Executive Summary

The Investment Path for

PUBLIC WORKS FOR TAXES (OXI)
Publication of the SECOMPETITIVO Program of the Swiss Secretariat for Economic Affairs - SECO.

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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 (OxI).

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. 1224\(^2\), 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.

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

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1 Known as Obras por Impuestos (OxI) in Spanish.
investment, which promote the development of infrastructure and public services, an important part of achieving the welfare of millions of Peruvians.
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1. Abbreviations and acronyms

- CGR: Office of the National Comptroller General
- CIPGN: “National Government Public Investment - Public Treasury” Certificate
- CIPRL: “Regional and Local Public Investment - Public Treasury” Certificate
- Invierte.pe: National System for Multi-annual Programming and Investment Management
- DGETP: General Directorate of Public Debt and Treasury of the Ministry of Economy and Finance
- DGPMDF: General Directorate of Macroeconomic Policy and Fiscal Decentralization of the Ministry of Economy and Finance
- DGPP: General Directorate of Public Budget of the Ministry of Economy and Finance
- DGPPIP: General Directorate of Private Investment Promotion Policy
- G.L.: Local Government
- G.N.: National Government
- G.R.: Regional Government
- Law: Law N° 29230 Law that promotes regional and local public investment with private sector participation and Article 17 of Law N° 30264
- L.D.: Legislative Decree
- MEF: Ministry of Economy and Finance
- OXI: Mechanism for Public Works Tax Deduction under the framework of Law N° 29230, the Regulation of the Law, Article 17 of Law N° 30264 and complementary standards
- P.I.: Project Implementer
- Proinversión: Private Investment Promotion Agency
- Reg.: Regulation of Law N° 29230, approved by Supreme Decree N° 036-2017-EF.
- S.D.: Supreme Decree
- SIAF-SP: Integrated System for the Financial Administration of the Public Sector
- S.P.E.: Supervising Private Entity
- U.: Public University
2. Purpose of the Executive Summary

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

3. Definition

By using the OXI mechanism, the public entities of national, regional and local governments and universities enter into agreements with private companies. These then finance and/or carry out public investment projects that have a national, regional or local impact, that are considered by the Public entities to be a priority and that possess the viability declaration within the framework of Invierte.pe.

On the other hand, the public entities recognize the financing of the projects by awarding certificates (CIPRL or CIPGN) that may be used by private companies for the payment of third category income tax.

Figure 1: Definition of OXI
4. Why use OXI to carry out projects?

The main beneficial aspects for a public entity to carry out a public investment project using the OXI mechanism are the following:

Figure 2: Benefits for a public entity carrying out an OXI project

<table>
<thead>
<tr>
<th>Benefit</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Speeds up the implementation of public works.</td>
<td>Allows public entities to implement public investment projects with financing from the private sector.</td>
</tr>
<tr>
<td>Allows public entities to implement public investment projects with financing from the private sector.</td>
<td>Facilitates the selection process for the financing and implementation of public investment projects.</td>
</tr>
<tr>
<td>Facilitates the selection process for the financing and implementation of public investment projects.</td>
<td>Improves the quality of life and/or competitivenes in harmony with national, regional and local development policies and plans.</td>
</tr>
<tr>
<td>Improves the quality of life and/or competitivenes in harmony with national, regional and local development policies and plans.</td>
<td>Uses financial resources in advance, such as fees, bonuses, customs revenue, among others.</td>
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<td>Associates the image of public entities to projects with a high social impact.</td>
</tr>
<tr>
<td>Associates the image of public entities to projects with a high social impact.</td>
<td>Risks related to work execution are transferred to the private company.</td>
</tr>
</tbody>
</table>
5. Main stakeholders in OXI

The main stakeholders involved in a project carried out using OXI are shown in the following Figure N ° 3:

Figure 3: Main stakeholders in OXI
6. Guiding principles of the OXI process

The regulation offers a number of principles that can be applied to OXI, summarized below: Art. 3 Reg.

![Figure 4: Guiding principles of the OXI process](image)

<table>
<thead>
<tr>
<th>Principle</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Free competition</td>
<td>Seeks to promote free access and participation of the private company in the selection processes. Avoid expensive and unnecessary requests and formalities.</td>
</tr>
<tr>
<td>Equal treatment</td>
<td>Ensure the private company and the private supervising entity have the same opportunities to formulate their proposals, not allowing the existence of privileges or advantages. Similar situations are not allowed to be addressed differently in each case, and different situations are not to be addressed using an identical approach.</td>
</tr>
<tr>
<td>Transparency</td>
<td>All the information provided by public entities must be clear and consistent with the purpose and/or objective of each stage of the OXI mechanism. The information must be understood by the private company, guaranteeing freedom to compete, and the OXI mechanism should be developed under equal treatment, objective and impartial conditions.</td>
</tr>
<tr>
<td>Competition</td>
<td>Promotes the existence of effective competition conditions, in order to obtain the most beneficial proposal within the interest of the public. No practices that restrict or affect competition can be implemented.</td>
</tr>
<tr>
<td>Effectiveness and efficiency</td>
<td>The selection process and the decisions that are made during its implementation should be oriented towards the fulfillment of the arms, goals and objectives of the public entity, prioritizing these over any non-essential formalities. This way, effective and appropriate public satisfaction can be achieved, thus creating a positive impact on the living conditions of people.</td>
</tr>
<tr>
<td>Results-driven management</td>
<td>The public entity must manage its finances responsibly, staying within budgetary limits and complying with fiscal regulations.</td>
</tr>
<tr>
<td>Fiscal responsibility</td>
<td>The public entity must manage its finances responsibly, staying within budgetary limits and complying with fiscal regulations.</td>
</tr>
<tr>
<td>Legitimate trust</td>
<td>The public entity must manage its finances responsibly, staying within budgetary limits and complying with fiscal regulations.</td>
</tr>
<tr>
<td></td>
<td>The public entity must manage its finances responsibly, staying within budgetary limits and complying with fiscal regulations.</td>
</tr>
</tbody>
</table>
7. Financing

The financing of CIPRL or CIPGN, according to the type of public entity that is involved, is implemented using the following resources:

Figure 5: Financing CIPRL or CIPGN

8. The OXI agreement

The public entity and the public procurement company that has successfully been awarded the contract sign national, regional and local public investment agreements in order for the latter to finance and/or carry out one or more investment projects under the OXI mechanism framework.

Private companies that sign an agreement are obliged to comply with the requirements established in the regulation, agreement and selection process documentation.

The agreement must indicate the total amount of the investment made by the private company for the implementation of the public investment project, in order for it to be recognized when issuing the CIPRL or CIPGN Art. 4 Law, 54 Reg.
9. Phases for developing a project using OXI

Figure 6: Phases of OXI development

10. OXI process development

This section includes the following points:

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

<table>
<thead>
<tr>
<th>Phases</th>
<th>Documents</th>
<th>Who develops</th>
<th>Who approves</th>
</tr>
</thead>
</table>
| **P1: Prioritization** | 1. Certification of budgetary capacity for financing, operating and/or maintaining projects  
2. Co-execution agreement  
3. Letter of intent to develop a project  
4. List of prioritized projects | 1. Public entity/Technical secretary/Fund General Directorate  
2. Public entity  
3. Private company  
4. Public entity | 1. MEF  
2. COR  
3. Public entity  
4. Public entity |
| **P2: Previous activities** | 1. Resolution appointing the Special Committee  
2. Budgetary certification and/or Commitment for the prioritization of resources  
3. Tender rules | 1. Public entity/Firemen  
2. Special committee  
3. Special committee | 1. Public entity  
2. Public entity  
3. Public entity  
4. Public entity  
5. Private company  
6. Private company  
7. Private company  
8. Supervising private company  
9. Public entity  
10. Private company  
11. Public entity |
| **P3: Selection** | 1. Technical and economic proposal | 1. Private company | 1. Private company  |
| **P4: Implementation** | 1. Agreement  
2. Supervision contract  
3. Work documentation  
4. Definitive study  
5. Maintenance and/or operation file  
6. Replacement request for project executor  
7. Application for extension request  
8. Quality assurance  
9. Acknowledgement of receipt  
10. Liquidation application  
11. Acknowledgement of maintenance receipt | 1. Public entity  
2. Private company | 1. MEF  
2. Public entity |
| **P5: Issuance of RLPIC or NGPIC** | 1. CIFRL or CIPGN issuance request  
2. Quarterly valuations | 1. Public entity | 1. Public entity |

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b. Flowchart of the Prioritization Phase

Start

1. Verifies the limit for the issuance of certificates
   - Public entity

2. Requests favorable opinion for budgetary capacity
   - Public entity

3. Reviews the budgetary capacity/analysis
   - MEF

4. Prepares the list of prioritized projects to be implemented
   - Public entity

National government projects

Proposed projects Private sector

Joint execution?

- Yes
  5. Indicates each component that agrees to finance
     - Public entity

- No

6. Prepares letter of intent for project development
   - Private company

7. Assesses the proposal
   - Public entity

8. Communicates which projects are relevant
   - Public entity

9. Develops technical sheet or pre-investment study
   - Private company

10. Approves list of prioritized projects
    - Public entity

End
c. Flowchart of the Initial Actions and Selection Phase

![Flowchart](image_url)
d. Flowchart of the Implementation Phase

(*) If applicable
e. Flowchart of the CIPRL or CIPGN Issuing Phase

**Issuance of CIPRL or CIPGN**

1. **Record of budgetary and financial impact**
   - Public entity

2. **Request the issuance of CIPRL or CIPGN**
   - Public entity

3. **Reviews CIPRL or CIPGN issuance request**
   - MEF

4. **Issues CIPRL or CIPGN**
   - MEF

5. **Carries out the formulation and valuation of the monthly work progress**
   - Private entity

6. **Issues favorable opinion**
   - Public entity/Private supervising entity

7. **Requests the issuance of CIPRL or CIPGN**
   - Public entity

8. **Reviews the approval of quarterly valuations**
   - Public entity

9. **Issues approval for the progress of the project**
   - Public entity

10. **Communicates the receipt of CIPRL or CIPGN**
    - MEF

11. **Collects and delivers CIPRL or CIPGN to private company**
    - Public entity

**End**
Bibliography

- Law N° 29230 Law that promotes regional and local public investment with private sector participation.

- Legislative Decree N° 1250, which amends Law N° 29230, Law that promotes regional and local public investment with private sector participation, and Law N° 30264, Law that establishes measures to promote economic growth.

- Regulation of Law N° 29230, Law that promotes regional and local public investment with private sector participation, approved by Supreme Decree N° 036-2017-EF.

- Article 17 of Law N° 30264, Law that establishes measures to promote economic growth.