

## Chile

Background: At the beginning of the '90s the country urgently needed major infrastructure investments to ensure its economic development. But the State did not have the resources to carry out the public works required, nor could it commit exclusively to infrastructure works; To face this challenge the government called on the private sector to take part in the building, maintenance and operation of major road works. Thus the Concessions System was born, allowing the private sector to finance economically profitable projects and recover their investment through direct charges on the users.

### Legal Framework:

The legal regulations for providing public infrastructure through the Concessions Program are contained in several legal texts, but are found mainly in the Concessions Law and its accompanying Regulations. These regulate adjudication, execution, repair or maintenance of state public works given in concession.

The process to manage unsolicited proposals is also contained in the main Concessions Law and the process details are found in secondary legislation.

In Chile, the line ministries have responsibility for managing the public-private partnerships transactions including any unsolicited proposals presented by the private sector. The specific initial procedures to manage unsolicited proposals are basically as follows:

- Step 1: The private proponent first submits a preliminary presentation of the project to the appropriate agency/ministry which will assess whether the project serves a “public interest”
- Step 2: If the project demonstrates an overall community benefit, then the proponent must present After a stipulated review period, the agency/ministry gives a preliminary response.<sup>1</sup> During this review period, the agency/ministry may also request more information from the project proponent.
- Step 3: If the preliminary project description is accepted, the proponent usually receives formal recognition for the project concept.<sup>2</sup> At this point, the designated agency/ministry should have information on (i) the applicant’s role in the concessionaire company and ability to construct and/or operate the project, (ii) a technical feasibility study, (iii) a private investor’s financial feasibility study, (iv) the justification of project need, (v) and an environmental and/or other social impact study.

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<sup>1</sup> Main applicable laws and regulations are: the supreme decree-law of the Ministry of Public Works No. 294 (1984), which sets out the reformulated text of Law 15.840, the Organic Law of the Ministry of Public Works, which in Article 87 authorizes the Ministry to carry out public works through the concessions system.

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<sup>1</sup> The initial review period is 15 days in Korea, 30 days in Chile and South Africa, and 60 days in the Philippines.

<sup>2</sup> In Chile, the proponent is then required to submit a more detailed proposal within 180 days

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The supreme decree-law of the Ministry of Public Works No. 900 (1996), which sets out the reformulated text of the legally enforceable decree-law of the Ministry of Public Works No. 164 (1991), the Concessions Law.

The supreme decree-law of the Ministry of Public Works No. 956 (1999), Concessions Regulations.