



Bogotá's Legal Guide to Foreign Direct Investment

2026

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PUBLIC PROCUREMENT

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Strategic Guide for Foreign Companies

1. Regulatory environment and legal certainty

Colombia has a structured and stable public procurement system, based on the principles of transparency, free competition, equal treatment and objective selection.

The general regime applies to most state entities. However, some of them operate under special regimes, with their own rules that must be analyzed on a case-by-case basis.



Recommendation: before structuring a tender, it is essential to verify whether the contracting entity applies the general procurement regime or a special regime.

2. Access of foreign companies

Colombian law allows the participation of foreign companies in public selection processes. The public procurement system is openly international, as it does not restrict, except in very specific cases, the participation of foreign bidders.

Key aspects for international investors:

- No branch or subsidiary in Colombia is required to submit the offer.
- If there is no domicile in the country, a local legal representative must be appointed.
- Foreign public documents must be apostilled or legalized and, where applicable, officially translated into Spanish.

With respect to the evaluation and weighting of bids, and in the presence of international trade agreements or regional integration commitments, that so stipulate, entities must grant national treatment to foreign bidders.

Conclusion: Colombia is a market formally open to international suppliers, with no significant barriers to entry.

3. Structuring participation

Those interested can participate:

- Individually (natural persons or legal entities).
- Through associative structures (consortiums or temporary unions), without the need to constitute a new legal entity.

These structures allow parties to diversify risk, combine technical expertise, financial capacity, and local knowledge.



Recommendation: the parties should contractually regulate the distribution of responsibilities, risks, and operational leadership among the members of the joint structure.



4. Qualifying requirements and Unique Registry of Proponents (RUP)

The RUP centralizes the legal, financial and experience information of the proponents:

- It is mandatory for people domiciled in Colombia who aspire to hire.
- It is not mandatory for foreign companies without domicile in the country; In these cases, the requirements must be evidenced directly in each selection process.

There are selection processes in which the RUP is not required (for example, direct hiring or minimum amount).



Recommendation: the decision to establish a permanent domicile in Colombia should be assessed considering the projected turnover and frequency of participation.

5. Selection methods

The General Statute of Public Procurement establishes the guiding principles of government procurement, the types of contracts, and the selection processes, namely:

- Public tender (open procedure).
- Abbreviated selection (simplified procedure for defined cases).
- Merit-based competition (predominantly technical, advisory, and audit services).
- Minimum amount.
- Direct contracting (exceptional and restrictive).

These modalities are regulated in terms of their procedures, requirements, deadlines, documents and others, by Decree 1082 of 2015.

Key points to keep in mind:

- The general rule is open competition.
- The evaluation criteria combine qualifying requirements and weighted factors (price, technical quality, specific experience).
- In public tender processes, price is the predominant factor, once the minimum requirements have been met.
- In merit-based selection processes, the technical quality of the proposal is the predominant factor, without price being the determining criterion.

6. Incapacities and incompatibilities

There are legal restrictions that may preclude a party from contracting with the State (e.g., sanctions, conflicts of interest, or certain relationships with public officials).

These limitations are expressly and exhaustively set forth for in the law.



Recommendation: parties should conduct prior due diligence on regulatory compliance and disciplinary or sanctioning records.

7. Transparency and traceability

All selection procedures must be published in the Electronic Public Procurement System (SECOP), which allows comprehensive monitoring of the procedure and public access to documents.

This makes the procurement market highly traceable and formal; document management and compliance with deadlines are critical factors to be taken into account.

8. Public-Private Partnerships (PPPs)

PPPs allow structuring, financing, construction and operating public infrastructure under private financing schemes, which are recovered with the exploitation of the project and in which an allocation of risks is made to the private party.

Relevant features:

- Contract terms of up to 30 years (with the exceptional possibility of an extended duration).
- Remuneration through economic exploitation rights, public payments or hybrid schemes.
- They require a comprehensive cost-benefit analysis and specialized technical evaluation.
- They can be of private or public initiative.



Private initiative PPPs

These PPPs originate from the initiative, structuring, and promotion of the private sector. It is the private party that develops the PPP, carrying out the pre-feasibility and feasibility studies, which are subsequently approved by the public entity if it decides to proceed with the project.

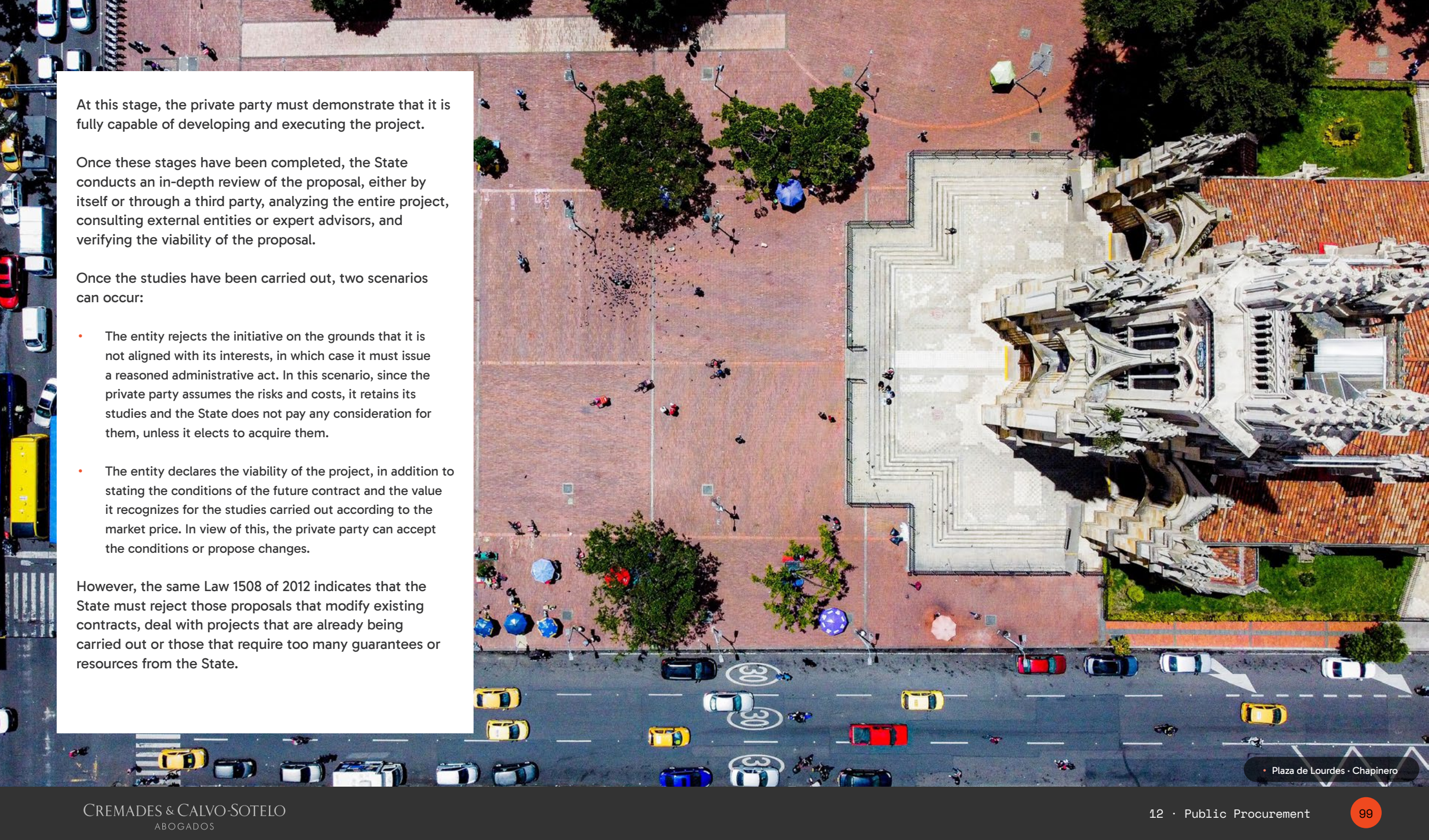
According to Law 1508 of 2012, in the first stage of the proposal, the pre-feasibility stage, the private party must determine the following:

- Give an overview of what the project is.
- The estimated cost of the project and its financing.
- How the project would work, in terms of construction, maintenance and operation.
- Preliminary studies.

Subsequently, the entity carries out an initial review, where it must consider whether the project is of interest to it and whether it fits with the sector's plans and public policies.

Once the entity analyzes the proposal and gives the go-ahead, the project continues to the second stage of feasibility, the private company presents the project ready to be executed, with the following determinations:

- Detailed financial model.
- Technical, environmental, economic and legal studies.
- Contract terms.
- The risks of the project and who assumes them.
- Minutes of the contract.



At this stage, the private party must demonstrate that it is fully capable of developing and executing the project.

Once these stages have been completed, the State conducts an in-depth review of the proposal, either by itself or through a third party, analyzing the entire project, consulting external entities or expert advisors, and verifying the viability of the proposal.

Once the studies have been carried out, two scenarios can occur:

- The entity rejects the initiative on the grounds that it is not aligned with its interests, in which case it must issue a reasoned administrative act. In this scenario, since the private party assumes the risks and costs, it retains its studies and the State does not pay any consideration for them, unless it elects to acquire them.
- The entity declares the viability of the project, in addition to stating the conditions of the future contract and the value it recognizes for the studies carried out according to the market price. In view of this, the private party can accept the conditions or propose changes.

However, the same Law 1508 of 2012 indicates that the State must reject those proposals that modify existing contracts, deal with projects that are already being carried out or those that require too many guarantees or resources from the State.

Public initiative PPP: in this modality, it is the State that proposes the initiative and selects the private contractor based on the needs of the project.

As a prerequisite for the opening of the public-initiative PPP tender process, the State must have a well-structured and duly justified project, as follows:

- The required studies must already be completed.
- It must have the project design.
- It must establish how the work will be executed and maintained.
- It must have a detailed financing model, which has the nature of a legally protected reserve.
- It must specify the term of the contract.

In the proposal submitted, the entity must demonstrate the feasibility and suitability of the project, that it effectively meets the needs of the intended service, together with a Risk Matrix identifying which party—the entity or the private contractor—assumes each risk of the project.

Likewise, it must justify the reasons for using the PPP structure rather than traditional contracting, subject to approval by the Ministry of Finance and Public Credit, or the Secretary of Finance in the case of territorial entities, and the National Planning Department.

Subsequently, for the selection of the contractor that will carry out the project, the public entity may proceed directly with a selection process or resort to the prequalification mechanism, whereby contractors with the requisite experience and financial capacity may apply.



Conclusion

PPPs are one of the main vehicles for foreign investment in various sectors, such as infrastructure, energy, and public utilities. The State converts infrastructure needs into structured projects that generate opportunities for private investors.

Through PPPs, the investor operates within a stable and clear long-term legal and contractual framework, generating income and returns throughout the execution of the project. This mechanism allows the mobilization of resources from international funds and foreign capital to national projects.

Through a well-structured and properly regulated PPP, both parties would obtain mutual benefits if the project performs well and meets quality standards, generating infrastructure improvements and enhanced public services.

This type of contract is optimal for the State, as it generates confidence and attracts investment through the legal stability and risk allocation inherent in this form of public contracting.

According to the Inter-American Development Bank (IDB), PPPs allow the development and maintenance of public infrastructure in a sustainable manner, fostering growth in efficiency and innovation by optimizing public resources and generating a positive impact on the economic and social dimensions of the projects.

9. The existence of trade or regional agreements in the field of government contracting

First, national treatment is the benefit granted to foreign parties so that, when submitting their bids in public procurement selection processes, they are treated on equal footing with Colombian domestic companies and are not excluded on account of their foreign status.

Likewise, this principle establishes that goods, services, and intellectual property rights from the other party shall be accorded treatment no less favorable than that granted to its own goods, services, and domestic rights.

This implies that, both in public procurement selection processes and in the commercialization of goods and services by a foreign private party, no preferential advantage shall be applied in favor of domestic companies.

This type of incentive is attractive to foreign companies, fostering interest in investing in Colombia's development through the planning and execution of works that benefit all stakeholders and the general public.

Thus, Colombian legislation establishes that national treatment shall be granted when the goods and services offered for the eventual performance of the contractual object originate in a country with which the Republic of Colombia: (A) has a Trade Agreement in force; (B) has had the existence of national treatment by reciprocity certified by the Colombian Ministry of Foreign Affairs; or (C) is a member of the Andean Community of Nations.



For reference, according to the Colombian Ministry of Foreign Affairs, the countries with which Colombia has national treatment agreements in force are the following:



- Republic of Chile
- United Mexican States
- Republic of El Salvador, Republic of Guatemala and Republic of Honduras
- European Free Trade Association - EFTA (Swiss Confederation, Kingdom of Norway, Principality of Liechtenstein and Republic of Iceland)
- Canada
- United States of America
- European Union (Austria, Belgium, Bulgaria, Cyprus, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden)
- Republic of Korea
- Republic of Costa Rica
- Pacific Alliance (Chile, Mexico and Peru)
- Israel
- United Kingdom of Great Britain and Northern Ireland
- Andean Community of Nations (Ecuador, Peru and Bolivia)



10. Conclusion

Colombia offers a legal framework that enables the full participation of foreign companies in public procurement.

Success in this market depends on:

- An adequate legal structure.
- The establishment of local strategic alliances when appropriate.
- Rigorous regulatory compliance management.
- The competitive design of the bid under objective selection criteria.



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