



PUBLIC-PRIVATE PARTNERSHIP (PPP)

INDUSTRY AND LEGAL UPDATE

KALIKOVA & ASSOCIATES
law firm

Information for effective business solutions

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Industry Update

August 15, 2017

Country's first public-private partnership (PPP) agreement signed

On August 15, 2017, the country's first PPP agreement was signed between the Ministry of Health of the Kyrgyz Republic and Fresenius Medical Care Deutschland GmbH (Germany), selected as a private partner under the PPP project on organization of hemodialysis services in Bishkek, Osh and Jalal-Abad. The term of the agreement is 10 years.

As part of its obligations under the PPP agreement, Fresenius Medical Care Deutschland GmbH undertook to ensure the establishment of dialysis centers, import, operation and maintenance of equipment, training of personnel of public hemodialysis units and provision of dialysis services to patients with chronic kidney failure.

Kalikova & Associates, in consortium with IFC, RebelGroup International, and Dentons, provided assistance to the Ministry of Health of the Kyrgyz Republic in the preparation of the PPP project and selection of the private partner.

In particular, Kalikova & Associates, as a legal consultant for the Ministry of Health, was directly involved in conducting the feasibility study, drafting the tender rules and tender documents, including the PPP agreement, as well as providing legal support during the tender process, including the execution of the PPP agreement with the private partner.

Kalikova & Associates wishes success to the public and private partners in implementing the project and looks forward to further progress in promoting PPPs as effective methods of mutually beneficial cooperation between the public and private sectors.

Private partner information:

Legal Update

February 8, 2017

Amendments to some PPP regulations

KR Government Resolution of February 3, 2017 No.69 approved the amendments to some PPP regulations such as:

1. Regulation on tender commission for selection of private partners for PPP projects. The amendments concern the following:

– The new provision was included that the tender commission should be formed by the public partner after the approval of the PPP project by the Ministry of Economy (previously, it was formed after the adoption by the public partner of the decision to initiate the PPP project);

– The provision was excluded that the tender commission should be formed by the decision of the KR Government;

– The new provision was included that the disputes related to the formation and functions of the tender commission should be resolved in the manner provided in the Law on the main principles of administrative activity and administrative procedures (previously, they were resolved by court).

2. Procedure for preparation of tender rules and tender documentation for PPP projects in the KR.

The amendments to the procedure concern the following:

– the provision was excluded that the said Procedure should not be applicable to infrastructure facilities and infrastructure services, the list of which is determined by the Government;

– the new provision was included that the public partner should be guided by the legislation on strategic assets when implementing a PPP project related to

Fresenius Medical Care Deutschland GmbH is the world's leading provider of products and services for patients with chronic kidney failure.

www.k-a.kg/

June 14, 2017

Winner of tender for PPP hemodialysis project announced

The State Investment and Export Promotion Agency under the Ministry of Economy of the Kyrgyz Republic announced the end of the public tender for selection of private partner for the PPP hemodialysis project to be implemented in Bishkek, Osh and Jalalabad.

As per the tender commission's decision of June 14, 2017, the winner is Fresenius Medical Care Deutschland GmbH.

www.med.kg

April 24, 2017

Bishkek-Chaldovar road to be built on PPP basis

Bishkek-Chaldovar road will be built on a public-private partnership basis, Mukhammetkaly Abulgaziev, the First Deputy Prime Minister of the Kyrgyz Republic, announced at the joint meeting of the parliamentary committees on budget/finance and economic/fiscal policy.

It is reported that investors offered four construction options and 100% financing for the project.

www.24.kg

April 6, 2017

Ministry of Economy holds press-conference on current status and prospects of PPP

Arzybek Kozhoshev, the minister of economy of the Kyrgyz Republic, held a press conference to report on the current developments and future prospects for the implementation of PPP models and projects in the Kyrgyz Republic.

In particular, it is reported that the country has developed and maintains the appropriate legal and institutional frameworks for the successful implementation of PPP projects in accordance with international best practices.

strategic

assets;

– the new provision was included that the determination of requirements for the PPP project, assessment of financial, social, economic consequences and possible risks, preparation of tender rules, selection criteria, tender documents, including description of expected results and financing mechanisms, and formation of the tender commission should be made within 30 calendar days from the date of the approval of the project by the Ministry of Economy (previously, it was made after the adoption of the decision to initiate the project by the public partner);

– the new provision was included that the tender rules should contain the procedure for conducting negotiations and meetings with the pre-qualified bidders to discuss and determine the most appropriate way for the public partner to implement the PPP project;

– the new provision was included that the tender rules should contain the size, manner and time for the reimbursement of expenses of the private partner who delivered the prefeasibility study and was not announced as the winner of the tender, if the PPP project is initiated by the private partner;

– the new provision was included that mandatory components of tender documentation should include the information on the PPP project, such as prices, payments, tariffs, licenses and permits, as well as other necessary special requirements approved by the public partner; full information on the state financial and/or economic support; conditions and procedure for conducting the tender, taking into account the requirements for the content of the tender rules; criteria for evaluating the private partner; risk distribution conditions; other information, additionally approved by the public partner;

– the new provision was included that the tender documentation should contain a preliminary feasibility study;

– the new provision was included that the tender documentation and minimum requirements for the PPP project can be revised at the pre-qualification stage by the decision of the tender commission (previously, the tender rules and/or tender documentation could be revised during the first half of the period established for collection of bids);

– the provision was excluded that the public partner should reimburse for expenses incurred in connection with the preparation of documents before the publication of the notice on making revisions to the above documents;

– the new provision was included that the tender documentation, as well as any revisions to the tender documentation, should be approved by the Ministry of Finance, regardless of the provision of state financial support from the republican budget.

3. Rules for maintaining the register of PPP projects in the Kyrgyz Republic.

For example, in 2014, the PPP project preparation facility with a charter capital of USD 4 million was established to address insufficient financial resources and institutional capacity for PPP projects. Its resources were used to finance the delivery of feasibility studies related to 8 PPP projects. It is also actively working on 13 PPP infrastructure projects in the area of healthcare, transport, urban development and sports.

www.ppp.gov.kg

April 6, 2017

Major PPP project worth \$34 million announced

The government announced the major PPP transport project worth \$34 million to be implemented in Bishkek.

Other proposed PPP projects include 8 healthcare and municipal transport projects and 2 construction projects: Edelweiss sports base project estimated at \$5.8 million and Dolon Omurzakov small arena project estimated at \$3 million.

www.akchabar.kg

March 31, 2017

EAEU's first PPP handbook for investors and entrepreneurs

As part of the 4th Infrastructure Congress Russian PPP Week 2017, the expert group on promotion of PPP mechanisms in the EAEU held its 5th session at which it presented the EAEU's first PPP handbook for infrastructure development and/or financing companies and other stakeholders.

www.knews.kg

March 15, 2017

Seminar on PPP mechanisms for regional administration executives

A seminar on PPP mechanisms was held on March 10, 2017 at the office of the Government's Delegate in the Osh region. It was organized by the Ministry of Economy of the Kyrgyz Republic in cooperation with the State Investment and Export Promotion Agency for regional administration executives.

The purpose of the seminar was to increase the PPP awareness among government officials. Among the issues discussed were: policy, legal and regulatory framework for PPP, selection and initiation of PPP

The amendments concern the following:

- The register of the PPP projects includes the PPP projects initiated in accordance with the established procedure and approved by the Ministry of Economy (previously, the projects included in the register were reviewed by the Ministry of Economy).

The KR Government resolution approving the above amendments was published in the Erkin-Too newspaper of February 8, 2017 No. 17-18 and entered into force on February 24, 2017.

projects, current and potential PPP projects in the KR.

www.ppp.gov.kg

March 29, 2017

Eurasian Development Bank is interested in PPP projects

The Eurasian Development Bank is interested in the PPP projects with a primary focus on the road infrastructure and residential utilities projects, Dmitry Pankin, the CEO of the EADB, reported at the plenary meeting of the 4th Infrastructure Congress Russian PPP Week.

www.24.kg

February 10, 2017

Round table on implementation of PPP law in Kyrgyzstan

The roundtable on the implementation of the PPP law in Kyrgyzstan was held at the Ministry of Economy of the Kyrgyz Republic.

Sooronbai Jeenbekov, the Prime Minister of the Kyrgyz Republic, pointed out that PPP can serve as an effective tool to implement the regional, social and infrastructure projects and to facilitate long-term cooperation in the projecting, financing, and construction, reconstruction or renovation, and other handling of existing or newly created facilities.

"At the moment, there is a need for more active use of the PPP mechanisms in such areas as small HPPs construction, municipal services, healthcare, education, and social welfare", the Prime Minister added.

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