



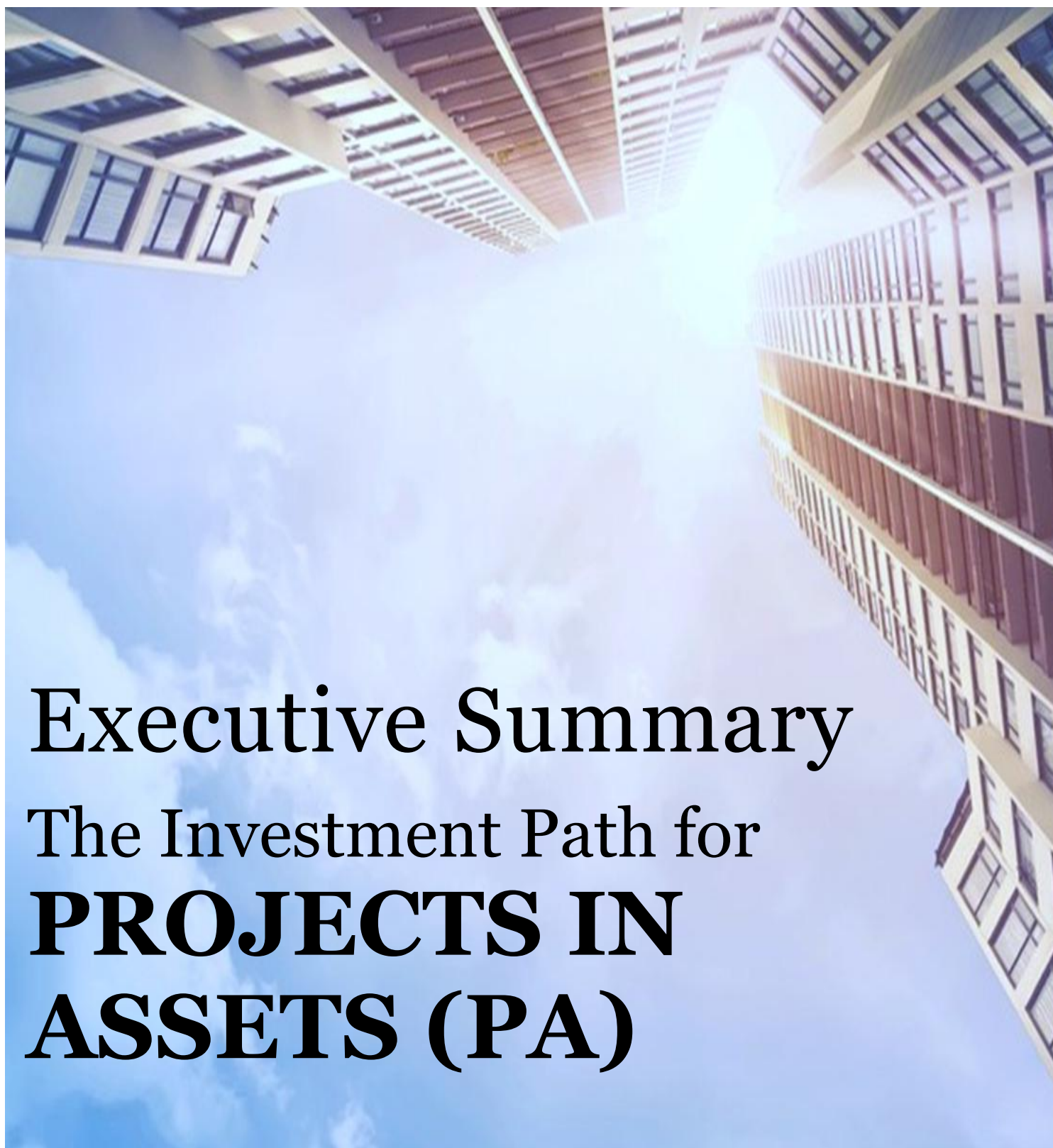
PERÚ

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Secretaría de Estado para Asuntos Económicos SECO



Executive Summary

The Investment Path for **PROJECTS IN ASSETS (PA)**

CONSEJO NACIONAL DE
COMPETITIVIDAD Y FORMALIZACIÓN



SECOMPETITIVO
Competitividad para el Perú

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Prologue

There is sufficient evidence concerning the positive impact of the development of infrastructure and public services on economic growth (measured by an increase in productivity, connectivity at the local level and with external markets, as well as job creation) and social performance (measured by a reduction in poverty and equitable income distribution). Aware of the importance of infrastructure, the provision of quality services, and in order to narrow the existing gap in the country, the Peruvian government has been using in recent years a range of mechanisms that incorporate the private sector in the development of infrastructure and public services. This also includes private sector projects, specifically Public-Private Partnerships (PPP), Projects in Assets (PA) and Public Works for Taxes (OxI¹).

With the creation of PPP and OxI in 2008, Peru has been able to implement projects in sectors such as transport, energy, telecommunications, agriculture and irrigation, as well as water and sanitation. In addition, the project portfolio in the coming years includes social sectors such as education and health. Due to the importance of these investment mechanisms, more information on how to properly use them needs to be disseminated among the actors involved, in both the public and private sectors.

With regard to PPP and PA, to complement the Homologized Text of Legislative Decree No. 1224², Investment Promotion Framework Law for Private Investment through PPP and Projects in Assets, which includes the modifications made in recent years, it is necessary to offer educational material that helps to build the capacities of public officials. This should be done at the national, regional and local levels on how to apply these mechanisms, with a more pragmatic approach to the procedures involved.

With the objective of strengthening capacities in the field of PPP, PA and OxI, and being on the threshold of completing a decade from the creation of PPP and OxI mechanisms in Peru in 2018, the Swiss Secretariat for Economic Affairs - SECO, through the SECOMPETITIVE Program, has offered its support to the Ministry of Economy and Finance. Together they elaborated the Methodology Guide: “The Investment Path for Public-Private Partnerships, Projects in Assets and Public Works for Taxes”. For each type of investment, a guide has been developed that includes a set of supplementary materials in the form of presentations and executive summaries, in Spanish and English, which may also serve as a reference for the private sector.

This project has been carried out with the support of officials from the General Directorate of Private Investment Promotion Policy and the National Competitiveness and Formalization Council of the Ministry of Economy and Finance of Peru.

¹ Known as *Obras por Impuestos* (OxI) in Spanish.

² Approved by Supreme Decree N° 254-2017-EF of August 31, 2017.

The Swiss Secretariat for Economic Affairs - SECO and the Ministry of Economy and Finance are pleased to present this tool to all stakeholders involved in Peru and abroad, with a view to facilitating the understanding and implementation of these types of investment, which promote the development of infrastructure and public services, an important part of achieving the welfare of millions of Peruvians.

Ministry of Economy and Finance

General Directorate of Private Investment
Promotion Policy

National Competitiveness and Formalization
Council

Swiss Secretariat for Economic Affairs –
SECO

SECOMPETITIVO Program



Table of Contents

1. Abbreviations and acronyms	6
2. Purpose of the Executive Summary	7
3. Definition of a Project in Assets	7
4. Why a Project in Assets?	7
5. Parties involved in a Project in Assets	8
6. National Private Investment Promotion System - SNPIP	9
7. Actors involved in the process	9
8. Types of Project in Assets contract	10
9. Project in Assets by origin.....	10
10. Phases for the development of a Project in Assets	11
11. PA process development.....	11
Bibliography	16

1. Abbreviations and acronyms

• CPIP	Committee for Private Investment Promotion
• DGAEICYP	General Directorate for International Economic Affairs, Competition and Productivity
• DGIP	General Directorate of Public Investment
• DGPPIP	General Directorate of Private Investment Promotion Policy
• DGPP	General Directorate of Public Budget
• G.L.	Local Government
• G.R.	Regional Government
• IE	State Initiative
• IMIAPP	PPP Multi-annual Investment Report
• IP	Private Initiative
• Leg.D.	Legislative Decree
• MEF	Ministry of Economy and Finance
• OPIP	Organism for the Promotion of Private Investment
• PA	Project in Assets
• PPIP	Private Investment Promotion Process
• PPP	Public-Private Partnerships
• Proinversión	Private Investment Policy Promotion Agency
• Reg.	S.D. N° 410-2015-EF – Regulations of Legislative Decree N° 1224 and its amendments. ³
• S.D.	Supreme Decree
• SNPIP	National System for Private Investment Promotion
• TUO-Law	Homologized Text of the Leg. D. N° 1224 – Legislative Decree within the Framework for the Promotion of Private Investment through Public-Private Partnerships and Projects in Assets, approved by S.D. N° 254-2017-EF.

³ The S.D. N° 410-2015-EF has been amended by S.D. N° 068-2017-EF, S.D. N° 155-2017-EF, S.D. N° 243-2017-EF and S.D. N° 322-2017-EF.

2. Purpose of the Executive Summary

The purpose of this document is to explain to public entities, in a summarized, clear and concise manner, the implementation of the rules related to the PA mechanism. This executive summary may be used as a reference by public entities to understand the development of a PA.

3. Definition of a Project in Assets

It is a device created in order to differentiate between the implementation of a PPP project and the implementation of a project involving State resources or assets, but that does not transfer any of the risks [Art. 32.2 TUO-Law](#). Therefore, a PA is not a PPP.

With a PA, a government entity promotes the participation of the private sector through the implementation of a specific investment project, which involves the use of public resources, assets or projects. The private investor therefore assumes responsibility for the investment and operation and maintenance costs, where applicable, and assumes the project risks.

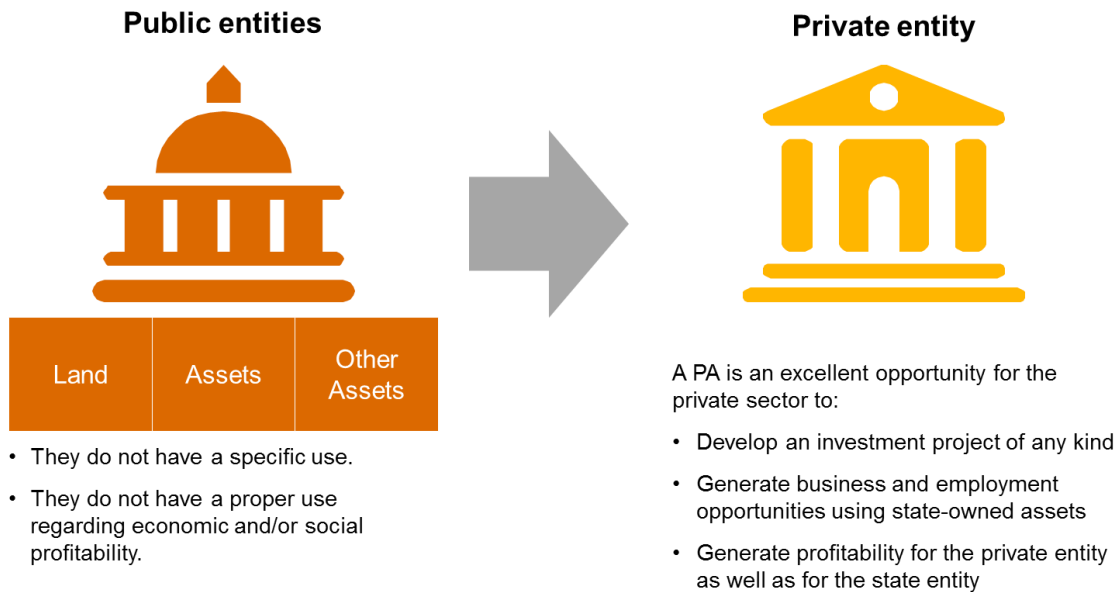
Therefore, in a PA, the State does not provide co-financing, public funds nor guarantees, and private investors recover their investment through the income mechanisms that have been considered for the execution of the project.

Projects regulated under Legislative Decree 674 are also part of a PA, that is, regarding assets or property owned by a state-owned company which falls within the scope of FONAFE (National Fund for the Financing of the Peruvian State's Business Activities).

4. Why a Project in Assets?

Public resources, the investment proposal, being able to convince the government entity about the advantages of the PA, and the project development carried out on behalf of the investor and which will allow for economic profitability are all aspects that must be properly identified. In this regard, the OPIP determines the economic conditions of the project, the income that is suitable to be provided by the State, and, where applicable, the investment commitments from the private party. [Art. 32.3 TUO-Law](#)

Figure 1: Why a PA?

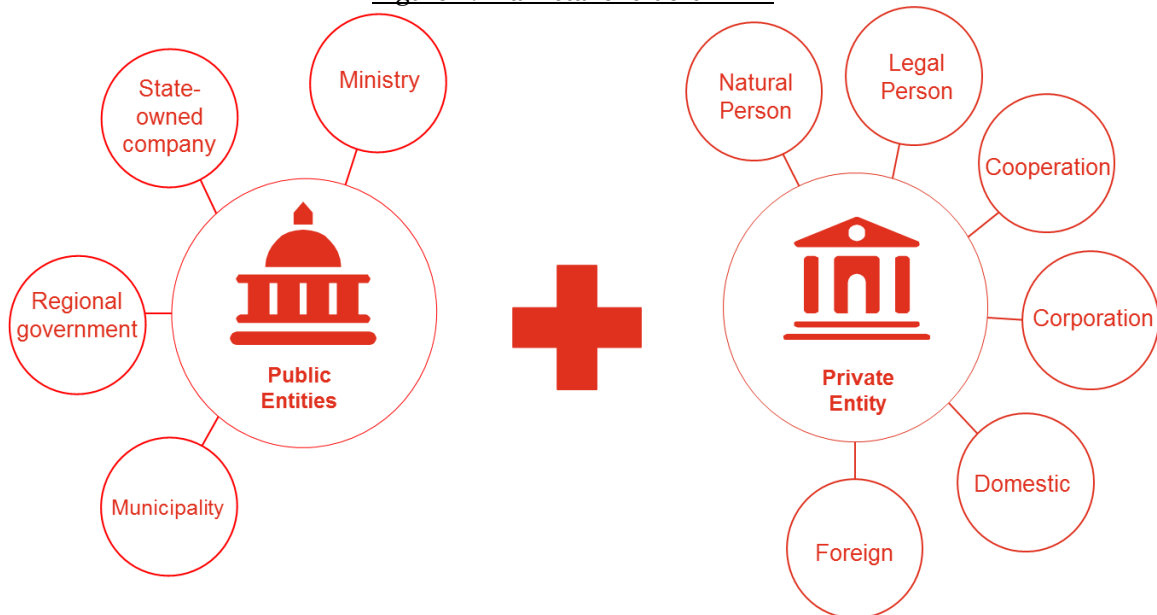


5. Parties involved in a Project in Assets

Different parties collaborate in a PA; on the one hand are the public entities, which could include ministries or a state company. Besides, the regional government intervenes at the regional level while the municipality intervenes at the local level, be it the provincial or local municipality.

On the other hand, are the private investors, which may be represented by a natural or legal person who are part of a cooperation or corporation, national or foreign. The latter is subject to the limitations outlined in the Political Constitution or under the law.

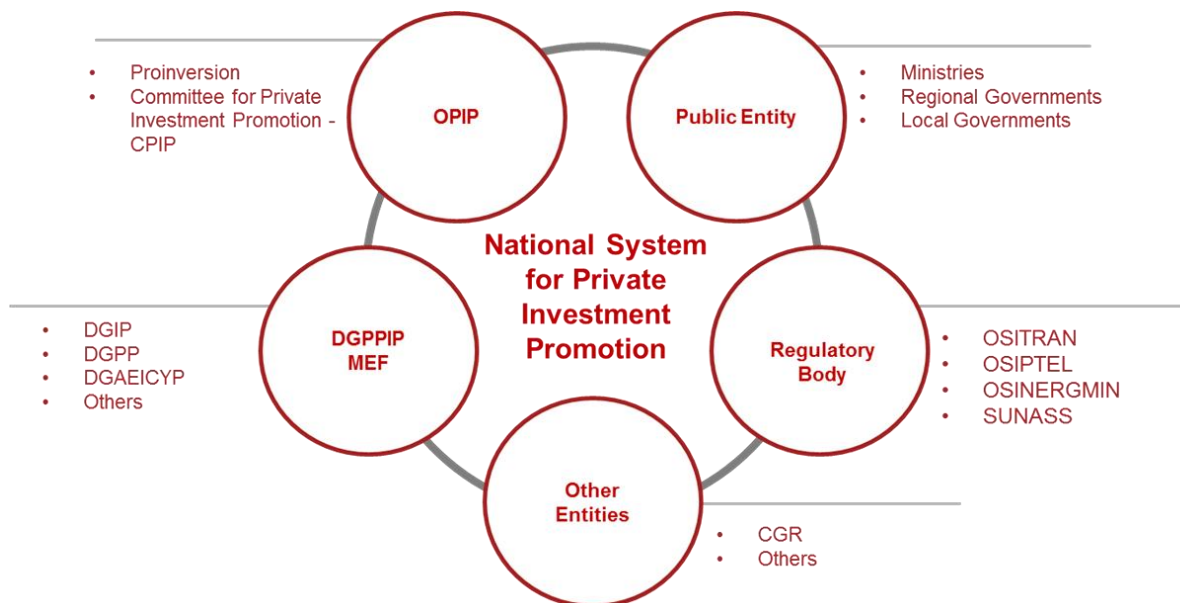
Figure 2: Main stakeholders in PA



6. National Private Investment Promotion System - SNPIP

It is a functional system made up of the following entities:

Figure 3: National Private Investment Promotion System - SNPIP

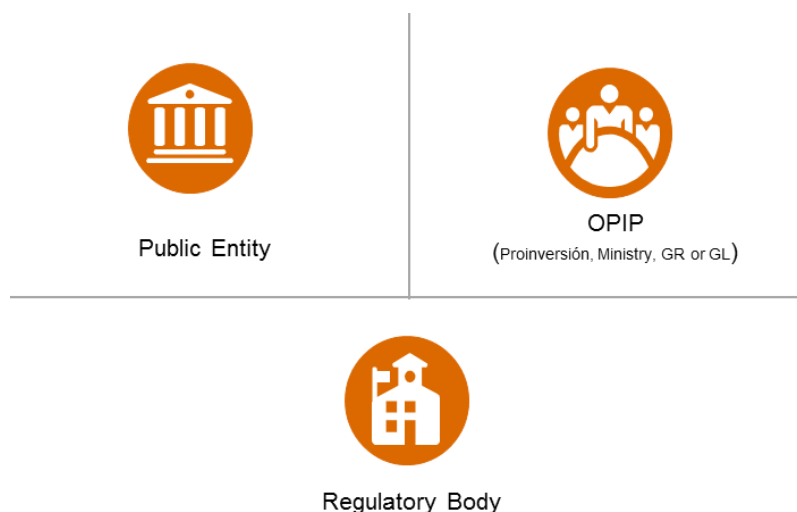


7. Actors involved in the process

The actors involved in a PA are the following:

- **The public entity:** A ministry, regional government or local government, responsible for identifying the need for intervention using the PA modality and including it in the PPP and PA Multi-annual Investment Report (IMIAPP). [Art. 14.1.a TUO-Law](#). Carries out the functions outlined in [Art. 7.1 TUO-Law](#).
- **The OPIP:** This is the agency in charge of conducting and concluding the PPIP. [Art. 6.2.a Reg.](#)
 - a. In the case of the national government, the OPIPs are Proinversión or the ministries through the CPIP. [Art. 6.1 TUO-Law](#).
 - b. In the case of regional and local governments, the authorities of the OPIP are exercised through the CPIP. The supreme body of the OPIP is the regional or municipal council. [Art. 6.2 TUO-Law](#). In addition, the regional and local governments can entrust the PPIP to Proinversión [Art. 6.3. TUO-Law](#).
- **The regulator:** If there is one, the regulator issues a technical opinion based on its sectorial competences.

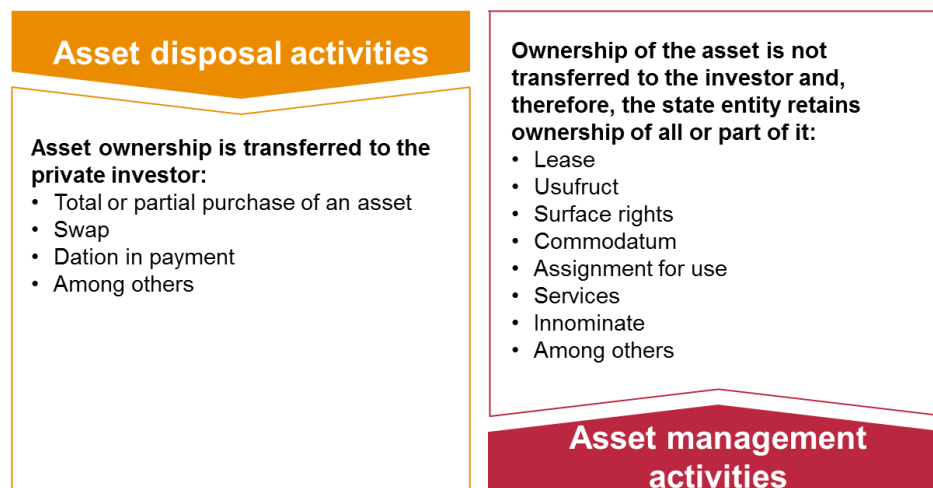
Figure 4: Stakeholders involved in the process



8. Types of Project in Assets contract

Any type of contract authorized by law may be used in a PA, including purchase contracts. Therefore, in a PA, the public entity does not necessarily retain property ownership, unlike a PPP. The only contractual limitation for a PA is the use of a PPP. In this regard, a concession, a common PPP modality, may not be used in a PA.

Figure 5: Types of contract



9. Project in Assets by origin

A PA may be driven by the initiative of a state entity (state initiative), or a project may be presented by a private investor (private initiative). [Arts. 32 y 34.1 TUO-Law.](#)

Figure 6: PA by origin



10. Phases for the development of a Project in Assets

A PA can be developed with the following stages⁴:

Figure 7: Stages for the development of a PA



(*) Programming does not apply for the first phase of the PA

11. PA process development

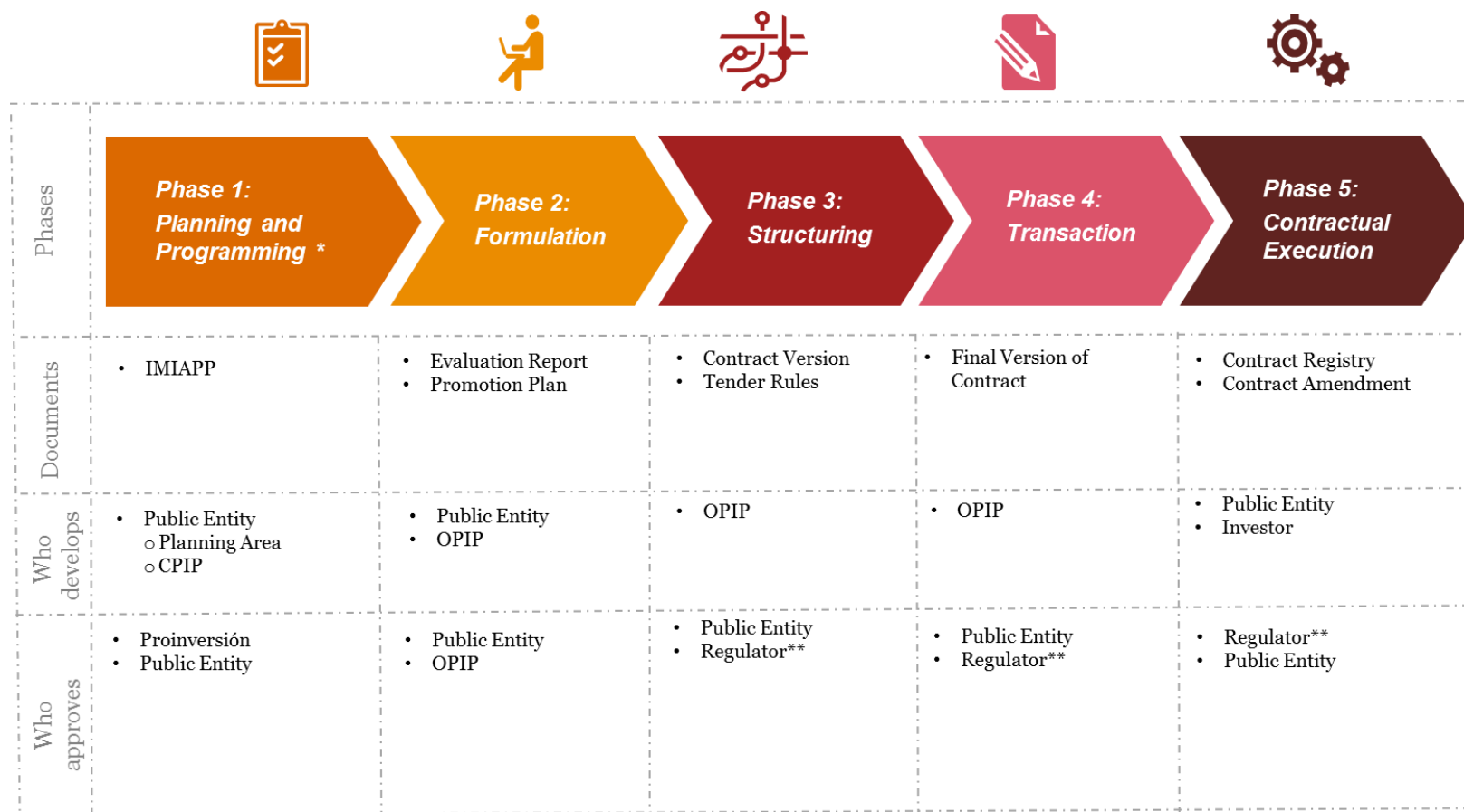
This section covers the following points:

- Phases, documents and responsible parties in charge of the PA development activities for each type of initiative.
- Graphic representation of the different activities that make up a procedure using flowcharts.

⁴ Although these phases apply to PPP, they are used as a reference to describe the PA procedures.

State Initiative

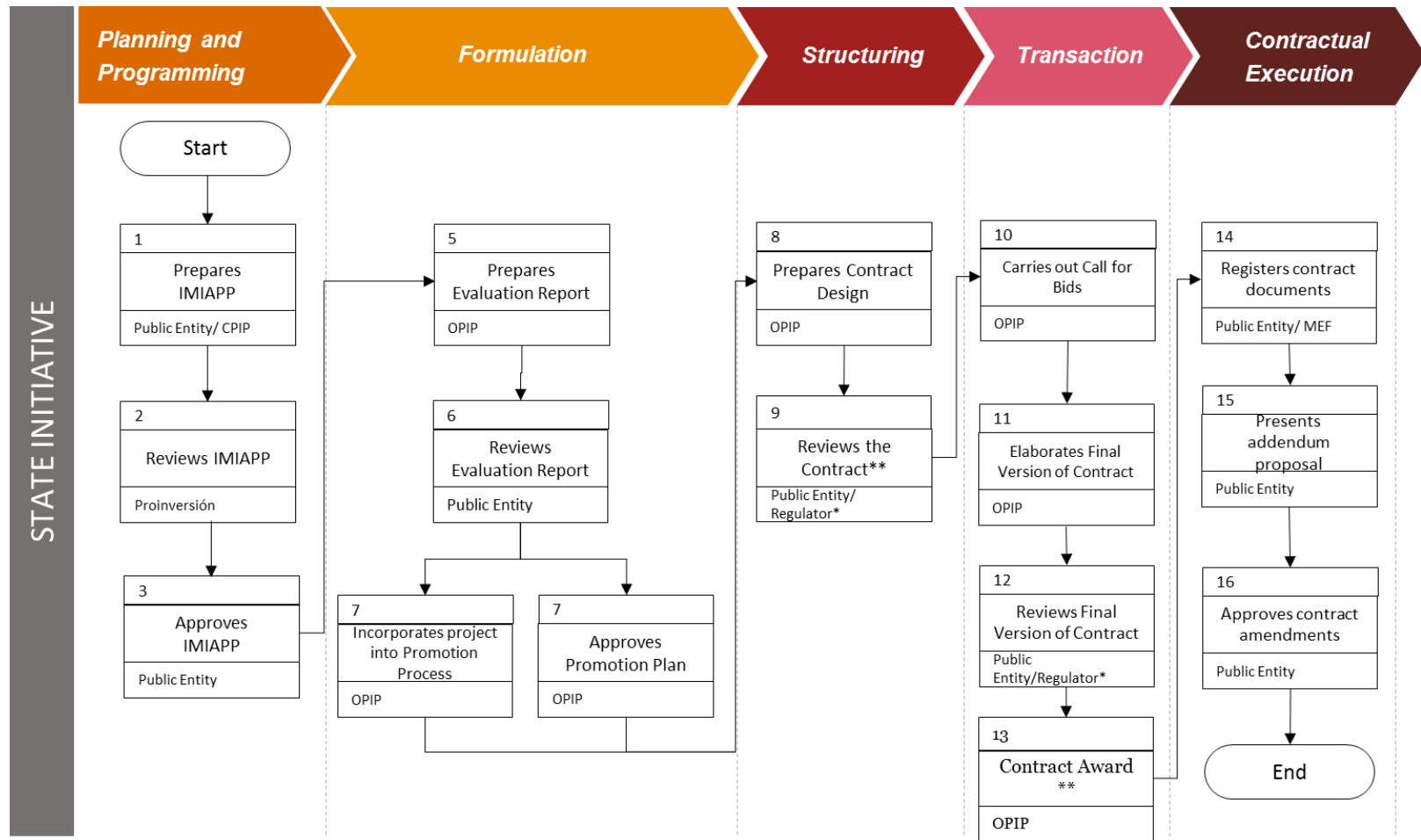
a. Phases, documents and responsible parties in charge of the PA development activities



(*) Programming does not apply for the first phase of the PA

(**) If applicable.

b. Flowchart



(*) The Regulator reviews/ comments, if applicable.

(**) For projects that require it, the OPIP elaborates the Asset Valuation Final Report.

Private Initiative

a. Phases, documents and responsible parties in charge of the PA development activities



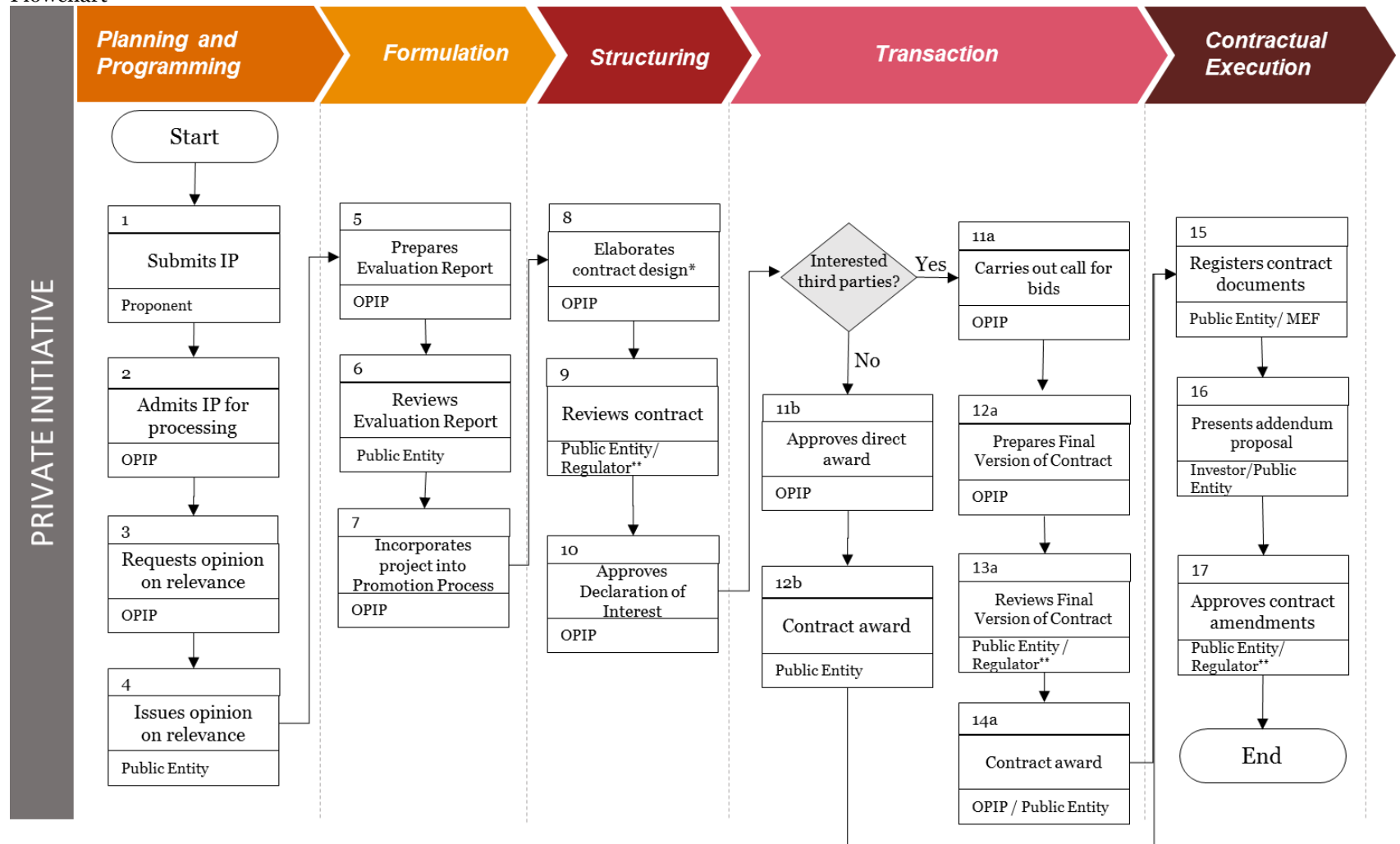
(*) Programming does not apply for the first phase of the PA

(**) For projects that require it, the OPIP elaborates the Asset Valuation Final Report

(***) If applicable

(****) The tender rules for the selection process are made in case third parties are presented

b. Flowchart



(*) For projects that require it, the OPIP elaborates the Asset Valuation Final Report.

(**) If applicable.

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