



# **KYRGYZ PPP LAW 2019 V. KYRGYZ PPP LAW 2012**

PPP Projects course

# THE DEFINITION OF “PUBLIC PARTNER” IS BROADENED AND INCLUDES:

- state-owned and municipal institutions;
- joint-stock companies where the government owns 50% of voting shares or more.





# CONCEPTS CLARIFIED

- **Interested person**
- **Tender participant**
- **Private partner**

# THE DEFINITION OF “CONSORTIUM” IS INCLUDED:

- **Consortium** - temporary association of two or more individual entrepreneurs and/or legal entities created for joint participation in tender, which does not have the status of a legal entity and acts on the basis of a contract or another document.





# THE DEFINITION OF “FINANCING AGREEMENT” IS INCLUDED:



- **Financing agreement** – a written contract concluded by a public partner, private partner and/or project company and financial institution in order to regulate terms and procedure of their interaction within the duration of PPP agreement and during modification and termination of the PPP agreement.

# PPP V. PUBLIC PROCUREMENT

- Procedures of holding a tender to select a private partner and execution of a PPP agreement shall be conducted in accordance with the legislation of the Kyrgyz Republic on PPP, **without applying legislation of the Kyrgyz Republic on public procurement and privatization.**

# THE DEFINITION OF “FINANCIAL INSTITUTION” IS BROADENED AND INCLUDES:

- **international organizations**      **financial**



**European Bank**  
for Reconstruction and Development



# PPP PROJECT STAGES

PPP project  
preparation



Holding of a  
tender/tender  
process



PPP project  
implementation





# PPP PROJECT PREPARATION

- 1) Preparation of a proposal on PPP project initiation**
- 2) Preparation of tender documents**
- 3) Creation of tender committee.**

# PPP PROJECT PREPARATION

- A public partner shall notify the authorized state body (Ministry of Economy) of PPP project preparation within 5 calendar days from the day of approval by a public partner of a proposal on PPP project initiation.

# PPP PROJECT PREPARATION

- **If a PPP project provides for funding from the state budget, before being approved by a public partner the tender documents shall be agreed with the authorized state body (Ministry of Economy) and state body for financial risk management (Ministry of Finance) for determining occurrence of budget risks.**

# QUALIFICATION STAGE. TIME PERIODS EXTENDED

- **30-60 calendar days** from the date of publication of request for qualifications – for collection of applications;
- **60-90 calendar days** from the date of publication of request for qualifications for participation in tender – for collection of applications on large/major projects (providing for investment in the amount of  $\geq 700$  million soms).



# QUALIFICATION STAGE. ONE APPLICATION IS ACCEPTABLE

- **One application for participation in the qualification stage is sufficient for holding a qualification.**
- If only one application is submitted at the qualification stage on a major/large PPP project, this tender shall be declared as void and the tender committee shall hold a re-tender within 30 days from the date when the first tender was declared as void.
- During the re-tender on a major/large project one application for participation in the qualification stage is sufficient.

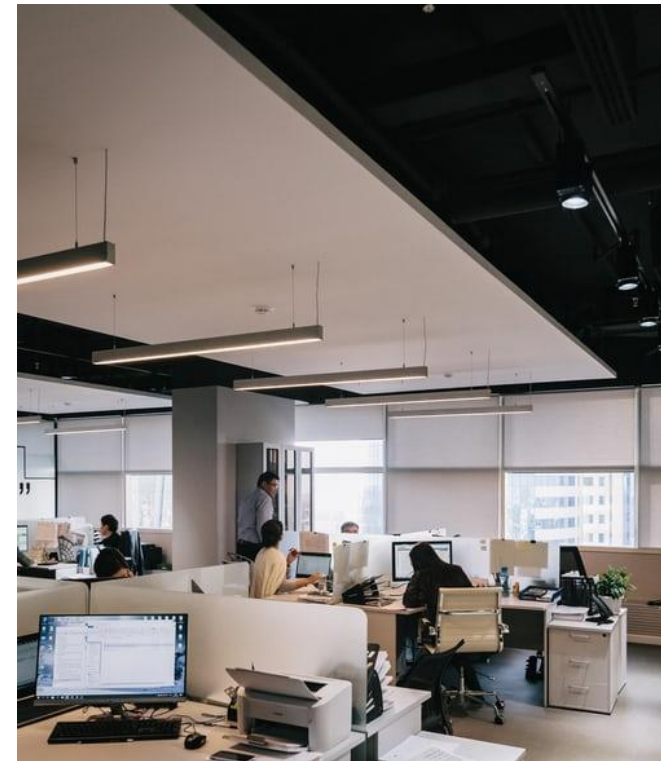


# WINNING BIDDER SELECTION. TIME PERIODS EXTENDED

- **30-60 calendar days** from the date of delivery of the request for proposals for participation in tender and draft PPP agreement to qualified bidders – for collection of tender proposals;
- **60-90 calendar days** from the date of delivery of the request for proposals for participation in tender and draft PPP agreement to qualified bidders – for collection of tender proposals on large/major projects (providing for investment in the amount of  $\geq 700$  million soms).

# CONCLUSION OF PPP AGREEMENT. TIME PERIODS EXTENDED

- The PPP agreement shall be concluded within 30 calendar days from the date of the publication of information on the winning bidder on the official PPP website.
- If a consortium is the winning bidder, the period for conclusion of the PPP agreement with the project company created by the consortium may be extended additionally for 30 calendar days.



# INITIATION OF A PPP PROJECT BY AN INTERESTED PERSON. BENEFITS FOR SUCH A PERSON

- Private sector initiative (defined in the new law as unsolicited proposal) must be accepted or rejected on reasonable grounds within the legally established time limits.
- If the unsolicited proposal is accepted, the public partner must announce tender, but it will be subject to both general (the no-less-than-one-tender-proposal requirement described above) and special requirements applicable to such situation.

# INITIATION OF A PPP PROJECT BY AN INTERESTED PERSON. BENEFITS FOR SUCH A PERSON

- If at the qualification stage, apart from the application of an interested person there are no other applications for participation in qualification stage, the tender committee shall announce the interested person, which has provided the private proposal, as the winning bidder, if it is in compliance with the minimum requirements for the PPP project.

# INITIATION OF A PPP PROJECT BY AN INTERESTED PERSON. BENEFITS FOR SUCH A PERSON

- If there are no other applications on major/large PPP projects, the tender committee shall declare the tender as void and hold a re-tender within 30 calendar days from the date of declaring the tender as void.
- One application for participation in qualification stage is sufficient for holding a re-tender on a major/large project for qualification, and the person, which has submitted this application, may be considered as the winning bidder, if it is in compliance with the minimum requirements for the PPP project.



# INITIATION OF A PPP PROJECT BY AN INTERESTED PERSON. BENEFITS FOR SUCH A PERSON

- If other interested person submits financial proposal, which is more beneficial for the public partner, the unsolicited bidder will be given the right to bring its financial proposal into compliance with the conditions of the better financial proposal; and if the unsolicited bidder fails to use such right, the person who submitted financial proposal, which is more beneficial for the public partner, will be declared as the successful bidder.
- Apart from that, in case the person other than the unsolicited bidder is declared as the successful bidder, the unsolicited bidder will be reimbursed by the successful bidder for expenses incurred to prepare the unsolicited proposal indicated therein.

# SPECIAL DOCUMENTS TO BE PREPARED

- **Request for qualifications**
- **Request for proposals**
- **Proposal to initiate a PPP project**
- **Proposal on private initiative/private proposal**

# PPP OFFICIAL WEBSITE. PPP CENTER

- <http://ppp.gov.kg/>
- **PPP Center**

# LEGAL GAPS AND INCONSISTENCIES ARE REMOVED

- Streamlined PPP processes included.
- Clarified requirements for mandatory provisions of the PPP agreement.
- Amended tender procedures.
- The period of the PPP agreement is reduced from 50 years to 30 years.
- Some types of government financial and economic support (which did not work in practice) are excluded.