


BEST INTERNATIONAL PRACTICES IN TERMS OF THE AWARD OF PPP PROJECTS AND THEIR COMPARISON IN MEXICO, BLOCK I, 2017

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Abstract: this study identifies, at a practical and normative level, if there are good international practices applied to bidding procedures, especially in the block I of the Program of Integral Strategy to Promote PPP Projects (“Programa Estrategia Integral de Impulso a los Proyectos de APP”). For this, the *Concessions for infrastructure* guide (Kerf et al., 1998) was used, from which the ideal steps to implement a bidding procedure were identified, the elements to be considered from each of them were extracted, the results were normalized in a scale from 0-1, and, finally, they were compared both practically and normatively. As a result, a biogram was made, which derived from the score obtained to determine the opportunity areas. The information for the practical analysis was extracted from the official website of the Program of Integral Strategy to Promote PPP Projects and the “CompraNet” platform, and for the regulatory analysis, from the Law of Public-Private Partnerships, the Law of Works and Related Services, and the Law of Procurement, Leasing and Services of the Public Sector.

keywords: bidding procedures, Mexico, public-private partnerships.



BUENAS PRÁCTICAS INTERNACIONALES EN MATERIA DE ADJUDICACIÓN DE PROYECTOS APP Y SU COMPARATIVO EN MÉXICO, BLOQUE I, 2017

Resumen: este estudio identifica en los ámbitos práctico y normativo, si existen buenas prácticas internacionales aplicadas en los procesos de licitación, especialmente en el Bloque I del Programa Estrategia Integral de Impulso a los Proyectos de APP. Para ello se utilizó la guía Concessions for Infrastructure (Kerf et al., 1998), de la cual se identificaron los pasos idóneos para implementar un proceso de licitación, se extrajeron los elementos por considerar de cada uno, se normalizaron los resultados en una escala de 0-1 y, por último, se compararon tanto práctica como normativamente. Con base en lo anterior se elaboró un biograma que resultó del puntaje obtenido para determinar las áreas de oportunidad. La información para el análisis práctico se extrajo de la página oficial del Programa Estrategia Integral de Impulso a los Proyectos de APP y de la plataforma CompraNet, y para el análisis normativo, de la Ley de Asociaciones Público-Privadas, la Ley de Obras y Servicios Relacionadas con las Mismas y la Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público.

Palabras clave: proceso de licitación, México, asociaciones público-privadas.

INTRODUCTION

In order to guarantee the delivery of goods and services, the Mexican State has implemented different programs, and has developed several actions at various times and with different legal components, known as concessions, privatization and provision of services, thereby promoting the public-private partnerships (Rocha et al., 2014).

The first one of these efforts was in the 1980s, and as a result of these measures, cargo transportation increased over the next ten years: 71% by train, 52% by boat, and 67% by plane (Rocha et al., 2014). In the 1990s, during 1990-2016, the Mexican government assigned a total of 266 PPP infrastructure projects, with an approximate value of 142,000 billion USD (Rocha et al., 2014).

The same happened during 2013-2018, with the National Development Plan (Diario Oficial de la Federación [DOF], n.d.) which was displayed during the government of President Enrique Peña Nieto and established in the fourth axis, second paragraph, an action plan that intended to encourage large

participation of the private sector with the infrastructure projects development through public-private partnerships, therefore, the Program of Integral Strategy to Promote PPP Projects was born.

In the 1980s, the 1990s and currently, the intent is to promote social development (CPEUM, 2019, art. 25) through alliances between the public and private sectors, in addition to continuing to grow economically (Semanario Judicial de la Federación, 2006) through diverse, efficient and effective legal conceptualizations that respond to the capacity of the State and the need of citizens.

This first section of this study aims to provide the reader with an introduction on the formation of the Program of Integral Strategy to Promote PPP Projects and identifies the four stages of the program: 1. Preparation, 2. Promotion, 3. Implementation and 4. Follow-up. In a methodological second section, the stage named "Implementation" will be covered, whose initial component is the study of the contracting process of the 12 PPP projects tendered in 2017.

1. THEORETICAL FRAMEWORK

1.1 *Program of Integral Strategy to Promote PPP Projects*

In 2017, the Program of Integral Strategy to Promote PPP Projects was born, derived from the signing of the Agreement for the Economic Strengthening and the Protection of Family Economy (Gobierno de México, n.d.). This agreement arose to establish promotion measures and its main objective was to promote investment and employment; therefore, it was intended to boost investment projects planned for 2017 and 2018 — which will be referred to in this article as block I and block II —.

The program was a mechanism for the Federal Government during the years of 2017 and 2018 to authorize, promote, publicize and follow up the projects through the modality of subrogation of services. The program has two primary objectives:

- To guarantee that the bidding procedures are executed in an open, competitive, equal, efficient and transparent way (Secretaría de Hacienda y Crédito Público, n.d.)
- To monitor the development of the projects at their different stages to ensure that the expected objectives, goals, and benefits are reached (Secretaría de Hacienda y Crédito Público, n.d.)

It foresees four stages for its development: 1. Preparation, 2. Promotion, 3. Implementation and 4. Follow up. The first stage named "Preparation" will be in charge of the Ministry of Finance and Public Credit (SHCP), and involves the formalization and authorization of a PPP project so that it can be approved, within certain guidelines and manuals. For this reason, the SHCP has created nine manuals and guidelines that establish the provisions to determine the convenience of carrying out a project through a PPP scheme.¹

The second section, identified as "Promotion", has been strengthened with the creation of a portal for PPP projects, the holding of national and international fora, the disclosure of information by printed and electronic media, as well as financial support for Development Bank and Multilateral Bank projects.

¹ The first one of these manuals sets the provisions to determine the social profitability, as well as the convenience of performing a project by the means of the PPP outline. These manuals and guidelines are binding, that is to say, mandatory. The previous seeks that the approved projects really guarantee an objective outreach, with expected goals and benefits, under a social cost-benefit assessment, for which the manuals foresee profitability indicators. For a PPP project to be eligible for federal funding, it must be carried out within the framework of the aforementioned guidelines. Once the PPP project is approved, it is eligible for federal funding for its implementation.

The third stage is the base study of this research, since once the PPP project has been prepared and approved, it is awarded through a bidding process, that is, it is determined who in the market is in charge of executing said project. So, the agencies and entities that aim at the development of a Public-Private Partnership project will summon a national or international bidding; there are some exceptions to the contest, which means awarding projects directly or through a partial bidding regarding the number of participants, also known as restricted invitation or direct award, as the case may be.

Within the section of projects execution, the SHCP has created a series of criteria for preliminary registration, economic award, contractual clauses, contract design, bidding rules design; each and every one of these criteria are illustrative, and constitutes a series of suggestions, taking into account the experience of the Federal Government in the execution of PPP projects, which are not binding.

So is the above, since in the Mexican State there is no specific PPP agency at a national or statewide level, but the article 8 of the PPP Law stipulates that the SHCP has the power of interpreting the law for administrative purposes, and by not having a specific agency for the implementation of PPP projects, there are no unified criteria for the execution of the bidding procedure.

The fourth section, namely the one corresponding to the follow-up, becomes binding again, because the SHCP has likewise created a series of guidelines and a follow-up module, that is none other than a virtual space named "follow-up module", through which the agencies and entities report specific physical and financial information about the advance on the execution of the investment programs and projects through the website SII@web, or the Integral System of Information on Income and Public Expenditure (Sistema Integral de Información de los Ingresos y Gasto Público).

1.2 Good International Practices in Terms of Public Procurements

Since the implementation stage does not have any binding instruments but only recommended ones, each sector determines in its bidding conditions the bidding rules for each project, also known as bidding conditions, invariably obeying a regulatory framework (LAASSP, 2009; LAPP, 2018; LOPSRM, 2009; RLAASSP, n.d.; RLAPP, 2017).

However, part of the methodological section of the research consists of knowing which are the good international practices to develop the government purchases, which is why the decision-making mechanisms of the World Bank will be used, through the Public-Private Partnership Legal Resource Center (PPPLRC), which offers a series of practical tools.

For this work, "Concessions for infrastructure" (Kerf et al., 1998) will be analyzed, which is properly a guide of good practices in the matter of public procurements; from this document it is extracted the design of an adequate decision-making method in the procurement process, for its better comprehension and in terms of the study it is divided in four sections:

The first stage implies the assessment of a *formal process to pre-qualify* the possible bidders,² where it must be considered:

- A. The type and minimal grade of experience and required capacity of potential operators,³ thus, it is to be quantified:

² As they give concessions for the provision of an infrastructure service, the governments generally want to make sure that the winning partnership has the technical and financial capacity to operate successfully the concession (Kerf et al., 1998).

³ In practice, the pre-qualification is used to reduce the amount of offerors, stimulating thus the qualified companies to prepare good propositions. Besides, the governments reduce costs and time of the review of the propositions and, finally, qualified

- i. The operations made by the bidder, generally expressed in terms of client's base in these markets,
- ii. Financial strength of the offeror,⁴
- iii. Minimal operative income from a comparable service managed by the bidder,
- iv. Minimal required capital of the partnership's companies and,
- v. Provision of service quality in comparable operations.

Additionally, consideration should be given to the criteria to be used for the pre-qualification and the method, quantitative and qualitative, to evaluate the potential offeror against these criteria.⁵ The way and the outreach of the participation of the principal operator in the bidding partnership (for example, the minimum capital put, the technical assistance contract, etc.) and the stage in the bidding procedure where the pre-qualification should take place (for example, before submitting the documents or at the time of the bidding).

The second stage contemplates a public formal process of presentation of proposals, evaluating of proposals, and selection of the winner; at this stage, it should be considered:⁶

- A. If a reserve price will be used and announced,
- B. To determine when to use sealed offers instead of open ones, either to have a single round or multiple offer rounds,⁷
- C. If a simultaneous or sequential offer is to be made (in cases where there are several concessions),
- D. If bidding bonds and activity rules are required,⁸ and

competitors are encouraged to prepare better propositions, since being few and having little competition they tend to improve their proposition (Kerf et al., 1998).

⁴ These can refer to items such as work productivity (volume of production or service per employee) and cost efficiency (operative costs per unit of service). Performance standards shall be used prudently, that is to say, in sectors and services where the comparisons are significant and where performance data are reliable and verifiable by a third party (as the regulatory country of origin) (Kerf et al., 1998).

⁵ It is considered necessary to evaluate the previous experience of a company with similar operations in other countries, it may be useful to examine the company's performance data, reports and opinion surveys that show the satisfaction level of the public (Kerf et al., 1998).

⁶ A major design issue is whether to use (and advertise) a reserve price or to publish the maximum amount available to the government to invest, whereby bids are rejected if they fall below a specified level. And there are two positions: 1. A good competitor will produce the real market value without needing a reserve price, and when the governments reserve it they perceive the necessary reserve price is hidden as protection against collusion, 2. To announce the reserve price allows the competitors to know if they have the economic and technical conditions to compete, seeing that their prices are high they decide not to compete, and seeing that the prices are within the reserve one they decide to improve them in order to win, besides, announcing a reserve price tends to improve both the transparency of the process and the information available for all the offerers (Kerf et al., 1998).

⁷ Another important design problem is whether the bids should be sealed or openly submitted (open auction). Most public administrations use a sealed bid procedure, whereby bidders submit a sealed envelope that is opened in a public forum. Many game theorists argue that once the auctions are open, bids increase until all but the winner have given up, and more aggressive offers are induced and more and better prices are produced (Kerf et al., 1998).

⁸ Government's frequently use offer bonds to ensure that the offers are serious and valid until the awarding and signature of the contract (Kerf et al., 1998).

E. If the bidders shall be remunerated for one part of their supply costs.⁹

A third stage considers letting the developers propose new initiatives, it implies that by announcing the terms and conditions of the proposed project, other developers may have the opportunity to improve the terms within a specific period, and *simultaneous bargaining* with many of the bidders is allowed and that the interested bidders are obliged to:

- A. Present technical propositions and
- B. Present financial propositions that improve the project.

The use of competitive bargaining allows to suggest to the developers some financial proposals that go beyond just offering an economic amount. An example is when the bidder receives a very preliminary engineering design and is obliged to submit full technical proposals where they can suggest a technical proposal specifying some project details, in order to prove their operational experience (Kerf et al., 1998)

In a fourth stage, it is proposed to *use external advisers and consultants to assist the government in the evaluation of proposals*, allowing the establishment of a panel of independent advisors to examine the proposals and, finally, operators are prevented from transferring their shares (operational management responsibility) from the concessionary company during the lifetime of the concession. This restriction is designed in order to ensure that there will always be an experienced operator managing the concession.

In addition to the above, the Organization for Economic Co-operation and Development (Organización para la Cooperación y el Desarrollo Económicos [OCDE], 2017) has identified the corruption risks¹⁰ associated with the different phases of the public procurement cycle, divided in:

- A. "Pre-bidding phase
 - Choice of procurement procedures
 - Lack of right excuse for the use of non-competitive procedures
 - Abuse of non-competitive procedures based in legal exceptions: contract partition, abuse of extreme urgency, non-supported modifications"
- B. "Bidding phase
 - Request for proposition / offer
 - Lack of public notification for the offer invitation
 - The evaluation and awarding criteria are not announced
 - The information about the procurement is not published nor announced."
- C. "Presentation of offers

⁹ Some governments have adopted the shared cost, introducing mechanisms to cover the costs of the bidders during the preparation and presenting offers, as long as there exists a formal pre-qualification and bidders without the technical or economical capacity of being truly competitive are discarded (Kerf et al., 1998).

¹⁰ The study points that: The public procurement is particularly vulnerable to the violations of integrity; because of the high complexity of the activities, the close interaction enters the public and private sectors, as well as the great volume of transactions. In fact, each year the governments spend large amounts of money in public contracts. For example, it is estimated that, only in 2013, the OECD countries spent nearly 12% of the GDP and 29% of the government expenses in public procurement, estimated around 4.2 trillion euros (OECD iLibrary, 2015).

- Lack of competence or cases of collusive bidding (undercover bidder, suppression of offers, rotation of offers, market assignment)”
- D. “Evaluation of offers
- Without an effective implementation of the “four eyes principle”¹¹

2. METHODOLOGY

Baes on the above, the survey and the points to be evaluated will be examined, making the following items, which will be useful for the normative and practical analysis (Table 1):

The first one is at a normative level, through the comparison of the good international practices with the national normative references, using:

- Concessions for infrastructure. A guide to their design and award (Kerf et al., 1998)

It is a guide on good practices in terms of public procurements, mandatory for those countries that obtain resources from the World Bank for the implementation of PPP projects.

As normative references of analysis for the comparative study, the following will be examined (Table 2):

- a) The Law of Public-Private Partnerships (LAPP, 2018),
- b) The Law of Procurement, Leasing and Services of the Public Sector (LAASSP, 2009), and
- c) The Law of Public Works and Related Services (LOPSRM, 2009); as well as their respective regulations (RLAASSP, n.d.; RLAPP, 2017; RLOPSRM, n.d.).

In the second analysis at a practice level (tables 3, 4), a survey will be established, which will assess the score in a scale of whole numbers:

0 = No

1 = Yes

The score of the indicators is normalized, then summed and transformed into a score from 0-100 (Methodology de Unidad de Inteligencia Economista (EIU), 2019). The information for the practical analysis was extracted from the official website of the Program of Integral Strategy to Promote PPP Projects (Secretaría de Hacienda y Crédito Público, n.d.) and the “CompraNet” platform (Compranet, n.d.).

For the first comparison, the one defined as normative (Table 2), it was identified if the World Bank recommendations are coinciding with the Mexican normative frame, and if they are at the same time coinciding with the bidding rules of the evaluated sectors. In a second practical section (table 3, 4), a balancing of bidding procedure will be made, separating the information per project, considering a score for each item element that is contemplated or not, that is to say: Score: 0 = No and 1 = Yes. The score is

¹¹ The OECD (2017, p. 251) defines the four eyes principle as “The existence of at least two officials during meetings so as to mitigate the corruption risks, complementing with a team rotation in order to decrease the conclusion risk among the public servants. The four eyes principle is considered a good practice and it has been used widely in the study of group decision-making (Charness, Feri, Meléndez-Jiménez, Org, & Sutter, 2012; Charness & Sutter, 2012; Schikora, 2010).”

normalized, then summed and transformed into a score from 0-100, this methodology is a reflection of what was made in “Infrascope” (Infrascope, n.d.).

Table 1. Question

Question	Reply
A) Formal procedure to pre-qualify the possible bidders	
A1 Is there any formal procedure to pre-qualify the possible bidders?	Yes/No
A2 Is the number of operations carried out by the grantor analyzed in the formal process of prequalifying potential bidders?	Yes/No
A3 Is the financial strength of the bidder analyzed in the formal process of prequalifying potential bidders?	Yes/No
A4 Is the minimum operating income analyzed in the formal process of prequalifying potential bidders?	Yes/No
A5 In the formal process to pre-qualify the possible bidders, is the minimum capital required from the concession offerors analyzed?	Yes/No
A6 In the formal process to pre-qualify the possible bidders, is the quality service delivery analyzed in comparable operations of the concession offeror?	Yes/No
A7 Is the formal process to pre-qualify the possible bidders mandatory and does its omission cause the offeror’s disqualification?	Yes/No
B) Formal process to present the propositions, evaluating propositions and choosing the winner	
B.1 Is there a formal process to present the propositions, evaluating the propositions and choosing the winner?	Yes/No
B.2 Is the reserve price announced?	Yes/No
B.3 Are open offers used?	Yes/No
B.4 Are simultaneous offers made?	Yes/No
C) To allow the developers to propose new initiatives through bargaining	
C.1 Is it allowed to developers to propose new initiatives through bargaining?	Yes/No
D) To use external advisers and consultants to help the government in the evaluation of the propositions	
D.2 Are external advisers and consultants used to help the government in the evaluation of the propositions?	Yes/No

Source: prepared by the author with Kerf et al. (1998) information.

3. RESULTS AND DISCUSSION

The regulatory process and the one about bidding bases begin (Table 2):

Table 2. Comparison of the bidding process

Process (World Bank recommendations)	PPP (LAPP)	Traditional procurement of construction works (LOPSRM)	Traditional procurement of purchases (LAASP)
1. Formal process to pre-qualify the possible bidders	There exists a register of participants ¹²	There exists a register of participants ¹³	There exists a register of participants ¹⁴
2 Formal process to announce the reserve price	Not contemplated	Not contemplated	Not contemplated
2.1 To present the propositions, evaluating propositions and choosing the winner	2.2 To use open offers	The propositions will be presented in closed envelopes ¹⁵	The propositions will be presented in closed envelopes ¹⁶
	2.3 To make a simultaneous offer	They can only present one proposition ¹⁷	They can only present one proposition ¹⁸
3. To allow the developers to propose new initiatives through bargaining	There exists no bargaining ¹⁹	There exists no bargaining ²⁰	There exists no bargaining ²¹
4. To use external advisers and consultants to help the government in the evaluation of the propositions	If an external agent is contemplated to help in the contest ²²	Not contemplated	Not contemplated

Source: prepared by the author with the information from the referred laws.

From the comparison of the bidding processes of public-private partnerships as well as of traditional procurements of construction works and of purchases, with the four identified stages of the good international practices, it is extracted:

Concerning the formal process to pre-qualify the possible bidders

- a) Even though there exists a process to make a register of participants previous to the technical and economical opening, that process is not formal nor mandatory and it is only useful for facilitating the procedure, that is to say, it is optional for both the participant and the

¹² LAPP, article 49.

¹³ LOPSRM, article 36, sixth paragraph.

¹⁴ LAASSP, article 34, last paragraph.

¹⁵ LAPP, article 51, second paragraph.

¹⁶ LOPSRM, article 27, second paragraph.

¹⁷ LAASSP, article 26, second paragraph.

¹⁸ LAPP, article 51, third paragraph.

¹⁹ LOPSRM, article 27, sixth paragraph.

²⁰ LAASSP article 26, ninth paragraph.

²¹ LAPP, article 46.

²² LOPSRM, article 27, fourth paragraph.

²³ LAASSP, article 26, seventh paragraph.

²⁴ RLAPP, article 11, fraction I, Agent, in terms of the third paragraph from the article 38 of the Law.

convenor and in the event of not making the accreditation it won't be a reason to be discarded, in any of the three procurement modalities.

Concerning the announcement of the reserve price:

- b) The studied laws and rules do not relate something regarding the enforceability of announcing the reserve price or resource allocation, nevertheless, the User Manual for Operators of Purchaser Units (UC) (Secretaría de la Función Pública, n.d.) establishes that those who make procurement procedures in CompraNet must hide the allocated budget and the document of resource allocation or budget sufficiency must be attached to the referred platform of government procurement; so both elements, the budget amount and the document, are not to be seen by the participants.

Concerning the bargaining:

- c) Even though in the three modalities there exists an act named "clarification meetings", it is not a bargaining act, but an act where the participants make questions to clarify matters related to the bidding rules, the annexes, the technical or concept catalogs, and other documents.

Making the same study in the practical part (Table 3), that is, the three sectors that carried out contests in 2017 referring to the learning program, the bidding rules have been extracted from the CompraNet platform (Compranet, n.d.) and the same items have been applied. (See the annex in order to know the studied procedures).

From the above it is clear that in the formal process to pre-qualify the possible bidders, the SCT sector considered in one of its projects (self-financing) the formal pre-qualification, in addition to the ISSSTE sector, nevertheless, in none of these cases it was considered mandatory, no one announced the price nor allowed the bargaining, all the offers were closed and counteroffers were not allowed either, and even if external agents were considered, the attributions are not referred and they do not determine which actions were made in the bidding process, therefore it cannot be considered that they took part of the evaluation of the propositions, in addition to the article 57 from the RLAPP establishes point by point that the evaluation process is the responsibility of the agency and consequentially the participation of the agent in the contracting procedure will consist of consulting, development of projects and proposals, logistical support as well as technical or of any other nature.

So, even if there exists an external agent, its own attributions are not aligned to the good practices referred by the World Bank, and summed to this, the inability of the participant, private developer, bidder or any name given from bargaining making or improving the initial offer, it is also observable that previous to the acts the conditions of the other competitors are not known to consider if one is in conditions of competing, since all the propositions are delivered in a closed envelop, preventing from the completion of a previous analysis. And finally, the score is normalized (Table 4).

Table 3. Comparison of the bidding procedure by sector

Process		Ministry of Communication and Transport (SCT)	Mexican Social Security Institute (IMSS)	Institute for Security and Social Services for State Workers (ISSSTE)
1. Formal process to pre-qualify the possible bidders		It is not considered in the pure models, but it is in the self-financing one ²⁵	Not considered	Considered as optional ²⁶
2. Formal process to present the propositions, evaluating propositions and choosing the winner	2.1 To announce the reserve price	Not announced ²⁷	Not announced	Not announced ²⁸
	2.2 To use open offers	Closed offers are used ²⁹	Closed offers are used ³⁰	Closed offers are used ³¹
	2.3 To make a simultaneous offer	Only one offer per process	Only one offer per process	Only one offer per process
3. To allow the developers to propose new initiatives through bargaining		Not allowed ³²	Not allowed ³³	Not allowed ³⁴
4 To use external advisers and consultants to help the government in the evaluation of the propositions		Not considered	Considered ³⁵	Considered ³⁶

Source: prepared by the author with the information from the bidding bases obtained from CompraNet (Compranet, n.d.).

²⁵ Bidding bases APP-009000062-E52-2017, section 1.13 Previous Inspection of the Contestant.

²⁶ Bidding bases APP-019GYN006-E5-2017 exp: 1283614, APP-019GYN006-E7-2017 exp: 1284176, APP-019GYN006-E6-2017 exp: 1284171, section 5.6.1. Preliminary register stage.

²⁷ Bidding bases APP-009000959-E262-2017, APP-009000959-E263-2017, APP-009000959-E376-2017, APP-009000959-E377-2017, section 1.7 Authorizations to conduct the Contest, and in Base of the self-financing model, APP-009000062-E52-2017, it is not referred.

²⁸ Bidding bases, APP-019GYN006-E5-2017 exp: 1283614, APP-019GYN006-E7-2017 exp: 1284176, APP-019GYN006-E6-2017 exp: 1284171, section: I. Presentation and identification data of the bidding.

²⁹ Bidding bases APP-009000959-E262-2017, APP-009000959-E263-2017, APP-009000959-E376-2017, APP-009000959-E377-2017, 2.5.3 General Instructions for the Preparation and Integration of the Propositions. Base of the self-financing model, APP-009000062-E52-2017, in the section 3.1 General Dispositions of the Propositions Presentation.

³⁰ Bidding bases, APP-019GYR040-E2-2017, APP-019GYR040-E1-2017, APP-019GYR040-E3-2017, APP-019GYR040-E24-2016, in the section: 2.4.8 Presentation and propositions opening.

³¹ Bidding bases, APP-019GYN006-E5-2017 exp: 1283614, APP-019GYN006-E7-2017 exp: 1284176, APP-019GYN006-E6-2017 exp: 1284171, section: 5.8.1. Presentation of propositions.

³² Ibidem, Bidding bases APP-009000959-E262-2017.

³³ Ibidem, Bidding bases, APP-019GYR040-E2-2017.

³⁴ Ibidem, Bidding bases, APP-019GYN006-E5-2017.

³⁵ Bidding bases: APP-019GYR040-E2-2017, APP-019GYR040-E1-2017, APP-019GYR040-E3-2017, APP-019GYR040-E24-2016 in section: 10 Agent participating in the contest, in the processes the agent is: Currie & Brown Mexico, S.A. de C.V, but it doesn't refer which will be the attributions nor in which part of the process it participates.

³⁶ Bidding bases, APP-019GYN006-E5-2017 exp: 1283614, APP-019GYN006-E7-2017 exp: 1284176, APP-019GYN006-E6-2017 exp: 1284171, section: 19 Agent participating in the contest, the agents were: twice Eco Acción Arquitectura y Diseño, S.A. de C.V and once Altiden Asesores, S.C., Centro Integral de Proyectos Estratégicos CIPRO, S.A. de C.V. and Nader, Hayaux y Goebel, S.C.

Table 4. Evaluation by score

Sector	PROJECT	A1	A2	A3	A4	A5	A6	A7	B1	B2	B3	B4	C1	D2	Total	Normalized total
SCT	Highway from Monterrey to Nuevo Laredo-Section La Gloria-San Fernando	1	0	0	0	0	0	0	1	0	0	0	0	0	2	15%
SCT	Conservation of the Road from Matehuala to Saltillo	0	0	0	0	0	0	0	1	0	0	0	0	0	1	8%
SCT	Conservation of the Road Pirámides-Tulancingo-Pachuca	0	0	0	0	0	0	0	1	0	0	0	0	0	1	8%
SCT	Conservation of the Road from Saltillo to Monterrey (La Gloria)	0	0	0	0	0	0	0	1	0	0	0	0	0	1	8%
SCT	Conservation of the Road from Texcoco to Zacatepec	0	0	0	0	0	0	0	1	0	0	0	0	0	1	8%
IMSS	General Hospital in the municipality of Tapachula, Chiapas	0	0	0	0	0	0	0	1	0	0	0	0	0	1	8%
IMSS	General Hospital in Nayarit, municipality of Bahía de Banderas	0	0	0	0	0	0	0	1	0	0	0	0	0	1	8%
IMSS	General Regional Hospital (HGR) in the municipality of García, NL	0	0	0	0	0	0	0	1	0	0	0	0	0	1	8%
IMSS	General Regional Hospital (HGR) in Tepotzotlán	0	0	0	0	0	0	0	1	0	0	0	0	0	1	8%
ISSSTE	General Hospital "Aguiles Calles Ramírez" in Tepic, Nayarit	1	0	0	0	0	0	0	1	0	0	0	0	0	2	15%
ISSSTE	General Regional Hospital in the South delegation of Mexico City	1	0	0	0	0	0	0	1	0	0	0	0	0	2	15%
ISSSTE	General Hospital Dr. Daniel Gurria Urgell	1	0	0	0	0	0	0	1	0	0	0	0	0	2	15%

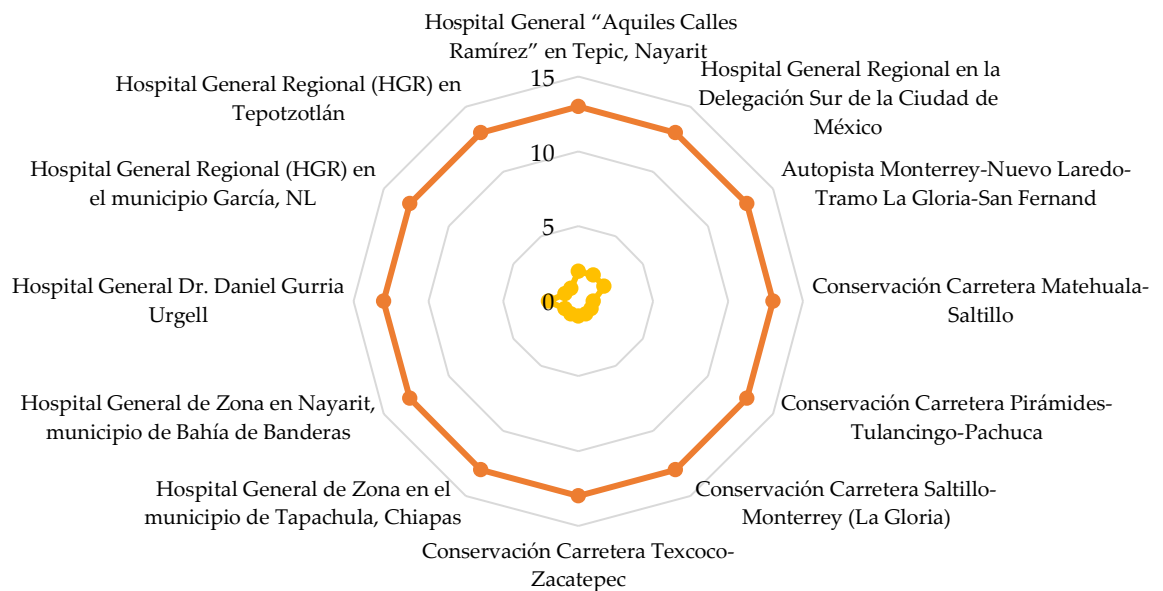
Source: prepared by the author with the information from the bidding bases obtained from CompraNet (Compranet, n.d.).

The maximum score proposed to reach the evaluation items is of 13 points, which would reflect the 100% of actions suitable to the international practices of the World Bank (Figure 1).

From the score obtained it is identified that four of these twelve projects have a formal process to pre-qualify the bidders, that is to say, the projects named: Highway from Monterrey to Nuevo Laredo-Section La Gloria-San Fernando, General Hospital "Aguiles Calles Ramírez" in Tepic, Nayarit, General Regional Hospital in the South delegation of Mexico City and General Hospital Dr. Daniel Gurria Urgell,

reveal to be positive to the item A1, nevertheless, none of these four cases refer that this formal procedure to pre-qualify the possible bidders is mandatory and its omission does not cause the disqualification of the offeror, thus, the item A7 is not positive; in addition to this, all projects mention that they have a formal process for submitting proposals, these are evaluated and a winner is chosen, i.e., for item B1 all projects have a positive score.

All the other items referring to analyzing the number of operations, the financial strength, the minimal operative income, the minimal capital, the service of comparable operations, are negative, that is, they are not evaluated at a pre-qualification stage, even though in some cases they are qualified until the formal evaluation stage. Concerning the formal evaluation stage, in no case is the reserve price announced, there is no bargaining and even though external advisers and consultants are used, they do not assist the government in the evaluation of propositions. The maximum score is 15%, this is for projects that have two positive items, and those with a percentage of 8% only reflect one positive item.



Orange identifier: Sum of maximum score. Yellow identifier: Sum of score obtained.

Figure 1. Comparative biogram of points and percentage

Source: prepared by the author with the information from the bidding bases obtained from CompraNet (Compranet, n.d.).

Consequently, the new configurations of public procurements given under the legal framework named PPP must be built within a frame not only of greater legality, but also of greater effectiveness and transparency, in accordance with the principles of efficiency, efficacy, economy, transparency and integrity that contribute to the formulation of public politics that make the decisions of the authority and the private parties in this coordination relationship efficient, and that contribute to the fight against corruption.

4. CONCLUSIONS

To sum up, the need to establish a process based on public politics to strengthen the regulatory and institutional frameworks in terms of PPP procurement, is identified, including a formal act to pre-qualify the possible bidders, a public formal process for submitting proposals, in addition to allowing the

developers to propose new initiatives, i.e., the openness to bargaining highlights the importance of using external advisers and consultants in order to help the government in the evaluation of the proposals, so the following improvement parameters should be considered:

Bidding processes being aligned with good international practices as:

- Formal process to pre-qualify the possible bidders
- Formal process to present propositions, evaluating propositions and choosing the winner
- Announcing the reserve price
- Using open offers
- Making a simultaneous offer
- Allowing the developers to propose new initiatives through bargaining

The agent having incidence in the evaluation process, but also assuming the responsibility before mistakes or omissions in their participation

The social witness having voice and vote.

This way, the contracts of public-private partnerships will assume risks by virtue of the private developer, in order to get the contest awarded, being able to propose new ways of making efficient both the project and the resource, participating in the funding, promoting that the Federal Government does not compromise future resources that limit the economic capacity of the State.

AUTHORS' CONTRIBUTIONS

Rodrigo Gómez Monge worked on conceptualization, drafting-revising and editing, original drafting-drafting. Eva Grissel Castro Coria worked on methodology, validation, formal analysis. All authors have read and accepted the published version of the manuscript.

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DECLARATION OF DATA AVAILABILITY

The data that supports the results is public and available at <https://compranet.hacienda.gob.mx/web/login.html>

CONFLICTS OF INTEREST

The authors declare that they have no conflicts of interest.

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ANNEX

The program to be evaluated in its building block I, fiscal year 2017, considers the three sectors and twelve projects:

1. SCT
 - Autopista Monterrey-Nuevo Laredo-Tramo La Gloria-San Fernando (Secretaría de Comunicaciones y Transportes, 2017a)
 - Conservación Carretera Matehuala-Saltillo (Secretaría de Comunicaciones y Transportes, 2017d)
 - Conservación Carretera Pirámides-Tulancingo-Pachuca (Secretaría de Comunicaciones y Transportes, 2017c)
 - Conservación Carretera Saltillo-Monterrey (La Gloria) (Secretaría de Comunicaciones y Transportes, 2017e)
 - Conservación Carretera Texcoco-Zacatepec (Secretaría de Comunicaciones y Transportes, 2017b)
2. IMSS
 - Hospital General de Zona en el municipio de Tapachula, Chiapas (Instituto Mexicano del Seguro Social, 2017c)
 - Hospital General de Zona en Nayarit, municipio de Bahía de Banderas (Instituto Mexicano del Seguro Social, 2017b)
 - Hospital General Regional (HGR) en el municipio García, NL (Instituto Mexicano del Seguro Social, 2017a)
 - Hospital General Regional (HGR) en Tepotzotlán (Instituto Mexicano del Seguro Social, 2017d)

3. ISSSTE

- Hospital General “Aguiles Calles Ramírez” en Tepic, Nayarit (Instituto de Seguridad y Servicios Sociales de los Trabajadores del Estado, 2017a)
- Hospital General Regional en la Delegación Sur de la Ciudad de México (Instituto de Seguridad y Servicios Sociales de los Trabajadores del Estado, 2017c)
- Hospital General Dr. Daniel Gurria Urgell (Instituto de Seguridad y Servicios Sociales de los Trabajadores del Estado, 2017b)