

## Law No. (19) for the Year (2023)

### Public-Private Partnership Projects Law

#### **Article (1)**

This Law shall be called (Public-Private Partnership Projects Law of 2023) and shall come into effect after (90) days of its publication in the Official Gazette.

#### **Article (2)**

The following terms and phrases, wherever they appear in this Law, shall have the meanings designated hereunder unless the context indicated otherwise: -

**Ministry:** Ministry of Investment.

**Minister:** Minister of Investment.

**High Committee:** the higher committee for the PPP projects formed pursuant to this Law.

**Registry:** the national registry of public investment projects established at the Ministry of Planning and International Cooperation.

**Public Authority:** any ministry, department, official public institution, public institution, commission, council, authority, municipality, or a company wholly owned by the government or by any of the said bodies or in which the government's shareholding or by any of the said bodies exceeds (50%).

**Contracting Authority:** The Public Authority that concludes the PPP Contract.

**PPP Project:** any activity which aims at providing or improving a public service under a long-term contract between the Public Authority and private sector based on risk allocation and shall be under the supervision and responsibility of the Contracting Authority and listed in the Registry.

**PPP Contract:** the agreement concluded by the Public Authority and the Project Company for the purpose of implementing the PPP Project in accordance with this Law, in which the terms, conditions, procedures, and the rights and obligations of the parties are specified.

**Project Company:** the company established for the purpose of implementing the PPP Project in accordance with this Law.

**Project Advisor:** the natural or legal person who is appointed as a project adviser in accordance with this Law.

**Unit:** the PPP unit established within the Ministry.

**Fiscal Commitments Unit:** an organizational unit established within the Ministry of Finance to assess the Fiscal Commitments of the PPP Projects.

**Fiscal Commitments:** the long-term financial effects on the General Budget resulting directly or indirectly from the PPP Project.

**Fiscal Commitments Report:** the report prepared by the Fiscal Commitments Unit.

**Preliminary Feasibility Study:** the preliminary analysis of the economic feasibility of the PPP Project.

**Feasibility Report:** the detailed analysis of the PPP Project feasibility from institutional, legal, technical, environmental, social, economic, financial, and public safety aspects. Studying the PPP Project sustainability and verifying the Value for Money and PPP Project affordability for the Contracting Authority. Analyzing, mitigating and allocation of the PPP Project risks to the party best able to manage them, and specifying the Fiscal Commitments on the General Budget.

**Value for Money:** the PPP Project ability to achieve the targeted benefit against the anticipated cost in the most efficient and effective manner throughout the PPP Project's duration.

### **Article (3)**

The general policy of public-private partnership in the Kingdom is based on the principles of good governance, and aims at sustainable economic and social development by contributing to the following: -

- a. Establishing, rehabilitating, operating, maintaining, managing, or developing public infrastructure and public facilities.
- b. Providing or improving public services, maximizing productivity, and supervising its performance.

- c. Enabling the government to implement projects efficiently and effectively and providing funding for them.
- d. Benefiting from the private sector's experience and technical knowledge in establishing and managing projects.

#### **Article (4)**

Subject to Article (21) of this Law, this Law applies to the PPP Projects listed in the Registry.

#### **Article (5)**

- a. A national Registry for public investment projects shall be established at the Ministry of Planning and International Cooperation in which the PPP Projects shall be registered. All matters related to the Registry shall be governed in accordance with a Regulation issued for that purpose.
- b. The Public Investments Management Unit established at the Ministry of Planning and International Cooperation shall undertake the following:
  - 1. Reviewing and evaluating the PPP Project concept note submitted by the Public Authority within (15) working days from the date of its submission, provided that the concept note includes the basic information and data specified in the Regulation issued pursuant to this Law.
  - 2. Conducting Preliminary Feasibility Studies for PPP Projects whose nature requires this by contracting with experts and consultants within a period not exceeding (60) working days from the date of completing the review and evaluation of the PPP Project concept note.
  - 3. Listing the eligible PPP Projects in the Registry in coordination with the Ministry.

#### **Article (6)**

- a. The Council of Ministers forms a committee called (the High Committee for the PPP Projects), from among its members, whose membership shall include the Minister, the Minister of Finance, the Minister of Planning and International Cooperation, and the Minister of Industry, Trade and Supply. The formation decision shall include the nomination of its Chairman, his deputy, and the rest of the members.

- b. The High Committee shall meet whenever necessary at the invitation of its Chairman or his deputy in his absence. Its meeting shall be legal with the attendance of the majority of its members. Its decisions shall be taken by a majority of the votes of the attending members. In the event of equal votes, the side with which the Chairman of the meeting voted shall prevail.
- c. The High Committee invites the representative of the Public Authority concerned with the PPP Project to attend its meetings regarding that project without having the right to vote on its decisions.
- d. The High Committee shall take its decisions on matters submitted to it within (30) working days from the date of submission, subject to extension for one similar period should the need arise.

#### **Article (7)**

The High Committee undertakes the following tasks and powers:

- a. Providing the general policy for PPP Projects and identifying priority activities and sectors.
- b. Providing approval to proceed with the PPP Project after reviewing the Feasibility Report and the Ministry's recommendations.
- c. Approving of the annual report of the PPP Projects and the financial statements of the PPP Project specific account.
- d. Recommendation to the Council of Ministers for approval of the following: -
  - 1. The tender awarding.
  - 2. The final form of the PPP Contract, and the authorization to sign it and any subsequent amendments thereto.
  - 3. Granting the PPP Project any incentives, exemptions, or benefits necessary for its establishment or operation.
  - 4. Authorizing one or more Public Authority to sign and implement the PPP Contract if the PPP Projects falls within the powers and competence of more than one Public Authority, notwithstanding the provisions of any other legislation.

5. Deciding on any situation arising from the implementation of this Law that is not stipulated therein.

### **Article (8)**

The Council of Ministers, based on the recommendation of the High Committee, may cancel the tender, and implement the PPP Project through solicitation of offers or direct contracting if the number of the submitted offers or the offers that are initially qualified does not exceed one offer in such tender.

### **Article (9)**

- a. The Ministry shall be the main reference for the preparation of the PPP Project, the PPP tendering, and coordinating with the concerned Public Authority until the PPP Contract is signed, including the following: -
  1. Contracting with experts and consultants, including the Project Advisor, to provide consultations, studies and reports related to the PPP Project in accordance with (the Regulation issued pursuant to this Law).
  2. Preparing Feasibility Reports and studies and making the necessary decisions to that effect.
  3. Preparing the PPP Project's tender documents, inviting for bidding, canceling it, amending it, extending it, and managing all its procedures.
  4. Preparing and negotiating the terms and conditions of the PPP Contract.
  5. Preparing a brief report on the entire bidding tendering procedures, including a description of the Project objectives, details of the qualification process, requests for proposals, and a summary of the most important aspects of the PPP Contract, and submitting this report to the High Committee.
  6. Obtaining the necessary approvals regarding any additional incentives, benefits, or exemptions necessary for the PPP Project in accordance with the Feasibility Reports before proceeding with the tender procedures.
  7. Recommending to the High Committee to award the tender.

8. Following up on the implementation of the resolution related to the PPP Project with the relevant authorities.
  9. Any other tasks related to PPP Projects.
- b. The Public Authority and the Contracting Authority shall provide the Ministry with all data, information and documents related to the PPP Project as requested by the Minister and within the period specified in the request.

### **Article (10)**

A unit shall be established at the Ministry called (the PPP Unit) linked to the Minister and undertakes the following: -

- a. Assisting Public Authorities in identifying and prioritizing potential PPP Projects.
- b. Preparing guidelines for PPP Contracts and preparing standardized requirements for the Fiscal Commitments Report and the periodic reports for the PPP projects.
- c. Providing technical support to the Public Authorities, the Contracting Authorities, and the committees through all the phases of the PPP Project.
- d. Receiving periodic reports related to the PPP Projects from the Contracting Authorities and submitting the necessary recommendations regarding them to the Minister.
- e. Updating the data related to the PPP Projects in the Registry, and documenting the studies, documents, reports and contracts related thereto, and publishing a report on each PPP Project upon completion of its financial closure on its website and in the Official Gazette, provided that the report includes the following: -
  1. The PPP Project title, its scope, duration, total cost, and procedures followed regarding it, including tendering procedures and the names of the bidders.
  2. The name and address of the entity with which the financial closure of the PPP Project was completed or the beneficiaries and local agents of that entity, if any.
- f. Preparing the annual report on the PPP Projects and the financial statements of the account stipulated in Paragraph (A) of Article (11) of this Law and other reports and submitting them to the Minister for approval by the Higher Committee.
- g. Implementing the tasks assigned to the Ministry in accordance with this Law.

- h. Any other tasks assigned thereto by the Minister.

#### **Article (11)**

- a. A specific account shall be established with the Ministry for the Unit's expenditures in the preparation of the PPP Projects, into which the amounts allocated by the government for this purpose are deposited, including gifts, grants, aid, donations, and any other resources received, provided that they are approved by the Council of Ministers if they are from a non-Jordanian source.
- b. The amounts in the account shall be spent for the purposes of financing the studies and reports related to the PPP Projects, contracting with consultants, seeking the assistance of experts, and tender process for PPP Projects.
- c. Account funds are not subject to the Financial Surpluses Law.
- d. All matters related to the account are determined in accordance with a Regulation to be issued for this purpose.

#### **Article (12)**

- a. A unit shall be established at the Ministry of Finance called the (Fiscal Commitments Unit) and shall undertake the following tasks and powers: -
  - 1. Evaluating, following up and monitoring the Fiscal Commitments of each PPP Project and any updates thereto, monitoring any government-provided support and reporting this to the Ministry.
  - 2. Monitoring the impact of any contingent liabilities arising from the PPP Project on public finances and public debt, updating their financial effects on the Fiscal Commitments, and proposing suggestions to remedy their potential negative effects.
  - 3. Ensuring the inclusion of financial resources necessary for the development and implementation of the PPP Projects when preparing the general budget, including the medium-term financial framework for expenditures.
  - 4. Following up on the allocations in the general budget for the payments due directly and the Fiscal Commitments that are realized during the implementation of the PPP Projects and the government support required for those PPP Projects.
  - 5. Ensuring that the due payments to be made by the Contracting Authority are consistent with the allocated provisions to such Contracting Authority in the general budget for that Authority.

6. Reviewing any proposed government support for any PPP Project whether direct or indirect and aligning such support to the government's affordability.
  7. Comparing between PPP Contracts that were agreed upon and the amendments made to them after execution to verify that there has been no material change to the risk allocation, Fiscal Commitments, or the proposed government support.
- b. The Fiscal Commitments Unit shall submit the Fiscal Commitments Report to the Minister of Finance within (30) days from the date of receipt of the Minister's request attached with the tender evaluation report, the preferred offer, the Feasibility Report, or the proposed amendments to the PPP Contract
  - c. The Minister of Finance submits his recommendations regarding the Fiscal Commitments Report to the High Committee within (15) working days from the date the said Report is received.
  - d. At the beginning of each year, the Minister of Finance determines the ceiling of the total Fiscal commitments that the Ministry of Finance can allocate to cover any Fiscal Commitments arising from the PPP Projects.
  - e. All matters related to the Fiscal Commitments are regulated in accordance with the Regulation.

### **Article (13)**

After its listing in the Registry, the Public Authority concerned with the PPP Project shall undertake the following: -

- a. Preparing the technical specifications and providing the necessary information, data and documents required by the nature of the PPP Project to the Ministry and verifying their validity, accuracy, and completeness.
- b. Determining the level of services required to be provided in the PPP Project, in addition to the requirements for safety, security, and environmental protection.
- c. Advising on the PPP Project tender documents and the PPP Contract within the period specified by the Minister, provided that it does not exceed (90) days from the date of the request, which can be extended only once for a similar period.



- d. Supervising the Project Company's proper implementation of its contractual obligations, and it may, as appropriate, establish an organizational unit for that purpose.

#### **Article (14)**

The entity who is awarded the PPP Project tender in accordance with this Law and prior to signing the PPP Contract shall establish a company in the Kingdom in accordance with applicable legislation and which company shall be called as the Project Company to implement the PPP Project.

#### **Article (15)**

- a. Any private sector entity a PPP Project concept through a direct proposal to the Ministry or the Public Authority in accordance with the conditions set out in the Regulation issued pursuant to this Law.
- b. If the PPP Project proposal submitted in accordance with Paragraph (A) of this Article is qualified, it shall be listed in the Registry as a PPP Project and proceeded with its implementation in accordance with this Law. The rights and privileges of the offeror will be determined in accordance with the Regulation of issued pursuant to this Law.

#### **Article (16)**

PPP Contract shall be for a limited period based on the Feasibility Report and the requirements of each Project, provided that their duration does not exceed (35) years.

#### **Article (17)**

The PPP Contract shall determine the right of the Project Company to collect what the beneficiary pays in exchange for the public services or from the Contracting Authority.

#### **Article (18)**

The Jordanian laws shall be the applicable law to the PPP Contracts, and it may be agreed to settle the disputes related to PPP Contracts by alternative means of dispute settlement in accordance with the agreement of the two parties to the PPP Contract.

### **Article (19)**

The prior written approval of the Council of Ministers must be obtained in the event of any amendment or change to the PPP Contract related to its outputs, price, duration, or any waivers of the rights stipulated therein that affect the risk allocation provided in the PPP Contract.

### **Article (20)**

- a. It is prohibited for the Chairman or member of the High Committee or any person working at the Ministry, the Fiscal commitments Unit, the Public Investments Management Unit, the Public Authority, the Contracting Authority or at the committees formed to implement the PPP Projects, including employees, consultants, and experts, to participate in making any decision in relation to any PPP Project that includes directly or indirectly a benefit for him, his spouses, or his relatives up to the second degree.
- b. Any of the persons referred to in Paragraph (A) of this Article must inform the Minister or the Chairman of the High Committee before starting to implement the tendering stage for the PPP Project about any benefit that may accrue to them, their spouses, or their relatives up to the second degree, directly or indirectly, in exchange for the services provided for any party directly or indirectly linked to the PPP Project.
- c. In the events there are reasons and circumstances that would affect the impartiality of any of the persons referred to in Paragraph (A) of this Article, the Chairman of the High Committee or the Minister must excuse exempt the person from working in the relevant PPP Project.
- d. Any person who has access to any information related to a PPP Project that is classified as confidential is prohibited from disclosing it in any way except for the purposes specified in the Law.

### **Article (21)**

This law shall not apply to PPP Projects whose contracts have been signed or have obtained final approval for signature from the relevant authorities, or the PPP Projects whose tender process had commenced prior to the entry into force of this Law

## **Article (22)**

Any provisions of any other piece of legislation shall not be effective to the extent they conflict with the provisions of this Law.

## **Article (23)**

Subject to Paragraph (A) of Article (5) and Paragraph (D) of Article (11) of this Law, the Council of Ministers shall issue a Regulation to implement this Law, that includes the following: -

- a. The PPP Project phases and the obligations of the Public Authority and the Contracting Authority.
- b. tendering procedures to ensure the principles of equality, transparency, clarity, and comprehensiveness of tender documents, and making information related to tender accessible to all, except for the information of security nature.
- c. Specific Procedures specific for PPP Projects whose capital costs are less than the amount determined by the Council of Ministers.
- d. The principles and procedures for soliciting bids or direct contracting for the tenders that are canceled in accordance with Article (8) of this Law.
- e. Grievance procedures related to the PPP Project tender and its awarding.

## **Article (24)**

The PPP Projects Law No. (17) of 2020 is repealed, provided that the regulations and instructions issued pursuant thereto shall continue in effect until they are repealed, amended, or replaced by others in accordance with this Law.

## **Article (25)**

The Prime Minister and the Ministers shall be responsible for the implementation of this law.