

Estudio Ehecopar.

Member Firm of Baker & McKenzie International



Zita Aguilera

Partner

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Local practice

Regulatory

Related Expertise

Commercial Litigation

Public Law & Regulatory Disputes

Infrastructure

Languages

Spanish

English

Biography

Zita Aguilera provides expert legal advice on public procurement matters to both state agencies and private companies, for the execution of infrastructure projects (public works and public-private partnership agreements), as well as for the procurement of goods and services. She has considerable experience in drafting and negotiating State-to-State agreements, which implement technical assistance services through PMO, and international contracts, such as FIDIC, NEC, and with BIM methodology.

She also provides advice on administrative sanctioning proceedings, administrative appeals, government control processes, and dispute resolution and prevention mechanisms, such as Dispute Boards, conciliation and arbitration.

Education

- Pontificia Universidad Católica del Perú. Course on "Dispute Boards in Construction". January-May 2020.
- Universidad de Piura. Master's Degree in Administrative Law and Economic Regulation (Finished studies and presented thesis plan). 2018 – 2019.
- University of Cambridge (Gonville and Caius College). Summer School, Construction Law. 2019. 2019. Contratos FIDIC, NEC, BIM, Dispute Boards.
- Peruvian Institute of Arbitration and Universidad Alcalá. First International Arbitration Course. 2016.
- Asociación Peruana de Consultoría (APC) and Lámbal. FIDIC course on "Practical use of FIDIC contracts". 2012.
- Universidad del Pacífico. International Specialization Program in the Administration of Public-Private Associations. 2011.
- Universidad del Pacífico. Qualified Management in National and International Arbitration. 2010.
- Universidad Carlos III de Madrid. Master's Degree Administration, Law and Economy in Public Services. 2008.
- ESAN Graduate School of Business. Specialization Management of Public Administration. 2007.

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- Universidad de Lima. Qualified Management in Strategies of Government Contracts. 2006.
- Universidad Peruana de Ciencias Aplicadas. Post Graduate Degree Construction Law. 2006.
- Universidad Nacional de Trujillo. Law Degree. 1999.

Admission

- Trujillo Bar Association, 1999.

Memberships

- Member of the Peruvian Society of Construction Law.
- Arbiter of the Arbitration Center of the American Chamber of Commerce of Peru (AmCham).
- Arbiter of the Arbitration Center of the Lima Bar Association.
- Arbiter of the Arbitration and Dispute Resolution Center - Ankawa International (CARD-AI).
- Adjudicator of the Arbitration and Dispute Resolution Center - Ankawa International (CARD-AI).
- La Libertad Bar Association. 1999.

Experience

- Partner at Estudio Echecopar since 2017.
- Associate at Estudio Echecopar from 2008–2017.
- Officer of the Comptroller General of the Republic, 2007.
- Adviser to the Presidency and Legal Specialist of CONSOUCODE – OSCE, 2001–2007.
- Legal Adviser to Consorcio Minero Horizonte S.A., 1998–2001.

Representative legal matters

- Advised the Technical Committee of the Ministry of Health of Peru on the drafting of the State-to-State agreement and during the negotiation of the Project Management Office (PMO) technical assistance contract, in the execution of the investment projects "Improvement and expansion of health services of the National Hospital Sergio E. Bernales" and "Improvement of the problem-solving capacity of health services of the Antonio Lorena Hospital, Level III-1-Cusco".
- Advised the Ministry of Transport and Communications of Peru on the negotiation and drafting of a State-to-State agreement with the Republic of South Korea for the procurement of technical assistance services (PMO) in the execution of the investment project "Improvement and expansion of airport services in the region of Cusco, through the new Chichero-Cusco airport."
- Advised in the Special Project for the Preparation and Development of the 2019 XVIII Pan American Games on the drafting and negotiation of a State-to-State agreement to procure Project Management Office (PMO) technical assistance, in the execution of several necessary works for the development of the Games, and on the drafting of other agreements related to the Project.
- Advised Callao Salud S.A.C. (IBT Group) on the execution of the public-private partnership agreement regarding the creation of surface rights, the design and construction of infrastructure, the provision of equipment, and the operation and maintenance of the new Hospital III Callao and its Primary Care Center of the Sabogal welfare network of ESSALUD.
- Advised Villa María del Triunfo S.A.C. (IBT Group) on the execution of the public-private partnership agreements regarding the creation of surface rights, the design and construction of infrastructure, the provision of equipment, and the operation and maintenance of the new Villa María del Triunfo III Hospital of the Rebagliati welfare network of ESSALUD.
- Advised Consorcio Hospitalario Lima on the execution of the "Contract for drafting the Technical Record, executing works and providing hospital equipment", and in dispute resolution proceedings

- (conciliation and arbitration). Said contract implements BIM methodology.
- Advised IBT Group companies on the execution of their public works contracts and on arbitration proceedings.
 - Advised Farminindustria S.A. in the administrative appeal process filed against it by the consortium made up of Química Suiza SAC and Roche Farma Perú S.A. before the Government Procurement Court, securing a favorable outcome for Farminindustria, as it was awarded the contract, in the bidding process called by ESSALUD, for the reference value of US\$ 2.7 million, which also consolidated its right to continue selling its product in the market.
 - Advised Consorcio Gestión Movilidad Lima, made up of Indra Peru S.A., on the execution of a contract for the installation and programming of smart traffic lights in the city of Lima, signed with the Metropolitan Municipality of Lima, designing and implementing strategies to avoid breach of contract allegations and contract rescission, and preventing disputes.
 - Advised Ernst & Young Perú on designing a strategy to prevent contingencies of future disqualifications to enter into procurement contracts.
 - Advised Ferreyros S.A. on a conciliation proceeding regarding the rescission of a contract entered into with the District Municipality of Pulán - Cajamarca.
 - Advised Telefónica del Perú S.A. on designing a strategy to prevent contingencies of future disqualifications to enter into procurement contracts with the Peruvian government.
 - Advised Línea Amarilla SAC on the execution of a concession agreement, and in the transfer process of shares of a key shareholder. This matter involved assisting the client in drafting and negotiating the terms of the transfer agreement and obtaining authorization from the Municipality of Lima (the Grantor) to perform such transfer.
 - Advised CESEL during the execution of the supervision agreement of the project "Electric Mass Transport System of Lima and Callao of the Transport Line 1 System", and the execution of an agreement entered into with OSITRAN to supervise the works carried out in Section 3: Inambari-Iñapari of the Peru-Brazil Interoceanic Highway.
 - Advised Indra Perú S. A. on the bidding process for the procurement of the "Service of Licensing and Implementation of a new ERP system" for PETROPERU, as well as other bidding and contract execution processes (ESSALUD, ONP, SUNAT, SEDAPAL, SEDAPAL, SEDAPAR, SEDALIB, among other government agencies).
 - Advised EGEMSA on the execution of the contract "Second Phase of Restoration Works of the Machupicchu Hydroelectric Power

- Plant", an important energy project in terms of scale and investment in the country.
- Advised Electro Sur Este S.A.A. on the execution of the construction agreement of the "138 kV Transmission Line San Gaban - Mazuko and 66 kV Transmission Line Mazuko - Puerto Maldonado and substations".
 - Advised ELECTROPERÚ on the drafting of "Procedures for Electroperú procurement related to the execution of the Quillabamba thermoelectric plant project and the profitability assessment of the South Energy Node".
 - Advised Consorcio Inversor, made up of Southern Peru Copper Corporation Sucursal Perú, Unión de Cervecerías Peruanas Backus y Johnston S. A. A. and Banco Internacional del Perú S. A. A., through the Regional Development Consultant, on the discussion, conclusion and implementation of the Regional Agreement on Public Investment, with involvement of the private sector, and the corresponding construction agreement for the execution of the project "Interconnecting Main Road - Chilina Bridge, Arequipa", under the "Works for Tax" scheme.
 - Advised several foreign companies on their entering into and positioning in the Peruvian market, creation of local branches, granting of powers of attorney, registration in the National Registry of Suppliers, and review of bids to be tendered in bidding processes.
 - From 2001 through 2007, Zita provided services at CONSUCODE, currently in the Supervising Agency of the Government Procurement (OSCE), acting as advisor of the President of such institution, as attorney for the Technical Normative Direction and as assistant of the President of CONSUCODE Tribunal. Some of the most important duties Zita Aguilera had when she was part of CONSUCODE included the preparation and defense of the project for the amendment of the Public Procurement Law Regulations and the Framework Agreement Regulations, as well as the revision of the draft bill of PETROPERÚ Procurement Law.

News, Events & Publications

Publications

- Book: Legal aspects of government contracting. Collection "The essential of the Right". Editorial Fund of the Pontifical Catholic University of Peru. (Co-author with Juan Carlos Moron Urbina), 2017.
- Article "Corruption in Public Procurement." In book "Administrative Law as an instrument for the citizen," Memories of Administrative Law VIII Congress. Palestra Editores (2018)
- "The subsidiary application of regulations in Public procurement arbitrations." In journal "Current Trends in Public Procurement," published by Gaceta Jurídica (2018)
- The Conventional Modification of Administrative Contracts. In "Current Trends in Public Procurement". Edit. Legal Gazette. (Co-author), 2014.
- The principles of informality and material truth in the selection processes, analyzed by the Supreme Court of Justice. Dialogue with Jurisprudence. Legal Gazette, 2012.
- Risks in public works contracts. Legal News Magazine. Edit. Legal Gazette, June 2012.
- Article: "Is the State Prepared for the D.U. N°054? Peru Construye Magazine, September 2011.
- Sanctioning Administrative Procedures in State Contractings, Revista Peruana de Derecho de la Empresa; Num. 69, September, 2011.
- Compendium of Papers of the IV National Congress of Administrative Law: Modernizing the State for a better country, edit Palestra, April 2010.
- Manual of Administrative Training; Gaceta Juridica; First Edition; January 2010.
- Processes of Selection: Are Saturdays and Sundays Included? Actualidad Juridica Magazine. Edit. Gaceta Juridica, Num. 192 – November 2009.
- Bulletin specializing in public contracting: Contracting. Commentaries to the Regime of Guarantees, October 2009.
- Decrees of Urgency and the Special Procedures of Selection: When the Exception Turns into the Rule. Actualidad Juridica. Edit. Gazeta Juridica, Num. 189 – August 2009.
- New Processes of Selection of Suppliers, El Peruano. August 2009

- Principal Modifications in the Matter of Public Contracting: Promoting the Execution of Public Works? Especially for the Revista Juridica del Peru, Numero 96 – February 2009.
- "The Indifferent Error in the Proposed Economy," in: Revista Juridica del Peru, Editorial Normas Legales, N°94 – December 2008.
- "Proof of Experience in the Selection Process by Merged Organizations," in: Revista Juridica del Peru, Editorial Normas Legales, N°89 – July 2008.
- "Good Winds in Public Contracting?" in: Revista Actualidad Juridica de Gaceta Juridica, Volume 175 – June 2000.
- "Changes in the State Contract Law", "El Peruano" on 4 June 2008.
- "Implications of the implementation of Administrative Silence in Public Contracting"; in: Revista Juridica del Peru, N° 86 – April 2008.
- Comments to the Directive N° 002–2007–CONSUCODE/PRE "Guidelines standardized for the development of evaluation factors relating to the subject of the call to be included in the terms of the selection processes for the procurement of consulting services of works," in: Revista Actualidad Juridica de Gaceta Juridica, 2007.
- The new abbreviated selection process: Implementation and Effects on State Contracting; in: Revista Juridica del Peru, Volume 70 – December 2006.
- "The necessity of the administrative record: Its implications on State Contracting"; Revista Actualidad Juridica de Gaceta Juridica, Volume 155, October 2006.
- Moreover, Ms. Aguilera's articles or opinions have been published in the official newspapers El Peruano, El Comercio, Gestion, La Republica, and important magazines and bulletins specialized in State contracting.

Teaching experience

- Teacher in the Specialization Program for Corporate Law Executives in the course "Arbitration in Public Procurement" (post-graduate), ESAN University, 2016, 2017.
- Teacher of the course "Administrative Law" (pre-degree), Universidad San Martín de Porres, (two semesters), 2015.
- Teacher – Diploma in Management and Supervision of Work Contracts, with the course "Contracts of public works" (Post-Graduate School), ESAN University, from March 13, 2015 to April 18, 2015.
- Teacher of the Course "Procedure and Execution of Public Works", University of Lima from August 10 to 28, 2015.

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- Assistant Professor of Administrative Law Course I (pre-degree), Pontifical Catholic University of Peru; 2013, 2014 and 2015.
- Teacher of the Course "Public Contracting applied in Works", University of Lima. 2014 and 2013.
- Teacher of the Course of General Administrative Procedure and Special Administrative Procedures, in the Diploma of Specialization in Administrative Law. ESAN University, from January 12, 2014 to February 9, 2014 and from September 1, 2015 to September 15, 2013.
- Teacher of the Course "Management of Public Procurement"; Lima University; from June 26, 2013 to July 15, 2013.

Awards

- Leader League, 2020. Recognition: Leader in the "Administrative Litigation" area.
- Legal 500, 2019. Practice Area "Projects and Infrastructure," Category "Next Generation Partners."
- Legal 500, 2019. Practice Area "Public Law and Regulation," Category "Next Generation Partners."
- Chambers & Partners, 2019, Practice Area "Public Law," "Band 4."
- Leader League, 2019. Recognition: Leader in "Administrative Litigation" area.
- Legal 500, 2018. Practice Area "Projects and Infrastructure," Category "Next Generation Partners."
- Chambers & Partners, 2018, Practice Area "Public Law," Category "Associates to watch."
- Legal 500, 2017. Practice Area "Projects and Infrastructure," Category "Next Generation Partners."