

LAW FOR THE PROMOTION OF PUBLIC-PRIVATE PARTNERSHIPS

Title I

Purposes and Principles

Article 1.- Purpose. This is a Law of public order and social interest. Its purpose is to manage and regulate the procurement processes that will allow public-private participation in the implementation, development and management of public works and services, in order to maximize the investment capacity in the country and to achieve the integral development of the population.

Article 2.- Definitions. For the effects of this Law these terms will be understood as follows:

- a) **Risk Allocation.** Determining which party will bear the consequences if certain events were to occur, which have been defined as project, works or service risk that can be delegated;
- b) **Commission for the Promotion of Public-Private Partnerships (COALIANZA).** State Institution in charge of managing and promoting projects and processes to carry out Public-Private Partnerships (PPP);
- c) **Regulating Entities.** The public administration dependencies in charge, based on their functions and legal competencies, of controlling and supervising the provision of public services and implementation of infrastructure which this law refers to;
- d) **Sector Entities.** The public administration entities whose functions include formulating and/or establishing policies related a specific Public Administration Sector;
- e) **Social Function.** The function fulfilled by the State through Public-Private Partnerships (PPPs) by developing economic and social activities that directly or indirectly contribute to the well-being of the population; framed within this Law;
- f) **Private Initiative.** Public-private participation models which individuals can propose to the Public Administration, public interest projects to be implemented and funded, totally or partially, by the public sector and under Public Administration supervision;



- g) **Public Private Partnerships (PPP).** Collaboration scheme or common effort between the public and private sectors, both national and international that adopts multiple models, establishing rights and duties, determining and distributing risks between the parties; and,
- h) **Public Investment National Systems:** Systems that consolidate information on public investment projects, under the administration of the Commission for the Promotion of Public-Private Partnerships (**COALIANZA**).

Article 3.- Principles. Public-private participation contracts shall abide by the following principles:

- a) Public security as a principle that recognizes the purpose of the Law in public-private relations that emerge as a result of this Law;
- b) Efficiency and/or Effectiveness in public investment processes;
- c) Fiscal accountability for entering into and managing contracts perfected pursuant to the present law, according to the State's or Municipalities' payment capacity to acquire financial commitments resulting from the execution of the same, without putting the sustainability of public finances at risk, or affecting the provision of services rendered in a regular manner;
- d) Optimize the use of resources, therefore a public service should be provided by the supplier offering improved quality at a given cost, or the same quality outcomes at a lesser cost, and at the same time, maximizing service users' satisfaction.
- e) Promoting the search of competition in order to assure efficiency, effective and lower costs in the provision of infrastructure and public services, as well as avoiding any type of acts deemed anti competitive and/or collusive;
- f) All Public-Private Partnerships actions, are public and subject to strict accountability, as are the acts that imply fiscal commitments for the States and the effects on the users;
- g) Public-private projects----- economic and financial sustainability;
- h) A balanced distribution of benefits and risks in the contracts;
- i) Implementing processes that will allow the participation and strengthening of municipal governments in the design, evaluation, and oversight of projects with regional or local influence, using any of the community participation mechanisms established in the Municipal Law;
- j) Respect of the interests and rights of the beneficiaries of the public works and services, as well as of public and private entities involved in implementing the projects; and,
- k) Private participants shall incorporate and maintain the best social and business accountability practices and a strict compliance of the environmental laws in



force. during all the phases of the Public-Private Partnership (PPA) contracts implementation,

Title II

Public-Private Participation Regime

Article 4.- Modalities. Public-Private participation can adopt the following modalities:

- a) Construction, and/or operation, and/or transfer, and/or works maintenance and or public services;
- b) Expansion of existing works and/or public services;
- c) Total or partial provision of a public service, preceded or not by the implementation of a public work;
- d) Execution of public works, with or without public service provision, for rent or lease by the State;
- e) Administration of Fiduciary goods, services, accounting systems, computer systems, development programs or projects, credit contracts, among others, and,
- f) Any other modality that allows entering into Public-Private Partnerships according to the framework of the present Law.

Natural or legal persons, nationals or foreigners that intend to become a part of a Public-Private Partnership (PPP) for large scope projects shall present evidence of being well-known and having prestige, experience, technical and financial capacity to develop such project.

Article 5.- Organization forms in the Public-Private Partnership Regime. The parties, in a public-private partnership, can be organized as co-investment (*joint venture*), profit or non-profit legal person, participation contracts, management contracts, trust funds, or any other form or modality appropriate for the implementation of the required works and/or service provision contracts.

Article 6.- For the purposes of this law, any of the following procedures may be used:

1. National or international public tender;
2. National or international public contest; and,
3. Any other procedure that guarantees free competition.

The procedures shall be developed according to the specific terms and



conditions established in the corresponding Specifications Sheet, that will respect the transparency, objectivity and publicity principles. The Specifications Sheet will determine, among others, the requirements the bidders will offer, the types and amounts of guarantees demanded from the interested parties, the technical, economic and material evaluation criterion or criteria for the provision of the services, the materials, equipment and services the State offers, shall be stated in the Specifications Sheet with their respective budget values and service provision conditions. Implementation of the works will be finalized in the least time possible.

Article 7. - Public Administration Contribution. Pursuant to the Public-Private Partnership (PPP) regime, the State and in its case the Municipalities, can assume firm commitments, provided such commitments are of certain and known amounts, and their contributions, in the Public-Private Partnership model the parties choose, can be made by the following means:

- Cash contributions;
- Technical studies;
- Subscription of shares or purchase of other negotiable securities in the financial market;
- Granting certain public assets, which can consist of concessions, without transferring the title of the same, including assets that have been the object of expropriation due to a public use cause and/or according to Article 32 of this same law;
- Granting permits or licenses to conduct authorized activities as Public-Private Partnership (PPP);
- Granting temporary rights on Public State Property and in its case of the Municipalities;
- Providing services that correspond to the State; and ,
- Other forms of contributions legally authorized that are strictly framed in the purposes, principles and objectives of this Law.

The State and the Municipalities will not commit public funds to finance private investors, nor will they grant endorsements for this purpose, nonetheless, the Contract can provide contributions of State and municipal funds, for public interest and for the benefit of the State, the Municipalities or the users.

Article 8. - Basic Content of Public Private Partnership Contracts: Without prejudice of what can be provided in each concrete case, Public-Private Partnership (PPP) contracts shall have the following basic contents:



- a) Contract object and general conditions;
- b) Tenure of the partnership;
- c) Project implementation Schedule;
- d) Rights and duties of the parties;
- e) Allocation of risks for contracting parties, such as financial, commercial, operational and extraordinary risks that can be attributed to non foreseen causes or events;
- f) Required guarantees, when necessary;
- g) Service and or works, and or product quality standards and management indicators;
- h) Outsourcing faculty;
- i) Economic re balancing clause, when necessary;
- j) Stipulation of sanctions in the event of non-compliance of contractual obligations by the individual or by the Public Administration;
- k) Establishing assumptions and extinction causes in the association contractual relation, before the term of effect of the Partnership expires, attributable to either the private and/other Public Administration;
- l) Fiscal stability and convertibility right clause; and,
- m) Arbitration Clause.

Likewise, when necessary, the contracts shall include:

- 1) Legal protection for the contract, services and assets involved; seizure of property, confiscation and insolvency;
- 2) Nature of the assets' property and rights involved in the contract, their management and transfer;
- 3) Civil liability of the Contractor for damage caused to third parties and service users, and mechanisms to resolve these controversies;
- 4) Consequences, political risk attribution, legislative changes, macroeconomic behavior, operations suspensions;
- 5) Interpretative Clauses and definition of terms;
- 6) Rights assignment, debt abrogation, compensatory actions, and contract division;
- 7) Obligation to facilitate inspection, supervision, and the work of the Superintendence both of accounting records and of the operations and works;
- 8) Accounting and corporative audits obligations, quality, operational and environmental impact certifications, and the consequences of these audits and certifications;



- 9) Logic criteria to determine rates, prices and determine acceptable costs, escape clauses, payment conditions and works and/or service delivery; and,
- 10) Tax, rates or other fiscal duties payment.

Article 9.- Risks. Inherent risks and costs distribution between the parties shall be agreed according to what is best for the specific needs of the Public-Private Partnership (PPP), which could be, among others, financial, commercial, operations risks as well as extraordinary risks attributable to non-foreseen causes.

In any case, risks should be clearly defined for both parties and the State's participation in the Public-Private Partnership (PPP) should always be, of limited liability according to its contributions to the Partnership.

Article 10. - Contract Awarding Formula.- The formula to award the contracts shall be simple and only consider two components: an economic component, and a technical component.

The Economic Component will be limited to assessing one of the following aspects:

- Who will provide the service in better economic conditions without sacrificing quality and efficiency pursuant to what is provided in the pre-established contracting conditions;
- Who offers greater benefits for the State; and
- Who requires less State co-funding or contribution.

The Technical Component should be limited to determining whether the technical bid meets or does not meet the technical requirements previously established in the contracting conditions.

The technical component shall include a pre-qualification, prior to opening the economic bids in a Public Audience, and the most convenient bid for the State shall be selected.

The regulations to the present Law and the Terms and Conditions shall determine the way in which the reception and evaluation processes and competitive selection method for initiatives with public or private origin will be conducted.



Title III

Institutional Framework

Chapter I

Of the Commission

Article 11.- Of the Commission for the Promotion of Public-Private Partnerships (COALIANZA). Create the Commission for the Promotion of Public Private Partnerships (**COALIANZA**), as a Deconcentrated Entity of the Presidency of the Republic, with legal status and its own assets, in charge of promoting Public-Private Partnerships (PPP) projects and processes (APP).

The Commission is integrated by three (3) Commissioners elected by the National Congress, with a seven (7) year term, with the possibility of being reelected for an equal period. The Commissioners will be selected, after holding Public Hearings, from a short list of (9) candidates, submitted by the President of the Republic.

The Commissioners shall meet the following requirements:

1. Of Honduran nationality;
2. In full exercise of his/her civil and political rights;
3. University professional with broad experience in management administration and entrepreneurship, preferably with a PhD;
4. With at least 10 years of professional experience; and,
5. Not having any pending accounts with the State and others established in Article 250 of the Constitution.

The Commissioners will appoint among them the President of the Commission for the Promotion of Public-Private Partnerships (**COALIANZA**), position that will be rotated on an annual basis. The President of the Commission for the Promotion of Public-Private Partnerships (**COALIANZA**) will be the legal representative of the same and is authorized to sign the contracts resulting from the contract awarding procedures, prior approval of its content by the President of the Republic in Council of Ministers. When required according to the provisions of Article 205, numeral 19) of the Constitution of the Republic, upon their signature, the contracts shall be approved by the National Congress of the Republic.



Article 12.- The Commissioners will cease their functions in any of the following circumstances:

- 1) By resignation;
- 2) By removal by National Congress of the Republic through simple majority, mediating just cause and guaranteeing due process in its case;
- 3) By Commitment order or firm confinement ruling; and,
- 4) For physical or mental incapacity.

Chapter II

Of the Functions of the Commission for the Promotion of Public-Private Partnerships

(COALIANZA)

Article 13.- Functions of the Commission for the Promotion of Public-Private Partnerships (COALIANZA). The Commission for the Promotion of Public-Private Partnerships **(COALIANZA)** has the following functions:

1. To exclusively manage the contracting processes that allow public private participation in the implementation, development and management of public works and services of public interest for the State, both at the national and the local levels;
2. To coordinate with the State Secretariats, autonomous institutions, Regional Development Councils, municipalities, entities or deconcentrated bodies, and other State dependencies, the management of all the authorizations, permits, licenses and other requirements to make the execution of projects feasible, technically, operationally and financially;.
3. To coordinate with other internal Public Administration internal instances, the necessary actions to select, among public investment projects, those that qualify from the prioritized areas;
4. To collaborate with the municipalities in the evaluation of the projects submitted to programming to be incorporated into the National Public Investments System;
5. To follow-up the projects, works or services provided through Public-Private Partnership (PPP) models, in coordination with the regulating entities;



6. To advise and collaborate with Local Governments and other State entities, in private investment promotion matters, prior to the submission of projects for their feasibility analysis;
7. To ensure that Public-Private Partnerships (PPPs) are in harmony with the Objectives and Goals of the Country Vision and the Nation Plan.
8. To guarantee the implementation of activities included in the relations that originate the Partnerships;
9. To approve the necessary internal regulations for a better functioning of the Commission;
10. To propose to the Executive Branch the necessary regulation projects to implement the present Law;
11. To approve the Budget and Annual Operations Plan;
12. To Authorize the contracting of audits, having to know and approve the reports generated by such audits;
13. To know and declare itself on the reports requested or submitted by the Executive Secretariat;
14. To approve the appointment, contracting and termination of the Commission's staff;
15. To set the appropriate guidelines and criteria for the Executive Secretariat;
16. To adopt, within the sphere of its attributions, all the measures it deems relevant to meet its objectives and solve all issues that are not to be expressly solved by the Executive Secretariat; and,
17. The other functions designated by the legislation in force or regulations issued.

The Commission will report to National Congress, on a quarterly basis, on the advances made in the development of its activities.

Chapter III

Of the Executive Secretariat

Article 14.- Create the Executive Secretariat of the Commission, which will assist the Commission and will be responsible for all the administrative issues assigned



to it.

An Executive Secretary will be in charge of the Secretariat who shall at least meet the same requirements of the Commissioners.

The Executive Secretary will be selected from a short list proposed from a public contest conducted by a national or international company of recognized prestige, which contracting process will be conducted by the Commission.

The Executive Secretary shall act as the Commission's Secretary, and will have a voice, but no voting power.

Article 15.- In addition to the attributions specifically pointed out by this Law, the Executive Secretary shall have the following attributions:

- 1) To act as Secretary of the Commission;
- 2) To Plan, control and direct the activities of the work teams integrated by to comply with the functions of the Commission;
- 3) To administer the assets assigned to the Commission for the Promotion of Public-Private Partnerships (**COALIANZA**);
- 4) To Provide the Commission with the information about legal relations and of other nature requested by the Commission for the Promotion of Public-Private Partnerships (**COALIANZA**);
- 5) To submit to the Commission the Public-Private Partnership (PPP) project drafts, for their approval or non-approval;
- 6) To submit to the consideration of the Commission, the Annual Operations Plan and Budget drafts; and to detail the corresponding Work and implementation plans, as well as the Monitoring and Evaluation Plan.
- 7) To make sure the accounting records are kept according to the demands of the *Tribunal Superior de Cuentas* (Superior Court of Accounts) and the laws of the Republic;
- 8) To conduct procurement and purchases authorized by the Commission; according to the provisions of this law;
- 9) To authorize and subscribe contracts of goods and services procurement, according to the amounts authorized by the Commission;
- 10) To appoint and remove office staff according to the applicable standards;
- 11) To develop and implement the necessary measures and practices for the Commission to be able to accomplish the functions assigned to it by this Law;
- 12) To achieve the goals established for the General Secretariat by la Commission in its Annual Operations Plan; and,
- 13) The others that according to the Commission is necessary to appropriately carry out its functions.



Article 16.- The Position of the Executive Secretary of the Commission for the Promotion of Public-Private Partnerships (**COALIANZA**), can be freely removed by agreement of the majority of the Commissioners.

Chapter IV

Of the Project Cycles

Article 17. - The Public-Private Partnerships (PPP) can be from both a public and private origin. In the public level, the State Secretariats, the autonomous Entities, the Municipalities, the Associations of Municipalities, the Regional Development Councils and the Commission for the Promotion of Public-Private Partnerships (**COALIANZA**) can initiate the actions.

Article 18.- Feasibility analysis for Public Initiative Projects. The projects that will be incorporated to the National Public Investment System under public-private participation models shall have a previous feasibility assessment, including the cost-benefit analysis and feasible financing schemes to assure the implementation of the project, works and/or delegable services. These analysis shall be conducted by the Commission for the Promotion of Public Private Partnerships (**COALIANZA**).

The Public Administration entities or bodies that initiate Public Private Participation projects shall request the collaboration of the Commission for the Promotion of Public Private Partnerships (**COALIANZA**) to formulate the projects, prior to their incorporation to the National Public Investment System.

Article 19.- Selection of Public Private Participation Projects The Commission for the Promotion of Public Private Partnerships (**COALIANZA**), will determine which public initiative projects can be executed under public private participation schemes, among those that are part of the planned National Public Investment System.

Article 20.- The presentation, evaluation, admissibility statement, and selection of public and/or private initiative projects will be conducted pursuant to the special provisions and general principles contained in this Law and developed in its Regulations.

Chapter V

Of the Regulating Entities



Article 21.- Scope.- Create the Public-Private Partnerships (PPP) Superintendence's association entity, ascribed to the *Tribunal Superior de Cuentas*, from which it will operate with technical, administrative and financial independence.

The regulation, control and follow-up of the implementation of the works and service provision through the Public-Private Partnerships, will be the responsibility and conducted by sector regulating entities created by special laws for this effect. In the event that a specialized Regulating Entity does not exist to implement a work or provide a specific public service, the Public Private Partnerships Superintendence will be in charge of its regulation, control and follow-up.

Article 22.- The Public-Private Partnership Superintendence is directed and managed by three (3) Superintendents. The Superintendents will be appointed by the Legislative Power, after a Public Hearing. The Superintendents are elected from a list of nine (9) candidates proposed by the President of the Republic, who selects them in consultation with the different sectors of Civil Society.

Superintendents shall meet the same requirements of the Commissioners of the Commission for the Promotion of Public-Private Partnerships (**COALIANZA**). The superintendents will serve for a five (5) year term, and can be reelected, and are ascribed to the *Tribunal Superior de Cuentas* (TSC).

Article 23.- The Superintendence for Public-Private Partnerships has the following attributions:

- 1) To control the provision and management of public services and infrastructure, and the compliance of contracts and licenses to operate Private-Public Partnerships;
- 2) To supervise the application of standards, related to security matters, and use on interruption and reestablishment of services, as well as the quality of the same, which the service managers and providers shall follow;
- 3) To prevent, when and as much as necessary, anti competitive, monopolistic, or discriminatory conducts among the participants;
- 4) To supervise the quality of services provided through the Public-Private Partnerships (PPPs), pursuant to the standards defined in the respective contracts.
- 5) To apply the sanctions foreseen in the contracts and/or applicable standards for services under a license regime, respecting in all cases the principles of due process;
- 6) To take the necessary steps, before the corresponding authorities, in order to promote the necessary administrative, civil or criminal actions, including precautionary measures, to assure that services suppliers will



- fulfill their obligations in conformity with this Law and the respective contracts or licenses.
- 7) To issue standards and procedures for applying the corresponding sanctions for breaching legal, regulatory or contractual provisions, assuring the principle of due process;
 - 8) To require from service providers the necessary documents and data to verify the compliance with this Law, its regulations, thus assuring, the appropriate protection of confidential information;
 - 9) To annually submit to National Congress a report on the activities of the year; and
 - 10) Any other provided by this Law and its Regulation.

Title IV

Of the Transparency and Protection of the Parties

Chapter I

Of the Protection of the State

Article 24.- Financial and non-financial risks, guarantees, future commitments and fiscal contingencies are determined by the Secretariat of State in the Office of Finance (SEFIN, in Spanish), based on the evaluations and recommendations on the Fiscal Risk Analysis made by the National Public Credit Commission.

Article 25.- Registration and disclosure of State Commitments. The Secretariat of State in the Office of Finance (SEFIN), is authorized to issue the corresponding provisions in order to appropriately register the quantifiable firm and contingent commitments and the guarantees executed under the Public-Private Partnership modality, according to the normative framework of the Budget Organic Law and the Public Credit Technical Standards, all the guarantees and commitments accepted by the Public-Private Partnership (PPP), by the Central Administration, shall be recorded in the Debt Management System (SIGADE, in Spanish).

Article 26.- Authorization of limits. The amounts and limits of quantifiable firm and contingent commitments, undertaken by the State in Public-Private Partnership (PPP) contracts, estimated at present value, shall be established in the Multi-Annual Budget formulation based on the public debt sustainability analysis. The General Provisions of the Budget of the Republic shall establish the necessary budget reserves or provisions to cover possible guarantee claims or acquired commitments for each corresponding Fiscal Year.

A limit equivalent to five per cent (5%) of the Gross National Product (GNP) is



established, for all quantifiable firm and contingent commitments undertaken by the non financial public sector in Public-Private Partnership (PPPs) Contracts, calculated at a present value. This percentage can be modified every three (3) years by the President of the Republic in Council of Ministers, and in consultation with the Secretariat of State in the Office of Finance, in order to being congruent with the country's capacities.

Chapter II

Of the Protection of Intellectual Property

Article 27.- Title and Protection of Intellectual Property Those who promote a private initiative will maintain the ownership of all documents presented during the entire process and which will be returned in the event that the initiative is not declared admissible and even by its own initiative of relinquishing from the evaluation process.

The private initiative aspects that due to their characteristics represent the intellectual property of the initiator, shall be protected according to the parameters established in the Law on Copyright and related rights and the applicable Treaties. The scope of this provision will be determined in the Regulations of this Law.

Title V

Final and Transitory Provisions

Article 28.- The State Secretariats, State Companies and Autonomous Entities, shall continue complying with the attributions to it assigned by the General Law on Public Administration or special laws.

The Commission for the Promotion of Public-Private Partnerships (**COALIANZA**) will coordinate, with the corresponding institutions, the projects approved as a priority.

Article 29.- The Commission for the Promotion of Public-Private Partnerships (**COALIANZA**), is authorized to charge up to two percent (2%) of the value of each authorized project to the company which the project was awarded to, as service provision fee.



The Superintendence for Public-Private Partnerships is also authorized to receive from private companies that subscribe public-private partnerships, a contribution for regulation, which will be established through the corresponding contract up to 1% of the annual billing amount, after the corresponding sales tax deductions.

The funds obtained from such charges will go to a Trust Fund for which the Commission for the Promotion of Public-Private Partnerships (**COALIANZA**), and the Superintendence for Public-Private Partnerships, will be the sole and respective beneficiaries. The benefits for such a trust fund will be distributed between both institutions proportionally to the amount collected, with the objective that both institutions can cover their respective budgets. The provisions for the establishment of this trust fund will be developed in the Regulations of this Law.

If there are any remaining funds by the end of the Fiscal Year, they will go to a reserve in the trust fund that can be used, prior approval of the President of the Republic in Council of Ministers, for new project research and development, recovery of projects that have not been able to achieve the outcomes programmed and the expenses of the State defense, in the event of arbitration processes.

Article 30.- The individuals that provide public services through Public-Private Partnership Schemes (PPPs), can provide the payments received for operating the same as guarantees. Likewise, they can transfer their position as providers of specific services to third parties, prior authorization of the Superintendence for Public-Private Partnerships.

Article 31.- The Commissioners, the Executive Secretary and support staff of the Commission for the Promotion of Public Private Partnerships (**COALIANZA**), the Superintendents of Public-Private Partnerships and the staff of the Superintendence, are excluded of the Civil Service Regime. Nonetheless, such staff can register and benefit from the Social Security and *Instituto Nacional de Jubilados y Pensionados* (Pension Fund) of the Executive Branch (**INJUPEMP**) regimes. Both the Commissioners, the Executive Secretary, and the temporary or permanent staff of the Commission for the Promotion of Public-Private Partnerships (**COALIANZA**), and the Superintendents of the Public Private Partnerships and the Superintendence staff, are not subject to the salary restrictions established for the Executive Branch employees.

Article 32.- For the expropriation of the assets required to construct public infrastructure, the procedure established in the Law on Regularization of Property for Public Need Purposes, shall be followed . This declaration shall be issued by the



Commission for the Promotion of Public-Private Partnerships (**COALIANZA**). The amount of the compensation shall be paid by the one who builds the infrastructure works.

Article 33.- The Public-Private Partnership (PPP), is exempt of paying any type of taxes, duties or formalities to register the property in its name and/or for the formalization of all contractual relations required to carry out the projects.

Article 34.- In order to exercise the rights and duties originated by the juridical relations regulated by this Law, it is only necessary to obtain the authorization to provide a service or develop infrastructure, granted by the Commission for the Promotion of Public-Private Partnerships (**COALIANZA**).

Before awarding a project, the Commission for the Promotion of Public-Private Partnerships (**COALIANZA**), shall have undertaken all the procedures and obtained all the permits, licenses, authorizations and other administrative actions required by the Central and/or Municipal Public Administration, to operate the Public-Private Partnership (PPP). Once the project is awarded they shall be unconditionally transferred to the person/company the contract has been awarded (Grantee).

Article 35.- The conflicts that arise due to requests of the Public-Private Partnerships (PPP), initiated by individuals, as well as the Public-Private Partnerships (PPP) awarding, and the associations of this type that are approved, including the challenges to the awarding processes are obligatorily subject to the Arbitration Procedure and will abide by the rules that for this effect are established in the Terms and Conditions.

Article 36.- Express Exclusion.- In accordance with the provisions of the Law on State Contracts, last paragraph of Article 1, the processes regulated by the present Law, as well as those related to the implementation will not be subject to the standards contained in such Law on State Contracts.

Article 37.-The Commission for the Promotion of Public-Private Partnerships (**COALIANZA**) and the Superintendence for Public and Private Partnerships, must be self-sustainable institutions. The State shall provide the Commission for the Promotion of Public-Private Partnerships (**COALIANZA**) and the Superintendence for Public-Private Partnership with the necessary funds to cover their budget while the corresponding fund assigned for their self-sustainability is established pursuant to this Law.

The Superintendence for Public-Private Partnership, substitutes the current



Superintendence for Concessions and Licenses. For this Fiscal Year the Superintendence for Public-Private Partnerships will operate with the budget of the current Superintendence for Concessions and Licenses. The current Superintendence for Concessions is ratified as one of the three (3) Superintendences for Public Private Partnerships, for the remaining of the period for which it was elected.

The staff that currently integrates the Superintendence for Concessions and Licenses, will become part of the team of the Superintendence for Public-Private Partnerships, and will preserve their rights and will be subject to the periodic performance evaluations.

Article 38. - Period for its regulation The regulations for this Law will be issued in a period, not greater than sixty (60) days as from its enactment

Article 39.- Legislative Decree number 283-98 of November 20, 1998, that contains the Law for the Promotion and Development of Public Works and National Infrastructure is abolished

Nonetheless, those Public and Private Partnerships that are already being implemented and were contracted before the coming into force of this Law, will continue being governed by the conditions agreed in the contracts and the provisions contained in the Law for the Promotion and Development of Public Works and National Infrastructure, except in the cases of extension, renegotiation or renewal of contracts, which will then be governed by this Law.

Article 40.- Coming into Effect This Law will come into effect as from the day of its publication in the Official Journal “La Gaceta”.

