

November 6, 2014

On October 31, 2014 an executive order amending, adding and repealing various provisions of the Regulations of the Law of Public and Private Partnerships (the “RLPPP”) was published.

The main changes made to the RLPPP are the following:

- Amendments were included to make the regulations consistent with the energy reform, by including coordinating regulatory agencies for energy matters and state production companies under the Governmental Offices and Federal Agencies concepts.
- Federal Agencies overseeing strategic areas are forbidden from entering into public-private partnership agreements when involving oil and gas exploration and extraction.
- Two new concepts are added and defined, these being the term “rescission” which is defined as the termination of a PPP agreement as a result of a breach of contract, and “Advanced Termination”, defined as termination occurring as provided in articles 123 and 124 of the regulations and under contractual provisions for reasons other than breach of contract.
- Article 39 of the Regulations is repealed. This article provided that governmental offices and agencies interested in awarding or executing a PPP agreement for projects financed with federal budget funds had to include an express provision in the supporting documentation stating that contributions from budgetary allocations were subject to a condition precedent requiring approval of the appropriated funds by the Chamber of Deputies.
- They establish an obligation upon governmental offices and agencies of reporting and sending to the Ministry of Finance and Public Credit, within a term not to exceed 20 work days, a non-solicited proposal.
- PPP agreements must identify any investments or investment reimbursements to be paid to the developer in the event of rescission or early termination.

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