



PUBLIC-PRIVATE PARTNERSHIP (PPP)

INDUSTRY AND LEGAL UPDATE

KALIKOVA &
ASSOCIATES
law firm

Information for effective business solutions

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Industry Update

27 May 2016

Investment Promotion Agency signed the Memorandum among PPP development institutions of the EEU member states

On May 24-25 the meeting of the Expert Group for development of PPP mechanisms within the Eurasian Economic Union (EEU) under the Advisory Committee on entrepreneurship issues under the Board of the Eurasian Economic Commission (the Expert Group) was held in Astana.

The Expert Group members from Belarus, Kazakhstan, Kyrgyzstan and Russia as well as representatives of the Eurasian Economic Commission, Eurasian Development Bank and Federal Center for Project Finance (Russia) took part in the meeting. Kyrgyzstan was represented by the Investment Promotion Agency under the Ministry of Economy of the Kyrgyz Republic, Alymbek Orozbekov, Director and Daniyar Abdyldaev, Head of the Agency Department for PPP development.

The Expert Group members informed on current situation with implementation of PPP mechanisms, PPP development prospects and experience of PPP projects implementation in the EEU member states. Representatives of the Eurasian Development Bank and Federal Center for Project Finance informed on possibilities for PPP projects financing.

Legal Update

31 May 2016

Jogorku Kenesh adopted the draft amendments to the Law "On public-private partnership in the Kyrgyz Republic"

On May 18, 2016 Jogorku Kenesh adopted in the third reading the draft Law of the Kyrgyz Republic (KR) "On Amendments and Additions to the Law "On public-private partnership in the Kyrgyz Republic".

The draft amendments were proposed with regard to the terminology, powers of the authorized bodies, PPP stages and other issues. According to the explanatory note the bill was prepared in order to improve procedures and promotion stages of PPP projects, taking into account the practical experience of the law application and bringing to correspondence with successful international practices.

In particular, it is proposed to exclude the Government from the concept of "public partner". According to the explanatory note the amendment will increase the role and responsibility of ministries, departments and other public partners. In addition, the bill provides for the necessary statement of minimum requirements for a PPP project in the tender documentation, granting the authorized body in the field of PPP (KR Ministry of Economy) the authority to evaluate and

As a result of the event the Memorandum on Cooperation among the PPP development institutions of the EEU member states was signed. It provides for further aspiration of the parties to develop cooperation in PPP sphere.

<http://www.ppp.gov.kg/ru/news/full/36>

22 April 2016

Ministry of Healthcare to launch centralised laboratory project under PPP model

The Ministry of Health (MOH) plans to launch the Laboratory Services Improvement Program by integrating and enhancing existing laboratories and arranging their accreditation to the internationally recognized standards ISO 15189. This was reported by the MOH press-service on April 22.

Thus, on April 15, the MOH issued Order №252 "On improvement of quality of laboratory tests in clinical diagnostic laboratories of the Kyrgyz Republic" raising responsibility of healthcare CEOs for quality control and evaluation of public laboratory services.

In 2014, with technical support from WHO under the WHO/Europe Better Labs for Better Health Initiative, the MH set up laboratory coordinating council which developed program and strategic plan for improvement of laboratory services in the Kyrgyz Republic until 2025.

It is supposed to set up four centralised laboratories equipped with high-tech equipment in Bishkek, one laboratory in each regional center and one laboratory in each district.

Meanwhile, with support from KFW, work is underway to prepare a feasibility study for centralised laboratory services under PPP model in Bishkek.

<http://zdorovie.akipress.org/news:23144>

19 April 2016

Kyrgyzstan PPP roundtable discussion

approve PPP projects initiated by the public partner, as well as to promote and support PPP projects.

As stated in the explanatory note, for the purpose of the effective application of the PPP Law provisions, it was proposed to improve and distinguish the articles of PPP Law that regulate PPP project stages. The following additional types of the state financial support were also proposed: provision of PPP project minimum return guarantees in order to ensure its financial viability and provision of guarantees against possible fluctuations of exchange rates and/or interest rates on borrowed funds for the PPP projects implementation.

On May 31 the draft law was sent to the President for signing.

<http://www.kenesh.kg/lawprojects/lps.aspx?view=projectinfo&id=235695>

15 February 2016

Ministry of Economy proposed to establish a PPP Council

On February 15, 2016 the Ministry of Economy of the Kyrgyz Republic (KR) submitted for public discussion a draft resolution of the Government of the Kyrgyz Republic "On formation of the Council for Public-Private Partnership of the Kyrgyz Republic".

Draft Regulation on the PPP Council provides for establishment of the PPP Council as an advisory body under the Government of the Kyrgyz Republic, formed to coordinate development of PPP activities.

It is expected that the Council will include: Vice-Prime Minister of the Kyrgyz Republic in charge of the economy issues and attraction of investments (as Chairman of the Board), Minister of Economy (as Vice-Chairman) and Minister of Finance, Minister of Justice and Chairman of the State Property Management Fund of the Kyrgyz Republic.

It is proposed to determine the primary objectives of the Council as follows: provision of effective interaction of ministries, administrative departments, other state agencies, local self-government bodies, business entities, public and scientific research organizations in order to improve

The PPP roundtable discussion was held on April 18, 2016 at Hyatt Regency Bishkek. It was organized by the Ministry of Economy of the Kyrgyz Republic and Asian Development Bank for representatives of the Parliament, Government, Executive Office of the President, Bishkek City Council, Bishkek Mayor's Office and international organizations. The objectives of the roundtable were to increase PPP awareness, to share international best practices, to discuss main trends and priorities in PPPs and to determine PPP development strategy in Kyrgyzstan.

A. Sazbakov, Deputy Minister of Economy, A. Orozbekov, Chief of Investment and PPP Department of the Ministry of Economy, D. Abdyldaev, Chief of PPP Unit of Investment Promotion Agency of the Ministry of Economy, representatives of the Ministry of Healthcare and Bishkek Mayor's Office gave presentations on the projects initiated by them and shared their experience in preparing the PPP projects.

In conclusion, the ADB consultant gave a presentation on PPP international best practices in PPP and prospects of its development in the Kyrgyz Republic. Participants discussed PPP issues and solutions in the Kyrgyz Republic.

<http://www.ppp.gov.kg/ru/news/full/31>

14 April 2016

PPP in healthcare sector

Introduction of PPPs in healthcare sector is one of the primary targets of the Ministry of Healthcare (MOH) and strategic priorities for improving healthcare sector in the Kyrgyz Republic. This was reported by T. Batyraliev, the MOH Minister, at the seminar on PPP projects on establishment of hemodialysis units and a centralised laboratory in the Kyrgyz Republic.

According to him, the MOH initiated the above projects. Together with the IFC it prepared two Requests for Proposals for selection of legal and technical consultants which were approved by KfW (Germany). It conducted the tender for their selection and signed the contract with a consortium of international and local technical and legal consultants such as Rebel Group, Hogan Lovells and Kalikova & Associates for undertaking a feasibility study for the project.

efficiency of preparation and implementation of PPP projects; formation of a unified and coordinated state policy in the PPP sphere; improvement of the legal environment in the PPP sphere, etc.

According to the explanatory note, the draft resolution was prepared because of the unsatisfactory position in the issues of formation of a unified and coordinated state policy in the PPP sphere and solution of complex and contentious issues in this area. It is expected that the proposed project will significantly improve the quality of PPP development in Kyrgyzstan.

According to the Ministry of Economy, the project has been submitted for consideration to the Government Office.

<http://www.gov.kg/?p=71138&lang=ru>

15 February 2016

Ministry of Economy proposes to approve the PPP Development Program

On February 15, 2016 the Ministry of Economy of the Kyrgyz Republic (KR) submitted for public discussion a draft resolution of the Government of the Kyrgyz Republic "On approval of the Development Program of public-private partnership in the Kyrgyz Republic for 2016-2021 years".

The draft resolution was prepared in compliance with the National Strategy for Sustainable Development of the Kyrgyz Republic for 2013-2017 (approved by the Decree of the President dated January 21, 2013) and the Program for transition of the Kyrgyz Republic to sustainable development for 2013-2017 (approved by the Resolution of the Government of the Kyrgyz Republic dated April 30, 2013, No. 218).

According to the explanatory note, the purpose of the Program is to create a favorable and appropriate environment for the development and successful implementation of PPP mechanisms. In addition, it defines the specific qualitative and quantitative indicators for the effective implementation of PPP mechanisms, aimed at:

- improving the social and economic situation

The projects are funded by KfW, Switzerland, Austria and Hungary. The IFC is a leading advisor in structuring and implementation of two PPP projects working in team with the above technical and legal consultants.

The seminar was attended by public sector representatives and potential foreign investors.

<http://zdorovie.akipress.org/news:23048>

19 March 2016

IFC representatives will contribute to the development of the feasibility study projects in hemodialysis centers in Kyrgyzstan

On March 18 Bishkek hosted a meeting of T. Batyraliev, the Minister of Healthcare of the Kyrgyz Republic with Karine Bachongy, the Project Manager of IFC (International Finance Corporation) for Europe and Central Asia, and Martin Naegele, Head of IFC in Kyrgyzstan, on the promotion issues of PPP projects in the healthcare system of the country.

During the meeting they discussed the projects on creation of hemodialysis centers and central laboratories in the framework of PPP, the acceleration of the practical implementation processes of these projects as soon as possible.

IFC representatives assured that they will contribute to the qualitative development of the feasibility study of PPP projects in hemodialysis centers and centralised laboratory by a consortium of international and local technical and legal experts: Rebel Group, Hogan Lovells and Kalikova & Associates.

IFC representatives also held a meeting with members of the interdepartmental working group on the project for creation of hemodialysis centers and centralized laboratories in the framework of PPP, which includes, inter alia, representatives of the Ministry of Healthcare, Ministry of Economy, Ministry of Finance and others. The status of the project, terms and risks in implementation were discussed at the meeting.

<http://zdorovie.akipress.org/news:22845>

in the Kyrgyz Republic;

- strengthening and promoting the development of PPP institution by combining resources and experience of public and private sectors for the purpose of implementation of social projects with the lowest cost and risk on the condition of the provision of more qualitative public services.

To achieve this goal, the Program provides for the following objectives:

- improvement of governance in PPPs;
- strengthening of capacity of the Government of the Kyrgyz Republic;
- strengthening of confidence and increase of awareness in the area of PPPs;
- developing PPP financial instruments;
- developing private sector.

According to the Ministry of Economy, the project has been submitted for consideration to the Government Office.

<http://www.gov.kg/?p=71138&lang=ru>

2 December 2015

The order of granting land to private partners within PPP for fixed-term (temporary) use is approved

On December 2, 2015 the Government of the Kyrgyz Republic (KR) has adopted a resolution No. 823 «On approval of the procedure for granting land to private partners for fixed-term (temporary) use within the implementation of a public-private partnership agreement».

The Regulation was prepared in accordance with the KR Land Code, the Law "On public-private partnership in the Kyrgyz Republic" and establishes the procedure and conditions of granting a land that is in state or municipal ownership to private partners within the implementation of the PPP Agreement for fixed-term (temporary) use.

According to the Regulation, compensatory granting of the right for temporary use of land within the implementation of PPP Agreement shall be made by the authorized body for the management and disposal of land that is in state or municipal property without competitive bidding (tenders), if the feasibility study of PPP project stipulates provision of land to the private partner.

It is envisaged that the land shall be formed at

10 March 2016

Meeting of the Supervisory Board of the Fund for financing of PPP projects preparation

On March 10, 2016 the second meeting of the Supervisory Board of the Fund for financing of PPP projects preparation (Fund) was held at the Office of the Government, at which the allocation of funding resources from the Fund for the purchase of consulting services was discussed. The event was attended by O. Pankratov, Deputy Prime Minister (Chairman of the Fund), Minister of Finance, Minister of Economy, Minister of Healthcare, Chairman of the State Property Management Fund, as well as employees of the Ministry of Economy, Bishkek Development Agency, Investment Promotion Agency.

The Supervisory Board reviewed the PPP projects: "Establishment of angiographic centers" (Ministry of Healthcare), "The Organization of municipal parking lots along the road" (Bishkek Mayor' Office), "Improving public transport" (Bishkek Mayor' Office). As a result, three proposed PPP projects were approved by unanimous decision.

<http://www.ppp.gov.kg/ru/news/full/30>

5 February 2016

Almaty hosted the Second Regional Presentation of the model law "On public-private partnership"

On February 5, 2016 the Second Regional (for Central Asia states) Presentation of the model law of the Interparliamentary Assembly of the member states of the Commonwealth of Independent States (IPA CIS) "On public-private partnership" adopted at the plenary session of the IPA CIS on November 28, 2014, took place at the headquarters of the Eurasian Development Bank in Almaty (Republic of Kazakhstan).

The Secretariat of the IPA CIS Council, the European Bank for Reconstruction and Development and the Eurasian Development Bank acted as co-organizers of the event, held at the international seminar format.

the stage of selection of the private partner without encumbrances or restrictions.

It is expected that the adopted document will effectively attract investment to infrastructure, eliminating the time and economic expenditure for obtaining land by a private partner.

It was attended by members of parliaments, representatives of ministries and departments of the Republic of Kazakhstan, the Kyrgyz Republic, the Republic of Tajikistan, the United Nations Economic Commission for Europe, as well as leading experts from the CIS countries. The participants exchanged information on the current condition of legislation in Central Asian countries in the field of public-private partnerships, and discussed the possibility of introducing model law provisions into national legislation.

http://www.iacis.ru/pressroom/news/sekretariat_mpa_sng/v_almaty_prokhorodit_vtoroe_regionalnoe_dlya_gosudarstv_tsentralnoy_azii_predstavlenie_modelnogo_zakona_o_publichno_chastnom_partnerstve/

Lawyers of the Kalikova & Associates also participated in the seminar and made a presentation on the “Problematic aspects of the Kyrgyz Republic Law on PPP and ways to solve them”.



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