

Public-Private Partnerships in Airports

Full Description

Laws, Policies & Regulations

Australia

Most airports in Australia are leased by the federal government to operating companies. Their development and operation are regulated under the [Airport Act 1996 \(Cth\)](#). A key requirement under the Act is that each airport must have a 20 year master plan approved by the responsible federal minister, which sets out the airports' development and operational activities over period covered by the plan.

India

Airports in India can be either owned, developed and operated by State entities, such as the [Airports Authority of India \(“AAI”\)](#) or by private companies. A key requirement for private airport operators is that they must have obtained a license to operate airports as required under Rule 133A of the [Aircraft Rules 1937 \(“Aircraft Rules”\)](#). They must also enter into an Operation, Management and Development Agreement with the AAI.

Spain

In general terms, the regulation of airports in Spain is mainly implemented through [Royal Decree Law 13/2010](#), 3 December, approving tax and labor measures and measures to foster investment (“**RDL 13/2010**”) and [Law 21/2003](#), of 7 July on Air Security (“**Law 21/2003**”).

Furthermore, the general Spanish policies for the development of airport infrastructures and the adequate rendering of basic airport services are contained in the [Document of Airport Regulation \(“DORA”\)](#) for the period 2022-2026 approved by the [Spanish Ministry of Transport](#).

[AENA, S.A \(formerly Aena Aeropuertos, S.A.\)](#) (“**AENA**”) is the state-owned company that manages general interest airports and heliports in Spain.

Being a state-owned company, the applicable legal framework for AENA is private, with certain specificities as regards contracting for works and services in the Spanish general interest airports managed by AENA.

Such specificities for AENA in its contracting process for works and services in general interest airports, may be summed up as follows:

- In general terms, the contracting processes are subject to the principles of publicity, transparency, confidentiality and competitiveness and may elect subject to certain requirements, to apply open, restricted or negotiated procedures.
- AENA, as a state-owned company has to fulfil the requirements of [Royal Decree-law 3/2020](#), 4 February (“**RDL 3/2020**”), transposing [Directive 2014/25/UE](#) and [Directive 2014/23/UE](#), which mainly regulates contracting for certain entities that operate in water, energy, transportation and postal services, being public sector entities and public companies which are not, *stricto sensu*, Public Administration.

- For those contracts not subject to [RDL 3/2020](#), AENA has approved its own internal rules for contracting which also contains publicity, transparency, confidentiality and competitiveness principles. These internal rules for contracting are also applicable to those contracts subject to RDL 3/2020 on a subordinated basis, together with private law.

Further information of the different bidding processes and tenders published by AENA can be found in the [tender section](#) of its website.

Checklist Airport BOT & Concession Agreements

- [Checklist of legal issues to consider when developing airport Build-Operate-Transfer \(BOT\) or concession agreements](#): This checklist highlights the key legal issues that need to be considered in relation to airport concession agreements (assuming single site airport projects), covering both due diligence issues regarding the host country's laws, as well as commercial and regulatory considerations.

Sample Airport Concession Agreements

Large Airports

Costa Rica

- [Concession Agreement: Daniel Oduber Quirós International Airport's New Passenger Terminal](#) (document in Spanish with summary of key features in English) - Concession agreement for the design, construction, operation and maintenance of a new passenger terminal of the Daniel Oduber Quirós Airport, entered into by and between the Government of Costa Rica, Coriport S.A. and the Coriport Consortium. The concession agreement is based on the [Ley General de Concesión de Obras Públicas con Servicios Públicos](#) (Concession of Public Work with Public Services).

Bulgaria

- [Sofia Airport Tender Documentation](#) - Tender Document for the Designation of a Concessionaire and Awarding a Works Concession for Airport in Sofia of 5 July 2018 as amended on 29 March 2019 published by the Republic of Bulgaria, Ministry of Transport, Information Technology and Communications. Bidding document contains low carbon incentives.

India

The Government of India has developed new airports or modernized existing airports in several cities on a PPP basis:

- [Delhi, India](#): Operation, Management and Development Agreement between the Government of India and Delhi International Airport, 2006 (brownfield)
- [Mumbai, India](#): Operation, Management and Development Agreement between the Government of India and Mumbai International Airport, 2006 (brownfield)

- [Hyderabad draft concession agreement, India](#): Concession Agreement for the Development, Construction, Operation and Maintenance of the Hyderabad International Airport between the Government of India and Hyderabad International Airport, 2004 (greenfield)

Small Scale Airports

South Africa

- Skukuza Airport - [Public-Private Partnership Agreement for the Management and Operation of Skukuza Airport in the Kruger National Park](#) (sample draft agreement of October 2008 with annotations) - Model agreement for a PPP involving the management and operation of a single runway small scale airport.

Further Reading and Resources

Private Investment in Airport Infrastructure

- [Main elements of the concession model for the Madrid-Barajas and Barcelona-El Prat airports](#) (Principales elementos del modelo concesional de los aeropuertos de Madrid-Barajas y Barcelona-El Prat), Clifford Chance, Client Briefing June 2011 (English and Spanish)
- [La experiencia española en concesiones y APPs: Puertos y Aeropuertos](#), by Andrés Rebollo, Programa para el Impulso de Asociaciones Publico-Privadas en Estados Mexicanos (PIAPPEM), October 2009.
- [Developing Best Practices for Promoting Private Sector Investment in Infrastructure - Airports and Air Traffic Control](#), Asian Development Bank (ADB) 2001: This is one volume of a five-volume set presenting the findings of an ADB regional technical assistance study which developed sector-specific best practices for promoting private sector participation in key infrastructure sectors in ADB's developing member countries. The best practices cover the role of government, institutional reform, strategic planning, legal and regulatory frameworks, unbundling and competition, contractual arrangements, sources of financing, and the allocation of risk. This volume examines the underlying economics and alternative models of private sector participation in the airport sector, and recommends approaches to encourage successful private sector participation.
- The [Airport Ownership and Regulation Guidance Booklet](#) and [Balanced Concessions for the Airport Industry](#) published by the International Air Transport Association (“IATA”) sets out a useful overview of different ownership and operating models for airports and best practice guidelines for implementing PPPs for airport projects.

Airport In-Terminal Concessions

- [Guidebook for Developing and Leasing Airport Property](#), Report 47, Airport Cooperative Research Program (ACRP), 2011 - This Guidebook discusses the key issues associated with developing and leasing available airport land and summarizes best practices from the perspective of the airport

sponsor. The guidebook presents a diverse set of case studies that show several approaches airports have taken to develop and lease property for both aeronautical uses (e.g., aircraft maintenance facilities, fixed-base operator facilities, hangars, training centers, and cargo facilities) and nonaeronautical uses (e.g., light industrial and commercial facilities). A glossary of terms is also included. This guidebook will therefore be of interest to anyone desiring a better understanding of the process for developing and leasing airport property.

- [Resource Manual for Airport In-Terminal Concession](#) by the Airport Cooperative Research Program. This manual provides guidance on the development and implementation of airport concession programs. The report provides information on the airport concession process; concession goals; potential customers; developing a concession space plan and concession mix; the Airport Concessions Disadvantaged Business Enterprise (ACDBE) program; and concession procurement, contracting, and management practices.

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