



PPIAF

Enabling Infrastructure Investment

DECEMBER 2013



PPIAF Supports the Development of the New National Infrastructure Agency in Colombia

The Republic of Colombia (Colombia) is an upper middle-income country, with a population of approximately 47.7 million people and a GNI per capita of US\$6,990 in 2012. Colombia has a stable economy exhibiting an average annual growth rate of 4.7% between 2001 and 2011 and decreasing, one digit inflation since 2001. The Government of Colombia has identified infrastructure as one of the key challenges for Colombia's development and competitiveness. PPIAF has supported 18 activities in Colombia worth \$3.2 million since 2000 in the roads, ports and airports, public transportation, energy, water, and sub-national financing sectors.

Colombia lags behind its peers in the accumulation and quality of its productive infrastructure, particularly its road network. It ranked 85 out of 142 countries in infrastructure development and 100 out of 142 countries in the quality of institutions required for competitiveness as of 2012.

Concessions covering approximately 4,000 km of the national primary road network were granted in three successive waves starting in 1994, the results of which were mixed. The 'first generation' of concessions led to investments of up to \$900 million in 1,650 km of the primary road network, but the government provided total or partial guarantees for construction, tariff, traffic and environmental risks which have cost the public sector substantially in terms of payments to project sponsors.¹ In the subsequent 'generations' of projects, the government significantly curtailed minimum traffic guarantees, but continued to offer guarantees for certain risks, such as for foreign exchange, environmental risks, geological risks, and non-insurable force majeure events. These concessions mobilized private sector financing of almost \$1,500 billion over more than 2,500 km of the primary road network, but renegotiations, additional investments and extensions in the concession period became predominant, increasing the initial cost substantially.

Several concerns about inefficiencies in concession design and oversight regarding Colombia's concession program were identified as a result of these first 'generations' of concessions. In particular, the growing frequency and size of contract renegotiations to include additional investments is seen as a major shortcoming. All of the 22 concession contracts that were operating in 2011 had been modified, resulting in an increase of 27 percent in relation to the initial project costs estimated for the three successive concessions waves, and expected revenues for the concessionaire that were 3.4 times higher than initially stipulated.²

PPIAF SUPPORT

Although Colombia had considerable experience in road concessions and a concession program dating back to 1994, a weak institutional framework had contributed to the renegotiation of several contracts at a high cost to the government. Previous generations of concession contracts were less efficient than anticipated and led to project delays and cost overruns. In early 2011, the Government of Colombia requested PPIAF assistance to improve the planning, structuring, award, implementation, management, and regulation of road concessions, and strengthen the National Concessions Institute's (INCO) capacity. Four main products resulted from this technical assistance: a diagnostic of Colombia's concession program results to date; an assessment of Colombia's national procurement law and recommendations for a new national concessions law; recommendations for the strengthening of INCO's capabilities in the structuring, award and regulation of concession contracts; and a review of best practices in PPP/concession agencies.

OUTCOMES

Colombia's institutional framework for public-private partnerships (PPPs) was strengthened as a result of PPIAF's support. An initial diagnosis of the concession program examined the roles of INCO, the Ministry of Finance and Public Credit, the National Planning Department, and the Ministry of Transport in implementing the program. The institutional framework for private sector participation was also assessed, and five areas of weakness were identified: i) INCO's management and operational processes; ii) structuring of projects; iii) regulatory framework; iv) contractual design; and v) assignment of roles between the various institutions.

A second report analyzed several options for the institutional arrangements of the concession program were analyzed, as well as options to structure the National Infrastructure Agency (ANI), an institution that would be created to replace INCO. The report noted the operational and managerial issues in INCO and highlighted the

need for greater accountability and institutional memory within the institution. The government addressed issues raised by the two reports by implementing some of the recommendations, such as enhancing the role of the PPP units within the Ministry of Finance and Public Credit and the National Planning Department and providing more resources to attract high-level experts to the concession agency.

To address the need to increase its capacity to implement and regulate projects, the government approved the creation of ANI to replace INCO in November 2011. ANI began operations on January 1, 2012, and is responsible for the regulation of PPPs and implementation of the fourth generation of concession contracts. Following this decision, PPIAF provided assistance to help strengthen the capacity of ANI. A practical guide to contract renegotiation was produced for ANI officials to assist them with the renegotiation process. A discussion paper on the supervision of concession contracts was also produced. In addition to examining Colombia's concession program, the paper discussed international best practices and lessons learned from the experiences of Chile and Peru. A second discussion paper examining the use of private sector sources of finance and capital markets to finance infrastructure activities was also produced under this activity.

Finally, comments and recommendations were provided on the draft PPP law. The PPP law, Law 1508 of 2012, was passed on January 10, 2012 and strengthens the institutional framework for concession contracts regulating for the first time key aspects (e.g. the appropriate processes to address and manage unsolicited proposals).

DONOR COORDINATION

Coordination efforts to maximize the impact of the technical assistance provided to the Government of Colombia were established with other multilateral development banks, including the Andean Development Corporation and the Inter-American Development Bank.

IMPACTS

Since the adoption of the new PPP law, the Government of Colombia has put into place the new infrastructure agency, developed its institutional processes and structured several concession projects. By 2014, the Government of Colombia expects to have increased investment in infrastructure to 3% of GDP (around \$10 billion), \$6.7 billion of which it expects to leverage through PPPs. The new concessions that have been structured include the construction of 6,000 km of roads and 1,179 km of new railroads, as well as concession projects in the ports and airport sectors.

¹World Bank, Recent Development in Infrastructure (2004). Benavides (2009).

²Meléndez, M. (2009) cited by Juan Benavides. "Reformas para atraer la inversión privada en infraestructura vial." (Reforms to attract private investment in road infrastructure.) Fedesarrollo: Colombia. 2009. Online: <http://www.fedesarrollo.org.co/wp-content/uploads/2011/08/concl1.pdf>. P. 21.