

GUIDELINE of the Public Private Partnership Law.

At the left a stamp with the National Emblem, that says: United Mexican States. – Presidency of the Republic

FELIPE DE JESÚS CALDERÓN HINOJOSA, President of Mexico, in the exercise of the power vested in me by the article 89, fraction I, of the Political Constitution of the United Mexican States, and with bases in the articles 31, 32, 32bis and 37 of the Organic Law of the Public Federal Administration; 11, 14, 18, 27, 31, 40, 43, 45, 51, 53, 58, 63, 68, 73, 86, 92, 99, 118, 123, 136, 142 and other applicable of the Public Private Partnership Law, I have issued the following

GUIDELINE OF THE PUBLIC PRIVATE PARTNERSHIP LAW

First Chapter

Preliminary Provisions

First Section

Previous Provisions

Article 1st.- The present order has as objective to regulate the Public Private Partnership that the State does with particulars.

Article 2nd.- It will be consider that there is a long term contractual relationship, in terms of the article 2 of the Law, when the construction of the infrastructure and the provision of services in the terms to which said article reefers, require the grant of a contract with a term of more than three years.

The public-private partnership projects in which infrastructure provided by the State are used, should establish among the conditions of the contractual relation, the obligation of the private sector to develop additional infrastructure to the provided.

To the projects of applied scientific investigation or technological innovation to which article 3 of the Law reefers, whose nature requires the development of additional infrastructure to achieve its objective, the provided in the previous paragraph will not apply. Also, it will not result applicable to the productive investments project which objective implies scientific investigation, technological development or impulse of academic Activities.

Article 3.- The participation of the federal dependencies or entities in public-private partnership projects will be through one or more of the following forms:

I. With budgeted federal resources;

II. With resources of the National Infrastructure Fund or other public federal resources, not budgeted, or

III. With contributions different than in cash, including the grant of the authorizations to which reefers article 12, fractions II, III and IV, of the Law.

For the effects of the required investment for the public-private partnership project, the following will be understood:

a) Will be considered that a public-private partnership project is a pure project, when the resources for the payment of the provision of the services to the public sector or to the final user and the investment, operation, maintenance and conservation of the infrastructure cost, totally come form the provided in the previous fraction I.

b) Will be understood that a public-private partnership project is a combined project, when the resources to pay for the provision of the services to the public sector, and the investment, operation, maintenance and conservation of the infrastructure cost come from the public sector, either through one or more method to which previous fractions I and II refer, or from one different payment source than the previous, and

c) Will be considered that a public-private partnership projects is self-financed when the resources for its development and execution totally comes from contributions different to cash,, resources of particulars, or income generated by such project.

Article 4.- The public-private contract will have as objective to document the conditions or the relation of the dependency and entities and the particulars for the provision of services to the public sector or to the final user in which the development of infrastructure is required, in the terms of this Guideline.

In no case, the grant of this contract will have as a result a new legal person integrated by its signing parts.

Article 5.- With the limits of the article 10 of the Law, the federal dependencies and entities in charge of strategic activities can participate in public-private partnership projects, always that such projects have as objective, exclusively, activities that according to the applicable regime can be done by particulars.

It is understood that fundamental activities to which article 10, fraction I, indicated in the previous paragraph, refers exclusively to those that are part of the estate oil industry according to the provided by the Guideline of the Regulatory Law of the Constitutional Article 27 in the Area of Oil.

Article 6.- For the effects of the calculations provided in the article 4, fraction IV, second paragraph of the Law, the federal dependency or entity interested will take into account the participation of the public, federal, estate and municipal instances in the Initial Investment of the project, according to the viability studies to which the article 14 of the Law refers.

The present Guideline will be applied to the projects done by the federative, municipal and public entities of one and other, with charges to the federal resources, according to the indicated in the previous paragraph.

Article 7.- The events and processes related to the public-private partnership projects can be done through electronic communication means when, based on the Federal Law of Administrative Procedure, the federal dependency or entity has regulated such possibility.

In these cases, the rules of the Commerce Code, and the Law of Advanced Electronic Signature and other applicable regulations will be applied.

The documents, messages and notifications that have the advanced electronic signatures, and fulfill the requirements of the legislation previously mentioned and other applicable regulations, will have the same effects that the presented with autographed signature and, in consequence, the same proving value.

For the practice of personal notifications outside the residency place of the authority that instructs the sanctioning administrative procedure, this can be helped by any federal, state, or municipal authority who will carry it out according to the applicable regulations and will have the obligation to remit the respective confirmations or the result of the diligence, under the following three days to that in which it was practiced.

Article 8.- The projects that are done with the public-private schemes shall expressly include, the mention that it is precisely about a project under this scheme, in the following documentation:

- I. The analysis and previous studies to which the second article of the Law refers;
- II. The unsolicited proposals that are presented according to the third chapter of the Law.
- III. The related to the awarding procedures that are done according to the terms of the fourth chapter of the Law;
- IV. The authorizations for the development of the project and in the requests that for such effect are presented, and
- V. The contracts and agreements that are celebrated with the developer.

Chapter 9.- All procedure related to the public-private partnership projects that correspond to the federal dependencies to do at the Secretary, will be done through the administrative units of programming and budget of the Secretary itself. The procedures of the federal entities, will be done through the sector coordinator, or directly in case of entities not zoned.

Article 10.- The Secretary shall be empowered to explain this Guideline for administrative purposes for which shall request and consider the opinion of the interested dependency or entity. In case of issues related to federal real estate regime, appraisals or of responsibilities of the public officers, the interpretation of this Guideline will correspond to the Public Function.

Article 11. The definitions of the article 12 of the Law shall be applied in this Guideline. In addition, for the effects of the same, it will be understood for:

- I. Agent: Person that provides its services to help the dependency or entity under the contest procedures, in terms of the third paragraph of the article 38 of the Law;
- II. Portfolio: The portfolio of programs and investment projects that integrate the Secretary in terms of the article 34, fraction III, of the Federal Law of Budget and Fiscal Responsibility, and 46 of its Guidelines;
- III. Commission: Inter-Ministerial Commission of Public Expenses, Financing and Privatization;
- IV. Contest: The contracting procedure through public request of bid through calls, in terms of the third paragraph of the article 134 of the Political Constitution of the United Mexican States;
- V. Dependencies: The State Secretaries, the Legal Office of the Federal Executive and the Attorney General's Office,
- VI. Federal Entities: the semi-official entities of the Federal Public Administration and the public federal trusts not considered semi-official entities;
- VII. Public Function: The Public Function Secretary;
- VIII. Initial Investment: In relation to each project, the total contribution amount, in cash or differently, in the public sector as well as in the private sector, with or without financing, necessary to start operations of the project, calculated according to studies to which refer the articles 14, fraction VII, of the Law and 27 of this Guideline. These amounts will not include the value that is attributed to the authorizations mentioned in the fraction II of the article 12 of this Law;
- IX. Electronic Means: Technological device for the processing, transmission, print, display, conservation and, in its case, modification of information;

X. Web page: The Internet site that contains information, applications and, in its case, links to other pages;

XI. Expenses Budget: The Federation Expenses Budget for the corresponding fiscal year; and

XII. Secretary: Ministry of Finance and Public Credit

Second Section CompraNet

Article 12.- The Public Function will include in Compranet, by properly separated sections, the information related to:

I. The public-private partnership projects in which the federal dependencies or entities participate;

II. The unsolicited proposals that are presented to the federal dependencies and entities, in terms of the third chapter of the Law, and

III. The unique registry of developers, with indications of the partners that control the corporation and its administrators, with a specific paragraph for developers sanctioned by firm resolution.

Article 13. The unique registry of the developers has as objective the publicity and transparency and, therefore, its inscriptions are not previous requirement to do any activity of the provided in the Law or in other regulations.

The interested can request the Public Function modifications to the inscriptions in the cited registry, related to the projects in which they have participated, to which effect would provide the documentation that justifies such request. In case that it is considered necessary, the Public Function can request the opinion of the federal dependency or entity involved, to proceed with the requested modifications.

Article 14. In no case the information contained in Compranet and in the web page of the federal dependencies and entities shall include information of reserved or confidential nature in terms of the Federal Transparency and Access to the Government Public Information Law, or of the other applicable regulations.

Article 15. The federal dependencies and entities that participate in any activity that generates information that alludes the articles of the present section, should enter them to Compranet under the next ten working days to the date in which it was generated, except other regulation that indicates a different term.

Third Section Of the Information of the House of Representatives of the Congress of the Union

Article 16.- The information that the Secretary provides to the House of Representatives of the Congress of the Union, in compliance of the second and last paragraphs of the article 14 of the Law, will be presented annually, together with The Federation Expenses Budget, and will be updated in the Quarterly Reports of the Economic Situation, the Public Finances and Public Debt that the Federal Executive should present, through the same Secretary, to the Congress of the Union.

Article 17.- Then information to which the immediately previous article 16 of this Guideline reefer will be presented based on the requirements entered in Compranet, and others that the federal dependencies and entities inform to the Secretary.

To the cited information, as well as the annual reports and the quarterly reports, will be applicable the indicated in the article 14 of this Guideline.

Fourth Section Of the Registry for Statistics Purposes

Article 18. The registry for statistics purposes indicated in the article 14, third paragraph of the Law, will have, as additional, the information of the projects that are developed with schemes provided by the Law.

The registry is exclusively for statistics effect and does not represent any requirement to do any activity foreseen in the Law or in another regulation.

Article 19. The federal dependencies and entities shall, under their exclusive responsibility, provide and update the Secretary with the information for statistics effects of the registry, under the immediate ten working days following to the date in which they have been generated, except that other regulation indicates a different term.

Article 20.- The registry information shall be public and of free enquiry.

SECOND CHAPTER Of the Preparation and Initiation of the Projects

First Section Of the preparation of the Projects

Article 21.- The analysis about the technical viability provided in the article 14, fraction I, of the Law will have:

I. The characteristics, specifications, technical standards, Performance Levels and quality for the provision of services and, in its case, of the infrastructure to which reefers, and

II. The other elements to conclude that such project is:

a) Technically viable, and

b) Congruency with the National Development Plan, as well as the sectional, institutional, regional or special programs that correspond.

Article 22.- The analysis of the properties, goods and rights necessary for the development of the project, provided in the article 14, fraction II, of the Law will have the mentioned aspects in the article 16 of the same Law.

Of this analysis should conclude if it is feasible to acquire the cited goods or to obtain the authorizations for its use or purpose.

Article 23.- The analysis provided in the article 14, fraction III. of the Law shall list the authorizations – federals, of the federal and municipal entities - that are required to develop the project, with distinction of the necessities for the execution of the work and of those for the provision of the services, as well as to add elements to determine if it is feasible or not to obtain such authorizations.

Article 24.- The analysis of the legal viability provided in the article 14, section IV, of the Law shall list the regulations – federals, of the federal and municipal entities – applicable for the development of the project, and the same should conclude if the project is susceptible or not to comply with such regulations.

Article 25.- The analysis of environment impact, human settlements and urban development provided in the article 14, fraction V of the Law will have the following two items:

I. Of the environmental viability, regarding of which the opinion of the Environment and Natural Resources Secretary and, in its case, of the state and municipal environment authorities will be requested, about the aspects to which the article 15, fraction I, of the Law reefer.

The request to the Environment and Natural Resources Secretary should contain:

- a) The information indicated in the article 21 of this Guideline, and the term expected for the project;
- b) Location and surface pretended for the project, with indication if they are located in natural protected areas, federal or local; areas subjected to environment, national or international protection, or areas with species subjected to any type of legal restriction in terms of the federal environment regulations;
- c) Relation of the orders about the use of the soil in the property intended for the project in environment matter, with the environmental criteria applicable at the location where the location of the project is pretended, and
- d) Description of the natural resources involved or susceptible of exploitation, use or affectation for the development and operation of the project.

The Environment and Natural Resources Secretary will analyze the information indicated in the previous items and will issue an opinion in a term of twenty working days, counted from the next one in which the request is received.

The favorable opinion does not mean authorization in matter of environmental impact, nor exempts of the obligation to elaborate the corresponding manifest of environmental impact in the terms provided in the General Law of Ecologic Balance and Environment Protection, and

II. In relation to the human settlements and urban development, in which the opinion of the Social Development Secretary will be requested and, in its case, the state and municipal authorities, about the aspects to which the article 15, fraction II of the Law reefers.

The request to the Social Development Secretary should contain:

- a) The information indicated in the article 21 of this Guideline, and the term pretended for the project;
- b) Location and surface pretended for the project, and
- c) Relation of the orders about the use of the soil and the land intended for the project, in urban development matter, with the applicable criteria to the site of intended location of the project.

The Social Development Secretary will analyze the indicated information in the previous items and will issue an opinion in the terms of twenty working days, counted from the following of the receipt of the request.

The opinion of the cited Secretary will list the necessary authorizations for the development of the project, and will indicate if fulfills with the minimum essential aspects about the viability in such matters. The favorable opinion does not suppose any authorization, or exempts from the obligation to process the ones necessary according to the applicable regulations.

The analysis of environment impact, human settlements and urban development indicated in the article 14, fraction V of the Law will be considered complete with the opinions mentioned in the two fractions of this article. The project will be considered viable with the favorable opinion of the cited aspects.

Article 26.- The analysis of the social profitability and the convenience of the public-private partnership scheme to which refers article 14, fractions VI and IX, of the Law, and according to the indicated by the article 17 of the same, should be done close to the rules that the Secretary indicates for such effects.

The content of the rules will exclusively regulate the following aspects:

I. The content and elaboration of the types of social profitability analysis, where the federal dependencies and entities demonstrate that are susceptible to generate in each case a net social benefit under reasonable suppositions;

II. The relevance of the term opportunity, in which the dependencies and entities indicate the reasons that demonstrate which one is the most optimum moment to initiate the execution of the project, and

III. The convenience analysis, in which will demonstrate the relevance to carry out a project through a public-private partnership, in comparison with other contracting schemes or other financing mechanisms of the project.

Article 27.- The analysis about the investment estimations and contributions, indicated in the article 14, fraction VII, of the Law will refer to:

I. The estimations of the Initial Investment, and

II. The estimations of additional contributions, in cash and different to cash, necessities to keep the project operating.

In this analysis should indicate the source of each of the principal areas of investment and contributions.

The interested federal dependencies and entities shall determine, in this analysis, the type of contributions that will do of the mentioned in the article 3 of this Guideline.

Article 28. The analysis of the economic and financial viability referred in the article 14, fraction VIII, of the Law, shall consider the income and expenses flow of the project during its term. From this analysis, should determine if the project is economically and financially viable or not.

In case of projects that contemplate the contribution of estimated federal resources of the mentioned in the article 3, fraction I, of this Guideline, the analysis should include a section about the feasibility of such contributions by the interested dependency or entity during the life of the project, in which its effects in the finances of such federal dependency or entity are shown, with original estimations as alternative scenarios.

This paragraph shall be elaborated considering reasonable suppositions about the budgeted assignments and expenditures of the interested dependency and entity, the distribution of risks of the project to which refers, as well the other public-private partnership contract of the federal dependency or entity.

Article 29.- The analysis provided in the article 14, fraction IX, of the Law should be elaborated close to the ruling that the Secretary issues for such effects. From it shall detach advantages of the proposed public-private partnership scheme, in relation to other options.

Article 30. The analysis to determine the viability of a project will be considered complete when it includes all and each of the analysis indicated in the article 14, fractions I to IX, of the Law and, at the same time, such analysis will fulfill with the requirements established in such order and in the previous article of the present section, without the need of additional contents.

In case of projects referred in the article 3 of the Law, will require, in addition, the approval of the Scientific and Technological Consultative Forum, provided in the article 13, fraction III, of the Law.

The projects will be considered viable when it is determined by the interested federal dependency or entity determines, through ruling that elaborates based on the previously mentioned analysis.

The interested dependencies and entities will be the exclusive responsible of such ruling and its content.

Article 31. The viable projects in which the interested dependency or entity pretend to participate with estimated federal resources of the foreseen in the article 3, fraction I of this Guideline, shall attend the Secretary for effects of the provided in the Second Section of the present Chapter.

To do so, the interested federal dependency or entity should remit the Secretary the social profitability analysis and of convenience of the scheme, provided in the article 26 and 29 of this Guideline. Shall also remit, for only informative effects, the investments and contribution analysis, of economic and financial viability, as well as the viability ruling, referred in the articles 27, 28 and 30 of this Guideline, respectively.

The viable projects in which the interested dependency or entity pretend to participate with public federal resources not budgeted, with contributions different from cash, or both, but without including federal budgetary resources, will not require the provided approvals in the second section immediately following.

Second Section

Of the Approval of the Contributions of Federal Budgetary Resources

Article 32.- In relation to the projects with contributions of the budgetary federal resources that receive in terms of the article 31 of this Guideline, the Secretary will review that:

- I. The analysis to which the article 14, fractions VI and IV reefer, were done according to the rules issued by the same Secretary;
- II. From the social profitability analysis, the project is susceptible to generate a net social benefit under reasonable supposition, and
- III. From the analysis to which the article 14, fraction IX, of the Law, the public-private partnership scheme proposed is convenient in relation to other options.

The review of the Secretary does not imply any validation of the studies to which reefer, which content will be exclusive responsibility of the interested dependency or entity, in terms of the article 30 of this Guideline.

Article 33. The Secretary will evaluate from the budgeting point of view the projects that receive and will register them, when considers it proceeding in the exercise of its attributions, in the Portfolio.

Article 34. Only the projects registered in the Portfolio, that require contributions indicated in the article 3, fraction I, will be presented to the Commission for the effects in the articles 21 and 24 of the Law, no later than August 15.

For each public-private partnership project, new or that suffers scope changes in terms of the article 122 of the present Guideline, the federal dependency or entity to which reefer, through the coordinator of the sector dependency, or directly if it reefer to not coordinated entities, shall remit to the Commission, through the administrative units of programming and sectional budgeting of the Secretary, no later than the last working day of June, a request of authorization or change in the scope for its incorporation to the Expenditure Budget project that corresponds.

The authorizations to do public-private partnership will not imply an expansion of the budget limits established by the dependencies and entities in the subsequent fiscal years. Also, this should give priority to the expenditures repealed in the execution of such public-private partnership under its programming and budget process.

The Commission will analyze and, if proceeds, authorize such projects and will determine the preference and order of execution of each one. The ruling of the Commission will be issued no later than August 22.

In the year that the holder of the Federal Executive concludes with the post, the periods foreseen in the activities calendar previously referred will be adjusted by the Secretary.

Article 35.- In relation to the projects previously authorized by the Commission, the Secretary shall include, in the corresponding Expenditure Budget, the following information:

I. Based in the macroeconomic projections used in the programming of the Federal Government:

- a) An evaluation of the impact of the projects in the public finances, and
- b) A preliminary estimation of the maximum annual amounts to disburse to meet the requirements, of the projects already approved by previous exercise, as well as the ones that will be proposed for approval, and

II. The one, based on the rulings presented by the interested federal dependencies and entities, results necessary to support the approval of the budget sufficiency proposed for the new projects.

Article 36.- The contributions of budgeted federal resources can only be done if counts with the previous approval of the House of Representatives of the Congress of the Union for the corresponding budget sufficiency.

Third Section Of the Initiation of the Projects

Article 37.- The awarding process of a public-private partnership project can only be initiated when it fulfills the following requirements, as corresponds:

I. In all cases, the project should be considered viable in terms of judging to which article 30 of this Guideline reefer;

II. If the projects require federal budget resources provided in the article 3., fraction I, of this Guideline:

a) Should count with the approval of the corresponding budget sufficiency, or proceed in terms of article 35 of the Federal Law of Budget and Fiscal Responsibility, or

b) If deals with multiannual expenditures, of the mentioned in the article 32, last paragraph of the Federal Law of Budget and Fiscal Responsibility, in all cases will need the approval of budget sufficiency of the House of Representatives of the Union, without being possible to proceed in terms of the article 35 of such legislation, and

III. In case of projects with origin in an unsolicited proposal, shall also comply with the requirements of the article 49 of this Guideline.

Article 38.- Only one public-private partnership contract can be celebrated when complies with the following requirements, as corresponds:

I. Having concluded the awarding procedure – through contest, invitation to at least three people, or direct awarding - , in terms of the chapter four of this Guideline, and

II. In case of projects with budgeting federal resources, of the indicated in the article 3, fraction I, of this Guideline:

a) Shall have the corresponding budgeting sufficiency, or, proceed in terms of the article 35 of the Federal Law of Budget and Fiscal Responsibility, or

b) If it is about multiannual expenditures, of the mentioned in the last paragraph of the article 32 of the Federal Law of Budget and Fiscal Responsibility, in all cases will be necessary that the project is previously authorized in the corresponding Expenditure Budget of the Federation, without being possible to proceed in terms of the article 35 of the cited Federal Law of Budget and Fiscal Responsibility.

Article 39. In the supposition o the article 37, fraction II, Item a) and of the 38, fraction II, item a), both of this Guideline, the interested dependencies and entities should include in the respective documentation, the expressed clause that the contributions of the budgeted resources will be subjected to the condition precedent of the approval of the budgeting sufficiency by the House of Common of the Congress of the Union.

The lack of update of this condition precedent will not generate any responsibility for the parts.

Fourth Section Of the Authorizations of the Projects

Article 40. The federal authorizations for the development of a project will be granted preferably under the awarding procedure, and will be formalized simultaneously together with the celebration of the corresponding public-private partnership contract.

In the awarding processing should indicate the requirements of such authorizations. In the event of authorizations of federal dependencies or entities different to the one that will celebrate the contract, this will view the others to resolve the conducting.

The developer should process such not granted authorizations during the awarding process.

Article 41. In terms of the article 22 of this Law, the granted by default indicated in the second paragraph of such regulation, operates for the previous federal authorizations necessary to start the execution of a project. Does not apply for:

I. The approval of contributions of budgeting federal resources provided in the second section of the present chapter;

II. The authorization that request to be processed after the start, in terms of the article 107 of the Law, of the provision of the services, and

III. The proceedings of unsolicited proposals.

Article 42.- The corresponding authorizations in the state and municipal areas will be processed according to the regulations of local character that result applicable.

THIRD CHAPTER Of the Unsolicited Proposals

First Section Of the Proposal Requirements

Article 43.- The interested in presenting and unsolicited proposal can arrange an interest demonstration by the federal dependency or entity to whom knowing about such proposal corresponds.

Such demonstration will only represent an element for the interested to decide to do the previous study. Will not imply any obligation, or history about the opinion related to the proposal that on its opportunity will be presented.

The federal dependency or entity to which the interest of demonstration request previously cited is presented, should reply in a term or no more than thirty working days, counted from the following day of the reception date of such request.

Article 44.- The preliminary study provided in the article 27, fraction I, of the Law should contain the previous elements so that, if the proposal is considered proceeding, to start the analysis to which reefer the article 14 of the same Law.

Such preliminary studies will have a paragraph for each of the aspects provided in the cited regulation, which shall adjust to the following:

I. The description of the project to which reefer the item a) will have:

a) The characteristics, development and quality level for the provision of services and infrastructure to which relates, and

b) The other elements from which follows that the project is technically viable and is under the suppositions mentioned in the agreements that, in its case, the dependency or entity has expedited according to the article 26, second paragraph, of the Law;

II. The description of the authorizations to which the item b) reefer, will have a relation of the authorizations – federals, of the federative entities and municipal – as well as the requirements for its grant, necessary for the development of the project, with the mentions that the item indicates;

III. The related to the legal viability to which the item c) reefer, shall indicate the following regulations – federals, of the federative entities and municipal – applicable for the development of the project, with the elements that allows the conclusion that it is susceptible to be complied with such regulations;

IV. The related to the item d) should be done according to the guidelines of the Secretary, and shall contain elements that indicate that the project is susceptible to generate a net social benefit under reasonable suppositions;

V. The related to the investments and contributions estimates mentioned in the item e) will reefer to the Initial Investment proposed, as well as the additional contributions to keep the project operating, with the indication of each area and relevant contributions;

VI. The provided in the item f) shall indicate the estimated flow of income and expenses of the project during its term, and also include the elements about economic and financial viability of the proposal, and

VII. The related to the essential characteristics of the contract provided by the item g) will include:

- a) The objective, capital, share structure and shareholders, of the corporation/s with the specific purpose that, in its case, will be the developers:
- b) The main rights and obligations of the parts in the contract, and
- c) The proposed regime of the distribution of risks among the parts, which should consider, by way of example and not limitation, the referred to technical issues, obtaining financing, availability of the property and other goods, fortuitous cases, and others that result relevant.

The promoters can provide additional elements that allow a better evaluation of its proposals.

Article 45.- The proposals should go together with the declaration of the promoter, under oath to tell the truth, that it is not about proposals previously presented by the same promoter and already resolved.

The falsehood in the declaration of the promoter shall be cause of immediate rejection of the proposal, without prejudices of the criminal responsibility and of other nature in which incurred.

Second Section Of the Analysis and Evaluation of the proposals

Article 46.- In the event that the federal dependency or entity considers that the project to which reeferes corresponds to another instance and decides to transfer it, in terms of the second paragraph of the article 29 of the Law, shall notify so in writing to the promoter.

In these cases, the term indicated in the article 28 of the Law will start again, from the date in which the new public instance receives the proposal.

Article 47.- The extensions that are needed for the analysis and evaluation of the proposals, in terms o the article 28 of the Law, shall be notified in writing to the promoter, previous to the termination of the term to be extended.

Article 48.- The opinion of an unsolicited proposal can be that the project is:

I. Proceeding, in which case the dependency or entity should resolve:

- a) If corresponds to call for a Contest, or
- b) If has interest or not in acquiring the studies that have been presented, or

II. Not proceeding, for having found any of the suppositions indicated in the article 34 of the Law.

Third Section Of the Contests of the Projects

Article 49.- To call for a Contest, the interested federal dependency or entity shall:

- I. Comply with the indicated in the article 37 of this Guideline;
- II. Issue a certificate provided in the article 31, fraction I, of the Law;

III. Have the unilateral declaration of the will of the promoter, to which reefer the fraction II of the article 31 of the Law, and

IV. Have the bid security to which reefer the article 31, fraction IV, second paragraph, of the Law.

Article 50. The certificate for the reimbursement of the expenses for the studies realized, shall contain the following mentions:

I. The indicated in the article 31, fraction I, of the Law;

II. That cannot be transferred, and that the rights it protects can only be exercised by the promoter;

III. That the reimbursement of the expenses processed will be done with the delivery of the certificate, and

IV. That the certificate will be without effect and proceed with its cancellation:

a) If the Contest is not called for causes chargeable to the promoter,

b) If done the Contest, the project is not awarded and the caller decides to not acquire the presented studies.

Article 51. The amount of expenses to reimburse indicated in the certificate will be determined by a third party, designated by common agreement between the promoter and the interested dependency or entity. This amount shall not exceed:

I. The amount of the expenses effectively done by the promoter, verified, essential and directly related for the preparation of the proposal, and which amount is within the market, nor

II. The equivalent to the four percent of the Initial Investment of the project, or of the equivalent to ten millions of Investment Units, which results less.

The third that determines the expenses can be hired in terms of the article 20 of the Law, and its fees will be covered, in equal parts, by the promoter and the interested dependency or entity.

Article 52.- The certificate for the expenses reimbursement shall be delivered after receiving the unilateral declaration of the will of the promoter and the bid security to which the article 31, fractions II and IV of the Law respectively reefer.

Article 53.- The unilateral declaration of the will of the promoter mentioned in the article 31, fraction II, of the Law shall contain the following mentions:

I. The related to the obligations indicated in the article 31, fraction II of the Law.

In relation with the obligation mentioned in the item a) of the mentioned fraction, shall proceed in the delivery of all technical information necessary for the presentation of the technical offers. In no case the promoter shall be forced to inform about its economic offer.

Regarding the obligation indicated in the item b) of the same fraction II of the article 31 of the Law, shall have the options of the article 54 immediately following of this Guideline;

II. The referred to that the promoter will loose in favor of the convener all its right about the studies presented, in the event that does not participate in the Contest for reasons chargeable to the promoter, and also if the project arrives to compete after.

III. The expressed acceptance that, in case of breach of any of the obligation to which the declaration reefers, presented bid security will be effective, and

IV. The related to the life term of the declaration and the obligations to which the same reefers, that necessarily shall overcome after the celebration of the Contest and signing of the corresponding contract.

Article 54.- For the event that the winner of the contest is different than the promoter, the transfer of the rights and the authorizations mentioned in the article 32, fraction II, item b), the Law shall be referred exclusively to the realization of the project.

The activities protected by copyright and intellectual property can also be subcontracted, to be done by the owners of such rights, as per terms of the article 101 of the Law.

Article 55. The bid security to which article 31, fraction IV, second paragraph, of the Law will adjust to the following:

I. Will be constructed through any of the forms mentioned in the article 150 of this Guideline;

II. Its coverage will be for the amount that to the effect determines the convener under its most strict responsibility, attending the nature of the project and always ensuring that the amount is enough to comply with the guarantee's objective;

III. Will be in force pending the completion of the Contest and the corresponding contract is celebrated;

IV. Will be effective in case of breach of the obligations that the promoter acquires in the unilateral declaration of the will that presented to do the Contest.

Fourth Section Of the Acquisition of the Studies

Article 56.- If the project is considered proceeding and the federal dependency or entity decides to acquire the studies of the unsolicited proposal, shall be provided by the article 32 of the Law.

The maximum amount of the acquisition will be determined according to the indicated in the article 51 of this Guideline.

CHAPTER FOUR Of the Awarding of the Projects

First Section Previous Regulations

Article 57.- The participation of the Agent in an awarding procedure will consist of the advice, elaboration of projects and proposal, logistic, technical or any other nature support, that help the federal dependency or entity do any event of the awarding procedure.

The agent services can include the realization of financial, legal, technical workshop and any other activity that allows the better broadcasting, as well as the coordination of public sections for reception and opening of proposals.

In all case, the events that are following indicated, shall be done invariably by the calling federal dependency or entity, without prejudice to the support that may receive from the Agent:

I. The call, invitation to at least three people, rules of the awarding and explanations to these:

II. Evaluation of the proposals, ruling and awarding of the project, and

III. Celebration of the public-private partnership contract.

The participation of the Agent shall be clearly documented, to demonstrate is professional, ethic, honest, objective and impartial proceedings.

Article 58.- The Agent services will be hired according to the provided in the article 20 and 38 of the Law, as well as the 148 of this Guideline.

In the event that the called decides not to use the public awarding process to hire an Agent, this will be done preferably through the invitation process of at least three people. Can be done through direct awarding when:

I. The information that is requested to provide in the awarding procedure is reserved in terms of the Federal Transparency and Access to the Government Public Information Law.

II. There are circumstances based and motivated, through ruling of the office holder of the dependency or entity, that can cost lost or relevant additional costs, or

III. Any other cause is presented that, to the judgment of the office holder of the dependency or entity, justifies it.

Two or more Agents can be hired in relation to the same awarding procedure, when it results convenient in attention to the specialization to each relevant aspect of the project.

Article 59.- The Agent contract can only be celebrated with who proves to have the capacity and technical, financial and other necessary resources, and whose professional activities are related with the services objective of the contract.

The federal dependency or entity shall agree the necessary clause that avoids interest conflict of the Agent in the awarding procedure.

Article 60. The services of the Agent can be hired with institutions of the development banking, in which case, will be done through direct awarding and will not be applicable to the indicated in the article 58 of this Guideline.

Second Section Of the Contests

First Subsection Of the Observers and Social Witnesses

Article 61. The interested in assisting to the different Contests event, as observers, shall notify the calling federal dependency or entity, for this to issue a confirmation of the inscription in a specific registry that have for each Contest.

The registered observers in the caller's registry can attend all the events in which the contestants participate, as well as to all the others of public nature of the Contest.

In case of identifying a possible irregularity, shall inform the internal control organism of the convener. A copy of these reports shall be on the record provided in the article 126 of this Guideline.

Article 62.- In those projects whose Initial Investment amount is equal to or more than the equivalent to four hundred millions Investment Units, shall anticipate the participation of a social witness. In the projects with Initial Investment less than the previously cited amount, such participation will be optional according to what the calling dependency or entity decides.

Article 63.- The social witness will be freely appointed by the Public Function.

The convener shall request the appointment to the Public Function, no later than twenty working days prior to the date provided for the publication of the call. For such, should communicate a brief description of the project, as well as the date of the call, delivery of the proposals, and other relevant of the contest.

The social witness appointed by the Public Function, will be hired by the calling federal dependency or entity, in terms of the article 20 of the Law.

Article 64.- The participation of the social witness in the Contest will be adjusted to the following:

I. Will be conducted objectively, independently, impartially, honestly and ethically.

II. Will participate as an observer, in all the events to which the contestants assist, as well as to all the others of public nature of the Contest;

III. In case of any possible irregularity, shall inform the internal control organism of the caller;

IV. Shall attend and answer in a timely and expedited way any information requirement that, regarding the Contest that testifies, is formulated by the Public Function or by the internal control organism of the caller;

V. Shall keep the proper reservation and confidentiality in case of having access to information classified with such characteristics in terms of Federal Transparency and Access to the Government Public Information Law, and

VI. Will elaborate a final report of the process of the Contest, that shall be presented to the caller in a term of no more than seven calendar days counted from the conclusion of the Contest, and publish in CompraNet during the three months after the presentation date.

This report will be merely declaratory, without any legal effect on the Contest, nor implies release of any responsibility due to an eventual irregularity.

Article 65.- The fees of the social witness will be covered by the calling dependency or entity, who will assign them case by case in function of the amount of the project of the Contest and complexity of this. In no case, the social witness's fee can exceed the equivalent of fifty thousand Investment Units

Second Subsection Of the Call and Contest Rules

Article 68.- Beside the elements indicated in the article 44 of the Law, the call should contain:

- I. The web page where the call and other data of the Contest can be consulted, and
- II. The cost and payment methods of the rules.

Article 67.- Beside the elements indicated in the article 45 of the Law, the rules of the contest shall contain:

- I. The requirements, terms and conditions so that any interested participate in the Contest;
- II. The amounts, terms and conditions of the public contributions that, in its case, will be done for the project;
- III. The reference to the documentation that the participants shall present, terms and presentation form;
- IV. The indication that the contestants shall deliver, with their technical offer, copy of the receipt for the acquisition of the rules;
- V. Mention of the place, date and time for the realization of the events and presentation of the documents of the Contest;
- VI. The characteristics and statutory requirements that the society should comply with the specific purpose to which the article 91 of the Law refers, with which the contract will be celebrated, as well as the requirements that its administrators shall comply.
- VII. The web pages in which information related to the Contest can be consulted, and
- VIII. The names, locations and email addresses of the public servants responsible of the Contest.

Article 68.- If proceeding, the rules shall also contain:

- I. The name and address of the participant Agent/s;
- II. The relation of the authorizations that, beside the ones that correspond the convener to grant, are requested from other federal authorities, from the federative and municipal entities, as well as the requirements to comply in order to obtain them;
- III. In case of projects originated in an unsolicited proposal:
 - a) The name of the promoter
 - b) The terms and conditions for the payment of the certificate to which article 31, fraction I, of the Law refers, and
 - c) The indication of the prize that, in its case, has been established in terms of the article 31, fraction V, of the Law
- IV. The requirements, terms and conditions to do the Contest event through electronic means;
- V. The terms and conditions to do the preliminary revision and participants' registration to which article 49 of the Law refers;
- VI. The causes, in addition to the provided in the article 57 of the Law, for which the contestants will be disqualified, and

VII. The name, location and email address of the social witness.

Article 69.- The call and the rules will be available for acquisition by the interested from the day of the publication of the call and up to the working day immediately prior to the date of the presentation and opening of the proposals.

The acquisition of the rules will be necessary requirement to present proposals. In case of consortium, will be enough that at least one of its members acquires them.

The cost of the acquisition of the rules will be set by the convener in function of the recovery of the costs for the publication of the call and the reproduction of the documents to give to the contestants.

Article 70. Between the last explanation or modification meeting to the rules, whichever results later, and the presentation of the proposals event, shall have a term of no less than ten working days.

Third Subsection Of the Presentation of Proposals

Article 71. To calculate the limit of the guarantees that, in its case, the participants shall give, the percentage indicated in the article 47, second paragraph, the Law will be applied to the Initial Investment amount of the project, according to the analysis realized in terms of the article 14 of the same Law.

These guarantees will be cashed if the contestant withdraws the proposal prior to the ruling, if receives the awarding and the corresponding contract is not subscribed for reasons chargeable to the contestant under a term indicated to the effect, or the breach of any other obligation to its care.

Article 72.- In the event that the rules foresee the registration of participants referred in the article 49 of the Law, this will be adjusted to the provided in the rules and to the following:

I. Will imply the review of the documents about the verification of the legal existence and legal capacity, experience and technical, administrative, economic and financial capacity of the contestants, personality of the representatives, the grant of guarantees, as well as any other aspect that in case of knowing and making public, does not give place to unfair competition, nor to conditions against the criteria of the article 38 of the Law.

No revision shall be referred to any element of the economic offer, nor the technical offer that has information that , for its nature, shall be kept in reservation up to the opening event;

II. If the contestant receives the preliminary registration, will not require to present the documents again to obtain it, and will be enough that in its technical offer includes its declaration, under oath of saying the truth, that the documents and information so presented are valid without any modification;

III. The contestant that do not have a preliminary registry, or want to modify the documents and information presented to obtain such registry, should present in its technical offer all the documents and requested information, and

IV. In case of a consortium, the preliminary registration will be applied to its members. If changing its integration, shall present again in its technical offer all the required documents and information.

The members that are separated from the consortium and want to participate in the Contest individually, shall also present in its technical offer all the requested documents and information.

Article 73.- The technical offer shall contain:

I. The obligation to constitute a corporation with the specific purpose in terms of the article 91 of the Law, for the event that the contestant receive the awarding of the project and is not the developer;

II. In relation to the referred corporation with the specific purpose mentioned in the cited article 91 of the Law, the following data:

- a) The partners and participation of each of them in the capital of the corporation, and
- b) The related to the compliance of the requirements provided in the article 104 of this Guideline;

III. If the proposal is from a consortium:

- a) The documents that prove the legal existence and legal capacity, experience and technical, administrative, economic and financial capacity of each of the members;
- b) The Activities, obligations and responsibilities, properly differentiated, that correspond to each of the members, and
- c) The obligation that, in case results the winner, will comply with the requirements mentioned in the article 106 of this Guideline;

IV. The manifestation under oath to say the truth of who sign the offer that he, the representatives, partners, or shareholders of their constituents, as well as the administrators of the contestant, are not in the suppositions of the article 42 of the Law;

V. In case of preliminary registration, the declaration to which reefers the article 72, fraction II, of this Guideline;

VI. The express mention that the offer is presented in firm, forces to who does it, and will not be object of negotiation, and

VII. All the other elements indicated in the rules.

The technical offer must be accompanied with copy of the receipt of acquisition of the rules.

Article 74.- The economical offer should contain:

- I. The minimum financial requirements for the development of the project;
- II. The financial model of the project;
- III. The programs of expenses, investments and, in its case, of other expenditure of the project;
- IV. The economic offer properly said;
- V. The express mention that the offer is presented in firm, forces to who make it, and will not be object of negotiation, and
- VI. All the other elements indicated in the rules.

Article 75.- The technical and economic offer shall be presented simultaneously, but in separate. If electronic means are used, shall be presented in separate files.

Article 76.- The stance shall be presented by who has the legal ability to bind, or with enough legal faculties to represent and bind the contestant, in the terms indicated in the rules.

To intervene in the presentation and proposal opening event, will be enough that the participants present a writing in which indicate, under oath to say the truth, that they have sufficient powers to commit by themselves or by their represented, without being necessary to credit its legal personality.

In all case, the developer with whom the contract is subscribed shall credit its legal personality and the faculties of its representatives.

Forth Subsection
Of the Evaluation of the Proposals and Ruling of the Contest

Article 77.- For the evaluation of the proposals any of the following criteria shall be followed:

I. By points and percentages

II. Cost-benefit, and

III. Any other that the caller indicates in the rules, which should be clear, accountable and allow the objective and impartial comparison of the proposals.

The evaluation criteria shall give preference, in equal circumstances, to the proposals that hire human resources, goods or services of national origin, observing at all times the provided by the international treaties.

The criteria can include elements that consider benefits in charge of the developer in terms of the article 100 of the Law.

Article 78.- When the points and percentages criteria are used:

I. The convener shall indicate in the rules:

a) The item and sub item of the technical and economic offers, as well as the numeric ratings or of weighting that can be achieved by each of them:

b) The way in which the compliance of the aspects required in each item or sub item for the granting of the punctuation or weighting shall be credited, and

c) The minimum ratings or weighting that shall be obtained in the technical offer, that allows the continuity with the evaluation of the economic offer, and

II. Will be considered as the most convenient proposal the one with the major qualification that will be calculated with the addition of the results of the technical and economical offer.

Article 79.- When the cost-benefit criteria are used:

I. The caller shall indicate in the rules:

a) The information that for the application of these criteria shall present the contestant as part of their proposals;

b) The evaluation of cost-benefit method that will be used, which shall be accountable and allow the objective and impartial comparison of the proposals, with the elements that will be object of evaluation, such as operation, maintenance, performance and other elements, as well as the instructions that the contestant shall take into account to elaborate the proposals, and

c) If necessary, the method to update the prices, and

II. The awarding will be in favor of the contestant whose technical offer results solvent and its economic, presents the mayor net benefit.

Article 80.- In Contests of projects that have their origin in unsolicited proposals, the prize to which article 31, fraction V, of the Law reefer, will be adjusted to the following:

I. To the economic offer, the promoter will grant the prize that is indicated in the rules, without exceeding the following limits:

a) If the Initial Investment is up to the equivalent of ten million Investment Units, the prize can be up to ten percent in relation to the best economic offer before the actual award;

b) If the Initial Investment is higher than the limit indicated in the previous item and up to the equivalent of one hundred millions of Investment Units, the prize can be of up to eight percent in relation to the best economic offer before the actual award;

c) If the Initial Investment is higher than the superior limit indicated in the immediate previous item and up to the equivalent of five hundred million Investment Units, the prize can be of up to six percent in relation to the best economic offer before the price itself;

d) If the Initial Investment exceeds the superior limit indicated in the immediate previous item, the prize can be of up to three percent in relation to he best economic offer before the actual award, and

e) In no case the prize can represent, in relation to the best economic offer before the actual award, a different higher to the equivalent to ten percent of the Initial Investment of the project, and

II. If the promoter is part of a consortium, the award will be applied to the joint proposal that the consortium presents.

Article 81. First the technical offers shall be evaluated. The economical offers will only be opened after the technical offers have been evaluated.

Only the economic offers of those contestants whose technical offers comply with the requirements indicated in the rules will be evaluated and, therefore, considered solvent.

Article 82.- In the evaluation of the proposals, the convener shall ensure the best conditions to meet the needs of the public to satisfy with the project, which not necessarily are those that imply less expense or investment.

Article 83.- The conditions that have as purpose to facilitate the presentation of the proposals and the development of the Contest, as well as any other requirement whose compliance, by itself, does not affect the validity and solvency of the proposals, will not be subject of evaluation. Its breach will not be reason to reject the proposals.

When the convener detects an error of typing, arithmetic, of calculation or of any other similar nature, that does not affect the evaluation of the proposal, can rectify it when the correction does not imply modifying the meaning of the proposal. In differences of amounts in letters and in figures, the first ones will prevail.

In all cases, will notify the internal control organism of the convener, and the rectifications realized shall be stated in the ruling of the corresponding verdict.

Article 84.- When, to realize the correct evaluation of the proposals, explanations and additional information are necessary, according to the article 53 of the Law, the convener shall:

I. Ensure that it is about explanation and just complementary information, that does not imply the delivery of new relevant documentation, nor provide conditions for the contestant to supply substantial deficiencies on the proposal;

II. Formulate the requests in writing or through electronic means established for the Contest, allowing the record of them;

III. Set in their requests, terms for the contestant to attend them, without such term delay the Contest;

IV. Preserve in the file of the Contest, the original proposal, the explanation requests, the explanations done, and other elements that allow the later verification of the compliance with the provided in the second paragraph of the article 53 of the Law.

Article 85.- Even when there are complaints or presumption of falsehood in relation with the information presented by a contest, its proposal should not be discarded. The public server that has knowledge of such events or presumptions shall so inform the internal control organism of the convener.

If the project is awarded to the participant to whom referees, , and previous to the celebration of the contract, the falsehood of the information is confirmed, the convener shall abstain from celebrating such contract and report the facts to the competent authority.

Article 86.- Beside the supposition that, in its case, is indicated in the rules, the following proposals will not be considered solvent:

I. The incomplete in which the missing information or document prevents the proper evaluation and the determination of its solvency;

II. Those that do not comply with the legal, technical or economical conditions, clearly expressed in the rules as relevant for the solvency of the proposal, and

III. Those in which conclusively prove that the information or documentation provided by the contestant is false.

Article 87.- For effects of the article 57, fraction II, of the Law, is considered privilege information the knowledge of all fact, act or event of any nature that influences or could influence in the proposals of the Contest, and that have been obtained through unfair competency or irregularly.

Article 88.- The reimbursement of the unrecoverable expenses to which article 58 referees, last paragraph, of the Law, will proceed according to the following:

I. Will be for the unrecoverable expenses, effectively done, proved, necessary and directly related with the presentation of the proposals in the cancelled Contest, and which amount is under the market. In all case, will be limited to the following concepts:

a) The cost of acquisition of the rules;

b) The cost of the guarantees that will be requested to participate in the Contest, and

c) The cost of preparation and integration of the proposal;

II. In no case can exceed, by participant, the equivalent to two percent of the Initial Investment of the project, nor the equivalent of five millions Investment Units, whichever results less, and

III. If the cancelation is done on the date of the presentation and opening of the proposals or later, the reimbursement will only proceed to who have presented proposals.

The contestants can request the reimbursement under a term of maximum twenty working days, counted from the date of the cancelation of the Contest. The reimbursement will be done under a term of ninety working days from the date set in the rules for the signature of the contract.

Fifth Subsection Of the Events After the Ruling

Article 89.- In the event that the contract is not subscribed in the term indicated in the rules, for unjustified cause chargeable to the winner, the project can be awarded to the second place and, if does not accept, to the subsequent places, always that:

I. The new awarded complies with all the conditions provided in the rules, and

II. The difference with the winning economic offer is not higher than the equivalent to ten percent, calculated on the base of the cited winning proposal.

Article 90.- The reimbursement of the unrecoverable expenses to which makes reference the article 63 of the Law will proceed according to the following:

I. Will be for the unrecoverable expenses effectively done, proved, necessary and directly related to the presentation of the proposal winner of the Contest, and which amount is under the market. In all case, will be limited to the following concepts:

a) The cost of acquisition of the rules;

b) The cost of the guarantees that would be requested to participate in the Contest, and

c) The cost of preparation and integration of the proposal; and

II. In no case can exceed the equivalent to two percent of the Initial Investment of the project, nor the equivalent to five millions Investment Units, whichever results less.

The contestants can request the reimbursement under a term of maximum twenty working days, counted from the date fixed in the rules for the signature of the contract. The reimbursement will be done under the ninety working days following the receipt of the request.

Third Section Of the Exceptions to the Contest

Article 91. In all matters not provided for the invitation procedure to when less than three people or the direct awarding, will be applicable, in the proceeding, the regulation of this Guideline for the process of the Contest.

CHAPTER FIVE Of the Goods Necessary for the Projects

First Section
Of the Way to Acquire the Goods

Article 92.- The goods and rights for the execution of a project, including the related to a right of way, can be acquired by the interested federal dependency or entity, by the developer, or by both, as agreed according to what results more adequate.

Article 93.- The acquaints that the federal dependencies or entities do, will be done preferably in the agreement, directly or by public request for bid, as corresponds according to the applicable regulations, without prejudices of doing them through expropriation.

Article 94.- The application of the factors provided in the article 68 of the Law should procure the most fairness in the valuation, which will do according to the rulings that the Public Function issues through the Institute of Administration and Appraisal of National Goods.

Second Section
Of the Acquisition through Agreement

Article 95.- The acquisitions through agreement that the federal dependencies and entities do, will not require public bid in the case of properties and other goods and real rights, in the suppositions of the article 69, second paragraph, of the Law, nor in other suppositions that indicate the other applicable legal regulations.

The acquisitions of goods not listed in the previous paragraph, will be done according to the Law of Acquisitions, Leasing, and Public Sector Services and disposition that from this arise.

Article 96.- The acquisitions mentioned in the first paragraph of the article 95 immediately previous of this Guideline will be adjusted to the parameters and factors that indicate the appraisal provided in the article 68 of this Law. The payment of these appraisals will be covered by the interested dependency or entity.

Article 97.- In terms of the article 75 of the Law, for effect of the public-private partnership contract, will be considered as investment amounts that the particulars do to acquire the properties, goods and rights, the provided in the contract, without being able to transfer additional costs or higher prices covered in an acquisition, to the hiring dependency or entity,

Third Section
Of the Expropriation

Article 98.- The public utility declaratory will be done, in a not delegable way, by the office holder of the interested dependency and, in case that the promoter is a federal entity, by the office holder of the coordinating dependency of the sector.

The declaratory should contain:

- I. The legal basis, as well as the motivation that supports the cause of public utility;
- II. The description that allows the identification, precisely, of the goods and rights to which reefer;
- III. The name of the owner of the goods and rights. If they are unknown, should be indicated;
- IV. The description of the project intended to be developed, and the specific use that will be given to the referred goods, and

V. The location of the offices where the complete file with the corresponding technical studies will be available to the interested.

Article 99.- The public utility declaratory must be accompanied by:

I. The analysis to which refers the articles 14, fraction I, of the Law and 21 of this Guideline, in which the technical viability of the project is demonstrated;

II. The analysis to which refers the article 14, fraction I, of the Law and 26 of this Guideline, in which the social profitability of the project is demonstrated, and

III. The ruling of the viability of the interested dependency or entity project, provided in the third paragraph of the article 30 of this Guideline.

Without the documents previously cite, the public utility declaratory will not be considered properly motivated.

Article 100.- When the compensation for an expropriation is totally or partially covered in kind, the following rules will be observed:

I. Will request the consent, expressed and in writing, of the affected to receive the payment in kind;

II. Appraisals will be practiced in terms of the articles 68 of the Law and 96 of this Guideline, of the goods to deliver in concept of compensation, and

III. The interested federal dependency or entity shall cover the federal, local and municipal contributions, and other expenses and costs that originate for the transmission of goods given in concept of compensation.

Article 101.- The file mentioned in the article 81, fraction I, of the Law will have:

I. To proceed with the expropriation:

a) The declaration of public utility, the documents mentioned in the article 99 of this Guideline and others that support it, as well as the publications and notifications of such declaratory;

b) A copy of the appraisal done in terms of the article 68 of the Law and 96 of this Guideline:

c) In case of land and other real goods and rights, topographic plans of the referred property, as well as a certified copy of the real folio or of the inscription of such property in the corresponding Public Registry of the Property;

d) If it is about properties, goods or services subject to the cooperative or communal regime, the documents that the Farm Bill indicate and other applicable regulations, and

e) The other documents that result necessary to demonstrate the origin and legality of the expropriation, and

II. Once completed the expropriation:

a) A copy of the publication of the decree of expropriation in the Official Journal of the Federation;

- b) The proof of payment of the compensation and, in its case, the acceptance to receive the payment in kind, and
- c) A copy of the affidavit about the occupation that is done in terms of the article 81, fraction IV, of the Law, subscribed by the public servers involved in it.

Article 102. To proceed with the foreseen reversion in the article 86 of the Law, the affected should return the amount or goods that they received in concept of compensation.

The updates, interests, and any other performance of such quantities will be in favor of the affected, in concept of damages and prejudices that have been originated.

Article 103.- In case of the reversion, an agreement will be celebrated with the affected to arrange for the delivery and reception of the expropriated goods, and the compromise of the federal dependency or entity to answer any duty or tax contracted previous to the celebration of the agreement.

The federal, local or municipal contributions, as well as the other expenses and costs that the reversion implies, will be covered by the federal dependency or entity that, in its opportunity, processed the expropriation.

A copy of the expropriation documents will be kept in the file according to the articles 81, fraction I, of the Law and 101 of this Guideline.

CHAPTER SIX Of the Public-Private Partnership Contracts

First Section Of the Corporation with Specific Purpose

Article 104.- The corporation with specific purpose to which the article 91 of the Law refers, shall comply with the following requirements:

I. Be a corporation of Mexican nationality

II.; Have legal nature according to which its social capital is affected exclusively to the social object, as the anonymous, the anonymous investment promoter, and of the limited responsibility, with the mode or not of variable capital;

III. Its social objective, will be exclusively, the development of the project, without prejudice to include any other complementary Activity to the project;

IV. The minimum capital that the corporation shall:

a) Be the same or superior to the indicated in the rules of the project awarding, and to be totally subscribed and paid;

b) Not having right to withdraw, and

c) To be documented in special series of titles;

V. The bylaws, and the titles representing its social capital, shall include the mentions to which article 105 immediately following of this Guideline refers;

VI. Its administrators shall comply the requirements that, in its case, have been indicated in the awarding rules, and

VII. The others necessary to receive the authorizations that the project implies, as well as the indicated in the other regulations applicable to the activities of the project.

Article 105.- The bylaws, and the titles representatives of the social capital of the developer corporation, shall include the following expressed mentions:

I. The previous authorization of the hiring dependency or entity is required for:

- a) Any modification for the constitutive deed and statute of the corporation;
- b) The admission and exclusion of new partners and, in general, changes in the share structure, and
- c) The cession, transmission to third parties, grant of guarantees or affection of any way to the rights of the representative titles of the corporation capital, and

II. The authorizations mentioned in the immediate following fraction will proceed when its granting does not imply deterioration in the technical and financial capacity of the developer corporation, nor breach of the rules of awarding of the project.

The authorizations cited in the present article will be granted in a preferred way when they are referred to guarantee the compliance of finances directly related with the project, or of the intervention of the same in terms of the article 114 to 116 of this Guideline.

Article 106.- In the event that the contract is going to be celebrated with a consortium, this can only be integrated by corporations with specific purpose that comply with the provided in the articles 104 and 105 immediately previous in this Guideline, with the following particulars:

I. The objective of each corporation can be referred exclusively to the partial activities that will do for the development of the project;

II. For no reason can participate, in the capital of any of the corporations integrating the consortium, others members of the same consortium;

III The minimum capital without the right to withdraw of each corporation shall be equal or superior to the indicated in the rules of the awarding of the project, even when the result of the summary with the other members of the consortium will be superior to the indicated to celebrate the contract with only one corporation;

IV. Any modification to the agreement that regulates the relations of the members of the consortium, as well as the inclusion and exclusion of such members, will require previous authorization of the hiring dependency or entity, and

V. The statute, representative titles of capital of the members of the consortium, and the agreement that regulates them, shall contain the mentions of the fractions II to IV immediately previous.

Second Section Of the Subscription of the Contracts

Article 107. Beside the elements indicated in the article 92 of the Law, the public-private partnership contract shall contain the terms and conditions related to the following aspects:

I. The grant of the authorization of the contracting federal dependency or entity to start the provision of the services to with the article 107 of the Law reefer;

II. The determination of:

a) the financial adjustments in case that, during the life of the contract, the developer receives better conditions in the financing intended for the project. This adjustments shall be done so that the benefit for the better conditions favor, fairly, the developer as well as the contracting federal dependency or entity, and

b) Any other additional income for the project, and the destiny that shall be given;

III. The methodology to prove the increase in costs and its update, which will contain, at least, the following elements:

a) The relation of the materials which cost variation will generate modifications in the costs of the contract;

b) The index of prices that will be used to calculate the corresponding adjustments;

c) The formula to do the adjustments, and

d) The dates, terms and other terms and conditions to do the adjustments;

IV. The transfer of the contract's rights and, in the case, of the respective authorizations of the project, the transmission of such rights to third parties, its grant in guarantee or affectations in any way according to the provided in the articles 89, 102, 103 and 110 of the Law, and 112 of this Guideline.

V. The supervision of the provision of services and, if it is the case, of the execution of the works;

VI. The intervention of the projects and faculties of the inspectors in terms of the article 114 of this Guideline:

VII. The intervention of the projects and faculties of the inspectors, by the developer's creditor, in terms of the article 116 of this Guideline;

VIII. The causes of anticipated termination provided in the article 123 of this Guideline;

IX. The reimbursement of the investments done by the developer in case of anticipated termination for causes chargeable to this, according to the article 124 of this Guideline;

X. The execution of the guarantees that the developer grants;

XI. The destination of the property, goods and services used in the provision of services, at the end of the contract, according to the article 125 of this Guideline, and

XII. The others that the parts consider necessary.

Article 108.- If proceeding, the contract shall also contain the terms and conditions related to the following aspects:

I. The condition precedent to which article 39 of this Guideline reefer;

II. The payment of the benefit to which the article 100 of the Law refers, in the suppositions that such article establishes;

III. The possibility of subcontracting the execution of the work or the provision of the services, according to the indicated in the article 101 of the Law;

IV. The execution and use, in its case, of the installation for the realization of the complementary, commercial or other nature activities, provided in the article 109 of this Law, and

V. The requirements that the committee of experts shall comply, to which article 134 and following of the Law.

Article 109.- In the event that the contract is celebrated with a consortium, shall also include:

I. The clear and precise mention of the activities that each member shall do;

II. The joint obligation, or jointly responsible, if so determined by the contracting dependency or entity - of all the members in relation to the fulfillment of the obligations of the contract, and

III. The mention to which the article 106, fraction IV, of this Guideline refers.

Article 110. The information contained in the appendixes of the contract can be classified as reserved, according to the provided in the Federal Transparency and Access to the Government Public Information Law.

Article 111. In terms of the article 99 of the Law, the cost of the guarantees that the developer grants, shall not exceed, as a whole, the following limits:

I. During the stage of the construction of the infrastructure of the project, the equivalent to fifteen percent of the value of the works to which refer, as this has been estimated in the studies mentioned in the article 14 of the Law, and

II. During the provision of services stage, the equivalent to ten percent of the annual compensation for the same services, as indicted in the financial regime of the project agreed in the contract.

The duration of the contract will be subjected to the condition precedent that the developer gives, to the total satisfaction of the hiring dependency or entity, the agreed guarantees.

Article 112.- The rights of the developer derived of the public-private partnership contract and, in its case, of the respective authorizations for the development of the project, can only be transferred, passed to third parties, given in guarantee or affected in any way, with previous authorization of the hiring federal dependency or entity.

In case of authorizations not granted by the hiring federal dependency or entity, will be given to the authority who issued them, to resolve the conducting.

The authorization mentioned in the first paragraph of this article will proceed when its granting does not imply damage to the technical and financial capacity of the developer, nor breach in the rules of the project awarding.

Such authorization will be given preferentially when is referred to guarantee the fulfillment of financings directly related to the project, or with the intervention reason of the same in terms of the articles 114 to 116 of this Guidelines.

In all cases, the parts shall take the necessary steps not to cause substantive affectations in the provision of services and, in general, in the development of the project.

CHAPTER SEVEN Of the Execution of the Projects

Article 113.- The provided authorization in the article 107 of the Law can be granted totally or partially. In this last case, when there are pending aspects that, individually or collectively do not substantially affect the provision of services to the judgment of the hiring federal dependency or entity, and the developer is forced to correct them in the not extendable term that by mutual agreement agree with the same.

Article 114.- The previous notification for the intervention of the project to which article 112 of the Law refers, shall contain:

- I. The cause that motivates the intervention and the term for the developer to answer to what the rights agree, which shall not be less than ten working days counted from the following day in which the notification takes effect, and
- II. The term to correct the cause that motivated the intervention, which shall be enough to correct it, to the criteria of the authority, same which shall not be less than twenty working days counted from the following day in which the notification takes effects.

Article 115.- If proceeding with the intervention, the inspector/s appointed by the hiring dependency or entity, will have regarding the project involved, all the attributions of the administration organism of the involved developer.

The public servers of the hiring dependency or entity, with the participation of the inspector/s appointed, shall issue an affidavit at the beginning and ending of the intervention.

Article 116.- The creditors of the developer can assign one or more representatives to contribute with the appointed inspector/s, in the suppositions, terms and agreements previously agreed with the dependency or entity, in the corresponding public-private partnership contract.

The inspector/s appointed by the hiring dependency or entity should ensure safeguarding the rights of the bona fide third parties related to the project, including the creditors or the developer.

In all cases the inspector/s appointed by the hiring dependency or entity shall take the necessary steps not to create substantive affectations that imply the partial or final suspension of the provision of services and, in general, of the normal development of the project according to the plans and goals established in the same.

CHAPTER EIGHT Of the Modification of the Projects

Article 117.- The limit indicated in the article 118, fraction II, items b) and c), of the Law will be calculated with the result of adding:

- I. The equivalent to twenty percent of the cost of the infrastructure, considered in the estimation of the Initial Investment agreed in the contract, and
- II. The estimation of the compensation for the services during the first year of its performance, according to the agreed in the contract.

For the second and following years of life of the contract, the cited estimations in the fractions of this article will be adjusted annually, with the National Index of Consumer's Prices or with the indicator that substitutes it.

Under this limit the modifications done according to the fractions III and V of the article 17 of the Law will not be counted.

Article 118.- The approval of the office holder of the contracting federal dependency or entity mentioned in the article 118, fraction II, item c), of the Law will not be necessary when the modifications amounts, as a whole, do not exceed the limit calculated according to the article 117 immediately previous in this Guideline.

Article 119.- The dispositions in the article 118 of the Law will only be applicable to the modifications of the projects awarded through contest, or through invitation of at least three people, and in the suppositions that such article indicates.

Such dispositions will not be applicable to the modifications established in the article 117, fractions III and V, of the Law, nor in the contracts awarded directly.

Article 120.- Will be considered that the supposition indicated in the article 119, fraction I, of the Law is updated when the events of the corresponding authorities take place after.

I. At the presentation of economic offers, in the case the projects awarded through contest, or through invitation to at least three people, and

II. At the date of the celebration of the contract, in case of direct awarding.

Article 121.- In case of delays for causes chargeable to the federal hiring dependency or entity, this shall be extended to the terms agreed in the contract, for the same amount of time that the delays have effectively consumed.

Article 122.- When the modification to a public-private partnership contract implies the expenditure of budgeted federal resources, of the mentioned in the article 3, fraction I, of this Guideline, additional to the originally budgeted, will be necessary to comply with the Federal Law of Budget and Fiscal Responsibility and other applicable. In all cases, the corresponding authorization of the Commission will be necessary.

CHAPTER NINE

Of the Termination of the Public-Private Partnership

Article 123.- The contracting federal dependency or entity shall agree in a public-private partnership contract that can previously terminate when there are reasons of general interest, or well, when for justified causes the need to request the goods and services originally contracted are extinguished, and is demonstrated that in case of compliance with the agreed obligations, a harm or prejudice to the Estate can be caused.

Shall also agree the other causes of anticipate termination that, according to the project, results proceeding.

In all cases, the anticipated termination shall be supported through ruling of the hiring dependency or entity, that precise the reasons and justified causes that originated them.

Article 124.- In case of anticipated termination in terms of the article 123 immediately previous of this Guideline, for causes not chargeable to the developer, this will have the right to reimbursement the expenses and investments, that demonstrates having realized , unrecoverable, pending for depreciation.

For the reimbursement to proceed, the expenses and investments shall be necessary and directly related with the project, and found within the market.

The reimbursement amount will be calculated in the terms and conditions agreed in the contract.

The developer can request the reimbursement in a term of maximum twenty working days, counted from the date of the anticipated termination, and such payment shall be done under a term of no more than ninety working days after the presentation of the request together with the documentation that supports it.

The developer will not have right to any reimbursement if the anticipated termination is for causes chargeable to the same.

Artie 125.- According to the articles 123 and 124 of the Law, at the termination of the public-private partnership:

I. The goods subject to the General Law of National Goods will revert to the hiring federal dependency or entity, or can be transferred to the person of public right that this indicates;

II. The hiring federal dependency or entity, directly or through the people or public right that indicates, will acquire the necessary and essential goods of the project, that have been provided by the developer o by any other person. This acquisitions will be onerous or free, according to the agreed in the contract and its financial regime, and

III. The hiring federal dependency or entity will have the right of option to acquire, directly or indirectly through the person of public right that indicates, the other goods not included in the fraction II immediately before, that the developer was using in the project.

In the event of goods provide by third parties, in the title that such contribution is indicated shall mention the provided in the fractions II and III of the present article.

CHAPTER TEN Of the Supervision of the Projects.

Article 126.- For each project in with the federal dependencies and entities participate shall have a file with the following documents:

I. The viability ruling to which the article 30 of this Guideline reefer, with the analysis, studies and works that support it;

II. In its case, the documents related to the approval of the budget sufficiency for the origin of expenditure of budgeted federal resources;

III. In relation to the awarding procedure:

a) The contract with the Agent that, in its case, have participated, as well as the documentations stating its actions;

b) If the awarding was done through Contest, a copy of the call, of the rules with its appendix and its modifications, of the winning proposal and of the two immediately following, of the ruling of the verdict

and of the ruling itself, of the activities raised, and other relevant documents, such as requests for explanations from the contestants, corrections to the ruling, reports of irregularities found and expenses reimbursement, and

c) If the awarding was done through invitation of at least three people or directly, the ruling of the office holder of the dependency or entity provided in the article 65 of the Law, as well as other relevant documents;

IV. In the event of acquisition of properties, goods, and rights by the calling dependencies or entities:

a) Regarding the acquisition through agreement, directly or through public bid, the documents related to such acquisitions, such as appraisals, calls and rules of the bid, contracts, proof of payment, and

b) Regarding the acquisitions through expropriation, the documents of the file mentioned in the articles 81, fraction I, of the Law and 101 of this Law;

V. The documents about the legal personality and legal representation of the developer and its representatives and, in its case, about the transfers, guarantees and affectations to the representative titles of its social capital;

VI. A copy of the authorizations granted for the execution of the work and the provision of the services, its modifications, transfers, affectation and other relevant events;

VII. The copy of the contract and its appendix, modification, transfer and other agreements celebrated, of the granted guarantees, as well as the authorization for the start of the services to which the article 107 of the Law refers;

VIII. The related to the intervention of the project, in its case, such as the notification of intervention, the documents that would record the proceedings of the inspector/s, the minutes of delivery-reception at the beginning and termination of the intervention.

IX. The related to the termination of the contract;

X. Of the resources and judgment that are presented, and

XI. The others that the hiring federal dependency or entity considers necessary to demonstrate that all the events were adjusted according to the Law, to this Guideline and the others applicable.

Article 127.- In case of unsolicited proposals, presented in terms of the articles 26 and following of the Law, the file will include the following documents:

I. The proposal, with its appendix, as well as the declarations of the promoter, mentioned in the article 45 of this Guideline:

II. The opinion of the federal dependency or entity about the received proposal;

III. In the event that proceeds with the call for the Contest, the documents to which article 49 of this Guideline refers;

IV. If acquiring the studies in terms of the article 32 of the Law, the documents related to the determination of the amounts to be covered by the promoter, and

V. The other documents that the dependency or entity considers relevant to demonstrate that all the events were adjusted according to the provided by the Law, by this Guideline and other applicable.

Article 28.- The conservation of the documentation and electronic information to which indicates the article 127 of the Law, will be done according to the applicable dispositions in the filing matter.

CHAPTER ELEVEN Of the Infractions and Sanctions

Article 129.- The Public Function and the internal control organisms of the federal dependencies and entities, in the exercise of their respective attributions, can verify at any time that the awarding process and the previous events for the realization of the projects are done according to the established in the Law, this Guideline and other applicable guidelines, an other applicable ruling, as well as doing audits, visits and inspections that considers necessary.

Article 130.- The Public Function will take knowledge and will investigate the events presumably constituting of infractions to which the article 130 of the Law refers, among others, through any of the following means:

I. CompraNet, based on the information registered by the federal dependencies and entities in terms of the article 15 of this Guideline;

II. Complaint formulated by the hiring dependencies and entities, or any other authority;

III. Complaint of particulars in which indicate, under oath of saying the truth, the suspected infraction. The demonstration done with falsehood will be sanctioned in terms of the criminal ruling and other applicable, or

IV. Reports by the observers and social witnesses that, in its case, have participated in the contests for the awarding of projects.

Article 131.- The complaints and reports that are presented to the Public Function in terms of the immediate previous article 130 of this Guidelines shall be accompanied of all the documentation and other probing elements that are counted to support the offence.

In the supposition to which article 130, fraction II, of the Law refers, the federal dependencies and entities will forward to the Public Function the documentation that credits the amount of the damages and prejudices caused on the occasion of the alleged breach, with the details and specifications of the concepts of alterations to which refers.

Article 132.- Once the Public Function has the knowledge of the events presumable constituting a crime, will do an investigation and acts to support the allegation, for which can request the corresponding federal dependencies and entities, the necessary documentation and information, request the particulars to provide more elements to their analysis, and carry out diligences to better provide that considers necessary.

Relating to the information that request from the particulars, can use pressure measurements provided by the Federal Law of Administrative Procedure.

Article 133.- If after completion of the investigation, not enough elements to support the violation and the possible responsibility of the offender are found, the authority will issue an inadmissible agreement and will order the filing of the case.

If in the investigations elements that support the possible violation and possible responsibility of the offender are found, will start the administrative procedure to impose sanctions provided in the Law, which will be supported by the Federal Law of Administrative Procedure.

Article 134.- The lack of formalization of the contract by the contestant or by their legal person that this has obliged to constitute to subscribe it, will be presumed attributable to the contestant, except with contrary proofs that during the administrative sanctioning procedure is added and justify such omission.

Article 135.- In case of cancellation of the contract, the term to which article 132 of the Law refers, will be counted from the day in which was concluded, with firm resolution, the cancellation procedure.

Article 136.- The awarding procedure and its previous events carried out according to the Law, and this Guideline, will be considered public contracts for effects of the Federal Anticorruption Law in Public Contracts.

CHAPTER TWELVE Of the Controversies

First Section Of the Experts Committee

Article 137.- Can only participate in the experts committee provided in the article 134 of the Law, who have the knowledge, capacity and technical resources related with the divergence to settle, according to the requirements that for the members are indicated in the public-private partnership contract.

Article 138.- In the event of divergences of technical or economic nature in relation to the compliance of the public-private partnership contract, the procedure to the mentioned experts committee provided in the article 134 of the Law will not be previous requirement to proceed with the agreed mechanism in such contract, or any others that based on the applicable ruling proceed for the resolution of such divergences.

In case that the Committee of Experts ruling is approved anonymously, this will be forced for the parts, in the other cases, the parts will keep safe the rights to do them valid in the proceeding way.

Article 139.- When doing the notification and answering mentioned in the article 135 of this Law, the parts will agree the rules according to which the experts committee will act, same that can be pre established, as the ones of the International Chamber of Commerce or any other national or international instance, or to be expressly agreed for the divergence about which relates.

In case of no answer to which the last paragraph or article 135 of the Law refers, will be understood that there is no agreement to hold to the procedure to the experts committee.

Article 140.- In case that the designated experts by the parts do not come to an agreement respect the appointment of the third, will proceed in the following way:

- I. Any of the parts or the designated experts will notify the Public Function;
- II. The Public Function will have five working days to put to the order of the appointed experts a list of three candidates;
- III. The two experts appointed by the parts will be responsible to attend to the Public Function to know the list of candidates and select by common agreement one of them, under the five working days immediately following the term indicated in the previous fraction II;
- IV. If the disagreement continues, each of the appointed experts will have the right to eliminate one of the candidates, and will communicate so to the Public Function under the two days immediately following the deadline of the previous fraction III;

V. If any or both experts appointed by the parts does not participate in the terms of the previous fractions of this article, will be considered that agrees with the appointment that, in its opportunity, the Public Function does, and

VI. The third expert will be that, without being eliminated, appears in first place in the list. The Public Function will communicate so to the appointed experts.

Second Section Of the Conciliation

Article 141.- For the effects of the provided in the article 138 of the Law, when the public-private partnership project includes any of the works that can be considered under the suppositions of the articles 3 and 4 of the Public Work and Services Related to the Same Law, will continue with the same conciliation procedure provided in the Law and its Guideline.

In all the other cases, will continue with the conciliation procedure of the Law of Acquisitions, Leasing, and Public Sector Services and its Guideline.

Article 142.- The public servant empowered to agree and attend the conciliation mechanisms to the Public Function shall have the same attributions that to celebrate the contract gives origin to the conciliation procedure.

Third Section Of the Arbitration

Article 143.- With the limitations indicated in the article 139, third paragraph, of the Law, the parts of a public-private partnership contract can agree an arbitration, of strict right, to solve the controversies that result about the compliance of the contract, particularly about the termination causes provided in the article 122, fractions I and II, of the Law, as well as the agreed by the parts.

The authority's acts considered as so, for the effects of the Law of Protection, Ruling of the Articles 103 and 107 of the Political Constitution of the United Mexican States, cannot be subject of the arbitration clause.

Article 144.- The recognition and execution of such decision dictated in the arbitration will be subjected to the ruling of the fourth title of the fifth book of the Commerce Code, which provide that the corresponding resolution will not be object of any resource. Based on such ruling and, in its case, in the terms of the subject of the law, will only proceed the protection hearing.

Article 145.- The public server empowered to agree to arbitration, shall have a minimum level of General Director or counterpart in the dependencies, or its equivalent in the entities.

Fourth Section Common Rulings of this Chapter

Article 146.- The controversies that arise based on the interpretation or application of the contracts celebrated based in the Law, will be resolved by the federal tribunals, only in the cases in which no arbitration clause, alternate mean of solution of controversies have been agreed, or these do not result applicable.

Article 147.- Except agreed otherwise, the fees of the experts of the committed, and of the arbitrator, will be covered as follows:

I. The fees of the experts and arbitrators appointed directly by each part, will be covered by who appointed them; and

II. The fees of the third expert and the appointed arbitrator of common agreement or by any other procedure, will be covered by both parts, in equal proportion.

CHAPTER THIRTEEN

Final Dispositions

First Section

Complementary and of Support Services

Article 148.- The contracting of services in terms of the article 20 of the Law can be realized for the following works:

I. Those to determine the viability of the project, any other previous studies and the proper executive project, provided in the first paragraph of the cited article 20 of the Law;

II. Of the evaluation of proposals not requested or realization of complementary studies, as well as to determine the amounts to reimburse, mentioned in the articles 31, fraction III, and 33 of the Law;

III. Of the Agents referred in the article 38, third paragraph, of the Law;

IV. Of the social witnesses mentioned in the article 43 of the Law;

V. Those for the acquisition of the properties, goods and rights necessary for the execution of a project, provided in the first paragraph of the article 20 of the Law, as well as the appraisals mentioned in the article 68 of the same Law;

VI. Of the project inspectors to which article 113 of the Law refers;

VII. Of the independent experts for the ruling related to the modification of a project, in terms of the article 118, fraction II, item a), of the Law;

VIII. Of the control and supervision referred in the article 126 of the Law;

IX. Of the members of the experts committee provided in the article 134 and followings in the Law, and

X. Of the arbitration, mentioned in the article 139 of the Law.

Article 149.- The limit to which article 20, last paragraph, of the Law refers, will be calculated as follows:

I. Will not be applied for the study or specific work, but will be considered in a global way, the fee amount derived from the contracting of the group of works, studies or services, related to one project, and

II. The total estimated cost of the project will be determined with the result of adding the Initial Investment and the estimation of the total of the other expenses in cash during the validity of the project, to the date proposed for the initiation of the project, according to the viability studies mentioned in the article 14 of the Law.

In the event of reaching the indicated limit, for the payments and new hires that exceeds them, the authorization of the Law of Acquisitions, Leasing, and Public Sector Services of the dependency or hiring entity, will be necessary

Second Section Of the Guarantees in Favor of the Dependencies and Entities

Article 150.- The guarantees to which reeferes the Law and this Guideline, in favor of the federal dependencies or entities, will be given in any of the forms provided in the article 79 of the Federal Law of Budget and Fiscal Responsibility.

Can also grant guarantees through trusts constituted in authorized fiduciary institutions.

Always that the applicable ruling allows them, the guarantees can be delivered through electronic means.

Article 151. When the guarantee is through bail:

I. The policy should contain, as minimum, the following provisions:

- a) That the bail is granted attending all the stipulations contained in the document in which the guaranteed obligations appear;
- b) That the bond will remain valid until the term and its extensions for the compliance of the guaranteed obligation, as well as the substantiation of all the resources and hearings that arise, and up to the dictation of the final and firm resolution;
- c) That to cancel the bond, will be a requirement to have the expressed approval of the federal dependency or entity, for having complied with the total guaranteed obligations, and
- d) That the bonding company clearly accepts to follow the execution procedures provided in the Federal Law of Institutions of Bonding, even in the case in which proceeds the collecting of compensation for delay with occasion of late payment of the required amount of the bond policy.

Regarding the bonds in favor of the dependencies, the execution procedure will be provided in the article 95 of the mentioned Federal Law of Institutions of Bonding, having to be attended for the collection of compensation for delay the indicated in the article 95bis of such Law,

II. In case of extensions or waiting, or any modifications to the guaranteed obligations, the corresponding modifications to the bond shall be done. All modifications shall be formalized with the participation of the bonding company, in terms of the applicable ruling;

III. When doing the settlements, if there are balances by the bonding company, and this does the total payment unconditionally, the dependencies and entities shall cancel the respective bond, and

IV. When cashing the bond is requested, the dependencies shall remit to the Federation Treasury, under the term to which the article 143 of the Guideline for the Law of the Treasury Service of the Federation makes reference, the request where indicates the necessary information to identify the obligation or credit that is guaranteed and the subjects linked to the bond, with the documents that support and justify the cashing, according to the indicated by the Guideline of the Article 95 of the Federal Law of Financial Institutions, for the Cashing of Bonds Granted in Favor of the Federation, of the Federal District, of the States and of the Municipalities, Different than the ones that Guarantee Federal Tax Obligations in charge of Third Parties.

To do effective the bonds in favor of entities, the request will be remitted to the corresponding area of the entity.

Article 152.- In case of guarantees referred to advance, shall be constituted for the total advance given, in the same currency of this, and will only be cancelled until the total amortization of the same is done.

Article 153.- The guarantee of compliance of a contract can be referred to the total amount to disburse and to the compliance of the obligations that correspond to be done in only one fiscal year.

In these cases, shall be updated and renewed each fiscal year, for the amount to be exercised and the obligations to comply in the next year, and present the hiring dependency or entity no later than under the first ten calendar days of the fiscal year that corresponds.

On the request of the developer, the dependency or entity can agree to not substitute the granted guarantee, always that it remains valid and its amount keeps the proportion agreed in relation with the amount to disburse and the obligations to comply in each subsequent fiscal year.

Article 154.- The modification to the contracts will carry the respective adjustment in the compliance guarantee when such modifications are not covered by the originally granted guarantees.

In the respective modified contract shall indicate the term for the delivery of the adjusted guarantees, which shall not exceed ten calendar days following to the signature of the contract.

Article 155.- The guarantees will be effective for the total amount of the guaranteed obligation, unless its division is agreed.

In case that for the characteristics of the projects, these cannot function partially, the guarantee will be effective for the total amount of the guaranteed obligation.

Article 156.- The guarantee provided in the article 62 of the Law will be granted in favor of the convener, for the amount that the authority that should resolve about the suspension incident to which reeferes, indicates.

Article 157.- The grant of the guarantee to which the article 142 of the Law reeferes will only be compulsory when the particular requests the suspension of the challenged event or of its effects.

The guarantee amount will be the one indicated by the authority that shall resolve about the suspension incident to which reeferes, under its most strict responsibility, attending the nature of the project and always ensuring that the amount is enough to comply with the objectives of the guarantee.

TRANSITORY ARTICLES

FIRST.- The present Guideline will come into force on the following day of the publication in the Official Journal of the Federation.

SECOND.- The Ministry of Finance and Public Credit will have a term of sixty working days, counted from the coming into force of the present Guideline, to start the registry for statistical effects to which article 14, third paragraph, of the Law reeferes.

THIRD.- The modifications to the CompraNet system that allows the incorporation of the information related to the public-private partnership projects, shall be concluded in a term of no more than a year, counted from the date of entering into force of the present Guideline.

For such effects, the Public Function and the Secretary will carry out the necessary coordinating actions so that CompraNet counts with the requested functionalities under the term established in the previous paragraph.

FOURTH.- The projects comparable to the public-private partnerships, like the Projects of the Provision of Services, called PPS, as well as the special contracts of provision of services known as CPS, regarding which the hiring procedure its execution or development has already started, , to the date of entering in force the present Guideline, will keep governed by the applicable disposition prior to such date.

From the entering into force of the present Guideline, will not proceed the initiation and hiring processing of new projects under the legal schemes mentioned in the previous paragraph, by the federal dependencies and entities.

FIFTH.- The valid projects mentioned in the fourth transitory article immediately previous, can be registered under the scheme of public-private partnership regulated by the Law, in which case shall comply with all the requirements of new projects, as well as to celebrate the corresponding modifying agreement.

SIXTH.- Repeals the articles 35 to 41, fraction III; and 150 to 155 of the Guideline of the Federal Law of Budget and Fiscal Responsibility.

SEVENTH: are repealed with the entering into force of the present Guideline:

I. The Agreement through which the Rules for the realization of projects for the provision of services was established, published in Official Journal of the Federation on April 9th, 2004;

II. The Rulings for the elaboration of the analysis of cost and benefit of the projects for the provision of services in charge of dependencies and entities of the Federal Public Administration, published in the Official Journal of the Federation on August 4th, 2009;

III. The Methodology for the comparison of economic offers in the procedures of hiring of projects for the provision of services in charge of the dependencies and entities of the Federal Public Administration, published in the Official Journal of the Federation on August 4th, 2009, and

IV. All the other administrative rulings and general criteria related to the Projects of the Provision of Services (PPS) and special contracts of the provision of services (CPS).

EIGHT.- The rulings to which the transitory articles sixth and seven reefer will only keep applying in relation to the projects mentioned in the first paragraph of the fourth transitory article of this decree.

NINTH.- The Secretary will issue the rulings provided in the article 26 of this Guideline, in a term of no more that 30 calendar days, counted from the entering in force of this Guideline.

Given in the residency of the Federal Executive Power, in the City of Mexico, to October thirty, two thousand and twelve.- **Felipe de Jesús Calderón Hinojosa**.- Sign.- Ministry of Finance and Public Credit, **José Antonio Meade Kuribreña**.- Sign.- The Social Development Secretary, **Jesús Heriberto Félix Guerra**.-Sign.- The Secretary of Environment and Natural Resources, **Juan Rafael Elvira Quesada**.- Sign.- The Secretary of the Public Function, **Rafael Morgan Ríos**.- Sign.

As a Registered Public Interpreter in the Republic of Panama, (Resolution No. 2033, of August 12th, 2009) I certify that this is a true translation of the document originally written in Spanish.
Fatima Bhana Bhiku, December 26th, 2012.