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PPP Laws

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Some countries enact specific PPP laws. As described in the **OECD's report on fostering investment in infrastructure** (OECD 2015b, 16–17), these may be used to adapt the existing legal framework if it is not clear or comprehensive, or if the general framework constrains the government's ability to structure and manage PPPs well. Instead of creating a PPP Law, the government may change existing laws to accommodate PPPs. A PPP-specific law can help raise the profile and demonstrate political commitment to the PPP program—although care is needed to avoid conflict with any other existing relevant laws. PPP laws may establish guiding principles for a PPP program, processes and institutional responsibilities (such as for selecting PPP projects, procurement, and dealing with disputes) and policies such as public financial management rules governing PPPs. A well-designed PPP law typically sets out principles, which may be supported by more detailed regulations—with a view to avoiding rigidity and enabling the PPP programs to adapt over time.

PPP laws are most common in civil law countries—for example, all Latin American countries implementing PPPs do so under a specific PPP or concession law (or both). Some common-law countries also adopt PPP laws to establish a more binding commitment by government than a PPP policy.

Example PPP Laws provides examples of PPP laws and regulations from several countries. **Yong** summarizes the suggested content of a dedicated PPP law (Yong 2010, 33), while the **United Nations Commission on International Trade Law** has published general recommendations (UNCITRAL 2001)and model legislative provisions (UNCITRAL 2004) for enabling privately financed infrastructure projects. The **World Bank PPPLRC website** (PPPLRC, "Legislation and Laws") provides more information, including summaries of different legislation types (such as general PPP laws, concession laws), example provisions, and PPP legislation from over 30 countries.

Example PPP Laws

JURISDICTION	PPP-SPECIFIC LAWS AND REGULATIONS
Brazil	The federal-level legal framework for PPPs in Brazil is different for Concessions (self-financing projects requiring no government subsidy support), and PPPs: • **Law 8987is the Federal Concessions Law** (BR 1995). Establishes which government bodies can grant concessions and defines concession types. Also sets out criteria for selecting bidders during tender, the required content of concession contracts, rights and responsibilities of the contracting government agency, the concessionaire and users, the tariff policy, and acceptable reasons for step in and contract termination. ***Law 9648*** made some updates to this law. • **Law 11079 is the Federal PPP Law** (BR 2004a). Defines PPPs in the Brazilian context, establishes the scope of the PPP program, defines the contents of PPP contracts, sets rules for providing guarantees, and defines the rights and responsibilities of the contracting authority. Each state that uses PPPs also has its own legal framework.

Chile	***Law 20410* is the current Concessions Law** (CL 2010b).Updated the previous legal instrument for concessions—Decree 900 (1996)—which had modified the original legal instrument for PPPs in Chile: The Ministry of Public Work's Regulation 164 (1991). The law sets out the institutional framework for PPPs, tender rules, concessionaire's rights and obligations, inspection and oversight requirements, and procedures for resolving conflicts.
Colombia	**Law 1508 is the National PPP Law** (CO 2012a).Sets out the scope of the PPP program in the country and the principles that should guide it; also establishes the procedures and institutional framework for PPPs. Sets out specific approaches on PPP procurement, PPP contract design, and on the budgetary approach for PPPs. The following laws also contribute to the legal framework for PPP: • **Law 80** (CO 1993): establishes norms and principles for government contracting. It also sets norms that regulate the legal relationship between the public and private partners. • **Law 1150** (CO 2007): modifies some parts of Law 80. Specifically, it incorporates certain elements that make the tendering processes more efficient and transparent. • **Presidential Decree 4165** (CO 2011), in article 4, establishes the National Infrastructure Agency (ANI Agencia Nacional de Infraestructura), which is in charge of identifying, assessing the viability, and proposing concessions and other forms of PPPs in transport and other related services, and of developing and implementing the resulting PPP projects. • **Presidential Decree 1467** (CO 2012c)**:**defines the structures of PPPs under Law 1508. • **Presidential Decree 100** (CO 2013)**:**modifies certain articles in Presidential Decree 1467, specifically the treatment of prequalified bidders and private initiatives.
France	**Law 2004-559** (FR 2004) **on Partnership Contracts** sets out the legal and institutional framework for PPPs in France. **Law 2008-735** (FR 2008) incorporates adjustments to Law 2004-559, as well as the codes for subnational governments, urbanisms, general tax, monetary policy and finance, to improve the PPP framework in France. In addition, the Parliament has passed sector-specific laws to enable PPPs in the justice and penitentiary systems (**Law 2002-1094, and Law 2002-1138**), and the Public Hospital System (**Law 2003-850**).
Indonesia	**Presidential Regulation No. 67** (ID 2005, Peraturan Presiden Republik Indonesia Nomor 67) lays out the purposes, principles, requisites and framework for implementing PPPs in Indonesia.
Mexico	The **PPP Law** (MX2012)sets out the principles, scope, institutional framework, contracting mechanisms, required studies, approval procedures, PPP registry, fiscal management, and other matters that make up the Federal PPP Policy in Mexico.
Peru	**Legislative Decree No. 410-2015-EF** (PE 2015) establishes the principles, processes, and role of the Public Sector in the evaluation, implementation, and operation of public infrastructure and public service involving private sector participation.
Philippines	The **BOT Law** (PH 2006, Republic Act 7718) enables the use of PPPs to develop infrastructure in the Philippines. The law establishes rules concerning the bidding process, financing, government support, and regulatory authorities. **Executive Order No. 8** (PH2010) modifies the BOT law, reorganizing the BOT Office of the National Economic Development Authority (NEDA) into a PPP Center, and outlining its duties and responsibilities.

South Africa	The **Public Finance Management Act** (ZA 1999b) is the enabling legislation for PPPs. In accordance with this Act, the National Treasury issued **Treasury Regulation 16** (ZA 2003) to the Act,which establishes the rules for the nation's PPP program.
Tanzania	The ***PPP Act*** (TZ 2010) sets out the responsibilities of the private and public sectors, the functions and powers of the PPP Unit, and the approval process for PPPs.

Resources on these and other country-specific PPP laws and regulations can be found on the **Country Profiles**.

Related Content

- **INTRODUCTION**
- **PPP BASICS: WHAT AND WHY**
- **ESTABLISHING THE PPP FRAMEWORK**
- **PPP Policy**
- **PPP Legal Framework**
- **PPP Processes and Institutional Responsibilities**
- **Public Financial Management Frameworks for PPPs**
- **Broader PPP Program Governance**
- **Municipal and other subnational PPPs**
- **Key References - PPP Framework**
- **PPP CYCLE**

Additional Resources

- Country Profiles

Find in pdf at PPP Reference Guide - PPP Framework or visit the PPP Online Reference Guide section to find out more.

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