

PUBLIC-PRIVATE PARTNERSHIP IN THE REPUBLIC OF PANAMA

The Republic of Panama enacted Law No. 93 of 2019, regulating Public-Private Partnership "PPP", with the aim of promoting the development of infrastructure and public services in the country, contributing to the growth of the economy, job creation and competitiveness, as well as improving the living conditions of the general population.

PPPs are modalities that seek to attract private enterprises with experience, knowledge, equipment, technology, technical and financial capabilities. Risks and resources are materialized among the partners, in order to create, develop, improve, operate and/or maintain public infrastructure for the provision of public services, which will be focused on various sectors such as design, construction, ports, telecommunications, electricity, etc.

The Law is applicable to a large number of autonomous and semi-autonomous entities, municipalities and commercial companies in which the State owns at least 51% of the share capital, with the exception of a few entities, such as: the Institute of National Aqueducts and Sewers, the Panama Canal Authority, the Social Security, national banks, among others.

PPPs are formalized in a long-term contract signed between one or more entities, which can have a maximum term of thirty years, renewable up to ten years. The value of the projects must be at least fifteen million dollars.

The PPPs shall be supervised as follows: (i) a Governing Entity, (ii) a National Secretariat, and (iii) an Advisory Committee.

The National PPP Secretariat shall evaluate the proposals for potential PPP projects sent by the contracting public entities and the Advisory Committee, the National PPP Secretariat will remit it to the Governing Entity which will approve or reject the projects.

The public tender for the PPP projects will objectively evaluate the economic offers, attending to various variables established in the bases of the bidding, which may consist of: the budget rate, the subsidy of the proponent, the income guaranteed by the public entity, etc.

The winner of the PPP contract will have to establish, within the conditions indicated in the contract or the basis of the bidding, a specific purpose company in the Republic of Panama, which will become the company that executes of the PPP contract, with all rights and obligations thereunder.

Future PPP biddings will be published and called through an electronic system of the Governing Entity, which will be based on principles of openness and transparency, so that interested proponents can participate and the public informed.

It is an excellent opportunity for companies interested in expanding their investment to do so through PPPs, in Arias, Alemán & Mora we have vast experience advising our clients on participation in tenders and contracts with the State, we remain at your entire disposal to provide you with our advisory services.

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