

36. Any natural or juridical person -national or foreign - is entitled to participate in a bidding process. When it is a matter of public works in zones adjoining the frontiers, prior to the bidding, a preliminary report from the National Council of Security will be required.

37. The natural or juridical person who wins the bid must set up a corporation chartered in Chile or as an agency of a foreign corporation, the sole purpose of which will be those activities proper to the concession.

38. The winner of the bid must have more than 51% of the rights of the corporation. Any amendment to the articles of incorporation must be authorized by the MOP.

### III.1.B Specific Rules

39. In general terms, there are two possible ways of public-private association in concessions of infrastructure: the build-operate-transfer (BOT) and the build-own-operate (BOO).

40. Within the frame of the first system (BOT), the private sector receives a concession to build and operate an asset for a specific period of time and then returns it to the State. During that period, the concessionaire will have time enough enabling him to recover the capital invested and obtain a reasonable rate of return for the investors.

41. Within the frame of the second system (BOO), the private sector becomes responsible for the construction, the financing and the operation of the asset with right of risk and ownership. He is under no obligation to transfer the property to the public sector.

42. The Chilean policy for concessions only makes it possible to carry out BOT type projects. One of the most important projects which is in process through this mechanism is the Melón Tunnel in the Route North 5 (US\$ 24 million). The concessionaire corporation involved in this venture is made up by Endesa S.A. (51%), Constructora Delta S.A. (24.5%) and Agroman Chile (24,5%).

43. The bidding can be originated by private individuals or by the MOP. In the first case, the applicant submits a project to the MOP and if this Ministry deems it convenient, the applicant is required to submit a more detailed project. When the proposal is accepted a bidding process is initiated<sup>6</sup>.

44. If the bidding process is called by the MOP, applicants are invited to participate by publishing a description of the project in the Official Gazette. Subsequently, the terms of reference of the bidding are established along with the consultations and clarifications needed in connection with it. Likewise, the guidelines are issued, both for the economic and technical offer.

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<sup>6</sup> The party which proposed the project when participating in the bid has a 10% of increase in his score. Additionally, the MOP can offer reimbursements for the total or partial costs of the study.