

# Unsolicited Proposals

Full Description

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## How to Manage Unsolicited Proposals

### UNCITRAL

The United Nation Commission on International Trade Law (UNCITRAL) has produced the useful [UNCITRAL Legislative Guide 2019](#). Chapter III, section E of the guide provides guidance on both policies and procedures for dealing with unsolicited proposals and distinguishes between proposals that do or do not require proprietary concepts or technology.

It sets out suggested legislative language in provisions 25 to 28 of its text [Model Legislative Provisions on Public-Private Partnerships 2019](#).

Whenever a host authority receives an unsolicited bid, UNCITRAL recommends that the authority first consider whether the proposal is potentially in the public interest. If so, the authority then requests further information from the proponent in order to make a full evaluation. If the authority decides to go ahead with the project, it determines whether the project necessarily involves intellectual property, trade secrets or other exclusive rights of the proponent. For projects that do not involve these rights, a full selection procedure is followed, with the proponent being invited to take part in the selection. If it does necessarily involve the proponent's intellectual property, a full selection procedure does not need to be followed.

### Australia

#### New South Wales (NSW)

The [Guide for Submission and Assessment of Unsolicited Proposals \(2017\)](#) outlines a transparent and streamlined approach that will facilitate the NSW Government and private sector working together to develop and deliver innovative ideas. It has been developed to help those considering making a submission to confirm compatibility with the requirements of the process. Its key objective is to provide consistency and certainty to private sector participants as to how their unsolicited proposals will be assessed within a transparent framework with key drivers for the NSW Government being how the proposal helps meet a strategic Government objective and value for money.

#### Australian Capital Territory Government

The main objective of the [Guidelines for Unsolicited Proposals](#) is to provide consistency and clarity to any parties involved in an Unsolicited Proposal submission, both private and public sectors. The Guidelines describes how the Government evaluates submissions and, if appropriate, determines the process for reaching contractual agreement on their implementation in order to meet the Government's principles of acting in the public interest, delivering value for money, and achieving appropriate delivery.

### Philippines

The Guidelines on [Managing Unsolicited Proposals under Republic Act No. 6957 as Amended by Republic Act No. 7718](#), apply solely to all Unsolicited Proposals covered under the BOT Law and the Implementing Rules and Regulations.

## **Chile**

Chile has adopted an approach whereby the project proponent is required to take part in a fully competitive tender process, but is given bonus points in relation to the evaluation. The process to manage unsolicited proposals is found in detail (in Spanish) in a regulation (secondary legislation) to the law (reglamento) Reglamento 956 [Chilean Concession Regulations 956](#). Click on [Chile Summary](#) for a summary of the regulations.

## **Puerto Rico**

[The Guidelines for the Preparation, Evaluation, Selection, and Procurement of Public-Private Partnerships through Unsolicited Proposals](#) describes a three stage development process. The first stage includes a Screening with Compliance and Content review. During the second stage, the Project Development and Structuring, the Authority will develop a Study of Desirability and Convenience (Business Case). At the final stage, the Procurement Stage, the Authority will either (i) prepare and undertake a competitive procurement, or (ii) enter into direct negotiations with the Proponent.

## **Ghana**

[The Public Private Partnership Act 2020](#), deals in details with Unsolicited Proposals in Article 54 and 55.

## **South Africa**

The [South African National Roads Agency Policy](#) - this grants the original proponent an advantage by giving it the opportunity to take part in the call for "best and final bids".

## **Canada**

### **Government of Alberta**

[Alberta's Unsolicited Proposal Framework and Guideline](#) released in 2020, is intended to ensure that projects initiated as Unsolicited Proposals follow similar principles as the publicly initiated Public-Private Partnership projects during project development, procurement, and implementation.

### **Government of Ontario**

If the government decides to proceed with a proposal, it will design a transaction and procurement structure that is best suited to delivering the project and protecting the public interest. The program does not limit the project size, asset class, delivery model, or type of proposal that may be submitted, see the [Unsolicited proposals submission and assessment guidelines](#) launched in 2019.

## **Country Examples in the PPP Reference Guide**

The [PPP Reference Guide](#) provides the most relevant examples and resources on key PPP topics and helps readers navigate the substantial body of knowledge that has been generated across the world by practitioners from governments, international development institutions, academia, and the private sector.

Section 3.7 of the PPP Reference Guide deals with Unsolicited Proposals and describes how governments, by managing USPs appropriately, may benefit from this approach while reducing potential risks. Benefits and Pitfalls of Unsolicited Proposals, Creating Competitive Tension, Dealing with Intellectual Property and Confidentiality and Defining Clear Policy and Processes are included in the section.

The Guide includes country examples from **Chile, Colombia, Indonesia, Italy, Mexico, Philippines, South Africa** (roads sector), **South Korea, Uruguay, Commonwealth of Virginia, United States of America** (highways sector), on procurement strategies for unsolicited proposals. See Table 3.6 in the [PPP Reference Guide - PPP Cycle](#).

## Further Reading and Resources

- [Policy Guidelines for Managing Unsolicited Proposals in Infrastructure Projects](#) - Volume I, Volume II, and Volume III. This initiative includes three documents: Main Findings and Recommendations, that is considered as a summary; Policy Guidelines for Managing Unsolicited Proposals in Infrastructure Projects, which provides key policy decisions and considerations for the USP policy; and Review of Experiences with USPs, an in-depth review of global best practices with USP policies and projects, the findings of which informed the development of considerations and recommendations in the Guidelines.
- The World Bank has carried out a comprehensive review of the various method for managing and responding to USPs and put together a consolidated set of literature on this topic. The [Self-Paced eLearning on Policy Guidelines for Managing Unsolicited Proposals in Infrastructure Projects](#), on the World Bank Open Learning Campus, provides an overview of this work.
- The purpose of the [Draft UNECE/EBRD People-first PPP Model PPP law and commentary](#) is to establish the legal framework for “People-first” Public-Private Partnerships (PPPs). This law includes a Chapter on Unsolicited Proposals, see more on 'People-first' PPPs and Unsolicited Proposals in Chapter IV, Article 14.
- In 2020 the World Economic Forum (WEF) issued a Community Paper, calling for [Infrastructure Development through Unsolicited Proposals : Tapping into private-sector innovation to improve infrastructure delivery](#).
- [PPP Procurement Benchmarking](#) - PPP survey includes 140 economies with management of unsolicited proposals (USPs) assessed in a special module.
- [World Bank Procurement Regulations for IPF Borrowers \(Regulations\)](#) - Annex XIV, section 5.3 discusses unsolicited proposals.
- [Unsolicited Proposals – An Exception to Public Initiation of Infrastructure PPPs: An Analysis of Global Trends and Lessons Learned](#) - This study discusses a series of global trends related to USP processes, whereby a private-sector entity reaches out to a government with a proposal to develop an infrastructure project. Public-Private Infrastructure Advisory Facility (PPIAF).
- [Unsolicited proposals: Why, why not, under what conditions?](#) - Quick Reads on InfraFinance 11/2019.
- [Unsolicited Proposals: Cure or Curse?](#) - Presentations for the Third Global Roundtables on Infrastructure Governance and Tools. Published 2019.
- [The Importance of Managing Unsolicited Proposals in Infrastructure](#) - PPIAF 2015.

- [Toolkit for Public-Private Partnerships in Roads and Highways](#) - Module 5: “Implementation and Monitoring, Stage 3: Procurement” includes a section on unsolicited proposals, which describes their benefits and challenges, and provides examples of both successful and unsuccessful PPPs from unsolicited proposals.
- [Unsolicited Infrastructure Proposals - How Some Countries Introduce Competition and Transparency](#) - John T. Hodges Georgina Dellacha, Public-Private Infrastructure Advisory Facility (PPIAF), Working Paper No. 1, 2007, provides a discussion on how different countries manage unsolicited proposals.

#### Related Content

[Procurement Processes and Bidding Documents](#)

[Procurement Laws](#)

[Standardized Bidding Documents and Guidelines](#)

#### Additional Resources

[Standardized Agreements, Bidding Documents and Guidance Manuals](#)

[Transparency, Good Governance and Anti-Corruption Mechanisms](#)

[Covid-19 and PPPs](#)