate of Public-Private Partnerships, in accordance with article 5 of the Law, aims to promote and regulate public-private partnerships in an orderly, efficient, and transparent manner through the exercise of its administrative, technical, and promotional functions, using as tools the Law, this regulation and the methodologies, plans and technical and complementary standards that are issued. In addition to the administrative, technical, and promotional powers indicated in article 9 of the Law, the General Directorate of Public-Private Partnerships will have the following functions:

- a) To dictate, by means of a resolution of the National Council of Public-Private Partnerships, the methodologies, guidelines, plans and technical and complementary standards that are indicated in this regulation and those that are strictly necessary for an adequate promotion, regulation, and supervision of public-private partnerships.
- b) Develop and implement a policy of public information and accountability to Dominican society in accordance with the provisions of Law No. 200-04 and other relevant regulations, following the principles and provisions of Law No. 107-13.
- c) Carry out evaluations of results, effects, impacts and other relevant magnitudes of public-private partnerships.
- d) Ensure that there is detailed, comprehensive and reliable planning, including a detailed calendar of actions, for each initiative and public-private partnership contract.
- e) Carry out the required actions and those that it deems useful, reasonable, and pertinent to guarantee correct compliance with the Law, these regulations and the provisions and regulations issued in the matter of public-private partnerships, in each of the phases of the competitive process of selection of the successful bidder, after the award of the contract and during its execution, including the performance of compliance audits.
- f) Establish, in addition to those indicated in the Law, this regulation and the regulations and provisions that are issued in the matter of public-private partnerships, the controls that are necessary and pertinent individually to each project to guarantee its correct execution, in accordance with its scope, duration, risks and fiscal and economic implications incurred by the Dominican State in a firm or contingent manner.





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- g) Identify possible problems and obstacles that may affect the execution of investment projects under the public-private partnership modality and carry out various follow-up and promotion actions.
- h) Enable and make available to public entities, the contracting authority, private agents, successful bidders and any party, public or private, with interest, the mechanisms and instances necessary to raise concerns about the correct execution of the project or public-private partnerships contract, the successful bidder selection process in any of its phases and in general any concern related to the initiation, selection, award, contracting, execution, monitoring and termination of public-private partnerships.

SECTION 1 NATIONAL COUNCIL OF THE PUBLIC-PRIVATE PARTNERSHIPS

Article 5. Organization and internal functioning. The National Council of Public-Private Partnerships will establish, through internal regulations, the rules of its organization and operation, including, but not limited to: the frequency of sessions, formalities for their convocation, quorum and votes required to adopt decisions, specific functions of its members and authorized representatives, including those of its President and its Technical Secretary, invitation from third parties, requirements for the formalization of their agreements and minutes, and other relevant matters.

Article 6. Functions and Powers. In addition to the functions and attributions expressly indicated in article 16 of the Law, the National Council of Public-Private Partnerships will have the following functions:

- a) Approve, at the proposal of the Executive Director of Public-Private Partnerships, the methodologies, plans and technical and complementary standards indicated in this regulation and those that are strictly necessary for an adequate promotion and regulation of public-private partnerships.
- b) Approve the general models of the specifications and other preparatory documents for the conclusion of the competitive processes for the selection of successful bidders.
- c) Request to the competent authority the cancellation of public procurement processes that have as their object projects that correspond to those promoted and regulated by the General Directorate of Public-Private Partnerships, according to its legal and regulatory functions, when these processes have not been initiated in accordance with Law No. 47-20, on Public-Private Partnerships, and its regulations.





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Article 7. Guests to the sessions: In addition to the provision of paragraph III of article 15 of the Law, the National Council of Public-Private Partnerships may invite individuals and private entities to present their skills and knowledge. In any case, private persons or entities may participate in the deliberations of the National Council for Public-Private Partnerships.

SECTION II OF THE EXECUTIVE DIRECTOR

Article 8. Executive Director. The Executive Director of Public-Private Partnerships will be the executive body of the General Directorate of Public-Private Partnerships and will have all those attributions and functions assigned by the Law, this regulation, the methodologies, plans and technical and complementary standards that are dictated, and those instructed by the National Council of Public-Private Partnerships.

Article 9. Functions of the Executive Director. In addition to the functions and attributions expressly indicated in article 21 of the Law, the Executive Director of Public-Private Partnerships will have the following functions:

- a) Comply with and enforce the methodologies, plans and technical and complementary standards dictated by the National Council of Public-Private Partnerships, as well as the instructions given by it, ensuring the correct application of the principles, provisions and procedures of the Law and these regulations.
- b) Issue, on its own initiative or at the request of public officials, binding technical opinions on the implementation of the Law, these regulations, methodologies, plans and technical standards and complementary, including, without being limited to, the previous opinion on whether a project corresponds or not to a public-private partnership based on the characteristics listed in paragraph 6 of Article 4 of the Law.
- c) Propose to the National Council of Public-Private Partnerships the methodologies, plans and technical and complementary standards necessary for the proper application of the Law.
- d) Prepare and submit for approval by the National Council for Public Private Partnerships model specifications, contract clauses and standard projects of public-private partnerships.





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- e) Coordinate the reception, evaluation, selection, award and supervision of infrastructure projects or public services, in accordance with the provisions established in the regulations issued for that purpose.

Paragraph I. Any institutional role of the General Directorate of Public Private Partnerships not expressly attributed to the National Council for Public-Private Partnerships by the Law, these regulations, or the internal regulations of the institution, means attributed to the Executive Director.

Paragraph II. The issuance of prior opinions, the elaboration of project ideas or preliminary projects of initiatives of public-private partnerships by the Executive Director of Public-Private Partnerships, the exercise of the functions related to dissemination and promotion of project ideas, preliminary projects, projects or initiatives, and advice to public agents in matters of public-private partnerships, do not establish the mandatory admission of the initiative, which must be presented and comply with all the requirements established in law 47-20 and in this regulation, nor assessment and declaration of public interest, all of which must be performed as set out in the Law and this regulation.

Paragraph III. Any methodology, technical and supplementary plan or standard referenced in this regulation and those that are necessary for the proper functioning issue of public-private partnerships will be prepared by the Executive Director and approved by the National Council for Public-Private Partnerships.

SECTION III OF THE SUB-DIRECTIONS OF PROMOTION, TECHNICAL AND MANAGEMENT AND SUPERVISION

Article 10-. Sub-Directorate of Promotion. The Promotion Sub-Directorate is created, under the direct dependence of the Executive Director of Public-Private Partnerships, which will have the mission of coordinating the processes and activities of promotion of the modality of contracting public-private partnerships and the promotion of competition in this modality.

Article 11. Technical Sub-Directorate. The Technical Sub-Directorate is created, reporting directly to the Executive Director of Public-Private Partnerships, which will have the mission of coordinating the processes and activities of evaluation and structuring of projects of public-private partnerships.





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Article 12. Sub-Directorate of Management and Supervision. The Sub-Directorate of Management and Supervision is created, under the direct dependence of the Executive Director of Public-Private Partnerships, which will have as its mission the structuring of the competitive processes and contracts of the initiatives, as well as the coordination of the processes and activities management of public-private partnership contracts.

Article 13. Appointment. The deputy directors of Promotion, Technical and Management and Supervision must meet the same requirements established in article 19 of the Law and will be appointed by the Executive Director of Public-Private Partnerships.

Paragraph. The National Council of Public-Private Partnerships, at the request of the Executive Director of Public-Private Partnerships, may create, merge, or eliminate the administrative units that are required to meet the operational and administrative needs of the institution.

SECTION IV HIRING OF CONSULTANTS UNDER THE SCHEME OF COMPARISON OF TECHNICAL CONDITIONS

Article 14. Preparation of studies and consultancies through the hiring of consultants. The necessary analyzes for the technical, economic, financial, legal and environmental evaluation of the initiatives and offers, as well as other matters pertaining to the evaluation and selection of initiatives and the competitive bidder selection process required by the General Directorate of Public-Private Partnerships, they may be contracted with highly specialized consultants, technicians, companies and entities, under the scheme of comparison of technical conditions established in article 12 of the Law and article 15 of this regulation .

Paragraph. Purchases and contracting of goods, works and other services other than those referred to in this article, will be made following the selection procedures of Law no. 340-06.

Article 15. Hiring of consultants or advisers. For the purposes of the Law and this regulation, the scheme for comparing technical conditions constitutes a special procedure of exception to the ordinary procedures of public procurement regulated by Law No. 340-06 and its modifications, which will be used exclusively to hire consulting companies and technical consultants for the necessary analyzes for technical, economic, financial, legal and environmental evaluation of the initiatives and offers, as well as other matters related to the evaluation and selection of initiatives and the competitive bidder





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selection process. The procedure of the comparison scheme of technical conditions is as follows:

1. The Executive Director of Public-Private Partnerships will issue a reasoned official letter on the need to contract the consultancy or advisory, indicating the type of specialized assistance required. The official letter must indicate the topic, project, or initiative for which the consultancy is required, estimated duration of the contract, terms of reference, contract budget, technical requirements and conditions that will guide or limit the interested parties in the presentation of offers. This official letter will be published on the website of the General Directorate of Public-Private Partnerships.
2. Once the official letter has been issued and published, individuals or legal entities that can comply with the specialization for consulting purposes will be invited to submit an offer, together with the advertising placed on the website of the General Directorate of Public Partnerships-Private. The official letter will establish the mechanism and the terms during which interested third parties may request the Executive Director of Public-Private Partnerships to be included in the invitation to present offers referred to in this subsection.
3. The call will give a minimum period of ten (10) business days for the submission of the proposal, which must show the technical capacity, experience and specialization of the company or consultants in the required consulting or advice. The proposal must also include the scope of the consultancy or advisory, methodology, delivery schedule and cost of completion.
4. In the call, the Executive Director of Public-Private Partnerships will establish the criteria and technical specifications for the evaluation of offers.
5. Within the term granted in the call, the natural or legal persons wishing to make proposals must physically or digitally deposit the documentation required in the call.
6. Once the term has concluded, the purchasing and contracting committee of the General Directorate of Public-Private Partnerships, in coordination with the administrative unit that requires consulting or advice, will evaluate the offers received, according to the established criteria and specifications, and proceed to select the offer with the highest score and draw the corresponding award certificate.





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Paragraph I. Consultants, technicians, companies, and organizations specialized to aid or advice to the General Directorate of Public-Private Partnerships or members of the National Public-Private Partnerships, Council Partnerships must meet the policies and guidelines of ethics, bribery and conflict of interest prevention adopted by the General Directorate of Public-Private Partnerships. These consultants, technicians, companies, and specialized entities may not advise a private agent or offeror regarding the initiative or project for which they provide or have aided or consulting to the General Directorate of Public-Private Partnerships. If it is verified that a private agent or company, a company of the same group or some company personnel are incurring this incompatibility, the bidder will be automatically disqualified from participating in the process.

Paragraph II. The General Directorate of Public-Private Partnerships must respect the principles of transparency, participation, and competence in this special procedure. In this sense, it will make the greatest possible publicity, in digital media or newspapers of national circulation, to promote and guarantee the greatest possible participation, transparency and accountability.

Paragraph III. The purchasing and contracting committee of the General Directorate of Public-Private Partnerships will be formed in the terms established by article 36 of Decree no. 543-12, which establishes the Regulations for the application of Law No. 340-06.

SECTION V REGISTRATION AND PUBLICATION OF PUBLIC PRIVATE PARTNERSHIPS PROJECTS

Article 16. On the records and publications on Public-Private Partnerships. The General Directorate of Public-Private Partnerships will have available on its web portal the set of records and publications of initiatives, projects and contracts of public-private partnerships that are indicated in this section, without prejudice to the administrative files that correspond to manage by the exercise of its powers.

Paragraph I. When the nature of the information allows it and it is necessary for the implementation of any provision of the Law, the General Directorate of Public-Private Partnerships may establish automated systems for the certification of the information that appears in its database, relative to the records and publications referred to in this section.

Article 17. SNIP projects under evaluation. The General Directorate of Public-Private Partnerships will have available on its web portal the SNIP projects that are being





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contemplated for execution under the traditional public works modality and therefore do not comply to be presented as a private initiative under the public-private partnerships modality.

Paragraph I. The Executive Director of Public-Private Partnerships and the Ministry of Economy, Planning and Development will establish the formalities required to identify the projects that are being evaluated, as well as to guarantee that such registration and publication are carried out in coordination with the information and monitoring of the portfolio of projects established in the National Public Investment System (SNIP). In accordance with the provisions of Law 498-06 and its methodological guide.

Article 18. Registry of initiatives under evaluation. The General Directorate of Public-Private Partnerships will have available on its web portal a record of the initiatives admitted for evaluation.

Paragraph. The registration and publication of the initiatives under evaluation will be maintained from the publication referred to in Paragraph I of Article 26 of this regulation, until the National Council of Public-Private Partnerships decides on the declaration of public interest of the initiative, as established by this regulation, in its articles 30, 44 and 45, respectively.

Article 19. PPP project bank. The General Directorate of Public-Private Partnerships will have a PPP project bank available on its web portal, which must contain, at least:

- a) Any initiative that is declared of public interest.
- b) Any initiative that is in the competitive bidder selection process.
- c) Any public-private partnership project whose contract has been awarded.

Paragraph I. The publication must be made within a maximum period of three (3) business days after the action that gives rise to the corresponding registration.

Paragraph II. The Executive Director of Public-Private Partnerships, by resolution, will establish the guidelines that allow creating, maintaining, and managing the bank of projects of public-private partnerships, which must at least indicate basic description of the project, geographic location, date of registration in the project bank, investment amount, awardee, updates regarding the course of the project, the establishment of the modalities for consulting this registry and its limitations.





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Paragraph III. In no case the information that is incorporated in the bank of projects of public-private partnerships may include information with limited access due to preponderant public interests, in accordance with Law No. 200-04, of July 28, 2004, General of Free Access to Public Information, and its regulations.

Article 20. Registration and publication of public-private partnership contracts. The General Directorate of Public-Private Partnerships will have available on its web portal a registry of public-private partnership contracts, which must contain, at least:

1. The signed contract and its modifications and addenda.
2. A report identifying and assigning risks.
3. Reports of all judicial action derived from the project, including administrative, judicial or arbitration decisions.
4. Trust documents or contracts, if any.
5. Documents that support the financial closure of the project.
6. Documents that report annually on the level of execution of contracts, their monitoring and supervision.

Paragraph. In no case may the information included in the registry of public-private partnership contracts include information with limited access due to preponderant public interests, in accordance with Law No. 200-04, of July 28, 2004, General of Free Access to Public Information, and its regulations.

Article 21. Provision of information. All subjects under the scope of the Law and this regulation must provide the General Directorate of Public-Private Partnerships with any information necessary to comply with the records indicated in this section, and its guidelines.

CHAPTER III OF THE PRESENTATION, EVALUATION AND DECLARATION OF PUBLIC INTEREST OF THE INITIATIVES OF PUBLIC-PRIVATE PARTNERSHIPS

Article 22. Structuring of public-private partnerships. The structuring of the initiatives, projects and contracts of public-private partnerships will be carried out through the phases of presentation of initiatives, evaluation of initiatives and declaration of public interest.





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Article 23. Deadlines. The National Council of Public-Private Partnerships may establish differentiated deadlines in the different actions of the phases of presentation of initiatives, of evaluation of initiatives and of declaration of public interest, based on criteria such as type of initiative, object, sector, complexity, estimated value, among others that it determines, respecting the maximum or minimum terms that have been established in the Law and in this regulation, as well as the period of time established in article 79 of this regulation and the principle of reasonableness established in the Law.

Article 24. Registration in the National Public Investment System. Public-private partnership initiatives, whether of public or private origin, must be registered in the National Public Investment System and have the corresponding SNIP code to move to the competitive bidder selection process phase.

Paragraph I. The Executive Director of Public-Private Partnerships will send to the Ministry of Economy, Planning and Development any initiative admitted for the evaluation phase, as established in article 26 of this regulation, together with all the information, documentation and background that support it, for the purpose of initiating the process of granting your SNIP code when it has not been granted. The Ministry of Economy, Planning and Development may require the information and documentation that is necessary to complete said procedure, at any time and state of the process.

Paragraph II. Notwithstanding the provisions of the preceding paragraph, any initiative of public or private origin may initiate the corresponding process of its registration in the National Public Investment System and obtain its SNIP code even if it has not exhausted the evaluation phase of said initiative.

Paragraph III. If the initiative does not have its SNIP code and has not been registered in the National Public Investment System, the Executive Director of Public-Private Partnerships, within the period established in article 44 of these regulations, will send the resolution that declares the initiative of public interest to the Ministry of Economy, Planning and Development, who will have a maximum period of fifteen (15) business days to complete the process of granting its SNIP code.

Paragraph IV. If the Ministry of Economy, Planning and Development does not grant the SNIP code within the period established in the previous paragraph, may exceptionally proceed to stage competitive selection process contractor.





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SECTION 1 OF THE COMMON CONDITIONS FOR THE PRESENTATION OF INITIATIVES

Article 25. Presentation of the initiative. All initiatives, whether of public or private origin, will be presented to the General Directorate of Public-Private Partnerships, together with all the documents indicated in article 34 of the Law.

Paragraph I. The considerations on possible social and environmental impacts, referred to in paragraph 8 of article 34 of the Law, must contain the necessary inputs for the preparation of the socioeconomic analysis that will be carried out in the initiative evaluation phase, in accordance with the methodology that will dictate the National Council of Public-Private Partnerships for these purposes.

Paragraph II. The Executive Director of Public-Private Partnerships may establish general guidelines, models, as well as guides for the use of these models, as appropriate, to guide stakeholders regarding the preparation, presentation, and eventual evaluation of the initiatives, as well as the information and documents that support it, mentioned in Article 34 of the Law.

Paragraph III. In accordance with the previous provision, the Executive Director of Public-Private Partnerships may establish the minimum content of the pre-feasibility studies and documentary background referred to in paragraph 9 of article 34 of the Law.

Paragraph IV. In addition to the provisions of the previous Paragraphs, private initiatives must be accompanied by the information, documentation and antecedents referred to in article 29 of these regulations.

Article 26. Admission of initiatives. Upon receiving an initiative, be it of public or private origin, the Executive Director of Public-Private Partnerships, within a maximum period of thirty (30) calendar days, will verify that it contains all the information and documents required by article 34 of the Law, as well as the conformity or not of the same to the guidelines, directives and general models that have been established.

Paragraph I. As soon as the Executive Director of Public-Private Partnerships verifies that the initiative has been presented in accordance with the Law, this Regulation and the general guidelines, directives and models that have been established, he will declare the admission of the initiative and the start of the phase evaluation of the initiative, by means of a reasoned resolution, which will be published through the web portal of the General Directorate of Public-Private Partnerships within a maximum period of three (3) business days from its issuance. This resolution will contain sufficient information on the object, scope, and characteristics of the project, as well as the identification of the public





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or private agent that presented the initiative, the indication of the eventual contracting authority and, as appropriate, the authorization to carry out the feasibility studies of the project and other relevant studies, in the terms provided in Paragraph I of Article 32 of these Regulations.

Paragraph II. The Executive Director of Public-Private Partnerships will return as "incomplete" those initiatives that do not contain all the information and documentation required in article 34 of the Law, as well as those that do not comply with the general guidelines and models that have been laid out for presentation. In these cases, the Executive Director of Public-Private Partnerships will indicate the missing information and documentation to the public or private agent who presented the initiative, granting a period of thirty (30) calendar days for them to be completed. This period may only be granted once for each initiative and will not be extendable. While this term is in force, said initiative will not be considered or admitted, nor rejected, nor will it generate for the public or private agent that presented it any right or privilege, or obligation for the State. Once the missing information or documentation is provided, the Executive Director of Public-Private Partnerships will have a maximum period of thirty (30) calendar days to carry out the verification referred to in this article. In case the documentation is not presented within the established time, the initiative will be rejected or not accepted and the presentation of initiatives regarding the same subject will be allowed.

SECTION 11 OF THE SPECIFIC CONDITIONS FOR THE PRESENTATION OF PRIVATE INITIATIVES

Article 27. Sectors of presentation of private initiatives. In compliance with Paragraph I of article 40 of the Law, the National Council of Public-Private Partnerships will establish the sectors in which it will be of interest to receive private initiatives, by means of a resolution issued during the first quarter of each government period.

Paragraph. This resolution may be updated at any time, duly motivated, and must be reviewed, updated, or reconfirmed at least once each year, during the last quarter of each calendar year, except for the year in which the government period begins. When the mandatory annual review does not occur, and until this occurs, it will be understood that private initiatives for goods and services from the same sectors in which there are SNIP projects under evaluation will be accepted, in the terms provided in article 17 of this Regulation.





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Article 28. Order of processing of private initiatives. Private initiatives will be processed by the Executive Director of Public-Private Partnerships, in the terms established by article 39, paragraph 1, and article 40, paragraph 1 of the Law, according to the order in which they have been presented. Those private initiatives that are admitted in accordance with article 26 and its paragraphs of these regulations will retain their place in the order of presentation.

Paragraph. When the initiatives presented are returned in accordance with the provisions of paragraph II of article 26 of this Regulation, they will keep their order of arrival and no private initiatives can be processed in this regard, until the initiative is declared inadmissible. However, they may be received and placed on the waiting list for processing, until the initiative submitted in the first order is processed, due to the completion of the missing documentation or information.

Article 29. Specific requirements for the presentation of private initiatives. In accordance with subsection 1 of article 40 of the Law and without prejudice to other provisions of the Law and these regulations, the Executive Director of Public-Private Partnerships, by means of a reasoned official letter, will return as "incomplete" those private initiatives that do not identify the flows of public and private resources, firm and contingent, other non-budgetary public resources, the cost of the studies carried out and presented, including the documented proof thereof, as well as any governmental action required during the term of the public-private partnership.

Paragraph I. The Executive Director of Public-Private Partnerships, by means of a reasoned letter, will return as "incomplete" those private initiatives that contain cost estimates of the studies presented that the General Directorate of Public-Private Partnerships understands that they do not correspond to these.

Paragraph II. The private initiative presented will include the financial model and the analysis and distribution of risks, as established in paragraphs 5, 6 and 7 of article 34 of the Law. For such purposes, it will be considered that the sources of resources for the execution of the public-private partnerships indicated by article 53 of the Law, have an enunciative character. The Executive Director of Public-Private Partnerships will establish the general guidelines, guides and models that are necessary for the preparation and presentation of the financial model and the analysis and distribution of risks by the private agent.





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Paragraph III. The Executive Director of Public-Private Partnerships, by means of a motivated letter, will return as "incomplete" those initiatives that do not present the financial model and the distribution and analysis of risks, or when these are not in accordance with the general guidelines, guides and models that have been established for presentation.

Paragraph IV. Returns made in compliance with this article and its paragraphs will be made in accordance with the provisions of paragraph II of article 26 of these Regulations.

Article 30. Confidentiality. All information and documentation accompanying private initiatives will be confidential. Said confidentiality will be maintained until such time as the National Council of Public-Private Partnerships declares the initiative of public interest and orders the start of the competitive process for selecting the successful bidder.

Paragraph. Notwithstanding the foregoing, the Executive Director of Public-Private Partnerships must include, in the resolution by which the admission of the initiative to the evaluation phase is made public, sufficient information on the purpose, scope and characteristics of the project, as well as information that identifies the private agent who presented the initiative, in such a way as to control that no other similar initiative is presented, in accordance with subsection 1 of article 42 of the Law.

Article 31. Rejection of private initiatives. Those that are in the cases indicated in article 42 of the Law will be rejected as private initiatives. To such ends, it will be the responsibility of the interested private agent to consult the publications and records referred to in articles 17, 18, 19 and 20 of these regulations.

Paragraph. In the same way, the private initiative that has been presented by a private agent advised by consultants, technicians, companies, or specialized entities that have been hired by the General Directorate of Public-Private Partnerships or by any of the members of the National Council of Public-Private Partnerships for the same initiative or project, as established in paragraph I of article 15 of these regulations.





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SECTION III OF THE EVALUATION OF INITIATIVES

Article 32. Beginning of the evaluation phase. The evaluation phase of the initiatives, whether they are of public or private origin, begins with the resolution of the Executive Director of Public-Private Partnerships, by means of which it makes public knowledge that an initiative has been admitted for evaluation in accordance with the requirements of the law, this regulation and in accordance with the guidelines, directives and models that have been established.

Paragraph I. Without prejudice to the minimum scope of the evaluation phase established in article 33 of these regulations, and in those cases that are necessary for an adequate evaluation of the initiative, said resolution will contain the authorization to carry out, at the expense and cost of the agent who has presented the initiative, feasibility studies of the project and other relevant studies, indicating their minimum content and the deadline for submission, including the information, documents and background information on which they are based.

Paragraph II. The environmental evaluation of the initiatives will be carried out in accordance with Law No. 64-00, of August 18, 2000, which creates the Secretary of State (current Ministry) of the Environment and Natural Resources. When necessary considering the purpose, scope and basic characteristics of the project, the Executive Director of Public-Private Partnerships may require additional analysis and studies to those already established in the referred legal text.

Paragraph III. Private initiatives submitted on the same topic will be evaluated according to the order in which they were admitted for evaluation.

Article 33. Scope of the evaluation phase. The evaluation of public-private partnership initiatives, whatever their origin, will include the eligibility analysis, socioeconomic analysis, value-for-money analysis, risk analysis, and fiscal impact analysis referred to in this section, as well as those others additional and relevant studies that have been required in accordance with this regulation.

Paragraph I. The Executive Director of Public-Private Partnerships will be responsible for preparing the analyzes referred to in this section and for submitting them to the ministries that make up the National Council of Public-Private Partnerships so that they can proceed with their evaluation and validation, and the issuance of the corresponding opinion, in compliance with the powers that were granted by the Law.





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Paragraph II. The public or private agent that has presented the initiative, as well as the entities and organs of the public administration when required, must provide all the inputs, information and documents required by the Executive Director or the National Council of Public-Private Partnerships, or its members, necessary to carry out the different analyzes and evaluations referred to in this section. The computation of the corresponding deadlines will be suspended during the time that elapses from the request of the input, information or required document, until the delivery of these.

Article 34. Methodologies. The methodologies of each of the analyzes referred to in this section will be prepared by the Executive Director of Public-Private Partnerships and approved by the National Council of Public-Private Partnerships.

Article 35. Inter-institutional coordination. The Minister of the Presidency and the Executive Director of Public-Private Partnerships, in their respective conditions of president and technical secretary of the National Council of Public-Private Partnerships, will be responsible for the necessary inter-institutional coordination during the evaluation phase.

Paragraph. During the evaluation phase, the Executive Director of Public Private Partnerships will be accompanied by a technical committee made up of representatives of the Ministry of the Presidency, the Ministry of Finance, and the Ministry of Economy, Planning and Development, designated by their respective incumbents, and headed by the Executive Director of the General Directorate of Public-Private Partnerships. The main function of this committee will be to support the Executive Director and the National Council of Public-Private Partnerships in conducting the evaluation phase, facilitating the exchange of information, the coordination of criteria and coherence of the different analyzes and evaluations referred to in this section. The appointment of the members of the committee will be exempt from formalities and participation in it will not be remunerated additionally. The criteria, recommendations, interpretations, or other similar ones expressed by this committee or its members are not binding.

Article 36. Eligibility Analysis. The eligibility analysis will be carried out by the Executive Director of Public-Private Partnerships at the beginning of the evaluation phase, according to the methodology dictated for such purposes.

Paragraph I. The eligibility analysis will be carried out within a maximum period of thirty (30) calendar days, counted from the beginning of the evaluation phase, as established in articles 26 and 32 of these Regulations. This period may be extended for a single time and for the same duration.





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Paragraph II. The Executive Director may submit the eligibility analysis for consideration by the National Council of Public-Private Partnerships before completing the other analyzes indicated in this section. If the National Council of Public-Private Partnerships determines that the initiative is not eligible, it will issue a Resolution in this regard and, with this, the evaluation process will be concluded without the need to complete the remaining analyzes.

Article 37. Socio-economic analysis. The socioeconomic analysis will be carried out by the Executive Director of Public-Private Partnerships, according to the methodology dictated for such purposes, and submitted to the Ministry of Economy, Planning and Development, for validation and evaluation purposes, in accordance with article 24 of the Law.

Paragraph I. The socioeconomic analysis will be carried out within a maximum period of sixty (60) calendar days, counted from the completion of the eligibility analysis.

Paragraph II. The evaluation of the analysis will be carried out by the Ministry of Economy, Planning and Development, within a maximum period of thirty (30) calendar days, counted from the receipt of the analysis by the Executive Director of Public-Private Partnerships.

Paragraph III. The Ministry of Economy, Planning and Development will have the power to request additional information and documents, as well as to suggest the pertinent modifications.

Article 38. Risk analysis. The risk analysis will be carried out by the Executive Director of Public-Private Partnerships, according to the methodology dictated for such purposes, and submitted to the Ministry of Economy, Planning and Development and the Ministry of Finance for validation and evaluation purposes, in accordance with the Articles 23 and 24 of the Law. The risk analysis will include the evaluation of the financial model and the analysis and distribution of risks proposed by the agent that presented the initiative, and the Executive Director of Public-Private Partnerships may make the adjustments that he deems pertinent.

Paragraph. Said evaluation will be carried out within a maximum period of one hundred and twenty (120) calendar days, counted from the receipt of the opinion issued by the Ministry of Economy, Planning and Development on the evaluation of the socioeconomic analysis. This period may be extended on one occasion, up to the same original period.

Article 39. Value for money analysis. The value-for-money analysis will be carried out by the Executive Director of Public-Private Partnerships, following the methodology dictated for such purposes, and submitted to the Ministry of Economy, Planning and





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Development, for validation and evaluation purposes, in accordance with article 24 of the Law. Said body will have the power to request additional information and documents, as well as to introduce the pertinent modifications.

Paragraph I. The value-for-money analysis of public initiatives will have, first, a quantitative dimension and, later, this result will be combined with a qualitative dimension, through a multi-criteria analysis. These analyzes will be carried out within a maximum period of sixty (60) calendar days, counted from the date of the risk analysis.

Paragraph II. In the case of private initiatives, the value for money analysis will only have a quantitative dimension. This analysis will be carried out within a maximum period of sixty (60) calendar days, counted from the completion of the risk analysis.

Paragraph III. The evaluation of the value for money analysis of the public and private initiatives will be carried out by the Ministry of Economy, Planning and Development, within a maximum period of thirty (30) calendar days, counted from the receipt of the value for money analysis. by the Executive Director of Public-Private Partnerships.

Article 40. Analysis of fiscal impact. The fiscal impact analysis will be carried out by the Executive Director of Public-Private Partnerships, according to the methodology dictated for such purposes, and submitted to the Ministry of Finance, for validation and evaluation purposes, in accordance with article 23 of the Law. Said The body will have the power to request additional information and documents, as well as to introduce the pertinent modifications.

Paragraph I. The tax impact analysis will be carried out within a maximum period of sixty (60) calendar days, counted from the completion of the risk analysis.

Paragraph II. The evaluation of the analysis will be carried out by the Ministry of Finance, within a maximum period of thirty (30) calendar days, counted from the receipt of the fiscal impact analysis by the Executive Director of Public-Private Partnerships.

Article 41. Additional studies. Without prejudice to what is established in Paragraph I of Article 26 and in Articles 32 and 33 of these Regulations, the Executive Director of Public-Private Partnerships may request complementary studies, analyzes and evaluations for an adequate evaluation of initiatives, provided that said requirement occurs before the initiative and its evaluation report are submitted to the National Council of Public-Private Partnerships for the stage of declaration of public interest, and that the need for said studies and analyzes is identified in one or more of the following assumptions:





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- a) From the results of the eligibility analyzes;
- b) From the results of the socioeconomic analysis;
- c) From the results of the risk analysis;
- d) From the results of the value for money analysis;
- e) Based on the results of the fiscal impact analysis;
- f) Based on the results of the feasibility studies and other relevant studies that have been required through the resolution that initiated the evaluation phase.

Article 42. Report on the evaluation of the initiative. The Executive Director of Public-Private Partnerships will be responsible for consolidating in a report the results, conclusions, and technical opinions of the different analyzes and evaluations referred to in this section, as well as those of other analyzes and evaluations that have been required in accordance with this regulation. Said report will be sent to the National Council of Public-Private Partnerships, to deliberate on the declaration of public interest of the initiative.

Paragraph I. Said report must have attached the reports and reports that support the results, conclusions and technical opinions referred to, together with the information, documents, and technical background on which they are based. Likewise, the report shall include the suggestions for modifications, and their bases, made to the documents and information supplied by the agent who presented the initiative, indicating the points of consensus and dissent that have been generated regarding said suggestions.

Paragraph II. The evaluation report must be prepared within a maximum period of thirty (30) calendar days, counted from the receipt of the results of the evaluation of the value-for-money analysis and the fiscal impact analysis, by the Ministry of Economy, Planning and Development and the Ministry of Finance or the expiration of the term established to carry out said evaluations, any of these assumptions that occur in the last term, despite the opinions corresponding to the indicated ministries have not been received, in the absence of an opinion the reports will be considered validated.

Paragraph III. The evaluation reports of private initiatives presented on the same topic will be prepared and sent to the National Council of Public-Private Partnerships once the last request for information has been answered, in accordance with the different methodologies of the evaluation phase. These reports will be sent to the Council of Public-Private Partnerships in the same order in which the response was produced, in the periods that said body determines for each calendar year.





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SECTION IV OF THE DECLARATION OF PUBLIC INTEREST OF THE INITIATIVES

Article 43. On the declaration of public interest. The National Council of Public-Private Partnerships, based on the contents, judgments, results and conclusions of the evaluation report, will deliberate on the relevance and convenience of executing the initiative under the mechanism of public-private partnerships and, consequently, if it is whether or not your declaration of public interest is appropriate.

Paragraph I. When deliberating, the National Council of Public-Private Partnerships may accept, totally or partially, or reject content, judgments, results, and conclusions of the evaluation reports, with the power to introduce counterproposals or modifications that it deems appropriate.

Paragraph II. The opinion on the declaration or not of public interest will be made through a duly motivated administrative resolution of the National Council of Public-Private Partnerships.

Paragraph III. The opinion on the declaration or not of public interest must be made within a maximum period of sixty (60) calendar days, counted from the receipt of the evaluation report referred to in article 42 of these regulations.

Article 44. Initiative declared of public interest. Once the initiative is declared of public interest, whether it is of public or private origin, the Executive Director of Public-Private Partnerships will publish said statement through the website of the General Directorate of Public-Private Partnerships, within a maximum period of three (3) business days.

Paragraph I. Said statement must be published together with the evaluation report prepared by the Executive Director of Public-Private Partnerships.

Paragraph II. Said publication shall state, at the least, the date of the statement, information on the object, scope, characteristics of the project; identification of the agent, public or private, who presented the initiative, and the indication of the contracting authority.

Article 45. Initiative not declared of public interest. If an initiative, be it of public or private origin, is not declared of public interest, the Executive Director of Public-Private Partnerships will publish said decision through the web portal of the General Directorate of Public-Private Partnerships, in a maximum period of three (3) business days. Said initiative or any other similar may not be submitted under the private initiative scheme until a period of two (2) years has elapsed, counted from the aforementioned publication.





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Paragraph. The publication must state, at least, the date of publication, information on the object, scope, characteristics of the project; and identification of the agent, public or private, who presented the initiative.

Article 46. On the declaration of public interest of private initiatives. In addition to the provisions contained in articles 43, 44 and 45 of this regulation, the following guidelines will be observed in the declaration of public interest of private initiatives:

- a) The National Council of Public-Private Partnerships will invite the contracting authority to all sessions in which the private initiatives in its sector will be discussed or known.
- b) The National Council of Public-Private Partnerships must rule on the declaration of public interest of private initiatives that have been presented on the same subject with strict adherence to the order in which the evaluation reports of said initiatives have been submitted.
- c) In those private initiatives that are declared of public interest, the resolution that is issued must be pronounced and decide, in accordance with the conditions most favorable to the public interest, whether to continue with the project under the modality of public-private partnership of private initiative, under the modality of public-private partnership of public initiative or under the public contracting mechanisms established in Law No. 340-06.
- d) In the previous case, if it proceeds as a private initiative, the resolution issued will recognize the private agent who presented the initiative as a private originator, in the terms provided in the Law.
- e) In the same case, if it proceeds as a public initiative or as a traditional public contracting, the resolution that is issued will instruct the compensation to the private agent who presented the initiative for the cost of the studies provided, as established in the Law and in the form and deadlines provided by said resolution, except in the case that the originator continues in the competitive selection process under this modality, in which case it will be governed by article 59 of these regulations.

In the case of private initiatives that are not declared of public interest, the resolution issued must be communicated to the private agent that presented the initiative, within a maximum period of three (3) business days, including the indication that the property of the studies provided by this will remain in your favor and that, therefore, it will not be compensated for said concept. Similarly, the non-declaration of public interest will be published through the website of the General Directorate of Public-Private Partnerships, within a maximum period of three (3) business days.





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CHAPTER IV THE COMPETITIVE PROCESS OF SELECTION OF THE AWARDEE

Article 47. Preparatory activities for the competitive bidder selection process. Within a maximum period of one hundred and eighty (180) calendar days following the publication referred to in article 44 of these regulations, the Executive Director of Public-Private Partnerships will be responsible, in coordination with the contracting authority, for structuring the specifications, the draft of the public-private partnership contract and the other documents and background necessary for the competitive bidder selection process. These documents and records shall be approved by the National Council for Public Private Partnerships within the said period.

Paragraph I. In the case of private initiative, and in addition to the minimum content established by law, the specifications will establish the cost of the studies carried out by the private originator.

Paragraph II. The specifications must be published by the General Directorate of Public-Private Partnerships, together with the call to express interest, in the case of private initiatives, or to participate in the competitive process of selection of the successful bidder, in the case of public initiatives. Said publication begins the competitive bidder selection process, with the exception provided for in article 52 of these regulations, and it must be made no later than the last day of the period referred to in this article, or its extension when this has been adopted.

Paragraph III. The deadlines and response times of the different actions included within the phases of the competitive process of selection of the successful tenderer and of the award of the public-private partnerships contract will be defined in the specifications of each competitive process, considering the principle of reasonableness.

SECTION 1 COMMON RULES FOR THE PRESENTATION OF BIDS

Article 48. Prevention of money laundering and financing of terrorism. The tender documents will include sufficient information and documentation requirements on the corporate structure, related parties and other relevant aspects of the bidders, which allow identifying, knowing and evaluating the final beneficiaries, origin of the funds, potential conflicts of interest and other relevant aspects, in accordance with the constitutional, legal and regulatory provisions relating to the prevention of money laundering and terrorism, the prevention and combat of corruption, among others.





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Article 49. Participation requirements. In the competitive processes, private agents, national or foreign, who meet the requirements established in the call and the specifications, and who are not disqualified to participate, in accordance with the law, these regulations and the specifications, may participate.

Paragraph I. The private agents interested in submitting offers, including the private originator, when applicable, must comply with the technical and financial information and documentation requirements established in the tender specifications for the authorization of bidders or for the expression of interest and authorization of bidders, that allow evaluating their ability to present viable technical and economic offers in the corresponding stage.

Paragraph II. Private agents must present the required documentation within the period expressly indicated in the tender specifications, which in no case will be less than forty-five (45) days after the participation call is published, as indicated in the Law. The term indicated in the specifications may be extended up to twice the time initially established in the specifications, by resolution of the National Council of Public-Private Partnerships, provided that the complexity of the initiative warrants it in accordance with the principle of reasonableness.

Paragraph III: Within a maximum period of thirty (30) calendar days after the expiration of the term established in the specifications for the presentation of the documents referred to in the previous paragraph, or its extension, the General Directorate of Public-Private Partnerships will publish the list of private agents authorized to present technical and economic offers.

Article 50. Joint participation. Two or more private agents may present an initiative and participate in the competitive process jointly, organized in the form of a consortium, in accordance with what is established in the call and in the specifications.

Paragraph. A private agent may not participate concurrently by itself and associated in consortium with other private agents. Likewise, it cannot participate concurrently in two or more consortia with other private agents. If concurrent participation is detected, it will be automatically disqualified from participating in the process.

Article 51. Prohibition to participate. In compliance with the impediments expressly indicated in article 41 of the Law, the specifications may not allow the participation of the persons indicated below, either as private agents, as subcontractors of private agents, as bidders or as trustees, as applicable:





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- a) Relatives up to the fourth degree of consanguinity of the Executive Director of Public-Private Partnerships or of the members of the National Council of Public-Private Partnerships.
- b) Relatives up to the second degree of consanguinity of advisers or consultants, or personnel of consulting or advisory companies, who have been hired by the Dominican State to carry out studies related to the project.
- c) People who have been sued by the State and sentenced for breach of contract in the last five (5) years.

Paragraph I. For the officials contemplated in subsection a) of this article, the prohibition shall be extended until twenty-four (24) months after leaving office.

Paragraph II. These prohibitions apply to those people who, for reasons of control, management, shareholding or in society, can be presumed to be a continuation or that derive, by transformation, merger, assignment, or succession, or in any other way, from those included in one of the previous causes or of the causes provided for in the Law.

Article 52. Stage of expression of interest. The start of competitive processes for the selection of awardee of private initiatives will be preceded by the stage of expression of interest, in the terms established in article 40, paragraph 4, of the Law, and in which the qualification of bidders will be decided.

Paragraph I. Recognition as a private originator of the agent that has presented the initiative does not constitute or presuppose the expression of interest of said agent, which must comply with all the information and documentation requirements established in the specifications for private agents interested in presenting offers.

Paragraph II. In the event that no private agent presents a manifestation of interest or is qualified as a bidder in said stage, the competitive process of selection of the successful bidder will be declared void, by means of a reasoned resolution of the National Council of Public-Private Partnerships and will proceed in accordance with the provisions of this regulation and in the specifications.

Paragraph III. In the event that only the private originator presents a manifestation of interest, the information, documents and credentials that it has presented in support of its expression of interest will be verified. If qualified as a bidder, the presentation of technical and economic offers will be authorized, and the evaluation of these in their corresponding stages, and in the terms, conditions, formalities, and deadlines established in the tender specifications.





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Paragraph IV. In the event that the private originator and one or more other private agents present an expression of interest, but only the private originator is qualified as an offeror, the private originator will be authorized to present technical and economic offers, and to evaluate these in their corresponding stages, in the terms, conditions, formalities and deadlines established in the specifications.

Paragraph V. In the event that the private originator and at least one other private agent have been qualified as bidders, the National Council of Public-Private Partnerships will initiate the competitive process for selecting the successful bidder, as established in the tender specifications.

Paragraph VI. The other cases not provided for in this article will be regulated in accordance with the provisions of the tender specifications.

Article 53. Deadline for submitting offers. The qualified bidders will present the technical and economic offers within the term expressly indicated in the tender specifications, which in no case will be less than ninety (90) days after the communication of the authorized bidders, as indicated in the Law. indicated in the specifications may be extended up to twice the time initially established in the specifications, by resolution of the National Council of Public-Private Partnerships, provided that the complexity of the initiative warrants it in accordance with the principle of reasonableness.

Article 54. Presentation of offers. The offers will be presented in strict compliance with the requirements established in the corresponding specifications, without deviations, reservations, omissions, or significant errors that cannot be corrected.

Paragraph I. The tender specifications will determine the requirements in terms of the type and amount of the guarantees required of the bidders, the criteria for evaluating technical offers and economic offers, the availability or not of public resources, the preliminary draft of the contract and all other information required for the preparation of offers by private agents. The National Council of Public-Private Partnerships may establish the requirement of all types of guarantees that are accepted by the market and the economic and financial agents and their respective regulatory entities.

Paragraph II. Likewise, the tender specifications will establish the formalities for the submission of offers, including, without limitation, the security mechanisms to guarantee the confidentiality of the offers, submission deadlines, deadlines, and mechanisms to request and respond to clarifications on the tender specifications. conditions, indication of the rectifiable aspects, including the mechanisms and limits for their correction, among others.





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Paragraph III. Any presentation of offers will include a technical offer and an economic offer, presented at the same time by the offeror. Notwithstanding the foregoing, the economic offer presented by a bidder will not be considered received or admitted for evaluation until the technical offer from said bidder has passed the technical evaluation stage.

Paragraph IV. Any correction that alters the substance of an offer to improve it cannot be considered an error or omission that can be corrected.

Paragraph V. It cannot be considered correctable error or omission or subsequent corrections that allow any offer, which initially did not meet the specifications, subsequently adjust to them.

Paragraph VI. Any offer that does not comply with the specifications will be rejected, which will be recorded by a duly motivated decision.

Article 55. Consultation of the specifications. The National Council of Public-Private Partnerships may authorize the Executive Director of Public-Private Partnerships to carry out non-binding consultations on the draft specifications, which will be carried out through the media, within the terms and under the conditions set by the National Council in its authorization.

SECTION II

COMMON RULES FOR THE TECHNICAL EVALUATION OF OFFERS

Article 56. Technical evaluation. The National Council of Public-Private Partnerships will analyze the technical offers submitted by the authorized bidders and will determine if they meet the requirements and evaluation criteria established and described in the tender specifications.

Paragraph I. The result of the technical evaluation will be that the offer "meets" or "does not meet" the technical evaluation criteria and requirements.

Paragraph II. In the evaluation of technical offers, it will be respected, as a general principle, that the credentials presented in the phases of qualification of bidders, or of expression of interest and authorization of bidders, as appropriate, will be solely for the purpose of said authorization, without no case can be described or scored.

Paragraph III. The Executive Director and the National Council of Public-Private Partnerships may request that the bidders, during the technical evaluation stage and before starting the economic evaluation stage, clarifications, rectifications due to errors





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of form or rectifiable omissions, and the delivery of background information, in order to clarify and specify the technical offer, following the provisions established in the specifications.

SECTION III COMMON RULES FOR THE ECONOMIC EVALUATION OF OFFERS

Article 57. Economic evaluation. The National Council for Public-Private Partnerships analyze the financial bids submitted by bidders whose technical bids have passed the technical evaluation stage and will select the most suitable economic proposal for users of the goods or services of social interest under the Public-Private Partnerships, based on the evaluation criteria set forth in the specification to enable select the most favorable proposal for the state.

Paragraph. To determine the economic criteria for the economic evaluation to be defined in the tender specifications, the following criteria will be taken into consideration:

1. Less co-financing.
2. Greater compensation to the State.
3. Service levels.
4. Rate level and its structure.
5. Investments or additional services.
6. Lower present value of income.
7. Combinations of any of the above criteria.
8. Any other that has been established by the National Council of Public-Private Partnerships, through an administrative resolution, prior to the approval of the specifications of each competitive bidder selection process.

Article 58. Advantage of the private originator. In the case of private initiative projects, the private originator, provided that the technical offer submitted exceeds the technical evaluation stage, will enjoy an advantage in the economic evaluation of between 2% and 5%. The exact percentage will be established in the specifications of each competitive process for the selection of private initiatives. In no case, this advantage may represent an increase of more than 2% of the capital expenditure foreseen in the investment.

Paragraph. The National Council of Public-Private Partnerships will establish, by resolution, the parameters, criteria, calculations, and analysis that may be pertinent for setting the percentage of the advantage of the private originator.





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Article 59. Payment of the cost of studies of private initiatives. If the winner of a public-private partnership contract is different from the private originator, the latter will recognize the right to reimbursement of the costs of the studies carried out and presented during the presentation and evaluation phases of the initiative, which must be covered in its entirety by the successful bidder. In no case will this reimbursement be greater than 2% of the capital expenditure foreseen in the investment. The tender specifications will establish the terms and the procedure for making said reimbursement to the private originator.

Article 60. Competitive process declared void. If the National Council of Public-Private Partnerships considers that none of the economic offers is suitable for the public interest, it may declare the selection process of the successful bidder void, by means of a reasoned resolution. The specifications for each competitive bidder selection process will establish the way to proceed if said process is declared void. To such ends, the National Council of Public-Private Partnerships may establish different criteria, depending on whether it concerns public initiatives or private initiatives or according to the reason or stage in which the declaration of a void competitive process occurs.

Article 61. Administrative appeals. The interested parties may present before the National Council of Public-Private Partnerships the administrative appeals against the actionable acts issued within the framework of the competitive process of selection of successful bidders, in the terms and deadlines established by Law No. 107-13.

SECTION IV OF THE AWARD AND SIGNING OF THE CONTRACT

Article 62. Award certificate. Once the competitive process has concluded, if an awardee has been selected for meeting the requirements and criteria established in the specifications, the National Council of Public-Private Partnerships will issue an award certificate within a maximum period of thirty (30) days after completed the economic evaluation stage.

Paragraph. The successful bidder must establish a legal entity, under the terms of article 50 of the Law and this section, prior to the signing of the contract between the contracting authority and the management company established by the successful bidder.





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Article 63. Exclusive purpose of the company. The public-private partnership contract may only be executed with legal persons whose corporate purpose is, exclusively, to carry out those activities necessary to execute the private contract, the latter will recognize the right to reimbursement of the costs of the studies carried out and presented during the presentation and evaluation phases of the initiative, which must be covered in its entirety by the successful tenderer. In no case will this reimbursement be greater than 2% of the capital expenditure foreseen in the investment. The tender specifications will establish the terms and the procedure for making said reimbursement to the private originator.

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Article 63. Exclusive purpose of the company. The public-private partnership contract may only be executed with legal persons whose corporate purpose is, exclusively, to carry out those activities necessary to execute the private contract.

Paragraph. The tender specifications and, subsequently, the public-private partnerships contract, or its annexes, will indicate the minimum capital without the right to withdraw, statutory limitations and other requirements that said company must meet during the term of the contract.

Article 64. Company documents. The documents justifying the ownership and administration of the company, and their updates, will always be available to the General Directorate of Public-Private Partnerships and the contracting authority, for their effective control.

Paragraph. The contract of public-private partnership will establish the mechanisms by which the General Directorate of Public-Private Partnerships or the contracting authority shall request the information and documents referred to in this article and other extras that may be required, where appropriate for the supervision, monitoring and administration of the contract.

Article 65. Closing of basic contractual aspects. The specifications, first, and, subsequently, the public-private partnership contract, or its annexes, when applicable, will indicate the basic terms and conditions, deadlines, and response times, in which the following activities must be carried out:

- a) Constitution of the company with exclusive corporate purpose by the successful bidder;
- b) Signing of the public-private partnership contract;
- c) Constitution of the public-private partnership trust, in those cases that correspond;
- d) Remission of the contract to the National Congress, for approval purposes in those cases that correspond;
- e) Obtaining the corresponding permits, licenses and authorizations for the beginning of the execution of the contract and the project;
- f) Transfer, or other proceeding operations, of rights that correspond to the beginning of the execution of the contract and the project;
- g) Definition and approval of the technical, commercial, financial and other relevant aspects, necessary for the beginning of the contract and the project, including, but not limited to, the parameters, guides or manuals of the construction and supervision stage of said stage;
- h) Other activities necessary for the contractual closure and start of the execution of the contract and the project.





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CHAPTER V OF THE GENERAL ASPECTS OF THE CONTRACT

Article 66. Terms and conditions of the contract. The public-private partnership contract will establish the terms and conditions that will regulate the provision, design, construction, financing, management, operation, maintenance or total or partial administration of goods or services of social interest, and will establish an appropriate risk distribution between the public agent and the private agent, in exchange for a remuneration that may consist of the collection of fees, rights, transfers of State resources, availability payments or any other contractually foreseen modality, and whose collection is linked to the performance established in the contract, which will remain under the monitoring, supervision and supervision of the contracting authority, in the manner provided by the Law and these regulations.

Article 67. Mandatory clauses. In addition to what is established in article 63 of the Law, the contract, to be considered valid, will contain the following mandatory clauses, without prejudice to the other clauses that are established:

- 1) The determination of property, movable and immovable, and other rights, real or personal, subject to the contract, its tenure regime and the conditions of its delivery at the end of the public-private partnerships;
- 2) The rate and remuneration regime for the consideration of services associated with performance, which may be measured by level of execution of works, availability of the good or service, volumes, quality standards or any other indicator established in the contract;
- 3) The tax treatment regime that the public-private partnership contract will benefit from, if any, according to the provisions of Chapter XIII of the Law;
- 4) The terms and conditions of the rights of intervention, subrogation or step-in rights that are established in favor of creditors or public agents in case of breaches of the contract;
- 5) Anti-corruption clause;
- 6) The treatment scheme in the event of unforeseeable risks, as well as unforeseen events and force majeure;
- 7) The form of treatment of new investments, works or additional services, requested by the Contracting authority, both for the construction and operation phases; including, without being limiting, the conditions and limits to the variation of the original value of the contract;
- 8) The conditions for the modification and renegotiation of the contract and the limits to it;
- 9) The conditions for subcontracting;





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- 10) The types, terms, form, conditions, modalities and other clauses that insurance policies must contain, including those that cover civil liability for damage to third parties and catastrophic risks, as well as the procedure for their approval and destination of the sums received as a result of the insurance that is executed;
- 11) The form of determination of the payments or compensation that correspond in the event of early termination of the contract;
- 12) The mechanisms and content for the delivery of information in relation to the public-private partnership contract that is required by the State;
- 13) The causes of serious breach of the contract; and,
- 14) Other provisions that the National Council of Public-Private Partnerships may establish through technical regulations or when approving the general contract models.

SECTION 1 OF THE RISKS

Article 68. Concept of risk. In public-private partnerships, risks are understood to be those most relevant threat factors that may affect the normal fulfillment of the contract, the quality of the good or service of social interest that is the object of this, or the profitability of the project.

Paragraph. These risks must be identified in the contract and assigned to the contractual party that can best manage, control, and administer them. In this sense, the assignment or distribution of the identified risks is required, for which each contract must specify the characterization, identification mechanism, evaluation of the probability of occurrence, quantification, and management for each of the risks, and its corresponding mitigation plan. Unpredictable risks, as well as force majeure will have a special treatment that must be regulated in the contract.

Article 69. Guidelines for risk assessment and transfer. For the purposes of each project, the economic, social, political, institutional, legal, operational, financial, nature, environmental, technological, and specific risks of each public-private partnership must be considered, as provided in the methodologies, technical standards and standard clauses that the National Council of Public-Private Partnerships will dictate for such purposes, taking into consideration the following:

- a) Identification, assessment and distribution of risks, during the process of evaluation of the initiative and inclusion of said distribution in the specifications;
- b) Risk analysis, including, without limitation, the quantification of their probability of occurrence and their consequences and impacts;





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- c) Economic assessment of the risk that must consider the probability of the event occurring and assess the economic consequence that it would have for the project, in the event that the risk occurred;
- d) Preparation of a risk matrix or map for each initiative or project;
- e) Identification and guidelines on the basic mechanisms for managing, monitoring and mitigating risks;
- f) Identification and guidelines for the preparation of risk management, monitoring and mitigation plans.

SECTION II SUPERVISION OF PUBLIC-PRIVATE PARTNERSHIP CONTRACT

Article 70. Supervision of the contract. The contracting authority will be responsible for the supervision of due compliance with the public-private partnership contract throughout its term, in coordination and with the support of the General Directorate of Public-Private Partnerships and other entities and bodies that the National Council of Public-Private Partnerships determine.

Paragraph I. The supervision of the contract will be carried out under the terms and conditions established in the Law, these regulations, and the public-private partnership contract. Whenever the nature and scope of the supervision activities to be carried out allow it, single and centralized channels will be used for communication between the supervisor and the management company.

Paragraph II. During the term of the contract, the General Directorate of Public-Private Partnerships may require the contracting authority to carry out the necessary procedures and actions to control compliance, supervision and monitoring of its normal execution.

Paragraph III. The contracting authority will designate the technical areas or teams within its internal organization, which will be responsible for executing the supervision activities established in these regulations, in the contract or required by the General Directorate of Public-Private Partnerships.

Paragraph IV. For monitoring the contract of public-private partnership, both the contracting authority and the General Directorate of Public-Private Partnerships may hire consulting services, consultancy or technical assistance, meeting recruitment procedures established by law 340-06 and its modifications.





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Paragraph V. The specifications will determine the costs of supervision of the public-private partnership contract. Said cost will be assumed by the successful bidder and by the management company, as appropriate.

Paragraph VI. When there are non-compliance or irregularities in the exercise of the contract supervision powers, determined by the National Council of Public-Private Partnerships, this body may order that the Executive Director of Public-Private Partnerships provisionally assume the exercise of said powers.

Article 71. Powers and responsibilities of the supervisor during the construction stage. During the construction stage, the supervisor will perform all the functions and powers indicated in the public-private partnership contract, among which must be, at least, the following:

- a) Inspect and approve the designs, plans, studies and specifications of the project;
- b) Supervise compliance with technical specifications and standards on the construction of works;
- c) Supervise compliance with the work plan proposed by the successful bidder and the management company, as appropriate;
- d) Supervise compliance with safety regulations;
- e) Supervise compliance with quality standards;
- f) Generate periodic reports and a final report, regarding the progress of the contract and the project during the construction stage, and send them to the General Directorate of Public-Private Partnerships;
- g) Review the statistical information provided by the successful bidder and the management company, as appropriate;
- h) Propose, according to the procedure and responsibilities provided for in the contract, the completion of additional works that are essential for the proper development of the project;
- i) Supervise the delivery of the land necessary for the construction of the works;
- j) Propose, according to the procedure and responsibilities provided for in the contract, the application of charges and fines for non-compliance;
- m) Control and ensure compliance with legal, accounting and administrative aspects and, in general, any others arising from the contract;
- n) Issue orders and instructions, according to the procedure and responsibilities provided for in the contract, for the proper fulfillment of the contract;
- o) Review and recommend the approval of the regulations and manuals of the operation stage, of the services and others that correspond, according to the procedure and responsibilities provided for in the contract; and,





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- p) Monitor the evolution of the assigned risks, both to the successful bidder and the management company as well as to the contracting authority and other public agents and ensure that the corresponding mitigation mechanisms exist and are applied.

Artículo 72. Atribuciones y responsabilidades del supervisor durante la etapa de operación. Durante la etapa de operación, el supervisor desempeñará todas las funciones y atribuciones que señale el contrato de alianza público -privada, entre las cuales deberán estar, al menos, las siguientes:

- a) Generate periodic reports and a final report regarding the progress of the project and the contract during the operation stage and send them to the General Directorate of Public-Private Partnerships.
- b) Carry out the pertinent analyzes of the antecedents and reports that the management company and its partners or shareholders must deliver, if applicable.
- c) Supervise compliance with technical standards on the conservation of works, assets, and infrastructures.
- d) Supervise compliance with work plans, quality standards, service levels and other similar ones that have been defined in the contract.
- e) Supervise compliance with technical standards on the operation of works and services.
- f) Supervise compliance with the regulations and manuals of the operation stage, the services and others that correspond in accordance with the contract.
- g) Supervise compliance with the tariff and remuneration regime, the collection of fees, rights, rates, transfers of State resources, availability payments or any other contractually foreseen modality.
- h) Supervise compliance with the economic conditions of the tender.
- i) Propose, according to the procedure and responsibilities provided for in the contract, the application of fines for non-compliance.
- j) Control and ensure compliance with legal, accounting, administrative and, in general, any other aspects arising from the contract.
- k) All those corresponding to the construction stage related to the engineering of projects and construction when works are carried out during the operation phase.
- l) Supervise compliance with the environmental requirements of the project.
- m) Issue orders and instructions for the proper fulfillment of the contract, according to the procedure and responsibilities provided for in the contract.





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SECTION III VARIATION AND MODIFICATION OF CONTRACTS

Article 73. On the modification and variation of the value of contracts. The modification of the contracts and, in those cases and conditions provided for in the original contract, the variation of the value of the public-private partnerships contracts may be initiated at the request of the contracting authority, at the request of the successful tenderer or the management company, as appropriate, and at the joint request of the contracting authority and the successful tenderer or the management company, as appropriate.

Paragraph I. The request for modification of the contract or the request for variation of the value of the contract will be submitted to the General Directorate of Public-Private Partnerships, together with all the background and documents that support the request, including a detailed analysis regarding the economic effects of the modification or variation requested.

Paragraph II. In the case of requests submitted by the successful bidder or the management company, as appropriate, the Executive Director of Public-Private Partnerships, prior to admitting said request, will request the technical opinion of the contracting authority.

Paragraph III. The Executive Director of Public-Private Partnerships will carry out a prior evaluation of the request for modification or the request for variation in the value of the contract, on the occasion which he will issue a report that will be presented to the National Council of Public-Private Partnerships.

Paragraph IV. The National Council of Public-Private Partnerships will decide, by means of a reasoned resolution, on the request for modification of the contract or on the request for variation to the value of the contract, when appropriate, ruling its approval, approval with adjustments or rejecting the request.

Paragraph V. The Executive Director of Public-Private Partnerships, during the prior evaluation referred to in Paragraph III of this article, and the National Council of Public-Private Partnerships, during the substantiation of their opinion, may request antecedents, analysis, studies, and evaluations additional, both to the applicant and the contracting authority as well as other competent entities and bodies.

Paragraph VI. In cases of approval and approval adjustments, the National Council for Public-Private Partnerships shall decide on the terms and conditions under which the parties will negotiate the modification of the contract or where changes will be implemented to the value of the contract.





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Paragraph VII. In the cases in which the request is rejected, the resources established in the contract may be filed or, in the absence of provisions in this regard, the decision will be subject to appeal in administrative headquarters, under the terms provided by Law No. 107-13.

Paragraph VIII. The capital expenditure valuation methodology will be established through one or more technical standards to be dictated by the National Council of Public-Private Partnerships.

SECTION IV TERMINATION OF THE PUBLIC-PRIVATE PARTNERSHIP CONTRACT

Article 74. Grounds for termination. In addition to what is established in article 64 of the Law, public-private partnership contracts will be terminated for the following reasons:

- a) Due to the loss of the successful tenderer or the management company, as appropriate, or the loss of its partners or shareholders representing a proportion of the capital stock greater than the margins that the contract will set for such purposes, in a state of notorious insolvency according to the parameters established for such purposes in the contract, unless the guarantees provided are improved or the existing ones are sufficient to guarantee the fulfillment of the contract, according to the terms, conditions and amounts agreed;
- m) Due to unforeseen circumstances or force majeure, when these make it impossible to fulfill the contract, a circumstance that must be reliably demonstrated by the party claiming it; and,
- n) By judicial or arbitral decision, with a definitive and irrevocable character, in the event of serious breach of the obligations imposed by the contract or because the successful bidder has incurred in omissions or falsehoods in the offers and proposals presented.

Article 75. Early and unilateral termination. Public-private partnership contracts may be terminated early and unilaterally by the contracting authority, with prior authorization from the National Council of Public-Private Partnerships, through an administrative resolution, as the public interest or national security requires it, or because the delivery of public goods or services is at risk.

Paragraph I. Once the contract is unilaterally terminated, the State must compensate the successful bidder for the investment made and for the damages suffered, in accordance with the provisions of the contract.





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Paragraph II. The National Council of Public-Private Partnerships will establish, in the general models of contracts for public-private partnerships, guidelines and standard clauses on the procedure to be followed in the event of early and unilateral termination of the contract. In all cases, the model procedure and the specific procedure in each contract will include the need to obtain the prior opinion of the highest authority of the sector to which the goods and services object of the public-private partnership belong.

CHAPTER VI ON ALTERNATIVE DISPUTE RESOLUTION MECHANISMS

Article 76. Settlement of Disputes. For all controversies that may arise due to the execution, application, interpretation and termination of the public-private partnership contracts, the specifications, and the contract, including its annexes, addenda, and corresponding complementary documents, will establish the solution mechanisms of controversies, including alternative methods such as: renegotiation, technical tables of disputes, conciliation, mediation, and arbitration, which are not limiting.

Paragraph. In the event that a public-private partnership contract does not establish alternative dispute resolution mechanisms, it will be submitted to the contentious-administrative jurisdiction.

Article 77. Arbitration clause. In the event that the public-private partnership contract includes an arbitration clause, it must establish whether it will be an Ad-Hoc or Institutional arbitration, and the procedure to follow.

CHAPTER VII OF FISCAL TREATMENT

Article 78. Refund of the Tax on the Transfer of Goods and Services. During the first five (5) years, computed from the beginning of the execution of the project object of the public-private partnerships, the successful bidder may opt for the refund of the Tax on the Transfer of Goods and Services (ITBIS), in the purchase or rental of equipment, materials and supplies causally related to the construction, repair or expansion of the goods and infrastructures that are the object of the public-private partnership contract.

Paragraph I. The successful bidder may also access an accelerated depreciation and amortization regime in accordance with the Tax Code and its amendments.





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Paragraph II. The tax benefits established in articles 78 and 79 of the Law and in this section, will be requested in those cases provided for in the specifications of the competitive bidder selection process and, subsequently, in the public-private partnerships contract, to through the Tax Administration, after compliance with the provisions contained in its General Standards.

CHAPTER VIII FINAL PROVISIONS

Article 79. Regime of deadlines. The terms established in these regulations will always be counted from the day following the one on which their publication or notification takes place, as appropriate. Provided that the Law or this regulation does not express otherwise, the periods indicated in days will be understood as business days and, for their calculation, Saturdays, Sundays, and holidays will be excluded. When it is indicated that it is a question of calendar days, Saturdays, Sundays, and holidays will be included in the calculation of the term. In all cases, when the last day of the period is non-business, it will be understood to be extended to the first subsequent business day.

SECTION I TRANSITIONAL PROVISIONS

Article 80. First transitory provision. Dictation of methodologies plans and technical and complementary standards. The methodologies plans and technical and complementary standards that have been indicated in this regulation, and those that are strictly necessary for an adequate promotion, regulation, and supervision of public-private partnerships, must be dictated by the National Council of Public-Private Partnerships before the award of the first public-private partnership contract.

Article 81. Second transitory provision. Dictation of general guidelines, directives, and models. The general guidelines, directives, and models, as well as the guides and guidelines for the elaboration of these, when appropriate, that are necessary for an adequate promotion, regulation, and supervision of public-private partnerships, must be dictated by the National Council or the Executive Director of Public-Private Partnerships, as appropriate, prior to the award of the first public-private partnership contract.





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GIVEN in Santo Domingo de Guzmán, National District, capital of the Dominican Republic, on the first day of September of the year two thousand and twenty (2020), year 177 of the Independence and 158 of the Re-establishment of the Republic.

A handwritten signature in blue ink, appearing to read 'Luis', followed by a horizontal line.

LUIS ABINADER
PRESIDENT OF THE DOMINICAN REPUBLIC.

