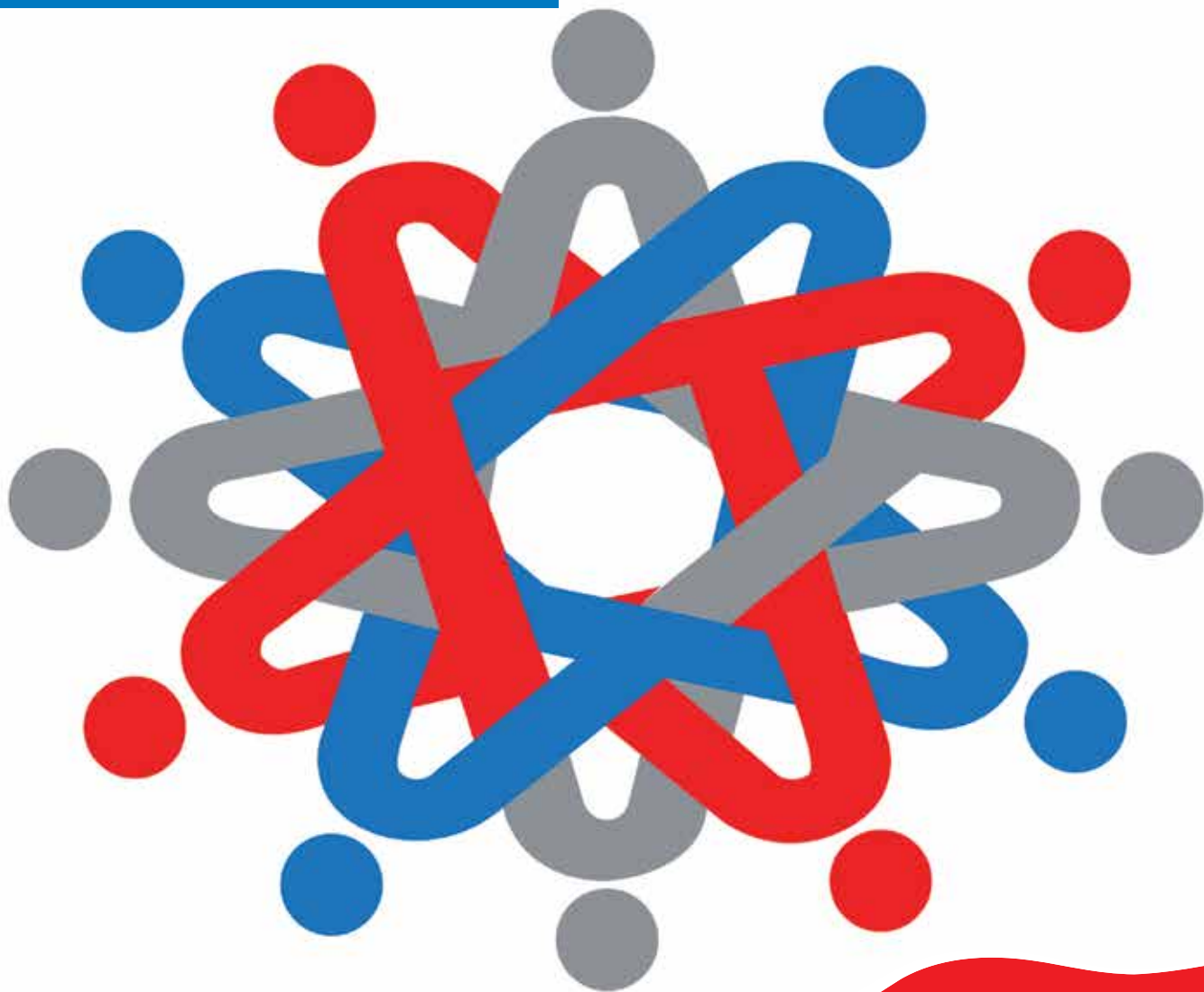


PUBLIC
PRIVATE
PARTNERSHIP



Promoting Private Investment in Peru

PUBLIC - PRIVATE PARTNERSHIP

DEFINITION

Peru promotes Public - Private Partnerships - PPPs in order to encourage the participation of private investment in the development of infrastructure and public services; thus incorporating its experience, knowledge, equipment and technology and distributing risks and resources.

PPPs are primarily implemented in the form of a concession and generally, the concessionaire is expected to be responsible for the design, financing, construction, operation and maintenance of public infrastructure works or public service provision.

A PPP can be accessed either by state or private initiative, depending on whether the project comes from the public or the private sector.

— • • • —
For the development
of infrastructure and
public services
— • • • —

CLASSIFICATION

Self-sustainable

Those financed through fees paid by users or through prices, tolls or similar investment recovery modality, not requiring the use of public resources for co-financing.

Self-sustainable PPPs are also those that requiring financial guarantees from the State, the probability of execution of these guarantees is minimal or nonexistent. Minimum guarantees are those that do not exceed 5% of the total investment cost, excluding costs of operation and maintenance.

Furthermore, self-sustainable PPPs are those that requiring non-financial guarantees, the probability of requesting use of public resources is minimal or nonexistent, i.e., the probability of using public resources does not exceed 10% for each of the first 5 years of project implementation.

Co-financed

Those that require co-financing or the granting or hiring of financial guarantees or nonfinancial guarantees with a significant probability of demanding the use of public resources.

PRINCIPLES

- **Value for money:** a public service must be provided by that private partnership that can offer higher quality at a given cost or the same quality results at lower cost. The purpose is to maximize user satisfaction and optimize the value of money from public resources.
- **Transparency:** all quantitative and qualitative information used for decision making in the stages of evaluation, development, implementation and accountability must be known to citizens, under the principle of disclosure provisions of the Law on Transparency and Access to Public Information.
- **Competition:** Competition is promoted in order to ensure efficiency and lower costs in the provision of infrastructure and public services, as well as to avoid any anticompetitive and/or collusive act.
- **Proper risk allocation:** assign risks to those best able to manage it at a lower cost, considering public interest and project profile.
- **Budget responsibility:** the payment capacity of the State must be considered in acquiring firm and contingent financial commitments, without compromising the sustainability of public finances and the regular provision of services.

PPPs UNDER PROINVERSION'S RESPONSIBILITY

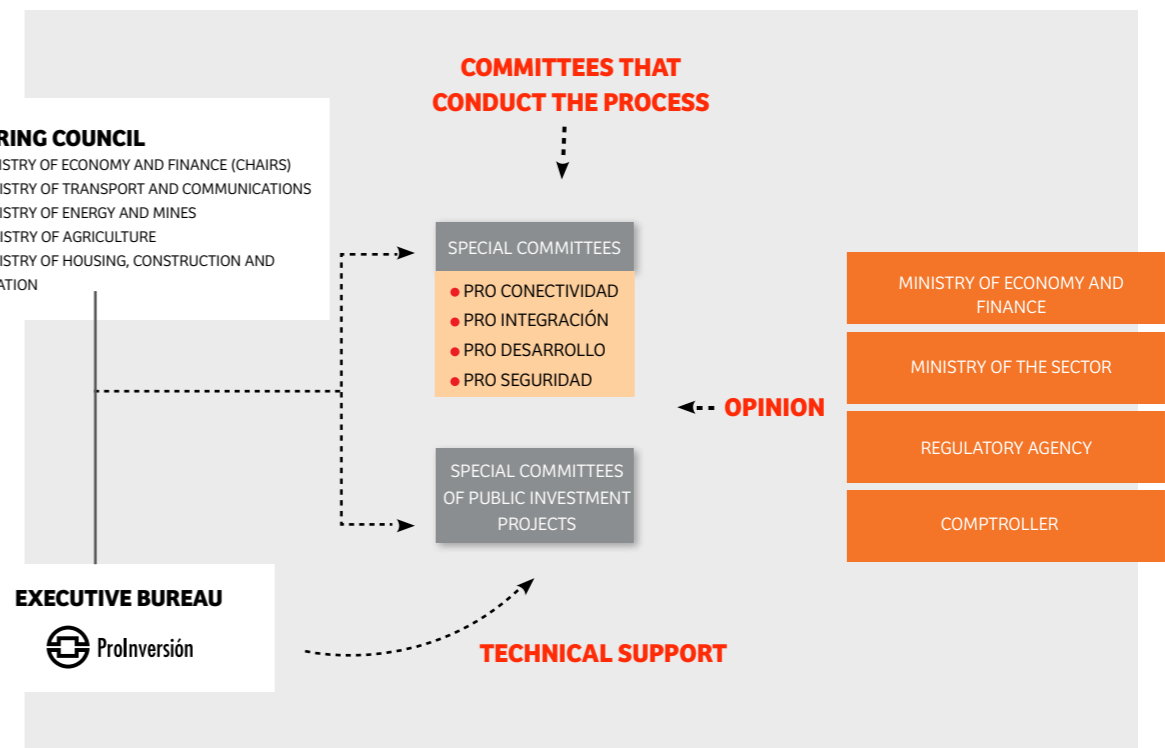
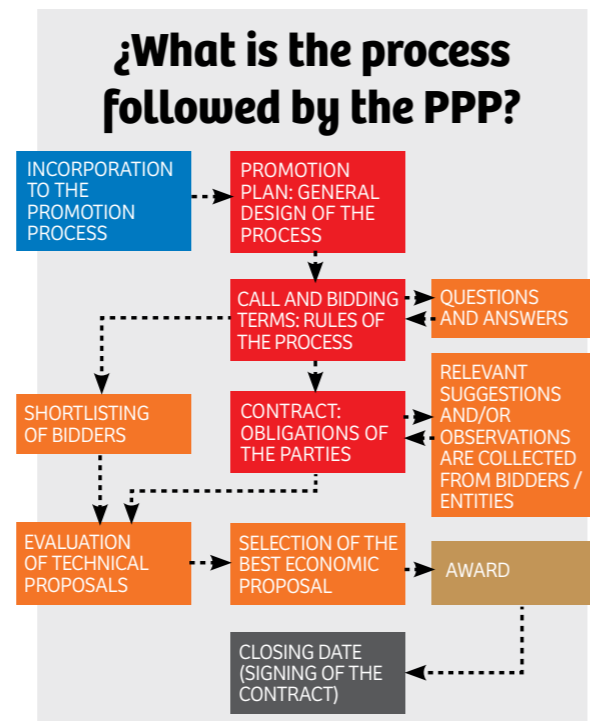
The Private Investment Promotion Agency - PROINVERSION is responsible for PPP projects of national jurisdiction, which meet any of the following characteristics:

- Total value of investment over 15,000 UIT.
- They are multi-sectoral.

PROINVERSION handles projects whose private investment promotion process has been requested by the relevant public agency and has the approval of its Steering Council.

Also PROINVERSION, through its Special Committee on Public Investment Projects, is empowered to formulate interventions and reformulate public investment projects that are not in the implementation stage and whose purpose is the provision of priority public infrastructure and public services, in order to develop PPPs.

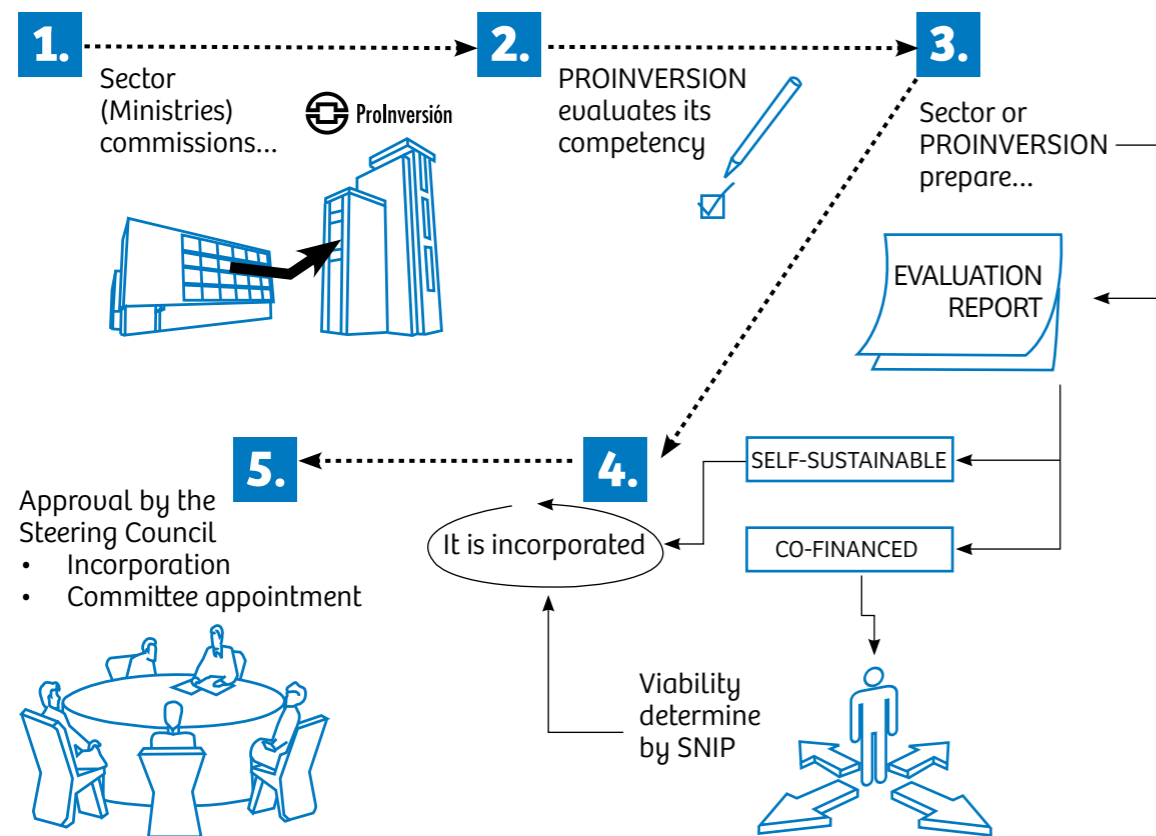
In cases of local competition not included in the above features, the Ministries, through the Investment Committees will be responsible for carrying out the PPP process.



¿WHAT AGENCIES ARE INVOLVED?

- **Steering Council of PROINVERSION:** chaired by the Minister of Economy and Finance and comprised by the Minister of Transport and Communications, Minister of Energy and Mines, Minister of Housing, Construction and Sanitation and the Minister of Agriculture.
- **Special Committees:** these are conductive bodies of private investment promotion processes, composed of three members, appointed by supreme resolution and proposed by the Steering Council of PROINVERSION (they are not part of the PROINVERSION staff).
- **Project team:** Led by a Project Head, PROINVERSION staff members, who provide legal and technical support to the Special Committees.
- **Other participating agencies:** The Ministry of Economy and Finance, the Ministry of the sector regarding the project, the Regulatory Agency of the activity regarding the project and the Comptroller General of the Republic.

A. INCORPORATION PROCESS

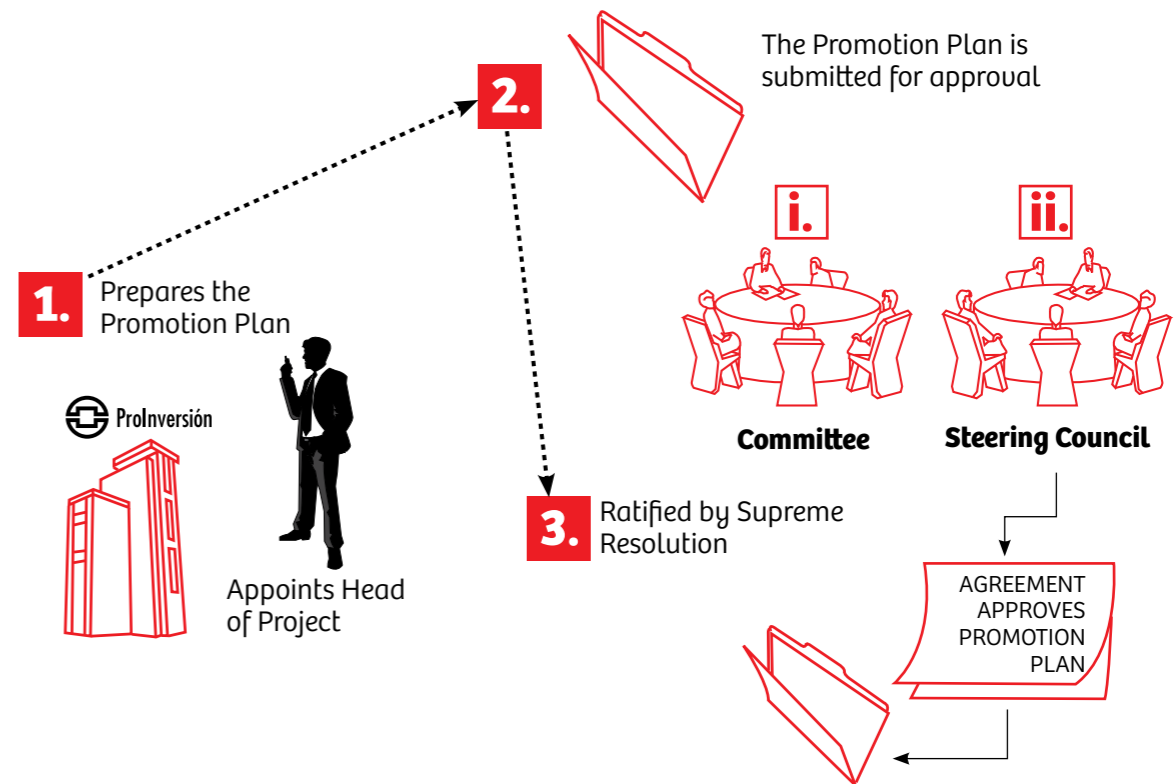


The **Ministries** (Sectors) or entities commission the project to **PROINVERSION**, which according to the standard, evaluates its competence in leading the process of private investment promotion.

For purposes of incorporation, the public agency shall prepare the evaluation report and forward it to **PROINVERSION**, who will ask the **Steering Council** of **PROINVERSION** to incorporate the project, by agreement, to the private investment promotion process and appoint a **Committee** responsible for the conduction thereof.

In the case of a co-financed PPP, **PROINVERSION** shall formulate in addition, when requested, feasibility studies, process the declaration of viability and have a favorable opinion of the Office of Investment Promotion (OPI) from the Ministry(s) responsible before requesting the **Steering Council** the incorporation of the project.

B. PROMOTION PLAN



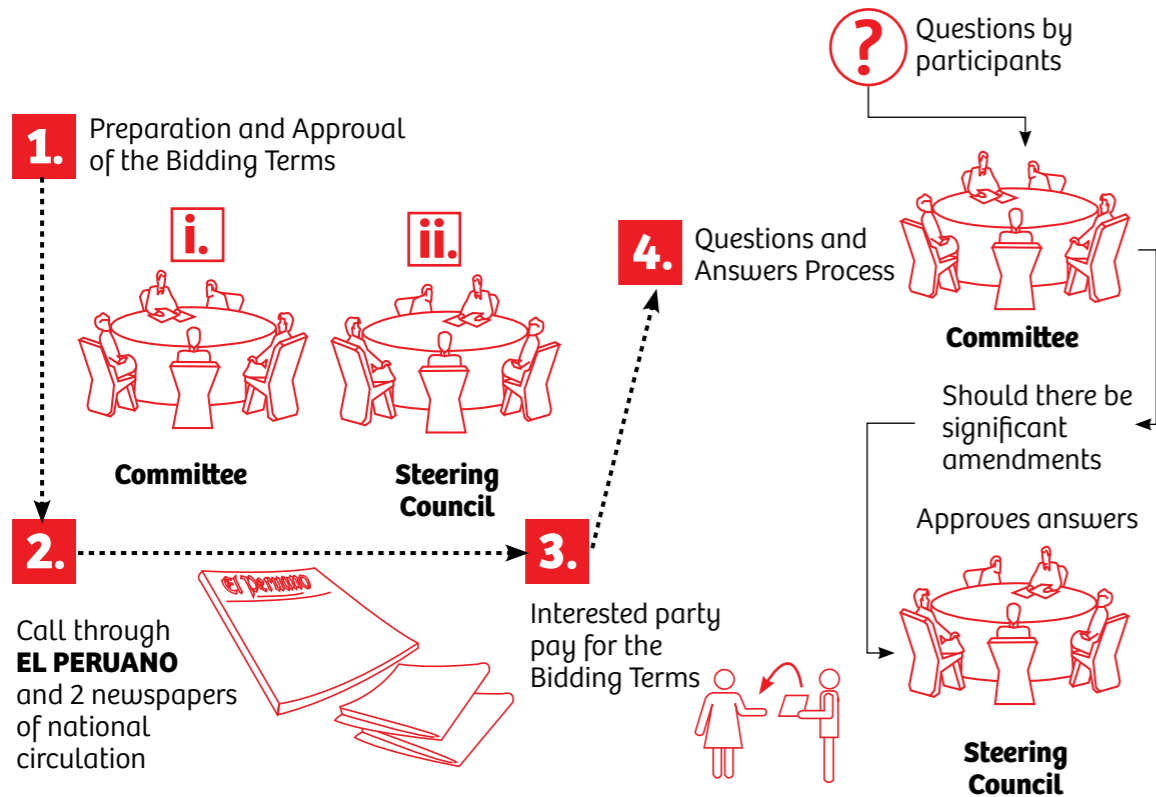
PROINVERSION will be responsible for formulating the promotion plan, which will be submitted for approval by the **Committee** and the **Steering Council**.

Agreements of promotion plan approval and incorporation of the project to the private investment promotion process will be ratified by Supreme Resolution endorsed by the **Ministry** of the competent sector and the head of the **Ministry of Economy and Finance (MEF)**.

Minimum content of the Promotion Plan

- **Project classification:** specify if the project is self-sustainable or co-financed.
- **PPP modality:** concession, usufruct, joint venture, lease, management contract, etc.
- **Selection process modality:** Special Public Bid or Comprehensive Project Bid
- **Financial Scheme:** in general the conceptualization of the business and sources of revenue that make it viable should be considered.
- **Term**
- **Schedule**

C. CALL AND BIDDING TERMS

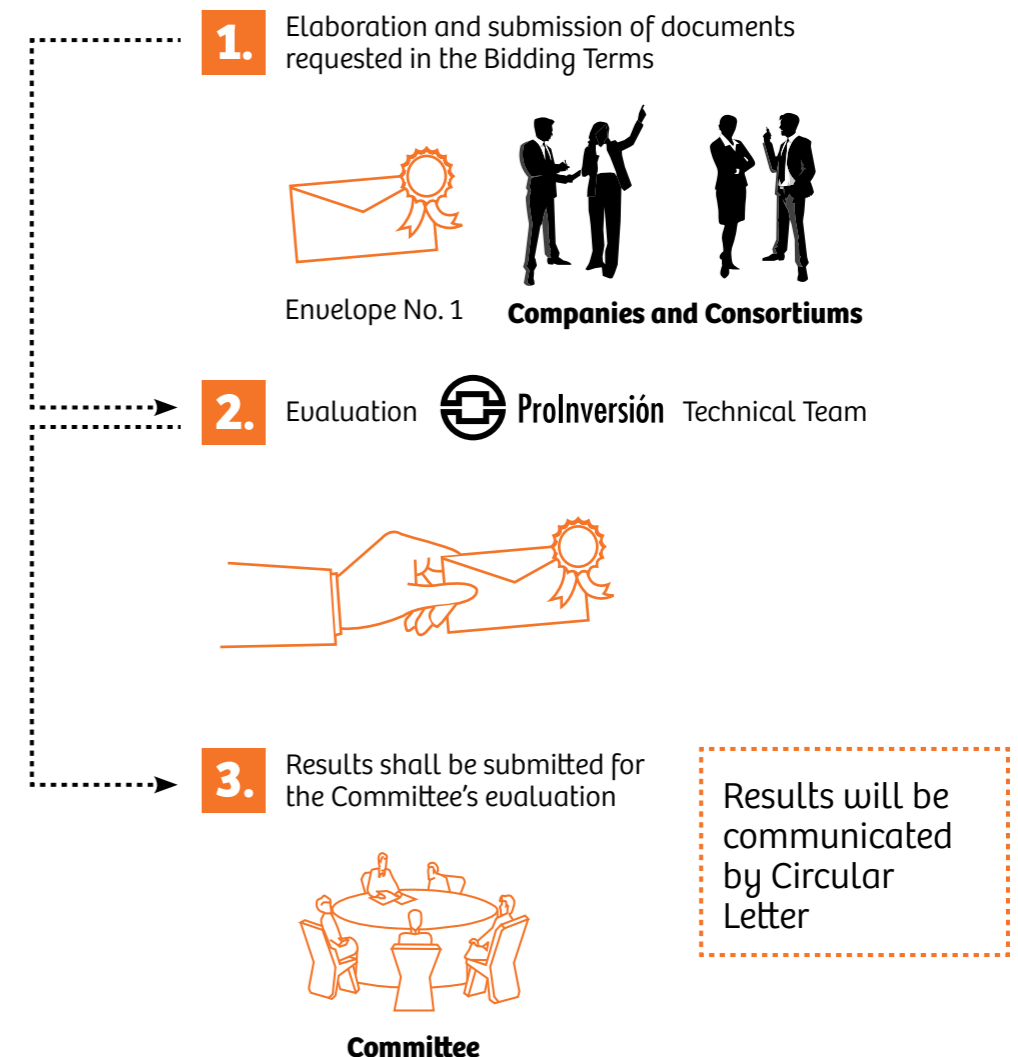


The **Committee** elaborates the Bidding Terms of the process which must be approved by the **Steering Council**. The Bidding Terms contain the procedure, minimum requirements that the interested party must meet in order to be considered as shortlisted bidders, the competency factor, the content of technical and financial proposals, evaluation mechanism, guarantees required (seriousness of the proposal, challenge and contract performance bond).

The **Committee** makes the announcement through a publication in the Official Journal "El Peruano" and in two newspapers of national circulation for two consecutive days. The call should announce the date, time and place for the submission of proposals, indicate the process modality, indicate the availability of the Bidding Terms (**PROINVERSION** website and relevant entities, if applicable), and the payment for the right to participate in the process.

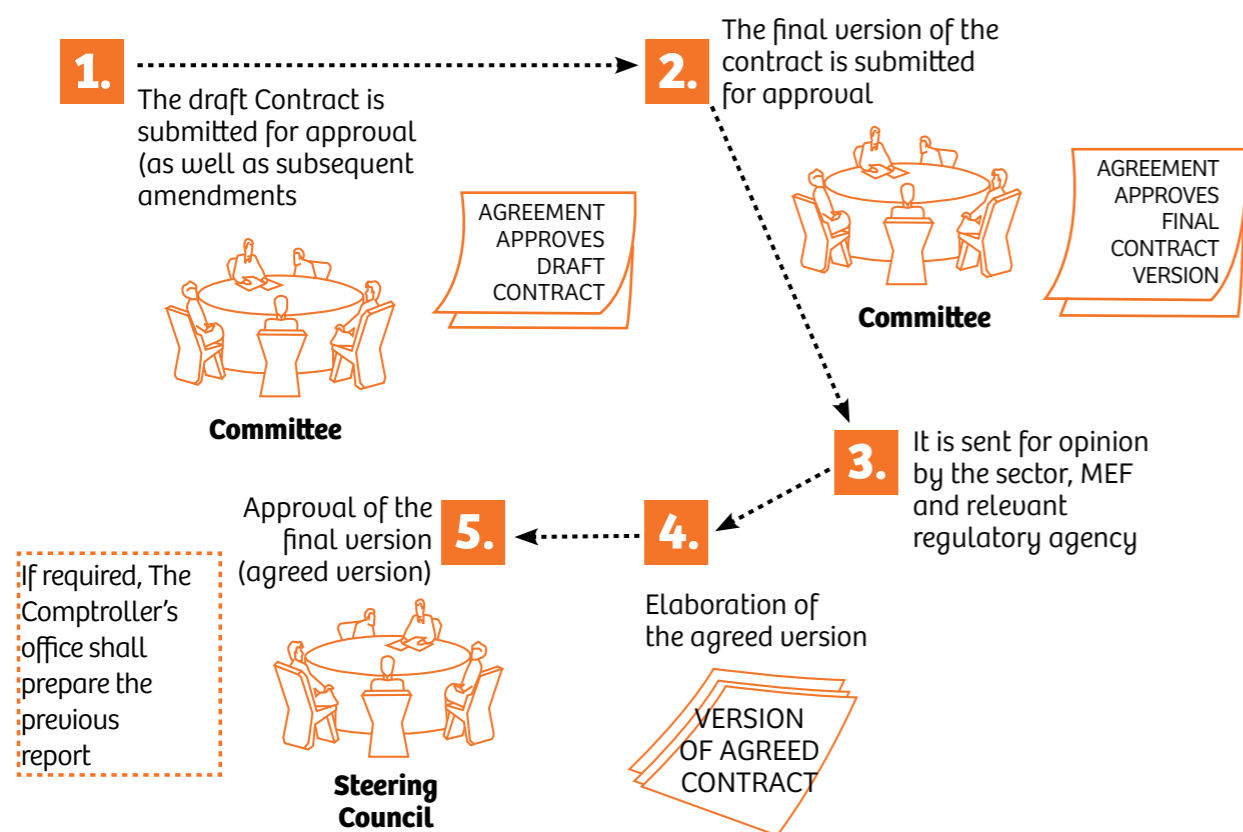
The acquisition of the Bidding Terms entitles to queries and suggestions thereof. Such queries and suggestions are answered through the issuance of circular letters.

D. QUALIFICATION



Companies or consortiums interested in participating in the process are subject to a shortlisting stage, for which they must submit to **PROINVERSIÓN** the documentation specified in the Bidding Terms, generally referring to technical, financial and legal (Envelope No. 1) requirements. This information will be reviewed by the **Committee** and the result will be communicated by circular letter.

E. CONTRACT

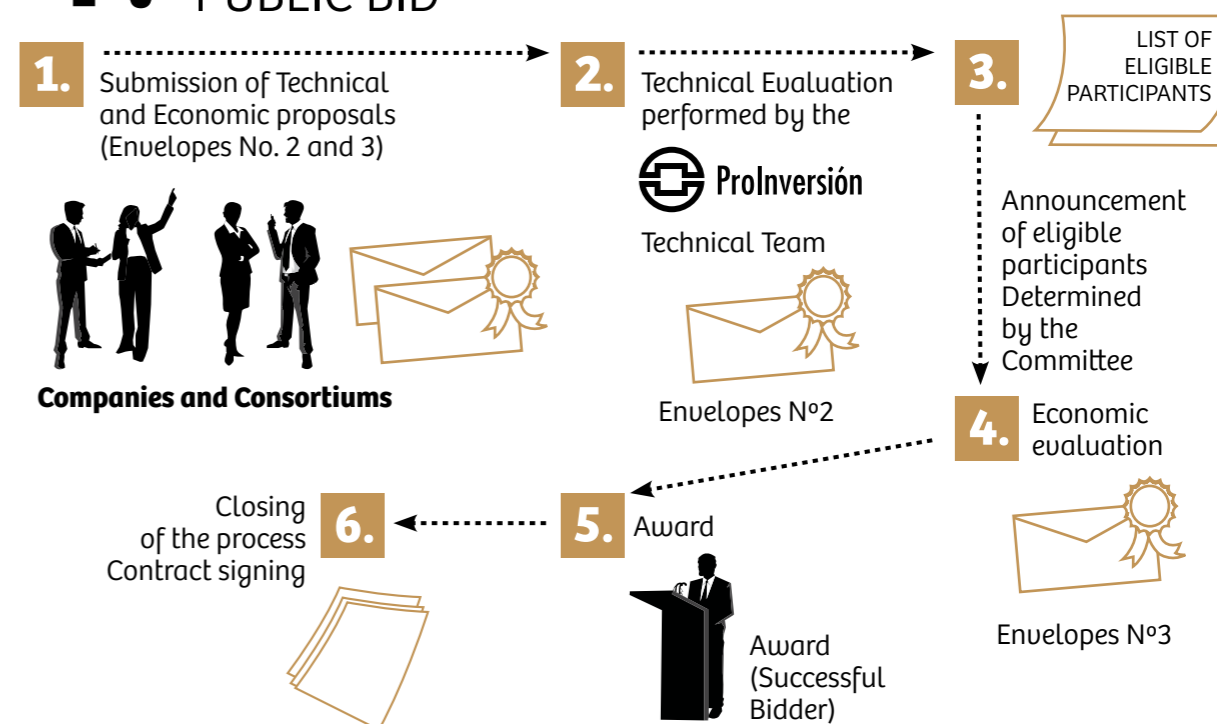


The Contract will cover rights, obligations, terms, guarantees, resolution of disputes and other conditions relevant to the type of concession in question.

The final version of the contract is approved by the **Steering Council** of **PROINVERSION**, and must have prior favorable opinion of the corresponding **Sector**, the **MEF** and the regulatory agency, if applicable, who will issue that opinion within a period not exceeding fifteen (15) business days after received of the final version of the contract, regarding matters within their competence.

Once favorable opinions have been obtained from the aforementioned entities, the **Committee** shall submit the final version to the **Steering Council**, for approval. Once this version has been approved, it will be forwarded to the Comptroller General of the Republic to issue its Prior Report concerning matters within its competence within a period not exceeding ten (10) business days.

F. PUBLIC BID



Companies or consortiums participating in the Bid will submit their technical proposal (Envelope No. 2) and their economic proposal (Envelope No. 3) in a public ceremony before a notary public. PROINVERSION's technical team will evaluate the technical proposal and will prepare a list of eligible participants. Then the Project will be awarded based on the best economic proposal submitted by eligible participants.

LEGAL FRAMEWORK

- Legislative Decree No. 1012 – Framework Law on Public - Private Partnerships to generate productive employment and to establish rules for streamlining the process of private investment promotion.
- Supreme Decree No. 146-2008-EF - Regulation of Legislative Decree No. 1012 approving the Framework Law on Public - Private Partnerships to generate productive employment and to establish rules for streamlining the process of private investment promotion.
- Supreme Decree No. 005-2013-EF - Supplementary provisions promulgated to regulate the second paragraph of the Ninety-Sixth Supplementary Final Provision of Law No. 29951, Public Sector Budget Law for Fiscal Year 2013, which prioritizes in an exceptional and urgent manner co-financed private initiatives intended to address infrastructure and public services deficit.
- Public Sector Budget Law for Fiscal Year 2013
- Law 30025 - Law that facilitates the acquisition, expropriation and possession of real property for infrastructure works declaring as public necessity the acquisition or expropriation of affected real property for the implementation of various infrastructure projects.
- Law 30056 - Law that amends various laws to facilitate investment, promote productive development and business growth.
- Supreme Decree No. 054-2013-PCM - Special provisions approved for implementation of administrative procedures.
- Supreme Decree No. 060-2013-PCM - Special provisions approved for implementation of administrative procedures and other measures to promote public and private investment projects.
- Supreme Decree No. 104-2013-PCM - Promotion and facilitation of investment declared of national interest and priority.

www.investinperu.gob.pe



ProInversión

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