

Key elements, tools and best practices for the development of **Public-Private Partnerships in Infrastructure**

UNSOLICITED PROPOSALS FOR INFRASTRUCTURE DEVELOPMENT: EVIDENCE FROM LATIN AMERICA AND THE CARIBBEAN, AND INTERNATIONAL BEST PRACTICES

A review of the experiences of Brazil, Chile, Colombia, and Peru, and policy recommendations based on international best practices

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¹ The videos of the interventions can be found in Annex A.

INTRODUCTION

Public infrastructure development is one of the main responsibilities of any government, since it brings together the physical foundations that provide access to basic public services - transportation, water and sanitation, energy, health, education, among others - that are key to economic development and equal access to opportunities. Thus, proper planning - understanding needs, measuring, and designing projects that respond to those needs, prioritizing interventions, optimizing the use of public resources for development, funding, and financing - is the main responsibility of public actors when developing a sectoral policy. Therefore, it is common (or expected) that public infrastructure development projects are conceived within this planning context - that is, they are public initiatives.

However, the regional experience in Latin America and the Caribbean - as has happened in other regions - shows the proliferation for several decades (and in a broader historical sense, since the beginning of time) of private initiatives (PIs).² The countries of the region included in this document alone - Brazil, Chile, Colombia, and Peru - represent close to 2,000 PIs submitted in the last 30 years. In very general terms (which will be further developed in this document), PIs are initiatives aimed at the development of specific infrastructure projects proposed by the private sector itself, which identifies a need and submits a proposal so that, using public or private resources (i.e., in the case of Colombia), it can be developed.³

PIs are not necessarily a good or bad practice. As with any mechanism, it will depend on their scope, and the conditions (sectoral maturity, institutional maturity, coordination with public planning, regulation, competition) under which they are implemented. In summary, it could be established that the logic under which a country with a robust infrastructure planning process considers the development of PIs is based on three assumptions: 1) innovation: the open nature of PIs allows the private sector to propose innovative alternatives to respond to particular challenges in infrastructure development (new technologies, incipient subsectors, etc.); 2) efficient use of resources: well designed, it allows the public sector to make use of its financial and human resources to supervise initiatives, without incurring the total cost of project preparation that remains in the private sector; 3) governance: its adequate coordination of the infrastructure planning system allows optimizing the development of a country's infrastructure as a whole (which sectors/projects are open to private initiatives, which sectors/projects remain exclusively within the public sphere - and therefore focus pre-investment resources on these).

2. Private Initiatives are also known as Unsolicited Proposals (USP).

3. For a non-specialized audience, it is important not to confuse the concept of PIs with the development of a concession program or public-private partnerships (PPP), which are part of an orderly public planning process, and which constitute implementation alternatives to traditional public works for public initiatives.

Figure 1. Countries and number of private initiatives considered throughout this document



Source: Prepared by the Authors with data from the Dirección General de Concesiones (DGC) of Chile, RadarPPP of Brazil, DNP of Colombia and ProInversión of Peru.

The present document gathers evidence from 30 years of PIs development in four of the leading Latin American and Caribbean economies in terms of infrastructure development and private participation: Brazil, Chile, Colombia, and Peru.⁴

Based on the assumptions mentioned as justifications for the use of the PIs mechanism, in accordance with its public policy objective, the cases analyzed in the Region show the following:

1. Innovation - *Traditionally, PIs have generated little innovation:* most PIs in the countries analyzed are related to road projects (70% - Chile or Colombia, for example), with exceptions in those countries that establish some prior public prioritization mechanism for the request for expression of interest for specific sectors (Brazil - social sectors such as education or health account for 30% of the total).

2. Efficiency - *PIs have traditionally performed poorly:* there is little relative success of PIs. Of the total number of proposals submitted in the Region, less than 5% are developed, but all employ a considerable number of public resources for their monitoring and analysis. In addition, PIs have traditionally generated little competition: in general terms, the mechanisms introduced to promote competition for the development of initiatives by a private partner other than the one that has submitted the PIs (i.e., PIs expression of interest by third parties) is similarly low (less than 7%), signaling a lack of competitive tension.

3. Governance - *Traditionally, PIs have not been part of a coordinated infrastructure policy under an institutional framework:* in only 6% of the cases were specific processes developed to ensure the consistency of these projects with the overall development of the country's infrastructure.

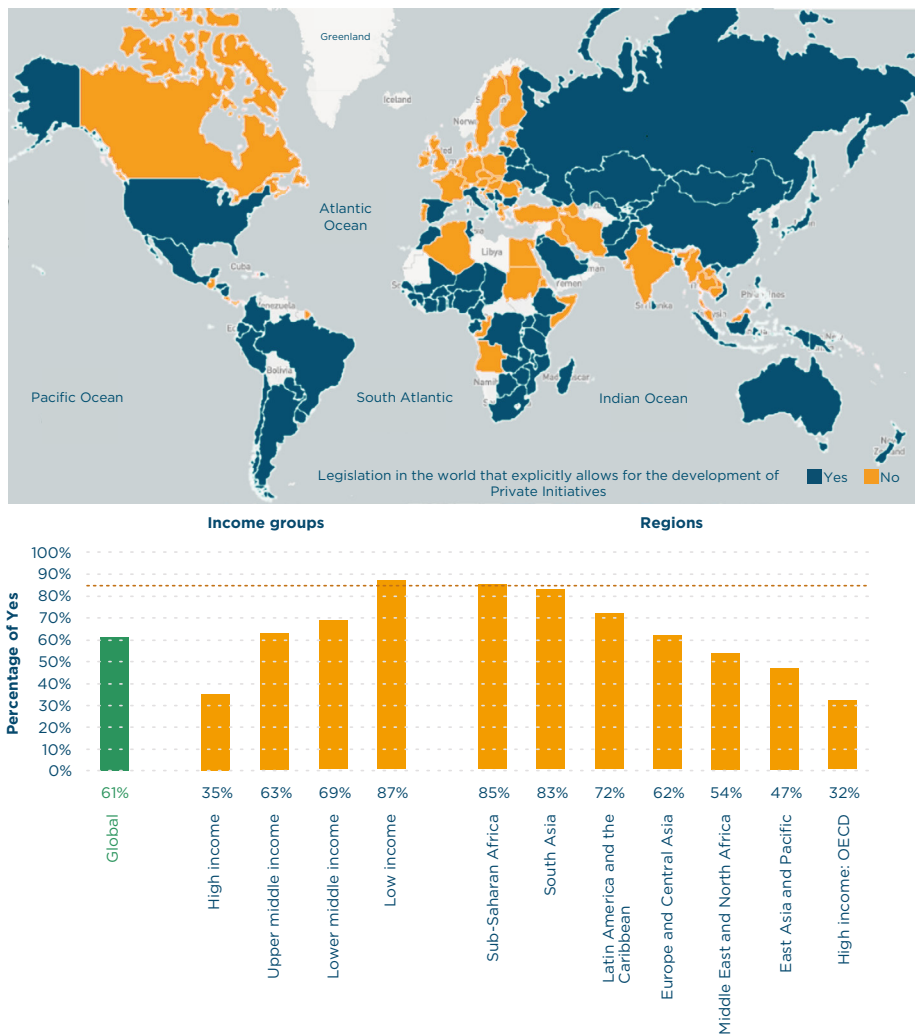
Thus, the experience in Latin America and the Caribbean shows how complex it is to effectively integrate the process of private initiatives as part of the public infrastructure investment system. However, with similar principles, other countries in the world have tried and succeeded in the development and implementation of PIs: Australia and Canada. For this reason, after analyzing in detail the regional evidence on the performance of such initiatives, this document presents international case studies that allow establishing policy recommendations that generate the appropriate conditions under which PIs represent an efficient, sustainable, and responsible use of public resources.

4. Brazil and Chile ranked first in the most recent Infrascope ranking (IDB-IEE, 2022), which measures countries' capacity for implementing efficient and sustainable public-private partnerships. Colombia and Peru rank fourth and fifth out of 26 countries.

PRIVATE INITIATIVES IN INFRASTRUCTURE DEVELOPMENT: EVIDENCE OF THEIR PERFORMANCE

PIs are a well-known reality in infrastructure development around the world. In fact, in global terms, more than 60% of the countries explicitly reflect in their legislation the possibility of implementing the mechanism, and an additional 38% do so in practice, even if it is not reflected in their legislation (World Bank, 2020).⁵ Likewise, their presence is greater in low-income countries, highlighting their presence in Sub-Saharan Africa, South Asia, Latin America and the Caribbean.

Figure 2. World legislation that explicitly allows the development of Private Initiatives



Source: Benchmarking Infrastructure Development, World Bank, 2020.

5. <https://bpp.worldbank.org/global>.

However, a preliminary regulatory analysis shows how few general or specific actions are undertaken to ensure the consistency of PIs with infrastructure planning processes - in the case of Latin America and the Caribbean, less than 33% and 6% of countries, respectively.

Figure 3a. Specific processes to ensure consistency in infrastructure planning

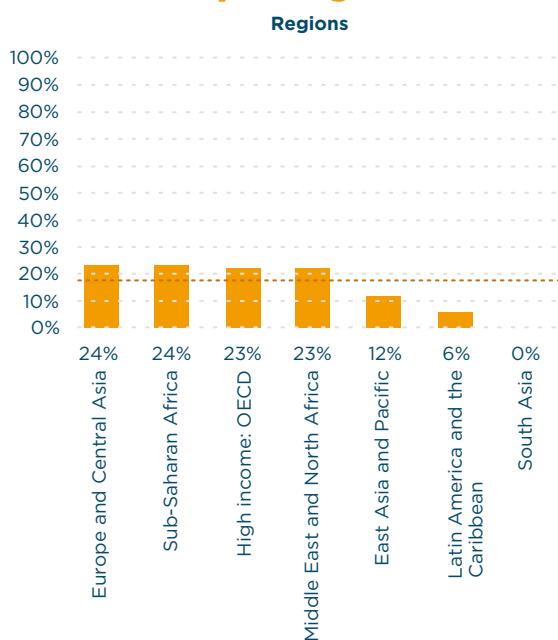
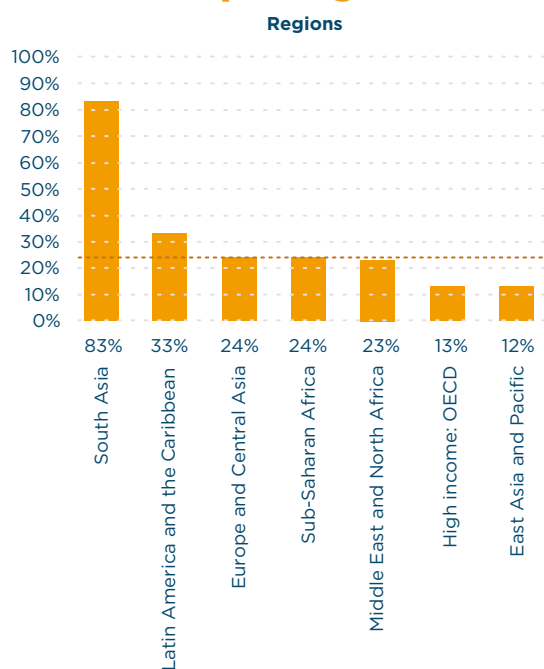


Figure 3b. General consistency without specific procedure with infrastructure planning



Source: Benchmarking Infrastructure Development, World Bank, 2020.

Despite the widespread use of the mechanism, the analysis of PIs performance is not as well developed. Annex B contains a summary of the existing literature on the subject over the last 20 years, as well as the methodological approach implemented and its main results. In general terms, the conclusions of the studies analyzed to date allow us to derive a series of common challenges, opportunities for integrating them into the framework of a planned infrastructure policy, and the determining factors for this to take place.

Table 1. Challenges, Opportunities and Enabling Conditions for Efficient PIs Development

CHALLENGES	OPPORTUNITIES	ENABLING CONDITIONS
<ul style="list-style-type: none"> • Generate incentives for transparent and competitive processes. • Implement explicitly clear, detailed, and comprehensive processes in the regulation. • Clarity in defining the type of infrastructure to be developed via PIs and the criteria for selecting innovative provisioning methods. • Guarantee procurement processes ad-hoc to the project to be developed (in most cases, competitive). • Carry out clear management procedures with supervision and follow-up between the interested parties (Contracting Entity and Proponent). • Transparency in information disclosure processes. • Avoid the misuse and discretionary use of auction processes for bidding at all levels of government - National, Subnational and Local (governmental interests vs. better processes in favor of a social benefit). • Optimally allocate risks and define effective and efficient plans for their management (eliminate, mitigate, transfer, secure). 	<ul style="list-style-type: none"> • Alternative to innovate in countries with limited technical and financial capabilities. • Vehicle for innovation and creativity of the private sector to present PPP projects. • They complement the public sector's capacity to identify, prioritize and tender PPPs. • Development of projects in remote areas. • Implementation of PPP with greater speed. • Stakeholder involvement and public consultation. • Its impact would favor sectoral and national policy goals. 	<ul style="list-style-type: none"> • A strong regulatory framework (national and sub-national) and institutions with highly trained personnel to evaluate proposals. • Specific guidelines for presenting and developing PIs. • Accountability and competitive and transparent bidding processes. • PIs should not be related to government-driven projects. • Adequate protection of the original proponent's intellectual property. • Procedures for submitting counterbids should be based on the time used by the original proposer. • Accurate definition of "innovative projects". • Proponent's technical and financial capacity to implement the projects. • Competitive auction processes with sufficient time to match PI. • Incentives to encourage private participation in the procurement stage (assessing the effect of a right to obtain a price benefit or give up some type of advantage in negotiations during the bid evaluation process). • Value generation by the PIs.

Source: Prepared by the Authors based on the information presented in the Literature review (Annex B).

In Latin America, Brazil, Chile, Colombia, and Peru have traditionally stood out for developing solid infrastructure planning processes,⁶ as well as driving investment through private participation. Brazil, Colombia, Chile, and Peru represent four of the region's best performing economies in infrastructure development and have the most experience in dealing with the private sector in the operation and provision of services. These four countries alone account for three-quarters of private participation in public economic infrastructure development in the region.⁷ They also represent four of the Latin American and Caribbean economies with the most robust infrastructure planning process - with the most sophisticated regulations, institutional arrangements, project preparation, monitoring, and evaluation.

The following is a summary of the experience of Brazil, Chile, Colombia, and Peru in dealing with private initiatives. This paper assumes that the experience of the mechanism in countries with solid and stable environments for public investment and the attraction of private participation constitutes a favorable field of analysis to learn about the relative success of these mechanisms, with the possibility of drawing lessons for the rest of the countries in the region with less relative experience in the development of projects.

6. IDB (2020) conducts a review of selected indicators of institutional capacity for infrastructure provision, where these four countries lead the ranking. <https://flagship.iadb.org/es/DIA2020/de-estructuras-a-servicios>.

7. PPI 2022. <https://ppi.worldbank.org/>.

CASE STUDIES

BRAZIL

REGULATORY FRAMEWORK⁸

In Brazil, the provision of services and public works with private participation is regulated by the Concessions Law published on February 13, 1995 (Law No. 8,987), the PPP Law issued on December 30, 2004 (Law No. 11,079), and the Procurement Law of June 21, 1993. These laws establish the general rules for bidding and contracting infrastructure for the Powers of the Union, the States, the Federal District, and the Municipalities. The PPP Law defines the procedure for carrying out projects under this structure, describing the requirements and obligations of the parties, as well as the bidding and provision mechanisms; thus, the PPP model is the standard in terms of the contractual arrangement between the State and the private sector for the provision of services and/or public works (under quality standards established in the contract) in exchange for a remuneration (or, even, tariff and/or shadow toll) during a determined period of time.

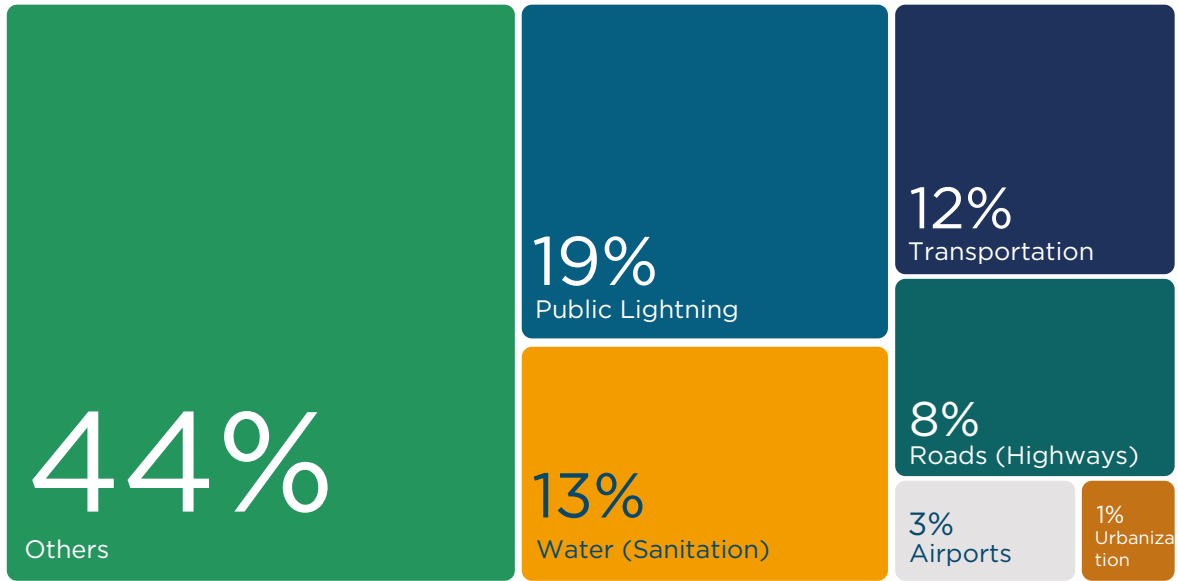
It was the Concessions Law of 1995 that opened the door to the possibility of beginning to receive private initiatives. This law reflected the possibility that project structuring costs could be recovered by the government, or by whoever had prepared such studies. This last part allowed the sub-national governments to interpret the possibility that the private sector could originate the structuring studies, giving rise to their different regulations. In 2006, the State of Minas Gerais was a pioneer in the regulation based on Article 37 of the Law, advancing in a Manifestation of Interest procedure. In this way, the government could move forward in two ways: a) by establishing a manifestation of interest open to ideas based on certain prioritization criteria by sector or technology, among others; or b) by establishing a process of expression of interest by the private sector for a specific project. Following this initial subnational experience, 22 of the 26 Brazilian states replicated the model. In 2011, the Central Government adopted the model in the federal Expression of Interest Procedures (EIP), in a context of enormous needs in sectors such as airports.

SECTORAL EXPERIENCE AND MAIN FINDINGS

In the preliminary stage before bidding and under both criteria, 853 applications were submitted between 2013 and 2017: 1) 367 public; and 2) 486 to private parties. Of the latter, the government prioritized Public Lighting (19%), the Water sector (13%) and the Transportation sector (23% total, of which 8% corresponds to road works and 3% to airports).

8. Section generated from an interview with Marcos Siqueira, former head of the PPP Unit of the State of Minas Gerais, Brazil.

Graph 1. Distribution by sector of requests to the private sector

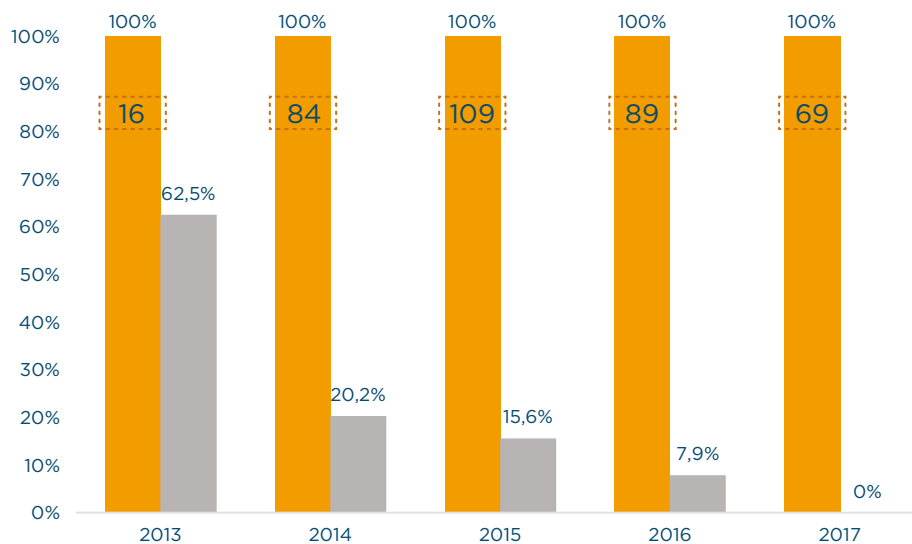


Others: Citizen Services, Culture, Defense, Education, Energy, Parking, Logistics, Environment, Urban Mobility, Public Premises, Solid Waste, Prison System, Technology, Urban Train, and Urbanization.

Source: RadarPPP.

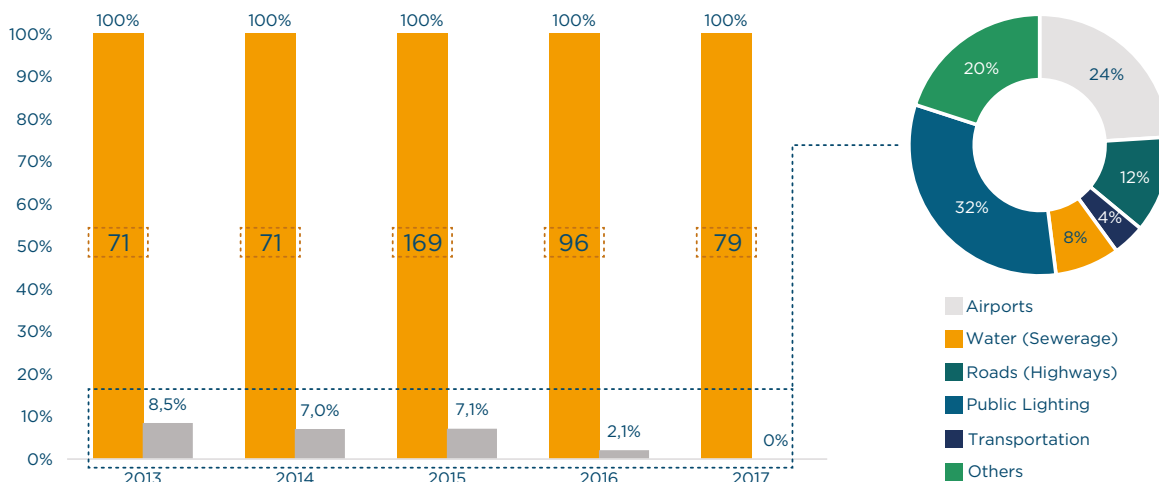
In the period under analysis, an average of 73 applications were submitted for public initiatives and 97 for private initiatives. The results show that the success rates (those projects that reach commercial closure) are much lower for private initiatives than for public ones. Likewise, in terms of the total time taken for the entire procedure, the average for the former is around two years (22 months) and, for the latter, one and a half years (18 months). On average, public initiatives show a success rate of 21.2%, while private initiatives show a rate of 4.9%.

Graph 2. Success rate of projects under public initiatives



Source: RadarPPP.

Graph 3. Success rate of projects under private initiatives



Source: RadarPPP.

Given this result, it would be convenient to review why the success rate is so low and has frequently decreased; ex-ante, this result would be confusing, given that, as shown in the previous section, Brazil occupies a prominent position (1) in its capacity to implement efficient and sustainable public-private partnerships, in addition to being among the top five countries (3) that require for IPs a similar or even greater accuracy for consulting, evaluating and bidding than traditional public works. Ex-post, the result is not surprising, it highlights that, even for this type of country, there are many more factors to consider for successful PIs management (Table 1). Lastly, it may be possible to analyze whether there is an opportunity to reevaluate the procedure and explore a new scope in the regulatory and institutional arrangement, should this be the case.

CHILE⁹

REGULATORY FRAMEWORK

Chile's public infrastructure concession system is developed under the auspices of the Ministry of Public Works (MPW), through Law 19.068 of 1991 and its subsequent amendments.¹⁰ In this context, for a project to be concessionated, it can come directly from a public entity or be developed within the framework of a private initiative. Thus, according to the Concessions Law and its Regulations, any natural or legal person may apply to the MPW, as a private initiative, for the implementation of public works through this system. Thus, PIs become an opportunity for the private sector to contribute, in addition to economic resources, creative solutions,

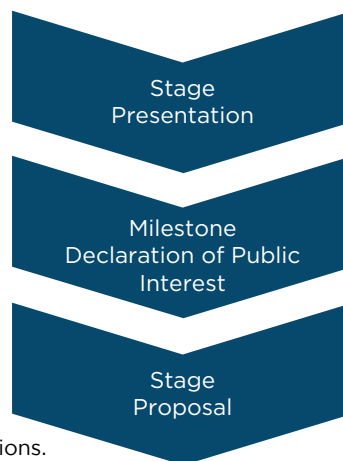
9. This section reflects the content developed by J.E. Chackiel (2021), in Planning and Prioritization in the development of infrastructure and the Role of Public-Private Partnerships: in search of an efficient coordination of investment, budgetary, and financing cycles in Latin America and the Caribbean. <https://publications.iadb.org/es/planificacion-y-priorizacion-en-el-desarrollo-de-infraestructura-y-el-rol-de-las-asociaciones>.

10. In any case, this does not mean that only concession projects can be developed in the country under this legal framework; in fact, there are projects under other regulations, as is the case in the port, sanitary, and railroad sectors.

experience, and innovation to cover latent needs in the country in the field of public infrastructure. This is possible to the extent that, in conjunction with the state, the latter provides contractual schemes with instruments that facilitate the financing of projects and a legal framework that provides legal certainty to investors, enabling a long-term relationship.

In Chile, the regulation establishes that a public infrastructure concession can be implemented through two types of projects, according to their origin, those of public origin and those of private origin (PIs), but this does not exclude that both must meet social profitability criteria, in addition to being economically viable from the perspective of the private actor. Also, within the framework of the Guidelines of the Public Works Concessions Law, the proponent, for its proposal, will have the possibility of obtaining partial or total reimbursement for the cost of the studies, and will have a premium in the evaluation of its economic offer in the event that the initiative is called for bidding for its implementation. Specifically, the process followed by the PIs considers a presentation stage and a proposal stage, which is visualized as follows:

Figure 4. Stages in the process of a Private Initiative



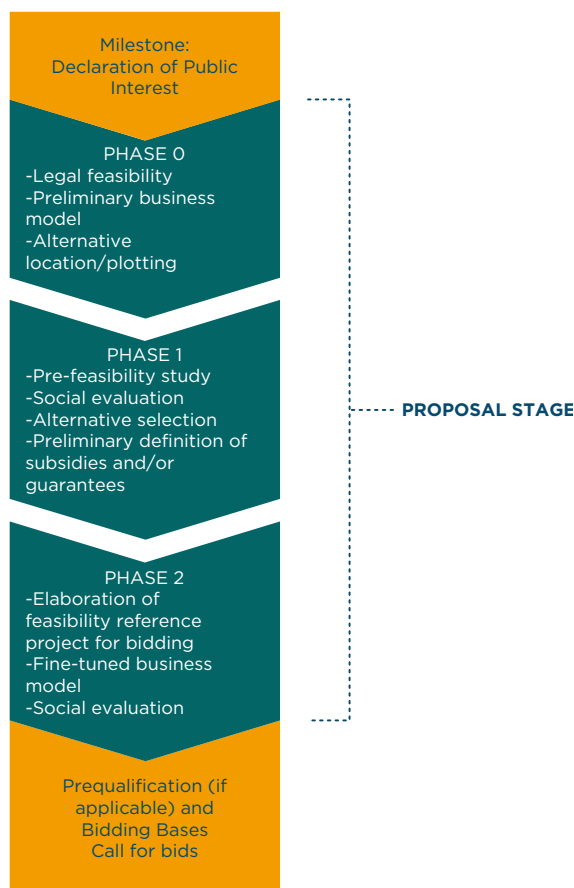
Source: General Directorate of Concessions.

In the first stage, a preliminary profile is presented to the General Directorate of Concessions (GDC), which evaluates whether it meets a set of requirements and, if so, the initiative proceeds to the actual presentation stage before a body, the Concessions Council.¹¹ This means that, once the corresponding background information has been gathered, it is submitted to the Concessions Council for consideration of “public interest” by the Council, which issues a recommendation

11. This body was created from a legal amendment in 2010, which also included other improvements to the concessions system, and reformed in 2017, within the framework of the law that created the General Directorate of Concessions. It is chaired by a counselor of free appointment and joint removal by the Ministers of Public Works and Finance, and also integrated by the Minister of Public Works and four other professionals: two counselors appointed by the Minister of Finance (one academic belonging to a faculty of Economics and/or Administration and the second belonging to a faculty of Legal and/or Social Sciences); and two counselors appointed by the Minister of Public Works (one academic belonging to a faculty of Civil Engineering and the second belonging to a faculty of Architecture). The Council is of an advisory nature (its opinion is equivalent to recommendations), and oversees reporting, among other matters, on the proposed concessioned infrastructure plans to be developed, as well as on the projects and modalities of the concession regime (particularly in the case of PIs). Likewise, the regulation establishes more broadly a set of matters in which the GDC must request a prior report from the Concessions Council before making a decision, and others in which it will be optional.

(the Declaration of Public Interest, DPI), as established by current legislation. Once this recommendation is made and formally ratified by the MPW, the projects enter the proposal stage (Figure 4). This is equivalent to a more complete study phase, which progresses from prefeasibility to finally become a feasibility reference project. The latter is the one that will serve as the basis for initiating the bidding process.

Figure 5. Proposition Stage: Phases, objectives, and scope



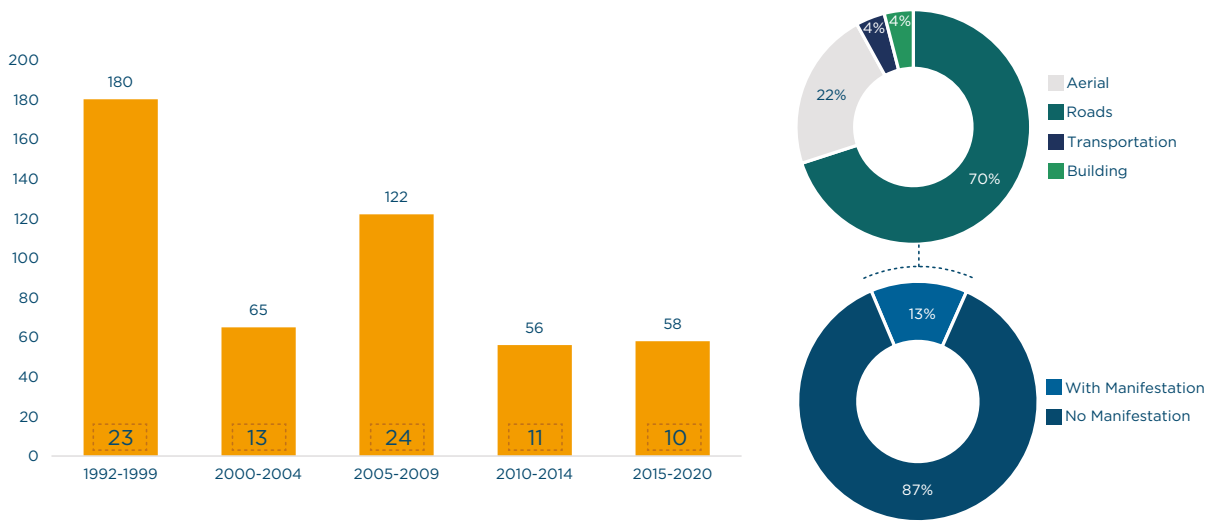
Source: General Directorate of Concessions.

SECTORAL EXPERIENCE AND MAIN FINDINGS

The PIs system in Chile accounts for 481 proposals submitted from 1992 to July 2020. The annual average was highest in the 1990s and in the five-year period 2005-2009. It is possible that the decrease in the intermediate period 2000-2004 was associated with the Asian Crisis, which produced a drop in the growth of the Chilean economy and in the availability of funding sources in the late 1990s and early 2000s. Another factor was an adjustment in the premium level,¹² which originally was 10% for all types of initiatives.

¹². Bonus scheme used by the Government to encourage competition between proponent and competitors.

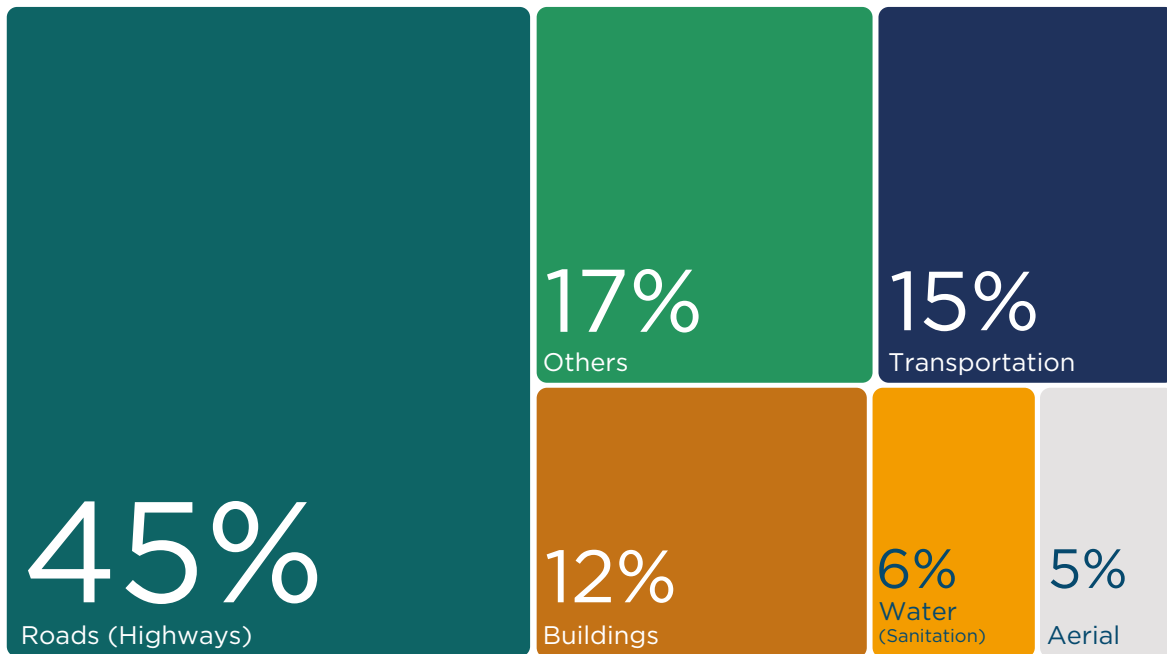
Graph 4. Evolution of Private Initiatives in Chile (1992 - 2020)



Source: General Directorate of Concessions of the Ministry of Public Works of Chile.

The analysis by sector shows that 45% are related to roads, followed by other modes of transportation such as trains, streetcars, and cable cars (15%), public buildings (12%), water resources (6%) and air transportation (5%). On the other hand, of the total number of PIs submitted, 63 have been granted a Declaration of Public Interest (DPI), equivalent to 13% of the cases.

Graph 5. Distribution of PIs by sector



Source: Prepared by the Authors with information from the General Directorate of Concessions.

Here it is important to note that within the proportion of PIs in which there is no DPI recommendation, not all of them imply rejection, as there are 42 in force with studies under development at different stages, some of which could later obtain the DPI. Meanwhile, within the group of PIs that obtained the DPI, there is a greater relative success of projects in sectors such as roads and airports, in terms of finally reaching a bidding process. This is because their presence in the group of PIs that were open for bids is more robust than in the group of PIs initially submitted. In the specific case of road PIs, it is also worth considering that they may be more attractive because they have a higher investment volume compared to the rest of the sectors.

Box 1. Chile's Path to Improving its Regulatory Framework for Private Initiatives

On February 8, 2022, the [Public Works Concession Regulations](#) regarding Private Initiatives were amended in order to strengthen its implementation framework and provide the market with greater competition. Among the most relevant modifications are the following:

- A. Stage of submission of the PI, where compliance with forms, guidelines and instructions defined by the General Directorate of Concessions is required, in addition to an admissibility review and an evaluation of the sufficiency and consistency of the documents submitted. From the date on which the PIs was submitted, the GDC will have one year to reject or issue a report of interest or not of the proposal.
- B. PIs proposal stage: Once the presentation stage is approved, the interested party must submit a guarantee,¹³ terms of reference, specifications, and estimated terms of the studies to be developed. The GDC issues a pronouncement:
 - a. Positive: The proponent will be instructed to execute the studies and set a maximum value in case of reimbursement. Subsequently, the GDC will issue acceptance or rejection of the studies.
 - b. Negative: The PIs is rejected.
- C. Suspension and flexibility of deadlines: If the GDC is reviewing a PI, deadlines are suspended and will be resumed once the result of the review is notified. Likewise, studies may be carried out in sub-stages, where, for each of them, the interested party must submit the partial reports and justification of expenses, in addition to updating the budget, programming, specifications and terms of reference for the following sub-stage. At the end of each sub-stage, the GDC accepts (the process continues) or rejects (the proposal stage is completed) the studies.
- D. Possibility of early dismissal of the PI: in case of insufficient or inconsistent documentation, the DGC may dismiss the PI early.
- E. Disclosure of studies and citizen participation: the DGC may share studies, documents, reports, and materials developed by the proponent. With other bodies of the State Administration and disclose the background information required to allow citizen participation.

¹³ The amount of the guarantee will be 1,000 UF (34,765,500 CLP; 37,540.5 USD) for Category A projects; 3,000 UF (104,296,500 CLP; 112,621.6 USD) for Category B projects and 5,000 UF (173,827,500 CLP; 187,702.6 USD) for Category C projects. One Chilean Unidad de Fomento (UF) = 34,765.5.

- F. Reimbursement Scheme: if the PI is rejected, the GDC terminates the Proposal Stage or the proponent fails to comply with its obligations, the proponent will not be entitled to any reimbursement with respect to the minimum studies; however, the MPW may reimburse the credited value of the costs up to the maximum value defined (also in the case of additional studies); in the event that the project derived from the Private Initiative Idea is tendered and awarded through the concession system, the awardee of the concession will reimburse the credited value of the costs up to the maximum value determined by the GDC.
- G. Transfer of the PI: it is feasible to assign the PI to a third party with the approval of the GDC.
- H. Award during the Bid Evaluation (determined by the MPW): the score of the economic bid of the proponent will be increased by the amount resulting from weighting it by the percentage of the award, according to the evaluation procedure established in the bidding conditions. The percentage of the award to which the Proponent will be entitled will be 3% for Category C projects, 6% for Category B projects and 8% for Category A projects. If the interested party submits its bid as part of a bidding group, it must expressly assign the award to such bidding group.
- I. Joining a Private Initiative with a Public Initiative: Article 10 bis (new) establishes that, during the Proposal Stage, the GDC may order studies on the convenience of bidding jointly the project referred to in the PI with a project corresponding to a public initiative; in this case, the GDC may order the suspension of the minimum studies and require additional studies.
 - a. If the tenderer decides to withdraw its PI Idea, it shall terminate it, return the bid bond, and undertake to reimburse the accredited value of the costs of the minimum and additional studies carried out and approved, up to the maximum value determined by the GDC.
 - b. Should the proposer decide to continue, the award will be made under a new formula that considers the value of the PIs and the Public Initiative, as well as the pre-existing value of both.

The PIs system was modified to strengthen aspects that provide greater certainty in some areas of the process. In this sense, the main guidelines of a change in the Regulations aim to simplify the admissibility process and the review of proposals and deadlines; to provide more certainty regarding reimbursement related to studies; and to be able to link private and public efforts through joint initiatives, under a legislative framework that provides confidence and certainty to interested parties.

COLOMBIA

REGULATORY FRAMEWORK

Private Initiatives in Colombia present significant features that, for the most part, respond to the evolution and strengthening of the regulatory framework for PPPs and the experience of the private sector in specific sectors. Since the 1980s, the Colombian government has used public-private schemes to develop infrastructure; however, the lack of a robust regulatory framework¹⁴ resulted in frequent contract renegotiations and high fiscal costs (Bitran, E. et. al. 2013).¹⁵ Although in 1991, the Political Constitution, and particularly the economic opening process, generated new spaces for the participation of private capital in the development of infrastructure and public services, it was not until 2012 when an important effort to transform the legislation and strengthen the evaluation and selection process of Public-Private Partnerships projects began.¹⁶

- Public-Private Partnerships Law 1508 (2012): The government establishes a conceptual framework to regulate the use of PPPs and includes a regulatory regime applicable to Private Initiatives.¹⁷ The regulations are based on 6 fundamental principles: a) Structuring; b) Budgeting; c) Institutional design; d) Payment for services; e) Capacity and commitment; and f) Transversality.¹⁸
- Regulatory Decree 1082 (2015): It defines the guidelines around the nature of the proponents, the quality standards of the services, the definition of public contributions, the treatment of risks and, finally, it describes the mechanism for prequalification and approval of the projects.

14. The regulatory framework governing concessions was Law 80 of 1993 and Law 1150 of 2007.

15. In a study of road concessions carried out by the OECD for Chile, Colombia and Peru (1993 - 2010), it was found that, in Colombia, of the 25 concessions evaluated, 21 were renegotiated, 430 changes were made to the contracts, and, on average, the fiscal cost was USD 267 million (USD MM) and time delays over 6 years.

16. Evolution of the regulatory framework to allow private participation:

- (1991) The Constitution introduced the first mechanisms to establish an environment of close collaboration between the public and private sectors for the development of infrastructure projects and public services.
- (1993) The State Contracting Law (Law 80) is complemented with sectorial norms (Ports, Transportation, Energy and Public Utilities) to develop infrastructure projects through concession contracts.
- (2007) The purpose of Law 1150 is to introduce amendments to Law 80 of 1993, as well as to dictate other general provisions applicable to all contracting with public resources (Efficiency and Transparency in contracting modalities).
- (2012) Law 1508 is the first law that introduces the regulation of private initiatives.

17. The regime oriented to Private Initiatives includes awards and incentives for their development.

18. Each of these is described below:

- **Structuring:** Requires adequate technical support (legal, environmental, engineering, economic-financial and fiscal), risk analysis and justification of the application of the contracting scheme (Value for Money).
- **Budgeting:** Considers future availability payments within a framework of fiscal discipline.
- **Institutional design:** Clarifies the obligations or rights of the entities participating in the PPP project cycle.
- **Payment for services:** Establishes payment for availability and service level.
- **Capacity and commitment:** Seeks to attract long-term investors with sufficient financial capacity to build, operate and maintain the asset.
- **Transversality:** Applies to social and productive infrastructure sectors, as well as related services.

- Resolution DNP-1464 (2016): Public entities must comply with the requirements¹⁹ established in the Guidelines of the National Development Plan 2014 - 2018.
- Decree 438 (2021): Specific regulations are developed to implement Private Initiative projects.

The new law opens the opportunity to present Private Initiatives under a specific framework that allows private parties to develop projects and even co-finance them with public funds.²⁰

SECTORAL EXPERIENCE AND MAIN FINDINGS

The evolution of the legal framework and its effect on the application and treatment of Public-Private Initiatives initiates a period of boom in the presentation of PIs, where an effort to diversify between productive and social sectors is identified. Using the Single Registry of Public-Private Partnerships (RUAPP, for its initials in spanish) of the National Planning Department in Colombia,²¹ it is observed how in the period 2012-2021, 820 initiatives were submitted (724 private and 96 public), of which 11.7% were public and 88.3% private.

Table 2. Distribution by type of initiative and infrastructure

CONCEPT	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	S/F	TOTAL
Private Initiative with Public Resources	23	32	6	5	12	5	8	1	4		2	98
Productive	18	15	6	5	9	4	6		4			67
Social	5	17			3	1	2	1			2	31
Private Initiative without Public Resources	47	92	97	79	115	86	28	24	18	23	17	626
Productive	34	58	66	55	75	35	17	22	14	13	7	396
Social	13	34	31	24	40	51	11	2	4	10	10	230
Public Initiative with Public Resources			2								73	75
Productive											34	34
Social			2								39	41
Public Initiative without Public Resources											21	21
Productive											19	19

Source: Prepared by the Authors based on information from the RUAPP of the National Planning Department in Colombia.

19. The requirements are set forth in Article 206 of Law 1753 of 2015 (Guidelines of the Development Plan 2014 - 2018). Basically, "...the competent state entity shall request from the National Planning Department or the planning entity of the respective territorial entity, as appropriate, its concept or recommendations on the project based on the information provided by the public entity, in particular, whether the project is in line with the medium and long-term plans of the sector, and meets the conditions that allow inferring that it could be developed under the public-private partnership scheme..."

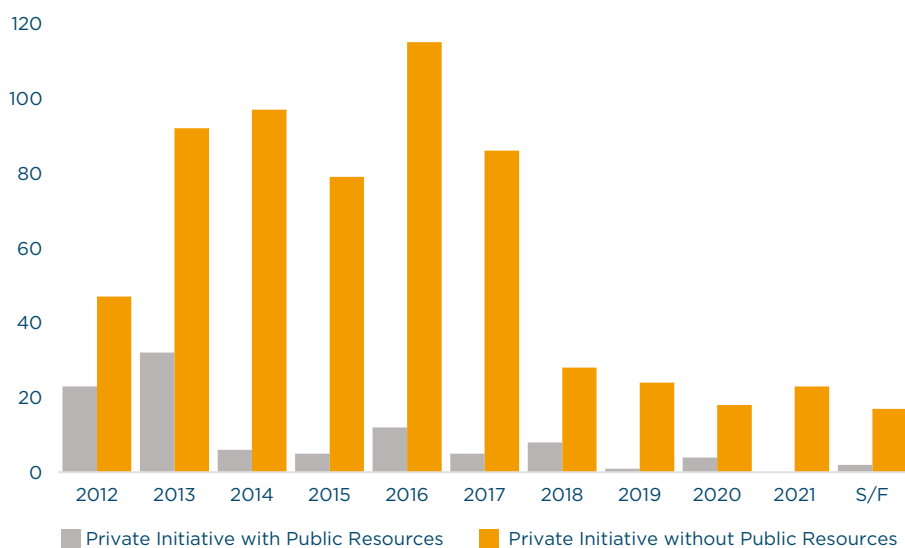
20. Co-financing is up to 30% of the total estimated value of the project (CAPEX and OPEX); in the case of road works, up to 20%.

21. A description of the variables used is presented in the Annex.

Although under the new regulation (Law 1508) the government may co-finance Private Initiatives, the funding (State guarantees and/or disbursements from the General Budget of the Nation, territorial entities, or any other public fund) may under no circumstances exceed 30% of the total estimated value of the project (CAPEX and OPEX).²²

In this regard, for the period under analysis, only 13.5% (98 projects) of the PIs presented managed public resources, directing their efforts to expand productive infrastructure (68.4% of the total number of projects); in the case of those without funding, although the number of projects is considerably higher, 626, the distribution by type of infrastructure was similar to the previous case (productive 63.3% and social 36.7%).

Graph 6. Evolution of private initiatives in Colombia

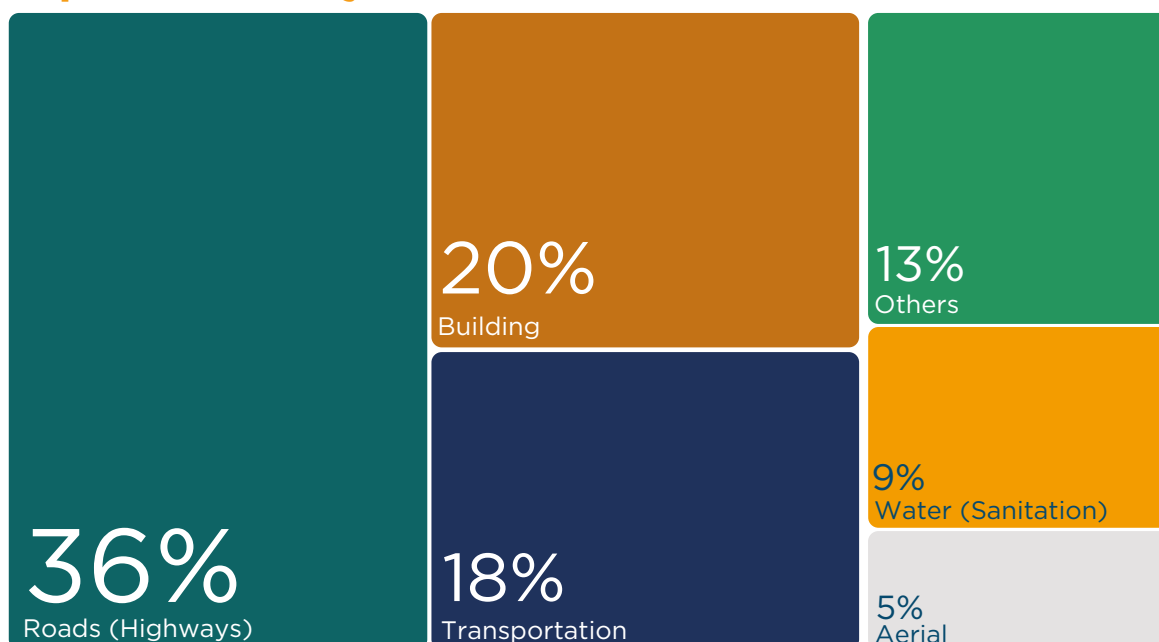


Source: Prepared by the Authors based on information from the RUAPP of the National Planning Department in Colombia.

It is important to note that the evolution in PIs (without public resources) resembles a triangular distribution; from 2012 to 2016 (the year with the highest number) there is a strong upward trend and, from that date until 2021, a sharp drop, -81.9%. This could be explained by the effort to strengthen the regulatory framework after the publication of the Regulatory Decree (1082) and NPD Resolution (1464). As a result, the National Planning Department began to verify that the projects were in line with the medium and long- term plans of each sector and met the conditions to be developed under the PPP scheme; therefore, the selection system was strengthened and, with this, the procedure to present, process, and authorize PIs was favored.

²² For highway projects, the regulations prohibit the submission of Private Initiatives that require guarantees from the State or disbursements of resources from the General Budget of the Nation, territorial entities, or other public funds greater than 20% of the estimated value of the project.

Graph 7. Distribution by PIs sector



Others: Agriculture and Social Development, Environment and Sustainable Development, Science, Technology and Innovation, Trade, Industry and Tourism, Culture and Sports, Education, Justice, Information Technology, Housing.

Source: Prepared by the Authors based on information from the RUAPP of the National Planning Department in Colombia.

With regards to sectoral distribution, the highest proportion of requests is for roads (36%) and buildings (20%), followed by public transportation (18%) and air transport (5%).

Regarding the success rates of these initiatives, the results show that most of those presented are ultimately rejected, after going through different phases of waiting and evaluation. Table 3 shows that, for both types of PIs (with and without public resources), the rejection rates are significantly high, 79.6% (with public resources) and 62.9% (without public resources), respectively. Of the total, only 1% and 2.6% are contracted, respectively; and, ultimately, only 0.2% of the PIs that do not require public resources are awarded.

Table 3. Results of private initiatives by stage

Without Public Resources			With Public Resources		
STAGE	NUMBER	%	STAGE	NUMBER	%
Awarded	1	0.2%	Contracted	1	1.0%
Contracted	16	2.6%	Awaiting evaluation	1	1.0%
Withdrawn	35	5.6%	Estudios	2	2.0%
Awaiting evaluation	17	2.7%	Evaluación	15	15.3%
Studies	18	2.9%	Rechazado	78	79.6%
Evaluation	139	22.2%	Desistido	1	1.0%
Publication for expression of interest by third parties	4	0.6%	Total	98	100.0%
Rejected	394	62.9%			
Arrangement of conditions	2	0.3%			
Total	626	100.0%			

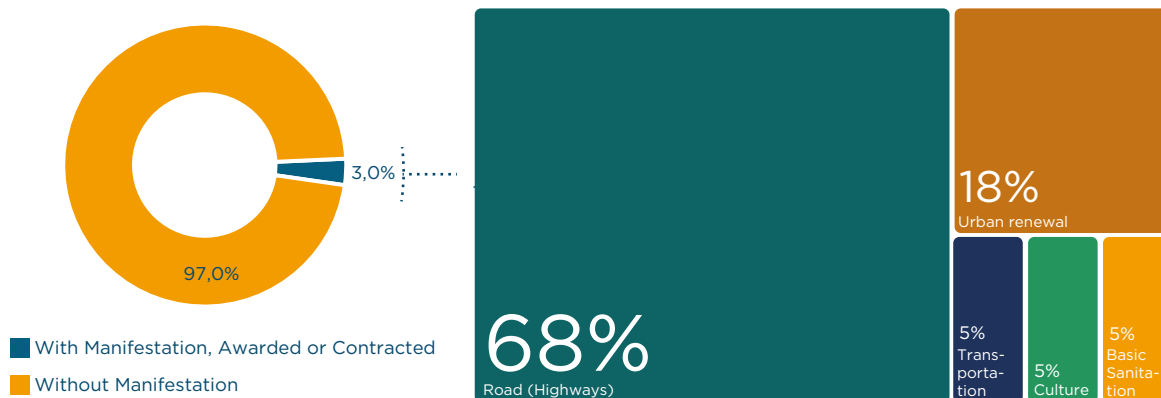
Source: Prepared by the Authors based on information from the RUAPP of the National Planning Department.

In Colombia, since 2012, only 0.6% of the Private Initiatives received expressions of interest from third parties and, if we additionally value those awarded and contracted, the percentage would reach only 3% of the total, a very low percentage.

Graph 8. PIs with expression of interest by third parties, awarded or contracted

Of **3%** with Expression of Interest, Awarded or Contracted, only **0.6%** presented public interest

Distribution of **3%** with Expression of Interest, Awarded or Contracted.



Source: Prepared by the Authors based on information from the RUAPP of the National Planning Department in Colombia.

PERU²³

REGULATORY FRAMEWORK

In order to promote public investment, on May 30, 2008, the Peruvian government approved the law that promotes regional and local public investment with private sector participation (No. 1362) and, on December 9 of the same year, it approved the respective regulations. Since its publication and until 2022, the Law has been amended several times to continuously adapt to the investment project market:²⁴

1. Legislative Decree No. 1238 (2015): as of this year, the guidelines for private companies to finance and/or execute projects within the framework of the National Public Investment System are strengthened, through local or regional agreements that include municipal commonwealths and regional commonwealths, with intermunicipal and interdepartmental scope. Additionally, the mechanisms and responsibilities of the public entity for

23. This section adapts the content developed by J.L. Bonifaz (2021), in Planning and Prioritization in Infrastructure Development, and the Role of Public-Private Partnerships: In search of an efficient coordination of investment, budgetary and financing cycles in Latin America and the Caribbean. <https://publications.iadb.org/es/planificacion-y-priorizacion-en-el-desarrollo-de-infraestructura-y-el-rol-de-las-asociaciones>.

24. Reference to the current regulatory framework.

the supervision of the project and the compliance with the norms issued by the National Control System in the approval and implementation of the resources are clarified. Through the Regional and Local Public Investment Certificates (CIPRL),²⁵ the cost of maintenance may be recognized and, if necessary, contracted, together with the operation, under the modality of public-private partnerships, in accordance with the provisions established by the Ministry of Economy and Finance.

2. Legislative Decree No. 1250 (2016): criteria are established for local and regional governments to receive technical assistance from ProInversion in the selection process of the private company, where the investment agreement format will be approved by the Ministry of Economy and Finance through Ministerial Resolution.
3. Legislative Decree No. 1275 (2016): approves the framework for fiscal responsibility and transparency of Regional Governments and Local Governments and requires compliance with fiscal rules regarding debt (Total Debt Balance Fiscal Rule) and savings (Current Account Savings Fiscal Rule) to enter into agreements under the Works by Taxes modality.²⁶
4. Ministerial Resolution No. 013-2018-EF/15 (2018): the procedures are defined for Regional Governments and Local Governments to submit to the Ministry of Economy and Finance and the Comptroller General of the Republic (07/31 at the latest) the multiannual analysis of fiscal management “Commitments to Compliance with Fiscal Rules” where measures to avoid non-compliance are made explicit. Additionally, an Annual Evaluation Report on Compliance with Fiscal Rules corresponding to the previous fiscal year (05/15 at the latest) sent to the Congress of the Republic.
5. Legislative Decree No. 1361 (2018): the financing and implementation of projects through the Works by Taxes mechanism is promoted, and ceilings are established for variations or modifications to the agreement during the implementation phase (not to exceed thirty percent, 30%, of the total investment amount considered in the initial agreement if the technical file has been approved).
6. Supreme Decree No. 167-2018-EF (2018): maximum annual capacity ceilings for Regional Governments, Local Governments and Public Universities are approved.

25. CIPRL: document issued by the Ministry of Economy and Finance recognizing the amount invested by the private company in the project financed under the Works by Taxes mechanism.

26. Public investment implementation modality with the participation of private companies that promotes a fast and efficient implementation of projects with advantages and obligations for the Public and Private Entities, respectively:

- **Public Entity:** The year following the completion of the work, Regional Governments, Local Governments and Public Universities pay the interest-free financing, with a 30% charge on account of their canon transfers, surcharge, royalties, customs revenues, and participations; and the National Government with a charge on its ordinary resources.
- **Private Entity:** Executes the projects prioritized by the Public Entities thus directing the payment of its Income Tax; it allows a private company to finance, execute and/or propose investment projects and whose invested amount is used/applied against the payment on account and regularization of its income tax, that is to say, instead of paying in cash, the tax is paid through a valued certificate, called CIPRL or CIPGN, with which the amount of investment executed by the company is recognized. Thus, the private company finances the work today against the payment and/or regularization of the income tax to be paid the following fiscal year to SUNAT for up to 50%.

7. Supreme Decree No. 210-2022-EF (2022): approves the new Regulations of Law 29230 and Legislative Decree No. 1534.
8. Legislative Decree No. 1534 (2022): provides for measures to promote investment under the Works by Taxes mechanism and extends the authorization of National Government entities, within the framework of their competencies, to execute: investment projects, Optimization, Marginal Expansion, Rehabilitation and Replacement investments, and Optimization, Marginal Expansion, Rehabilitation and Emergency Replacement investments within the framework of the National System of Multiannual Programming and Investment Management, in the areas of health, education, tourism, agriculture and irrigation, public order and security, culture, sanitation, rural electrification, industry, fishing, sports, environment, remediation of environmental liabilities, urban habilitation, social protection, social development, transportation, communications, justice, access to citizen services, supply market, including their maintenance.
9. Additionally, it defines CIPRL financing sources. Supreme Decree No. 081-2022-EF (2022): approves the Sole Ordered Text of Law No. 29230 in force.

As the process of amendments to the law indicates, the Peruvian regulatory framework, to favor private investment in public projects, has undergone a continuous and frequent process of improvement; it grants certainty to investors within the framework of the National Public Investment System, provides supervision and technical assistance mechanisms to regional and local public entities, guarantees resources for the maintenance of the works and requires compliance with fiscal rules, together with a fiscal management report.

Due to the above, private participation has been boosted and is potentially capable of addressing all sectors of the Peruvian economy, offering alternatives in productive and social infrastructure investment.

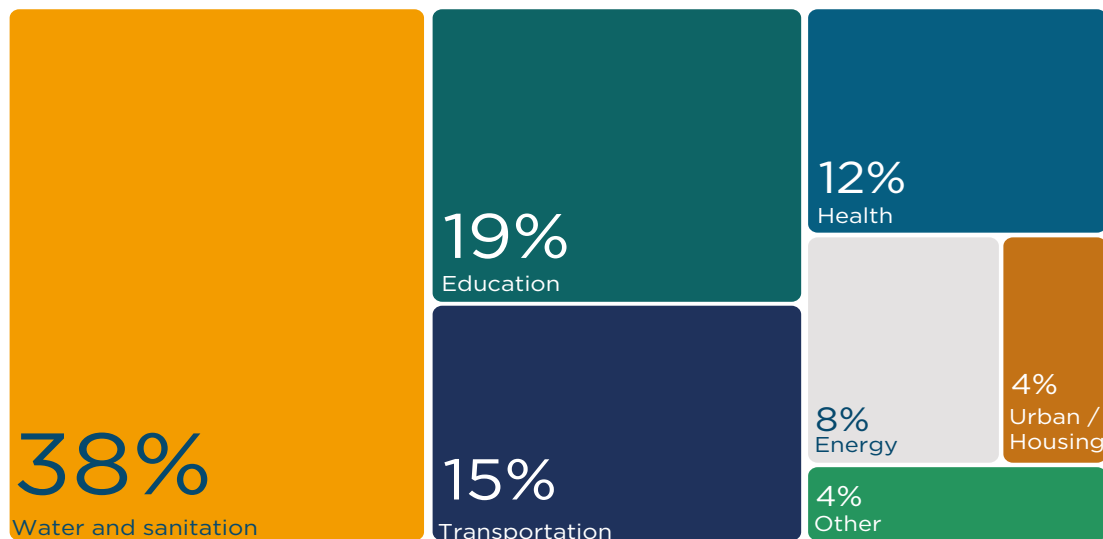
SECTORAL EXPERIENCE AND MAIN FINDINGS

In Peru, the Private Initiative is the mechanism through which the private sector presents projects for the development of PPPs. These private initiatives can be self-financed (SFPIs) or co-financed by the State (CFPIs). In recent years, along with regulations that were in force, what was called a “window of opportunity” was opened for the government to receive PIs. Thus, in 2014 and part of 2015, 237 CFPIs projects were received. Then in 2016 and 2017, a few more were submitted. However, as of 2019, only 29 projects remained in evaluation. The rest were rejected or not approved for processing. The analyses of these CFPIs have been complex and there are many that are in sectors where it is the first time they have been presented. In many cases, while the project has been developed, gaps or unplanned issues have been found. Likewise, it has been found that neither Proinversion nor the sectors had the capacity to evaluate so many projects simultaneously within

a reasonable timeframe.²⁷

In addition, since these are projects that require co-financing from the State, the law established that the formulation of the projects should be done within the framework of the National Public Investment System (SNIP), for which a new unit for the formulation of pre-investment studies should be created in ProInversion. However, ProInversion knows how to structure the project as a Public-Private Partnership (PPP) and promote the project in the market to get interested companies, but does not necessarily have the technical or budgetary capacity to adequately formulate the projects declared of interest in a timely manner.

Graph 9. Distribution by PIs Sector



Source: Prepared by the authors based on information from ProInversion.

Thus, only one of these CFPIs, submitted on May 28, 2014, called the Lake Titicaca Basin Wastewater Treatment System (PTAR Titicaca), was awarded by ProInversion on April 29, 2019 to the Fypasa consortium, of Mexican origin, which was not the original proponent.

However, the new PPP Law, DL 1362, establishes that now, the presentation of CFPIs for projects that are totally or partially financed by the National Government must be made at the time and on the matters determined by the National Government. Thus, the included sectors must publish in a Supreme Decree the intervention needs in infrastructure and public services, services related to them, applied research and/or technological innovation, as well as the maximum budgetary capacity they must assume such commitments. In other words, the presentation of PIs is restricted to the opportunity, sectors and amounts decided by the National Government in a Supreme Decree. Also, the PIs of national scope, as well as the CFPIs of all levels of government, are submitted to ProInversion, which assumes full responsibility for them. On the other hand, regional or local PFPIs are submitted to the Regional or Local Governments, as appropriate.

²⁷. As of December 2022, the "Project Pipeline", according to ProInversion, is comprised of 22 Public Initiatives and 26 Private Initiatives.

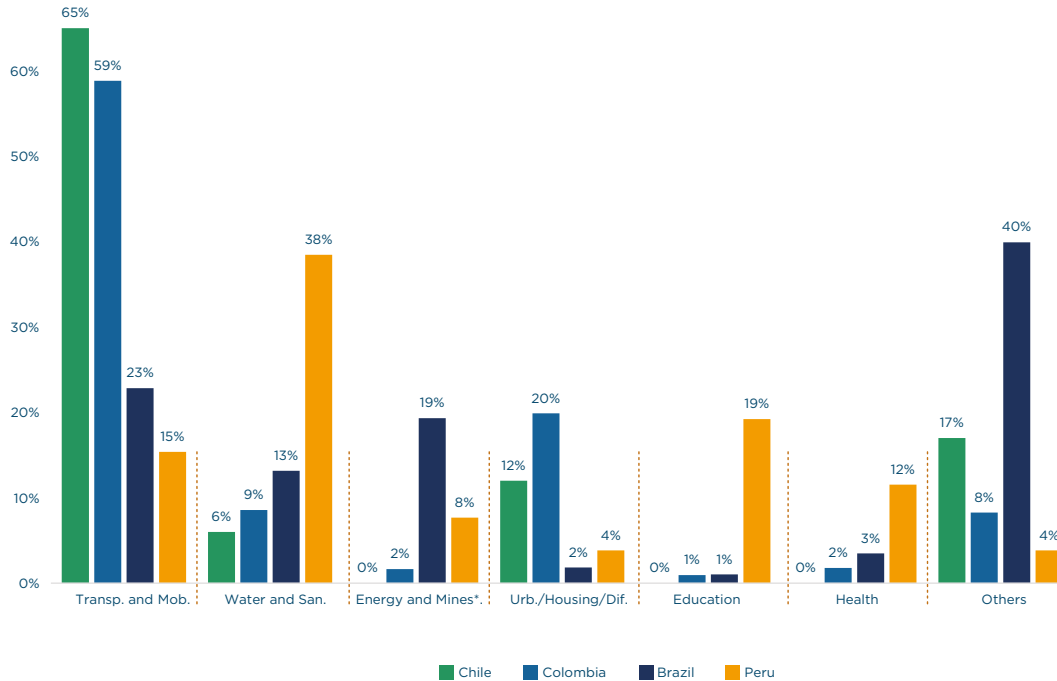
The mechanism attracts private investment, since the CFPIs proponent has the advantage of reimbursing the expenses incurred in case it is not awarded the project. It has the right to a direct award in case there are no third parties interested in the project and to match the best offer in case any interested party makes a better offer. Finally, it has the right to maintain the confidentiality of the information until the declaration of interest. However, this modality must be adequately regulated, and the proposals submitted by the private sector must be in line with the wishes of the State and in coordination with the sectorial and national infrastructure plans.

SUMMARY OF RESULTS ON THE PERFORMANCE OF PRIVATE INITIATIVES IN LATIN AMERICA AND THE CARIBBEAN: INNOVATION, EFFICIENCY, AND GOVERNANCE?

Although the methodologies, study periods (Brazil 2013 - 2017; Chile 1992 - 2020; Colombia 2012 - 2021; Peru 2014 - 2022), and information are adapted to the sectoral context and availability of information for each of the countries analyzed (in the case of Brazil, they are not PIs in the strict sense, but requests to private parties to carry out studies of projects previously prioritized by the Government), the following can be concluded by way of summary:

- 1. Innovation** - *Traditionally, PIs have generated little innovation:* cases such as Chile or Colombia show a bias for sectors with a low degree of innovation relative to other sectors (roads, 70% - Chile or Colombia, for example), while those countries that establish some prior public prioritization mechanism for the request of expression of interest for specific sectors (Brazil - social sectors such as education or health account for 30% of the total) achieve a higher level of diversification.
- 2. Efficiency** - *PIs have traditionally performed poorly:* there is little relative success of PIs. Of the total number of proposals that have been submitted in the region, less than 5% end up being developed, but all use a considerable amount of public resources for follow-up and analysis. Besides, PIs have traditionally generated little competition: in general terms the mechanisms introduced to promote competition for the development of initiatives by a private partner other than the one that has submitted the PIs (i.e., PIs expression of interest by third parties) is similarly low (less than 7%), signaling a lack of competitive tension.
- 3. Governance** - *Traditionally, PIs have not been part of a coordinated infrastructure policy under an institutional framework:* in only 6% of the cases were specific processes developed to ensure the consistency of these projects with the overall development of the country's infrastructure.

Graph 10. Comparison of projects by country and sector



Transportation and Mobility consider Highways, Mass Transportation, Ports and Airports.

* In the case of Brazil, the item for Energy and Mines considers Public Lighting projects.

** Others: Citizen Services, Culture, Defense, Parking, Logistics, Environment, Public Premises, Solid Waste, Prison Systems, Technology.

Sources: Brazil (RadarPPP); Colombia ([National Planning Department \(RUAPP\)](#)); Chile ([General Directorate of Concessions](#)); Peru ([ProInversión Project Portfolio](#)).

The experience analyzed shows that even in countries with extensive experience in infrastructure development in general, and the inclusion of private participation in particular (from a regulatory, institutional, or technical knowledge perspective), there are significant difficulties in making effective use of the PIs mechanism.

If the public policy objective pursued by the PIs is to promote efficient and innovative development of public infrastructure, the results in general terms (with exceptions) show the opposite: traditional sectoral focus (roads), low level of efficiency in the use of resources (only a small percentage of the proposals reach the development phase, while all require a lower or higher level of involvement and resources, both private and public, for their adequate review), and lack of competition in the use of the mechanism.

The next section presents best practices for each of these three conceptual categories - innovation, efficiency, governance - by reviewing the experience of other countries in the development and management of the PIs mechanism, with the purpose of deriving policy recommendations to improve performance in the region.

Table 2 summarizes the main indicators for each of the experiences that were analyzed:

Box 2. Key results of the PIs experience: Brazil, Chile, Colombia, and Peru**BRAZIL**

- From 2013 to 2017, 853 study requests were made:
 - 367 public; and
 - 486 private.
- The process for soliciting private participation in studies and the assignment of successful projects takes an average of two year (median = one year and 10 months).
- The success rate for private applications decreased consistently over the period and, on average, stood at 5.1%.
- The sectors with the highest number of requests were Public Lighting (19%), Water (13%) and Transportation and Mobility (23%).
 - Among them, those with the highest success rate are Public Lighting (20%), Road Projects (12%) and Airports (24%).

CHILE

- In Chile, from 1992 to 2020, 481 Private Initiatives were observed.
- Although Chile is a pioneer in their development, in a period of almost 30 years, only 13% have received public interest and only 4.7% have been tendered (mostly roads, 70%).
 - From that set,
 - 70% belongs to the road sector; and
 - 22% to the airline industry

COLOMBIA

- In Colombia, from 2012 to 2021, 724 Private Initiatives were presented, divided into:
 - Public Resources: 98 (13.5%).
 - Without Public Resources: 626 (86.5%).
- Only 0.6% have received an expression of interest from third parties; likewise, only 2.4% have been awarded and/or contracted (as of 2012, the PPP Legal Framework was strengthened).
 - From that set,
 - 68% belong to the road sector; and
 - 18% to the urban renewal sector.
- The most dynamic sector is Transportation and Mobility with 59%.
- In Colombia, regardless of whether Private Initiatives request public resources or not, the rate of rejections is very high, 80% and 63%, respectively.

PERÚ

- The private initiatives (PIs) is the mechanism through which the private sector presents projects for the development of PPPs.
 - In 2014 and part of 2015, 237 CFPIs projects were received and, for 2019, only 29 projects remained under evaluation (12.2%); the rest were rejected or not admitted for processing.
 - Only the project “Wastewater Treatment System for the Lake Titicaca Basin” (PTAR Titicaca), submitted on May 28, 2014, was awarded by ProInversion on April 29, 2019 to the Fypasa consortium (Mexican origin).
- It was found that neither ProInversion nor the sectors had the capacity to evaluate so many projects simultaneously in a timely manner.
- The new PPP Law, DL 1362, restricts the presentation of PIs in the opportunity, sectors and amounts decided by the National Government in a Supreme Decree.
- The mechanism effectively attracts private investment through:
 - Reimbursement of expenses incurred in case of non-award.
 - Right to direct award in the absence of interested third parties.
 - Maintain the confidentiality of information until the declaration of interest.
- To date, Peru is the country that shows the greatest diversification in terms of PIs presented (under the most recent regulations, these are determined by the National Government):
 - Transportation and Mobility represents 15%, Energy 8% and Urbanization 4%.
 - Strong potential in the Water and Sanitation sector, 38% of the total.
 - Social infrastructure in Health and Education is 31% of the total.

INTERNATIONAL BEST PRACTICES IN THE MANAGEMENT OF PRIVATE INITIATIVES

As detailed at the beginning, international experience in the development of PIs is extensive. While the regional experiences analyzed in the previous section show a relatively low performance, this mechanism has been implemented with relative success in countries that usually stand out in terms of their performance in infrastructure planning processes, such as Australia, Canada, or South Korea, among others.²⁸

As will be seen below, these experiences have not been free of challenges in the management of the processes, which have entailed the development of strict and orderly review and approval processes, specification of subsectors, implementation of mechanisms to ensure the focus on innovation, alignment with national strategic objectives, as well as mechanisms to safeguard intellectual property rights, promote a level playing field for proponents, transparency and accountability. The following is a summary of these experiences and an analysis of them under the three public policy assumptions considered: innovation, efficiency, and governance.

BEST PRACTICES FOR THE INCLUSION OF INNOVATION IN PRIVATE INITIATIVES PROCESSES

THE AUSTRALIAN CASE, BUILDING ON THE EXPERIENCE OF NEW SOUTH WALES

It's worth noting that the State of New South Wales (NSW) was a pioneer in the regulation aimed at promoting PIs throughout the country. In 2012, it published a [Methodological Guide](#) through which it promoted private investment and its participation in the development of public infrastructure. Like the current national regulation, the guide provides certainty to investors and presents a transparent, consistent, and orderly process that favors the creation of value (Value for Money) and congruence with the objectives of the state government. The structure of the guide is dynamic and has been updated on several occasions to contribute to its improvement; in 2014 industry feedback was included, in 2017 the quality of the information and reporting schemes was improved and, finally, in 2022, it was adapted in response to changes within the government.

²⁸ For more detail on the relative degree of efficiency in infrastructure development between these economies and LAC, see Serebrisky and Suárez-Alemán (2019) The provision of infrastructure services in Latin America and the Caribbean: Can the region do more and do it better? <https://publications.iadb.org/es/la-provision-de-servicios-de-infraestructura-en-america-latina-and-the-caribbean-can-the-region-do>.

The guide establishes that private parties may submit proposals to build and/or finance infrastructure, provide goods or services, or even carry out commercial transactions. However, the government is clear in stating that, by their nature, PIs, by themselves, would not be part of the state's strategic planning. Proposals will only be considered if they can offer broad benefits that result in strategic outcomes consistent with government objectives and plans and offer unique attributes that are in the best interest of the state.

Private Initiatives are not intended to be a substitute for purely public processes but are intended to be conceived as unique and innovative proposals that must create value for society, compete under the same conditions and be consistent with environmental controls, planning and approval;²⁹ only under exceptional conditions and based on justification will the government negotiate directly with a private party or organization.

To move the process forward, the NSW Government establishes a list of priorities that PIs must meet to be considered:

1. The uniqueness of the proposal and the proponent
2. Value for Money
3. Governmental impact
4. Return on investment
5. Capacity and capability
6. Affordability
7. Risk allocation (in case the proposal requires environmental or planning approvals, the proponent shall ensure which party will assume the risk associated with obtaining the approvals).

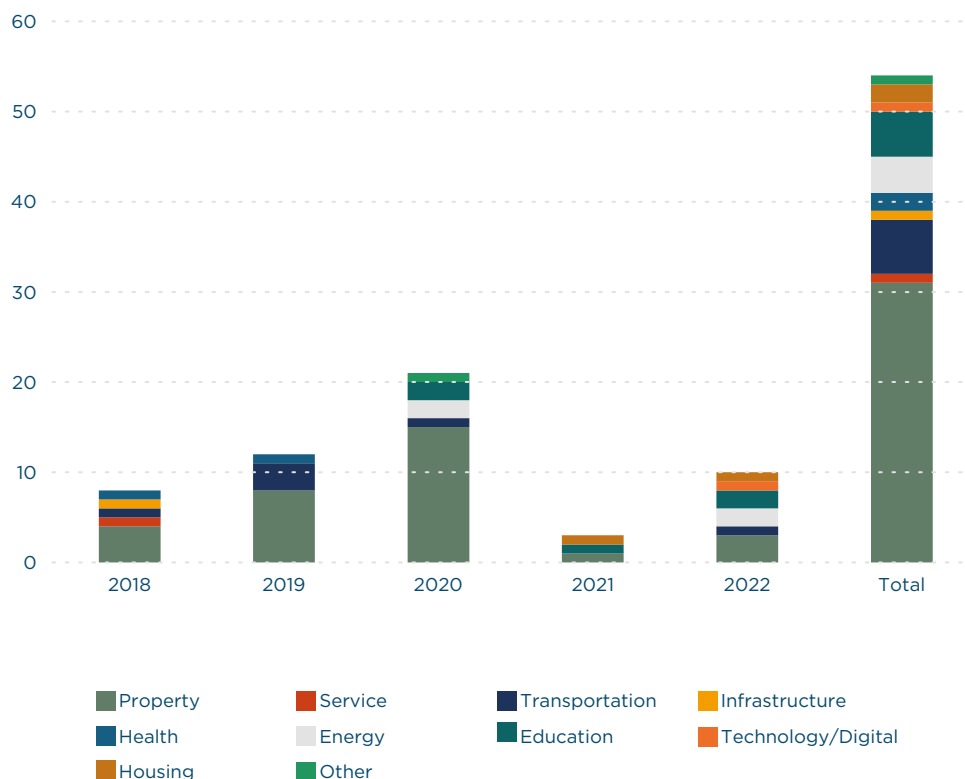
Beyond a general description of the proposals that will be developed, the applied model is innovative as long as the private party demonstrates unique elements (property ownership, software, technology, among others) that promote new ideas and methods that genuinely guarantee a benefit to the state and consumers. NSW, through Private Initiatives, explores new alternatives to support public planning in infrastructure, achieve strategic results for the region, and ensure compliance with minimum standards in public-private contracting (value for money, return on investment, capacity and competence of the proponent, affordability, and optimal risk allocation).

In addition to the model exported from New South Wales, there are other countries that have also opted for innovation in their selection processes, strengthening their infrastructure agenda. For example, in the Philippines, the PIs focus on areas not prioritized by the public sector and establish a specific “new concept or technology” definition to be considered in the PIs investment process and, on the African continent, South Africa includes criteria of “innovation in design, development and management” (WB, 2017).

²⁹ In the case of the Republic of Korea, for example, there is a scoring system that considers such quality elements as the use of cost-efficient methods, environmentally resilient projects, and innovative plans for their operation.

Regarding the performance of the NSW model, it is important to note significant progress in the optimization of resources and improvements in operational efficiency. Since the launch of the program in 2012, 171 proposals were received through 2023. From 2018 to 2023 (data available for analysis),³¹ 54 PIs have been submitted, of which, 23 correspond to infrastructure and 31 are categorized under proprietary.

Graph 11. Total Private Initiatives Received

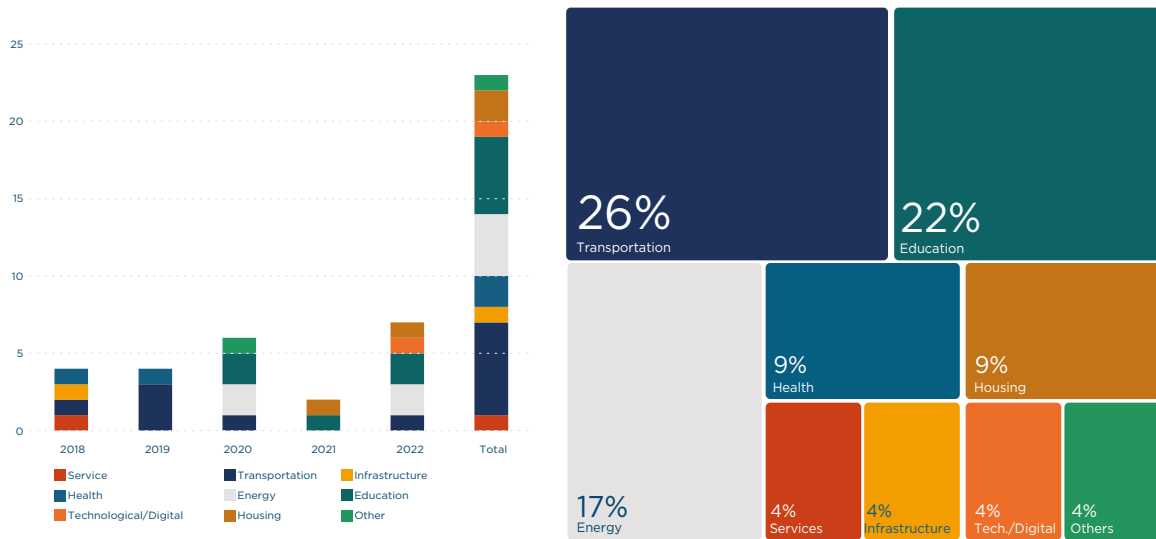


Source: NSW Government.

For PIs oriented to infrastructure, a more equitable distribution among sectors is observed, as well as greater diversity among them (health, services, housing, education, and digital technology). Transportation accounts for 26% of the total, while education and energy account for almost 40% of the distribution; a very different result from the cases previously described for Latin America, where countries such as Colombia and Chile concentrate their PIs in the transportation sector, 70% and 59% of the total, respectively. Even in Peru, where sectoral needs are determined by the national government, the energy and education sectors together account for at most 27% of the distribution.

³¹ To date, since the publication of the specific regulations for PIs, 9 projects have been approved.

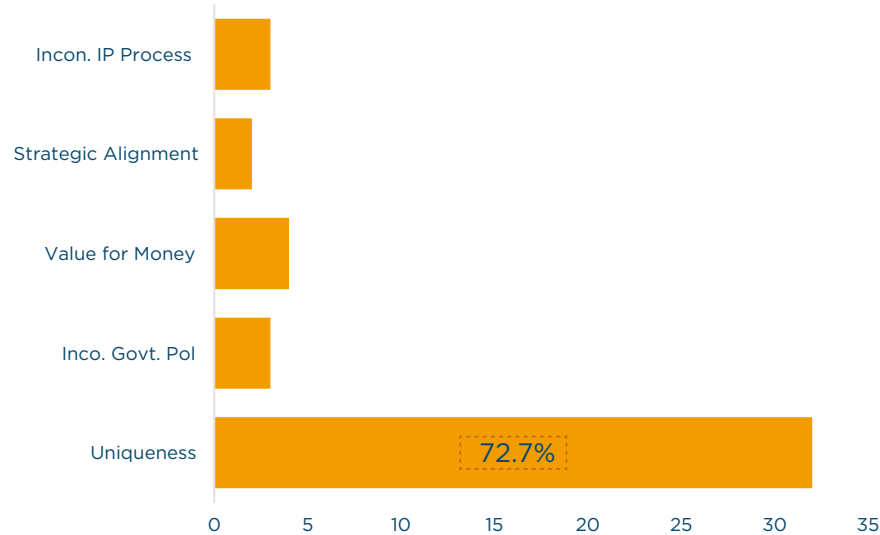
Graph 12. Private initiatives for infrastructure received



Source: NSW Government.

Of the total number of proposals submitted from 2012 to date, 9 have been approved (5.3%); of these, two were completed in 2023 and their evaluation and authorization processes lasted, on average, four years; of those received from 2018 to 2023, six are under review (current, equivalent to 11.1%), five were channeled to other sectors to be developed under schemes other than PIs (they will continue evaluation under different procurement methods optimizing their provision) and one was withdrawn by the Proponent; thus, of the 54 received in this period, 41 (75.9%) were rejected (preliminary analysis allowed saving resources). Thus, about 20% are still in force, which, although not necessarily implying their approval, does show a better use of resources in terms of the implementation phase, and a significant improvement in terms of success rates found in LAC.

Of the proposals rejected above, the main cause (72.7%) was found to be due to the lack of unique elements that would drive new ideas and serve the benefit of the state and consumers. To a lesser extent, inconsistencies were also identified with the PIs selection and approval process, alignment with public policy and infrastructure strategy, and in terms of VfM quantification.

Graph 13. Main causes of rejection

Source: NSW Government.

Box 3. Stages in the Australian process

Among the main objectives of the Australian government is to promote private investment to strengthen the provision of public infrastructure and its corresponding services; therefore, as part of its strategy, it publishes specific guidelines to regulate the PIs review and evaluation processes. It is interesting to note that such regulation is built from several efforts within the country, as noted in the 3rd Ed. of the PIs Guide of March 2020,³² where the government recognizes that it is the product of the effort of several jurisdictions, highlighting that of New South Wales via its Methodological Guide (published much earlier, in 2012).

The regulation takes up minimum standards that must be met for a PI to be successful:

1. It must be proposed based on the Public Interest (satisfaction of a community need or the provision of a measurable benefit);
2. Appropriate projects for public investment;
3. Strategic prioritization of government objectives;
4. Flexibility in the procurement processes: in particular cases, where the public interest justifies it, it could use specific processes (direct negotiation with the Proponent) instead of carrying out an open and competitive process depending on the type of project or sector;³³
5. Value for Money;
6. Affordability (affordable within the government budget, funding priorities, etc.)

³² The Guide was last updated in March 2020; it was first published in January 2014 and amended in July 2016. The Partnership Framework is administered by the Infrastructure Finance & Reform branch (IFR) of the Chief Minister Treasury and Economic Development Directorate (CMTEDD).

³³ A feature that gives flexibility to the guidelines is that, while there is a regulatory framework for tendering, Government Procurement Act 2001 and the Government Procurement Regulation 2007, given that PIs may take various forms, specific processes for their procurement may be established if they are in the best interest of the government; however, they do not, in any case, replace procedures of the Government or its Agencies. All Proposals will be subject to the legislative, regulatory and policy requirements of the national territory.

7. Optimal allocation of risk and cost;
8. Technical and commercial feasibility; and
9. Capacity and Capability (technical and financial).

In March 2020, the Australian government updated its Guidelines, setting out key points that improved the PIs management procedure and provided flexibility to accommodate different types of projects and sectors. In contrast to that published in 2016, the changes focused on avoiding duplication of roles and solicitation of materials, simplifying bidding mechanisms by eliminating the Swiss Challenge and Bid Premium,³⁴ and defining timeframes for submission, evaluation, and authorization of Proposals. In summary, the new regulation expands multi-sector capacity, strengthens the responsible use of public resources, offers transparency, and delimits the timing of the processes.

The above is developed under the Partnership Framework, which promotes investment projects in economic and social infrastructure; this framework considers specific guidelines for Public-Private Partnerships and Private Initiatives, both of which provide a methodology for future proponents to maximize Value for Money and align them with the government's strategic characteristics and objectives.

While the minimum standards propose an effective and efficient platform for conducting PIs, the national and sub-national (New South Wales) regulation additionally offers an outstanding element by proposing a phased process and, in each phase, detailed follow-up with full communication between stakeholders (Australian Government and PIs Proponent). The process consists of three phases and a pre-proposal stage³⁵:

Phase 1: Concept Proposal Submission

Phase 2: Detailed Proposal Submission

Phase 3: Bidding

- A. The government recommends that prospective proposers request a meeting with representatives from the Infrastructure, Finance and Reform (IFR) branch of the Chief Minister, Treasury and Economic Development Directorate (CMTEDD). Depending on the nature of the Proposal, representatives from each Ministry will be invited, which will help clarify the expectations of both the Proponent and the Government and help to present a Concept Proposal.
- B. This meeting favors the efficient use of resources to carry out PIs, since the government will issue an opinion on its feasibility before the proponent invests significantly in its development. The government may consider PIs-related information at any stage:
 - a. Originality of the proposal
 - b. Proposal Feasibility
 - c. The Proponent's capacity and/or ability to carry out the proposal.

Phase 1

- A. The Proposal Concept is submitted to the Australian government through a transparent process.
 - a. IFR Officers receive the proposal and together with other officers of the Directorate and Government Agencies, conduct a preliminary evaluation and recommend to

34. Based on the PPP Reference Guide V.3, they are defined as:

- **Swiss Challenge (Right to match the Proposal):** After a PI is submitted, a process is opened to accept bids that match or agree to develop the Proposal; if unsuccessful, the Proponent has the option to match the best bid and win the contract.
- **Bid Premium:** Fee paid to the Tenderer by the Government or winning Awardee (reimbursement for development costs or premium for carrying out the conceptualization of the project).

35. The meeting is held with the Infrastructure Finance & Reform branch (IFR) of the Chief Minister Treasury and Economic Development Directorate and other government representatives as requested by the Proponent.

the IPs³⁶ Evaluation Committee (UPSC) to invite the Proponent to submit the Concept Proposal.

- i. Among the issues evaluated are: financial and economic position, community expectations, reforms to be considered at the national level, and factors relevant to the proposal.
- ii. If invited to submit the proposal, the government will follow a detailed process to publish information related to the project.
- b. Based on the above, the UPSC will decide between the following three options:
 - i. The government will not consider the PIs;
 - ii. The PIs proceeds to Phase 2;³⁷ or
 - iii. Additional consideration by Cabinet is required before determining whether the Proposal advances to Phase 2.

Phase 2

1. Phase 2 aims to have the government evaluate the proposal based on a detailed business case under the respective regulations (the Partnership Framework and the Capital Framework); the proponent should build a robust case where qualitative and quantitative evidence is provided (genuinely innovative ideas, secured financial arrangement, ownership of land, software or technology that guarantees benefits, delivers a strategic outcome, addresses the best public interest, aligns with relevant government policies and proposes a bidding model).
 - a. UPSC determines the evaluation criteria and assigns a panel (may consist of independent experts) to evaluate the proposal. This panel:
 - i. It will evaluate the proposal;
 - ii. Recognize and protect the intellectual property of the proposer; and,
 - iii. Provide a timeline for evaluation and response (6 - 12 months).
 - b. If the proposal meets the requirements, UPSC will recommend to the cabinet to accept the proposal through the representative of the Ministry of Treasury.
 - c. The final decision rests solely with the cabinet: the cabinet reviews and decides whether to advance the proposal to Phase 3, taking into consideration the public interest and value for money.

Phase 3

- A. This phase includes everything from the formal bidding process to the implementation of the contract. It includes:
 - a. Selection and development of the most convenient development model.³⁸
 - b. Bidding process.
 - c. Negotiation of the contract to implement the proposal.
 - d. Implementation of the contract.

In this phase there would be a great deal of interaction between IFR, the Directorate and the Agencies with an interest in the proposal.

36. The PIs Committee is composed of the three permanent members:

- The Head of the Australian Government Public Service
- The Assistant Treasurer
- The Director General of Environment, Planning and Sustainable Development of the Directorate.

37. The Government will publish, through the CMTEED, a summary based on the details of the Proponent's Public Statement. Information will only be published for proposals that have progressed to Phase 1 and, as they progress, further details will be released on a case-by-case basis and with absolute discretion. All information will be subject to the Freedom of Information Act 2016. At any Stage of the assessment process, the public may request information, and this will need to be validated by the Committee. Public Consultation may be: 1) The responsibility of the Proponent; 2) By Government officials; 3) By the Proponent with participation of Government officials.

38. Open Tender, Developer Fee, Development Manager and Contestable Negotiations.

BEST PRACTICES FOR INCLUDING EFFICIENCY IN PRIVATE INITIATIVES PROCESSES

MAKING COSTS TRANSPARENT AND THE INTERNALIZATION OF COSTS: U.S. CASES, CONTINGENT RECOVERY, AND SUCCESS RATES

An efficient process for managing Private Initiatives generates tangible benefits for both the public and private sectors. Efficiency results from optimally allocating physical, human, and financial resources, minimizing costs and providing certainty to stakeholders regarding the submission, review and authorization of proposals and, as a result, obtaining a better allocation of public resources, aimed at favoring higher success rates in projects and strengthening the competitive tension among participants. Some examples of introducing efficiency improvements in processes can be (WB 2017):³⁹

1. Process for submitting Private Initiatives

There are two models for receiving PIs which, due to their characteristics, will have different management results and review periods.

 - a. Centralized: a central body is required, usually a PPP Unit or a specific unit within the government agencies, to accept, process and evaluate the PIs. Based on the experience of some countries, including Chile, Peru, Jamaica and the State of New South Wales, it has been found that its benefit lies in favoring coordination, reducing transaction costs among stakeholders and focusing training efforts on a single location.
 - b. Decentralized: PIs may be submitted to different agencies and levels of government for processing; in this case, the greatest challenges arise, as coordination challenges and transaction costs multiply. Countries such as Colombia, the Philippines and Italy have decentralized their processes, noting significant challenges in developing public capacity to evaluate proposals.
2. Establish a certain period in the year to receive PIs

An established period for submitting proposals allows for the planning and allocation of human, technical and financial resources within the PPP units and/or government agencies with the capacity to process and authorize projects under this scheme, in addition to providing clarity, transparency and certainty in the selection and review of private proposals

- In some countries, such as Australia, USA (Pennsylvania) and Peru (first 45 calendar days of the year), certain deadlines for receipt and review are defined.

³⁹ This section adapts some of the main international recommendations reflected in the World Bank document "Guidelines for the development of a management policy for Private Initiatives in infrastructure projects: Review of experiences with Private Initiatives in infrastructure projects".

- Pennsylvania guarantees that there will be at least two 30-day PIs filing periods during the year.

3. Establish minimum requirements and tiered procedures

By setting rigorous minimum requirements and managing PIs through phased procedures, private parties will develop higher quality proposals oriented to the public interest, and central and subnational governments will be able to efficiently allocate their resources (time and effort) for evaluation. Some countries showing phased procedures are Chile, Peru and Colombia, along with the states of New South Wales (Australia) and Virginia (USA).

Table 4. Stages and deadlines: international experience

COUNTRY/JURISDICTION		EVALUATION PHASE 1	EVALUATION PHASE 2	EVALUATION PHASE 1	EVALUATION PHASE 2
India				N.A.	
1	Andhra Pradesh	•		N.A.	
2	Gujarat		•	N.A.	N.A.
3	Madhya Pradesh		•	2 months	6 months
4	Rajasthan		•	1 month	4-5 months
Philippines		•		120 calendar days	N.A.
South Korea		•		60 days	N.A.
Ghana			•	N.A.	N.A.
Kenya			•	N.A.	N.A.
Senegal		•		N.A.	
South Africa			•	N.A.	
1	National Treasury	•		N.A.	N.A.
2	SANRAL	•		N.A.	N.A.
Tanzania			•	21 days	N.A.
Jamaica		•		N.A.	N.A.
Chile			•	N.A.	N.A.
Colombia			•	3 months	6 months
Peru			•	90 days	N.A.
Australia (NSW)			•	90 working days	N.A.
Italy		•		N.A.	N.A.
USA (Virginia)			•	3 months	
N.A. Not Available					

Source: WB 2017.

4. Demand compensation for the costs of reviewing and supervising initiatives.

Charging a review fee would force proponents to comply with submission requirements, develop higher quality proposals and avoid opportunistic behavior (WB 2017). For example, in the U.S. there are mechanisms that establish fixed review fees, as in the case of Virginia (USD 50,000), or based on the amount of project investment, as in Arizona. In general, the resources are used to cover the initial evaluation costs and, if there is public interest, for the detailed evaluation.

Table 5. Preliminary review fee based on the amount of project investment (Arizona)

ESTIMATED CAPITAL COSTS (USD)	ESTIMATED QUOTA PER DETAILED REVIEW (USD)
< than 50 mm	20,000
50 mm to 100 mm	35,000
100 mm to 250 mm	60,000
250 mm to 500 mm	85,000
500 mm a 1 bb	110,000
> than 1 bb	135,000

Source: WB 2017.

Within PIs management, the key to achieving efficiency in the processes results from a methodological framework from which the public sector optimizes the use of physical, human and financial resources (rights and contingent recovery), minimizes transaction costs and establishes monetary and time incentives to increase the success rate of the projects.

BEST PRACTICES FOR GOVERNANCE IN PRIVATE INITIATIVES PROCESSES

ALIGNMENT WITH PUBLIC INFRASTRUCTURE POLICY - AUSTRALIA AND CANADA CASES

The design and application of a regulatory and institutional framework guides government decisions regarding the planning, allocation of funds and implementation of public projects, which should be homogeneous and independent of the contractual modality of development and the original conception of the initiative. Under such governance, the arrangements of public institutions, rules and processes should be geared towards better implementation schemes, allocating scarce resources to the structuring of better projects, and ensuring their sustainability during their life cycle.

To define the role of governments and proponents in the implementation of Private Initiatives, it is necessary to develop and implement laws or regulations that establish the procedures for carrying them out, specifying, in a contract, the allocation of risks, obligations and responsibilities of each of the parties, and to guarantee, through the institutions, full coordination and communication among the stakeholders.

A solid infrastructure governance, as mentioned in the document Fiscal Sustainability of PPPs ([Domínguez and Suárez-Alemán, 2023](#)), will favor the development of commercially profitable projects, responsible risk management, transparency in reporting information and sound fiscal positions. Under such a scheme, it is advisable to use a unified and complementary framework, where Private Initiatives are aligned with public infrastructure policy (without duplicating it) and private capital finance assets that generate value for money and promote higher quality in the provision of services (IDB, 2021).

Internationally, the models applied by Australia and Canada refer to comprehensive regulatory and institutional schemes, where there is a strict linkage between PIs and public policy objectives for infrastructure.⁴⁰ This allows for an optimal allocation of efforts and resources to manage PIs.⁴¹

AUSTRALIA

Australia has a clear public policy objective for the development of infrastructure to promote and maintain a better supply of public services. To support this objective, the government implemented the capital framework, which establishes the national strategy to develop infrastructure and, as an extension of it, developed the partnership framework, which includes the guidelines for Public-Private Partnerships and Private Initiatives.

The PIs guidelines outline a specific management process for their evaluation and approval, require the creation of value and are necessarily aligned with the Australian government's strategic public policy objectives and plans. In addition, national and subnational regulations converge in the processes for receiving, evaluating, and approving PIs.

CANADA

PROVINCE OF ALBERTA

The regulations respond to specific infrastructure needs, and are also aligned with its public works policy through the [Capital plan](#) (plan to develop public infrastructure);⁴² that is, if any public works project has been approved in said plan, under no circumstances can it be presented as a PIs. As in Australia, the [PIs-specific guidelines](#) do not supersede existing or future regulations and, additionally, do not replace existing funding. Thus, the guidelines are specific in their purpose, to leverage private sector investment in public infrastructure and protect public policy objectives, favoring innovation while ensuring transparency and accountability.

40. In the Republic of Korea, for example, Private Initiatives are expected to be perfectly aligned with the Infrastructure Plan and government planning.

41. In Latin America, Brazil establishes mechanisms that align public infrastructure policy with the reception, evaluation, and authorization of PIs; for example, it issues evaluation criteria from the initial phases (pass/fail) to avoid inefficient use of resources and guide the efforts of the private sector, providing certainty and transparency to the process.

42. Three-year plan 2023-2026 with a budget of CAND 23,000 MM that supports job creation, funds projects of infrastructure and provides essential services to the population.

The framework establishes a prioritization strategy that considers fundamental criteria (public interest and project feasibility, suitability, and affordability) for submitting PIs and gives full autonomy to the province to choose or reject projects.

It aims to:

- A.** Ensure clarity, predictability, transparency, and accountability for both public agencies and private entities with clearly established communication mechanisms.
- B.** Provide methodological guidance to proponents in terms of procedures and PIs definitions, which gives certainty to the private sector and helps to maintain their interest in developing public infrastructure projects.
- C.** Serve as a guide for public officials, helping them to process PIs effectively and efficiently through consistent and transparent procedures.
- D.** Identify a consistent mechanism that provides flexibility to process different types of PIs and, if necessary, approve them (approvals are determined by the government of the province and may be at the discretion of the government based on the welfare of the taxpayers).
- E.** Articulate the province's policy objectives, ensuring that the proposals submitted align with the government's infrastructure priorities (Capital Plan) and development plans.
- F.** Emphasize the evaluation⁴³ and approval process (with its respective timetable) and allow sufficient time to obtain the pertinent authorizations and ensure project progress in a timely manner.

Under this framework, the province encourages private companies to submit PIs that:

- Identify new infrastructure needs that meet public policy, plans and objectives;
- Propose innovative solutions to the province's infrastructure needs identified in policy, plans, or objectives with broad social benefits.
- Reasonably demonstrate commercial, financial, and technical feasibility.
- Develop an infrastructure asset (PIs that only seek to provide services without capital expenditure and resources for funding or loans are not allowed).

Similarly to New South Wales, to allocate resources more efficiently, they develop a tiered IP management process.⁴⁴

43. It is governed by six principles: 1) Public Interest; 2) Value for Money; 3) Affordability; 4) Equilibrium Market Prices; 5) Transparency and accountability; and 6) Communication with the Proponent. Likewise, once the PIs is submitted, any type of lobbying is prohibited.

44. Another case to highlight is that of the State of Minas Gerais in Brazil, where the process clearly defines the steps for submitting EIPs:

1. Publication of the EIP.
2. Stakeholder Accreditation.
3. Authorization to conduct the studies and review.
4. Presentation and formalization of the Proposal.
5. Manifestation of those responsible for the Public Policy.
6. Publication of the object of the EIP for other interested parties.
7. Accreditation of the interested parties.
8. Authorization of studies.

Box 4. Stages in the province of Alberta process

Phase 1: The Proponent submits the PIs:

- The Ministry of Infrastructure (MI) consults with relevant public entities and stakeholders to request clarifications from the Proponent.
- MI verifies that the proposal is complete and/or requests the Proponent to complete it; MI reviews and, if applicable, informs the Proponent that it will advance to Phase 2.

Phase 2: Preliminary Evaluation

- Ministry of Infrastructure⁴⁵
 - Identifies the relevant departments to evaluate the PIs and determines the feasibility of the project.
 - Requests evidence of the proponent's competencies and, if necessary, requests additional information.
 - Establishes direct communication mechanisms with the Proponent (preliminary evaluation).
 - Provides certainty to the Proponent, indicating the next steps to be followed for the development of the project (additional information or development of the documents for the public bidding).

Phase 3: Project Development

- The province could develop the project on its own or sign a development agreement on behalf of the Proponent, either for specific studies and/or definition of next steps, identifying obligations and expectations of both the province and the proponent.
 - To develop the project, you should have approval in the capital plan and consider the following:
 - Limit the tenderer's participation, or even terminate it.
 - The province may determine a standard or alternative bidding process. In this case, the proponent may or may not receive benefit or advantage (including but not limited to a short list) in the process.
 - Ensure opportunities for competitive public bidding; the Ministry of Infrastructure would oversee carrying this out in consultation with stakeholders and external consultants.
 - If developed by the proponent, the MI shall evaluate the project and determine or confirm the most appropriate procurement method(s) for all or part of the PIs.

At the end of this phase, decisions may take six to 12 months, or even longer

45. Generally, proposals are received and evaluated by the Ministry of Transportation; however, other ministries and public stakeholders may be involved. The MI will evaluate the proposal according to the PIs framework guidelines and may solicit support from other ministries, public entities and stakeholders. Proponents with full or substantial funding from the province should consult with the funding Ministries prior to submitting a PIs. Under no circumstances will the province approve a PIs that:

1. Has been approved in the Capital Plan;
2. It is already subject to consideration by the province; or
3. It is under development or bidding by the province.

depending on the nature of the project and may even require additional approvals from provincial bodies.

Phase 4: Conclusion

- The province determines:
 - Tasks considered necessary;
 - The appropriate role of the province; and
 - The appropriate form of the agreement to formalize the rights and obligations of the parties (grants, licenses, leases, construction permits and consulting agreements, among others).

In managing PIs, the Province of Alberta is committed to a fair and transparent process, allowing sufficient time for interested proponents to ensure competitive procedures, where proposals will be prioritized based on public interest, project feasibility, suitability, and affordability and, always, the province will retain full discretion in the authorization of PIs.

PROVINCE OF ONTARIO

Like Australia and the Province of Alberta, the government of the Province of Ontario (Canada) establishes specific guidelines for PIs management,⁴⁶ where they emphasize that they must be in the public interest (generate value and/or benefits for taxpayers), propose unique and innovative solutions in the sectors they plan to develop (transportation, health, justice, housing, digital infrastructure, broadband, cellular communication networks, green technology, among others), find business opportunities, generate employment, and align with the government's strategy. The regulatory framework outlines the purpose of the PIs; they must relate directly to Ontario's typology and core portfolio of projects, commitments and priorities, highlighting the provision of better service through technological improvements, job creation and direct benefits to taxpayers.

In the province, the PIs management process is also staggered, has three phases and determines the transparency and communication mechanisms between the parties, establishing protocols to disclose information related to the PIs (it will treat the information with the due responsibility and discretion required by the regulations and protection of the Proponent and will disclose that which favors an efficient, transparent and competitive procurement process).

INTRODUCING COMPETITION IN PROCESSES AND OPTIMAL COMPENSATION

International best practices indicate that projects should be tendered and awarded under competitive, transparent, and accountable processes. Since PIs are submitted by a private proponent, the public sector has the opportunity (and from a best practice point of view, the obligation) to explore and apply competitive strategies during the transaction (bidding and award) process.

46. Under no circumstances will be considered any proposal related to an existing, pending or announced project, application that is under any government procurement process or that only seeks funding or grants.

Since there is a range of options, international experience suggests strategies that grant equal conditions to proponents, recognizing the effort made by the proponent in its presentation. The starting point is to avoid direct award, which is only justified in very particular scenarios - for example, in South Africa a “market test” is carried out and, based on this, it is evaluated whether there is interest from other companies; only if there is not, the public agency could negotiate directly with the proponent of the initiative. In any case, international experience shows how direct award can cause implementation delays, poorly structured PPP transactions, and lower value for money (WB 2017).

The question of how to promote competition in these processes, and at the same time recognize the proponent’s effort in developing the idea/proposal, is then presented as the main challenge. To encourage competitive processes, it’s important to avoid creating disincentives that would prevent the submission of good and innovative proposals. Table 5 finally shows some of the options used internationally to resolve this issue.

Box 5. Mechanisms and examples of international practices for recognizing Proponent effort in competitive processes

Swiss Challenge: If the proponent does not win, they have the option to match the winning bid and win the contract. In Italy, the right to match the bid is the most common incentive mechanism; however, it has not generated competition and, in 85% of the cases, the contract has been awarded to the Proponent (a strategy harshly criticized by both Italian public officials and the European Union). The mechanism is also used in other countries such as India (at the state level) or the Philippines, among others.

Bonus schemes: The Proponent receives a scoring bonus which is generally defined as an additional percentage added to its evaluation score in an open bidding process. In South Korea, the proponent may receive a bonus of up to 10% if the public agency does not modify the proposal (if modified, by up to 5%). In Chile, a 3.8% bonus is currently applied (initially, in 1995, it was 20%); although 63.2% has been found to have been awarded to proponents other than the tenderer, it is important to note that the Ministry of Public Works allows sufficient time to submit proposals (the combination of mechanisms could contribute to greater competitive tension).

Contingent recovery mechanism: The company that made the original bid receives a fee from the government or the winning proponent. The fee may simply reimburse some project development costs or be set to provide a return on the development of the project concept and proposal. In the U.S., none of the states with a PIs regulatory framework provide incentive mechanisms and, rather, as a competitive mechanism (to avoid opportunistic behavior), apply contingent recovery based on the costs of the proposal.

Inclusion in the best and final bid round: a two-stage bidding process in which the highest ranked proponents from the first stage (as an expression of interest) are invited to submit final proposals in a second stage. The market-initiated project Proponent is automatically included in the second stage. As described in the Multilateral Bank’s PPP certification guide, this is used in the South African road sector.

Source: adapted from Multilateral Bank PPP Certification Guide, and World Bank (2017).

CONCLUSIONS AND POLICY RECOMMENDATIONS

- 1.** Private Initiatives are neither inherently good nor bad practices. Their effectiveness as a tool for developing a country's or region's economic and social infrastructure depends on their ability to meet public policy objectives and the conditions under which they are implemented.
- 2.** Given this, it is crucial to first determine the public policy objective being pursued. Then, the extent to which these objectives have been achieved can be evaluated and, if not, the factors that affected the outcome can be understood.
- 3.** In general terms, the international experience shows how PIs have been used for the main purpose of attracting innovation to the public infrastructure sector from the private sector, which presents novel and innovative solutions to development gaps.
- 4.** However, the experience of the Latin American countries analyzed in this document shows that this objective has not been achieved to date, since most of the projects carried out under this mechanism are highly concentrated in traditional projects (roads) with little capacity for innovation.
- 5.** In addition to the need to promote innovation, PIs processes are often pursued against resource management efficiency objectives - both financial, to reduce the burden of project preparation costs versus supervision costs; and human, in the absence of trained personnel to serve new projects/sectors.
- 6.** Evidence shows that PIs review processes are intensive, and few (and not very diversified) proposals reach the development stage. This makes it necessary to strengthen phased review processes that minimize the likelihood that sub-optimal projects will reach advanced stages of review - and thus require considerable resources for their follow up.
- 7.** Most international regulatory frameworks related to infrastructure development and private participation in this process, explicitly establish the possibility of considering PIs.
- 8.** However, there are few cases where the regulatory level ensures that they must follow a process of analysis, supervision and development that is exactly the same as public initiatives. It is essential to ensure consistency of the fields of action (sectors, sub-sectors, regions, etc.) under which PIs are considered with the infrastructure policy objectives, and coordinate among the different alternatives for development/receiving proposals, as well as contractual modalities considered.

9. Therefore, a strategic approach to submitting, evaluating and approving PIs will facilitate efficient processes that generate value for contributors; the alignment of PIs with the public policy strategy (regional or sector development plans) should guide the Proponents' actions and, based on their comparative advantages, strengthen innovative and effective mechanisms.
10. Lastly, it is important to highlight that, under the right conditions PIs have the potential to contribute significantly to efficient, innovative, and sustainable infrastructure development in the region when they are well aligned with the strategic infrastructure development policy, incorporating sequential phased processes to mitigate the risks of allocating a large amount of resources to undesirable projects, and specify, precisely, the innovative character of the proposals.

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ANNEX A - INTERNATIONAL AND REGIONAL EXPERIENCES: VISION, ANALYSIS AND EXPERT RECOMMENDATIONS

AUSTRALIA

Peter Collacino - (Mott MacDonald and, former Chief of Policy Infrastructure Australia)

CANADA

James Budd - (Government of Alberta)

REPUBLIC OF KOREA

Yoo-Eun Koh - (Korea Development Institute)

BRAZIL

MINAS GERAIS STATE

Fernanda Alen Gonçalves da Silva - (State Government)

SÃO PAULO STATE

André Isper and Laís Menegón - (State Government)

MUNICIPALITY OF SÃO PAULO

Marcela Santos and Mariana Moschiar - (Government of the Municipality)

PERU

Lenin Mayorga - (Ministry of Economy and Finance)

ANNEX B - LITERATURE REVIEW

Table A1. Literature review on the performance of private initiatives in infrastructure

AUTHOR/S	REGION/COUNTRY	PERIOD OF ANALYSIS	METHODOLOGICAL FOCUS	MAIN RESULTS
	INTERNATIONAL			
Casady, C.B. and Baxter, D.		n.a.	By means of a simplified case study of a PIs in the Pennsylvania Department of Transportation and a pragmatic approach to leveraging and using PIs in the Healthcare sector, the relevance of PIs as a response to the Covid-19 pandemic is explored, assessing its advantages and challenges.	<p>It was found that PIs could help in the post-pandemic Covid-19 recovery stage, if used strategically to facilitate the acquisition process.</p> <p>By implementing PPPs in the healthcare sector proactively and at scale, the negative effects of the pandemic could be mitigated in the long term.</p>
Hodges, J.T.		2003	Using the World Bank's "Private Participation in Infrastructure" database, a qualitative analysis is carried out (Chile, Philippines, Republic of Korea and South Africa) to explore what kind of processes should be considered to successfully implement PIs. When should PIs be allowed? How to ensure transparent and competitive processes?	The main challenge faced by governments to promote Private Initiatives is to generate incentives so that the processes are transparent and competitive, where companies, knowing the demand for infrastructure, submit viable proposals.
Hodges, J.T. y Dellacha, G.		1995 - 2006	Through descriptive statistics, in different countries (Argentina, Chile, Costa Rica, USA, Philippines, Guam, Italy, Republic of Korea, South Africa and Taiwan), the importance of incentive systems and time restrictions to improve competitive processes is analyzed.	PIs could be a good alternative for innovation in countries where there are limited technical and financial capacities if competitive and transparent schemes are used.
Osei-Kyei, R., Chan, A.P.C., Dansoh, A., Ofori-Kuragu, J.K. and Owusu, E.K.			An exhaustive literature review was conducted and a list of criteria for choosing PIs was derived. A questionnaire was conducted, and interviews were carried out with experts in the field; the information obtained was analyzed under the methodologies of inter-rater reliability, significance of the mean and t-tests in two	<p>They identify four reasons why governments support PIs:</p> <ol style="list-style-type: none"> 1. Innovation and creativity of the private sector to present PPP projects. 2. Lack of public sector capacity to identify, prioritize and bid for PPPs. 3. Lack of interest from private investors and developers to develop projects in remote areas. 4. PPP implementation at a faster pace.

AUTHOR/S	REGION/COUNTRY	PERIOD OF ANALYSIS	METHODOLOGICAL FOCUS	MAIN RESULTS
	INTERNATIONAL			
Robert Osei-Kyei, Albert P. C. Chan, Ayirebi Dansoh, Joseph K. Ofori-Kuragu y Goodenough D. Oppong	International (Africa, Asia, Europe, Middle East and North America)	March - May 2017	A survey was conducted among 57 experts from industry (36) and academia (21), with at least five years of experience. • To analyze the information, the Cronbach's Alpha model confidence test, Kendall's concordance coefficient, the significance index of the mean and the Mann-Whitney U statistic were used.	Key elements for effective PIs management: <ul style="list-style-type: none"> • Specific guidelines for submitting and developing PIs. • Evaluation of Value for Money, innovation, costs, and risks of proposals. • Highly trained staff to evaluate proposals. • Competitive and transparent bidding processes. • Public consultations and stakeholder involvement. • Impact of PIs on sectoral and national policy. • Adequate protection of the original proponent's intellectual property. • The most widely accepted incentives are the Best and Final Offer and the Swiss Challenge.
Osei-Kyei, R., Chan, A.P.C. and Dansoh, A.			A pragmatic methodology is developed to quantify the viability of PIs based on three evaluation criteria: 1) Value for Money (VfM); 2) Financial feasibility; 3) Sustainable innovation.	It is found that the VfM is the most important criterion and it is emphasized that this methodology will help to manage PIs effectively in the preparation stage.
Nyagormey, J.J., Kofi Baiden, B., Nani G. and Adinyira, E.		2004 - 2018	For the period 2004 - 2018, an exhaustive analysis of the literature on PIs is made, where 27 criteria to be evaluated in 46 selected documents are identified.	The main criteria are: <ul style="list-style-type: none"> • To seek that the projects generate Value for Money. • To optimally allocate risk. • To promote innovative projects. • Verify the technical and financial capacity of the proponent. • To be accountable and encourage transparent processes. • Protect intellectual property. • Ensure competitive auction processes.
Verma, S.	International India and USA		Through a legal-qualitative analysis, it benchmarks the regulatory frameworks between India, the U.S. and international best practices (United National Commission for International Trade Law, European Bank for Reconstruction and Development, Asian Development Bank and World Bank) for administering and implementing contracts for PIs.	The legal frameworks that were analyzed do not contain sufficient elements to guarantee transparent and competitive contractual processes to develop PIs. The following is recommended: <ul style="list-style-type: none"> • Strengthen subnational PPP regulatory frameworks, considering PIs. • The PIs framework should consider: 1) Purpose, competitiveness and some government participation (funding); 2) Adequate time periods to present the PIs and promote competition; 3) Transparent processes; 4) Mechanisms that generate adequate incentives (assess the effect of a right to obtain a price benefit or negotiating advantage during the bid evaluation process). <p>The processes for implementing PIs should be explicitly clear, detailed and exhaustive in the standard and only allowed in case of innovation, competition, where the government is not directly involved or its participation is equal for all competitors.</p> <p>PIs should not be related to government-driven projects.</p> <p>Processes for submitting counter bids should be based on the time used by the original proponent.</p>

AUTHOR/S	REGION/COUNTRY	PERIOD OF ANALYSIS	METHODOLOGICAL FOCUS	MAIN RESULTS
NORTH AMERICA				
Ahmed Abdel, A. y Nabavi, H.	USA	n.a.	A survey of 18 national and international companies was conducted on their perspective on management, regulation, incentives, bidding stage and competition under a descriptive statistical approach.	The companies surveyed would only support PIs if: <ol style="list-style-type: none"> 1. There is adequate administration by the government, an optimal legal framework to regulate them and transparency in the processes. 2. No incentives are offered to the PIs originator company (e.g. Bonus System and Swiss Challenge). 3. Adequate time to facilitate project preparation and competition.
OCEANIA				
Angus, C.	Australia (New South Wales)	n.a.	A survey of 18 national and international companies was conducted on their perspective on administration, regulation, incentives, bidding stage and competition under a descriptive statistical approach.	Although there could be advantages in the identification of new projects by the private sector and cost savings, the bidding processes must be guaranteed to be competitive and transparent, maintaining the Value for Money of the projects. Adequate incentives should be generated so that the projects presented through PIs are innovative and do not leave out projects that seek a social benefit (not only economic). The Audit Body found that the PIs bidding processes require greater transparency in reporting the requested information and in awarding projects.
Chew, A.	Australia	n.a.	The legislation governing the process for submitting PIs to the Australian government is discussed.	The evaluation and protection processes for private parties must be specified and made transparent; likewise, the procedure to be followed once the PIs has been submitted must be described.
ASIA				
Cameron, H.	Vietnam	n.a.	The limitations of the country's IPs regulatory framework are qualitatively analyzed and compared with those of Australia and the Philippines.	PIs regulation must be more robust, clear and explicit; at the date of publication of the article (2017), the country had not awarded this type of projects due to limitations in the legal framework.
Sungmin, Y., Wooyong, J., Seung Heon H. y Heedae, P.	Republic of South Korea	1999 - 2006	The study uses 32 PPP projects (18 public and 14 private initiatives). • A survey is conducted in different sectors (SPCs, Construction and Transportation) and, based on the information obtained, through factor analysis and stepwise regressions, those organizational aspects that contribute to the success of each type of initiative are analyzed.	<p>Public Initiatives</p> <ul style="list-style-type: none"> • The ability to implement projects is a necessary condition for their success. <p>Private Initiatives</p> <ul style="list-style-type: none"> • Risk allocation and mitigation strategies (reduction of operational risks) are key elements in projects under this modality. <p>In both typologies, stakeholders must establish and apply good governance to align goals and objectives, favoring inter-institutional coordination.</p>

AUTHOR/S	REGION/COUNTRY	PERIOD OF ANALYSIS	METHODOLOGICAL FOCUS	MAIN RESULTS
	ASIA			
Zin Zawawi, M.I., Kulatunga, U. and Thayaparan, M.	Malaysia	February - March 2015	A "Case Study" (qualitative data analysis) was conducted with the PPP Unit of the Malaysian government. A questionnaire was constructed and 13 interviews were conducted to assess the level of competence in the process for receiving, validating and carrying out PIs; it was applied to the Unit's staff, practitioners involved in the process, and academic and industry.	<p>Although Private Initiatives are accepted by the State, there is no transparent mechanism and/or regulations in place to manage them.</p> <ul style="list-style-type: none"> This discourages competition and generates major obstacles in the bidding process. This generates overpricing and low infrastructure quality. As a solution, it is proposed to introduce a regulatory framework that establishes procedures and guidelines to strengthen competition and favor IPs administration.
	LATIN AMERICA			
Camacho, F.T., Rodrigues, B.C.L. and Vieira, H.M.M.	Brazil and Chile		A comparative analysis of PPP projects contracted under the PIs scheme in Brazil and Chile is carried out.	Rarely do companies other than the original proponents win the project award. Empirical evidence suggests that PIs may work best in sectors where the government has experience and that, <i>ex ante</i> , they are financially viable.
Castelbalnco, G. and Guevara, J.	Colombia		Using the systematized content analysis methodology, the study analyzes the allocation of risks in six road contracts (three Public Initiatives and three Private Initiatives) in the last decade.	<p>It is found that while some risks are retained by the public sector, most are transferred to the private sector.</p> <p>Two types of opportunistic behavior are identified:</p> <ol style="list-style-type: none"> The PIs Proponent transfers endogenous risks to the public sector; The public sector transfers exogenous risks to the Proponent.
Takano, G.	Peru	2008 - 2019	Through a mixed methodology of analysis (Database of 57 PIs -15 National and 42 Subnational- and two Case Studies), they identify low or no competitiveness in the processes to present and carry out Private Initiatives.	The lack of transparency in reporting information, as well as the poor and discretionary use of auction processes to present bids (government interests vs. better processes in favor of a social benefit) have favored opacity and lack of competition at the subnational level, mainly.

Source: Prepared by the authors based on international PIs literature.

APPENDIX C. USE OF DATA

Variables used from the RUAPP of Colombia's National Planning Department.

1. Type of APP

- It is divided into Public and Private Initiatives with and without public resources.

2. Project Name

3. Object of the Project

- Describes the purpose of the concession and/or PPP (Design, Construction, Rehabilitation, Operation, Maintenance, among others).

4. Type of Entity

- It has four categories (National, Municipal, Departmental and Metropolitan Area).

5. Name of Entity

- Indicate whether it is a government agency or ministry, entity, mayor's office, institute, foundation, university, among others.

6. Stage

- Shows the progress of the project.
- Originally there were 20 classifications; however, since similarities between them were identified, a new variable was created based on "clusters"; the space was reduced to 11 stages (Awarded, Contracted, Desisted, Arrangement of conditions, Rejected, Deserted, Awaiting entry for evaluation, Studies, Evaluation, Bidding, Publication for expression of interest).

7. Filing Date

- The day, month and year are specified; a new variable was created to group projects by year.

8. Development Sites

9. Type of Project

- Indicates the sector where the project is being carried out (Agriculture and Rural Development; Water and Sanitation; Environment and Sustainable Development; Science, Technology and Innovation; Commerce, Industry and Tourism; Culture and Sports; Public Buildings and Renovation; Education; Justice; Mines and Energy; Health; Information and Communications Technologies; Transportation and Mobility; and Housing).

10. Sub - Project Type

- For each type of project, it presents its subclassification(s).
- Classify projects as economic (productive) or social.

