

New Highway Concession in São Paulo

The São Paulo State Transport Agency (ARTESP) has just opened a Public Consultation to disclose drafts of the request for proposals and the concession agreement regarding the new lot of highway concessions – “Lote Flórina-Igarapava”, located in the wealthy Southeast of Brazil. The winner will operate and maintain the delegated road system and must make all the investments required in the request for proposals.

The concessionaire could earn around US\$ 3.4 billion during the 30-year period of the concession. Said income will mainly come from tolls – a remuneration arrangement typical of common public service concessions. However, it does not exclude the existence of other ancillary revenues.

The public procurement proceeding will use the highest offer criterion, so that the tenders will be evaluated based on the amount paid to the granting authority in exchange for the concession rights. National and foreign companies may participate in the public procurement proceeding and the winning company (or consortium) must incorporate a special purpose company to operate the delegated services.

The Government of São Paulo wants foreign investors to participate in the public procurement proceeding. It is counting on help from the International Finance Corporation (IFC) to design the concession and its financial structures according to international standards. Furthermore, recently issued Decree No. 8.660/2016 also favors international participation. The decree promulgated the “Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents”, which specifies the modalities through which a document issued in one of the signatory countries can be certified for legal purposes in all other signatory states. It means international companies that want to make their documents valid in Brazil will no longer have to go through old bureaucratic procedures of legalization.

The drafts of the request for proposals and the concession agreement are already available at <http://www.artesp.sp.gov.br/transparencias-consultas-publicas.html>. The Public Consultation allows any interested party in the discussed matter to participate, and they may send their contributions and clarification requests. Contributions must be presented to ARTESP in writing, respecting the form provided by the agency on its website. The forms must be sent up to June 22, 6pm through the following address: novasconcessoes@artesp.sp.gov.br.

RHEIN SCHIRATO, TAVARES, MEIRELES & CAIADO ADVOGADOS