

LAW OF THE REPUBLIC OF UZBEKISTAN

ON PUBLIC-PRIVATE PARTNERSHIP

Adopted by the Legislative Chamber on 26 April 2019
Approved by the Senate on 3 May 2019

**As amended by Law No. 669,
22 January 2021**

Chapter 1. General provisions

Article 1. The purpose and scope of this Law

The purpose of this law is to regulate relations in the area of public-private partnership and concessions.

This Law does not apply to production sharing agreements and public procurement.

The realization of the concession projects, as well as entering into the concession agreements shall be regulated according to this Law on public-private partnership.

Article 2. Legislation on public private partnership

Legislation on public private partnership consists of this Law and other legislative acts.

If under an international agreement the Republic of Uzbekistan establishes other rules than those stipulated by the legislation of the Republic of Uzbekistan on public private partnership, the rules of the international agreement shall apply.

Article 3. Main definitions

The following main definitions are used in this Law:

public private partnership — a legally arranged cooperation for a definite period of time between a public partner and a private partner, founded on pooling of their resources for implementation of public-private partnership project;

public private partnership project — combination of activities, implemented based on attraction of private investments and (or) introduction of best management practices, addressing economic, social and infrastructural issues;

concept of public private partnership project — the document, developed by the public partner and (or) private initiator, substantiating the selected implementation option of the project of public-private partnership, determining the price, sources of project funding and its profitability, describing cost-effectiveness and relevance of its implementation;

object of public private partnership — property, proprietary complexes, public infrastructure, design, construction, establishment, supply, financing, rehabilitation, modernization, operation and maintenance of which are carried out in the framework of implementation of the public private partnership project, as well as works (services) and innovations, subject to introduction during implementation of the public private partnership project;

availability payment for object of public private partnership — payments by the public partner to the private partner, effected in accordance with the public private partnership agreement during the period of use (operation) and (or) maintenance of the object of public private partnership for ensuring its availability;

public partner — The Republic of Uzbekistan and (or) public authorities, local executive authorities, as well as other legal entities or their associations authorized by the Cabinet of Ministers of the Republic of Uzbekistan;

concession – one of the types of public-private partnership, whereby the government grants to the private partner the property and land plots with the permits issued for the business envisaged in the concession agreement;

special purpose vehicle – a legal entity established by the winner of the tender, reserve winner, private initiator or direct negotiations participant exclusively for the purposes of

implementation of a public-private partnership and registered in accordance with the laws of the Republic of Uzbekistan;

applicant - an individual entrepreneur, legal entity or association of legal entities interested in the implementation of a public-private partnership project and participation in the tender, registered in accordance with the legislation of the Republic of Uzbekistan or a foreign state;

payment for use — payments, collected by the private partner in accordance with the public-private partnership agreement in the framework of implementation of the public-private partnership project from consumers of goods (works, services);

private partner — an individual entrepreneur, legal entity or association of legal entities, registered in accordance with the legislation of the Republic of Uzbekistan or a foreign state, entered into a public private partnership agreement with the public partner;

Article 4. Fundamental principles of public-private partnership

Fundamental principles of public-private partnership include:

equality of public partner and private partner before the law;

transparency of rules and procedures for public-private partnership implementation;

competitiveness and neutrality when selecting a private partner;

inadmissibility of discrimination;

inadmissibility of corruption.

Article 5. Principle of a public partner and a private partner equality before the law

Public partner and private partner are equal parties.

Article 6. Principle of rules and procedures transparency in implementation of public-private partnership

Rules and procedures of public-private partnership must be open, transparent and understandable by relevant parties.

The public partner must provide unrestricted access to information about public-private partnership rules and procedures, established by the legislation on public private partnership.

Article 7. Principle of competitiveness and neutrality when selecting a private partner

Competitiveness and neutrality when selecting a private partner is ensured by using competitive bidding, fairness and transparency mechanisms when applying public-private partnership rules and procedures and when taking a decision in favor of the optimal option, based on objective and justified criteria.

Article 8. Inadmissibility of discrimination principle

Inadmissibility of discrimination is guaranteed by ensuring:

equal rights to participants of tender procedures;

objectivity when selecting a private partner;

openness when selecting a private partner.

Private initiators, applicants, private partners, including foreign ones are guaranteed equal rights, provided by the legislation of the Republic of Uzbekistan, legal regime of activity, which eliminates application of measures of discriminatory nature.

Article 9. Inadmissibility of corruption principle

Requirements imposed on the rules and procedures of public private partnership must prevent corruption offenses and bring measures to prevent corruption and corruption factors.

Chapter 2. State regulation in the area of public-private partnership

Article 10. Main goals of government policy in the area of public-private partnership

Main goals of government policy in the area of public-private partnership include:

stimulation of economic growth and ensuring sustainable development of the Republic of Uzbekistan;
development, approval and implementation of national programs in the area of public private partnership;
facilitation in formation, rehabilitation, operation, maintenance of existing public infrastructure;
improvement of public infrastructure operation and maintenance quality;
improvement of state services quality and access to them;
creation of conditions, ensuring attraction of financing form the private sector, including foreign investments;
state support in scientific research, introduction of modern practices and technologies for development and improvement of institutional and legal framework of public-private partnership.

Article 11. Powers of the Cabinet of Ministers of the Republic of Uzbekistan in the area of public private partnership

The Cabinet of Ministers of the Republic of Uzbekistan:
ensures implementation of single state policy in the area of public private partnership;
in cases of uncertainty in determining a public partner for the public-private partnership projects, and as submitted by the authorized government body in the area of public-private partnership determines the public partner by issuance of the minutes of the meeting of the Cabinet of Ministers of the Republic of Uzbekistan;
adopts regulatory legal acts in the area of public private partnership;
approves the concept of public private partnership project with total value exceeding the equivalent of ten million USD;
establishes the procedure for maintenance of public-private partnership projects register;
establishes the amount of the one-off payment, charged to the winner of the tender or direct negotiations participant for the successful signing of the public-private partnership agreement.

Article 12. Authorized government body in the area of public-private partnership

Authorized government body in the area of public-private partnership is the Agency for development of public-private partnership under the Ministry of Finance of the Republic of Uzbekistan (hereinafter — the authorized government body).

Authorized government body:
implements state policy in the area of public-private partnership;
participates in development and implementation of state programs in the area of public-private partnership;
ensures interdepartmental coordination during preparation and implementation of public private partnership projects;
supports ministries, state committees, departments, local authorities in implementation of state programs in the area of public-private partnership, as well as in the development of concepts for public-private partnership projects;
organizes interaction with investors, international financial and donor organizations, scientific and expert community, as well as other participants of public-private partnership;
prepares methodological documents, guidelines and instructions in the area of public private partnership;
considers and provides comments on technical and economic parameters of public private partnership projects;
develops draft model agreements on public private partnership;
maintains the register of public-private partnership projects;
provides assistance in preparation and implementation of public-private partnership projects;
approves, rejects or returns for improvement of the concept of public-private partnership project with total value exceeding the equivalent of ten million USD;

submits the concept of public-private partnership project with total value exceeding the equivalent of ten million USD to the Cabinet of Ministers of the Republic of Uzbekistan for approval;
coordinates the tender documentation of the public-private partnership projects and drafts of the public-private partnership agreements with a total value exceeding the equivalent of one million USD;

organizes training, retraining, advanced training of human resources in the area of public-private partnership;

provides explanations on issues concerning public-private partnership;

monitors implementation progress of public-private partnership projects;

engages consultants for preparing public-private partnership projects;

conducts negotiations with international financial institutions, international and local consulting and project organizations on the provision of consulting and audit services for public-private partnership projects preparation, as well as concludes agreements according to the established procedure;

concludes an agreement on charging the winner of the tender or direct negotiation participant with the one-off payment for the successful signing of the public-private partnership agreement in the amount established by the Cabinet of Ministers of the Republic of Uzbekistan.

Article 12¹. Powers of local executive authorities in the field of public-private partnership.

Local executive authorities:

identify the objects in their ownership, which can be a subject of a public-private partnership agreement can be concluded;

based on the needs and potential of the relevant territory, examine and identify prospective projects and land plots to be implemented through public-private partnership agreements;

identify the factors that prevent the timely and effective implementation of public-private partnership projects in the relevant territory, and take measures to eliminate them;

provide land plots without auctioning for the purposes of implementation of public-private partnership, for a period established in the public-private partnership agreement.

Chapter 3. Parties to public-private partnership agreements, their rights and responsibilities

Article 13. Parties to public-private partnership agreement

Parties to public-private partnership agreement are the public partner and the private partner.

Legal entities or associations of legal entities, authorized by the public partner may act on behalf of the public partner, by assuming the commitments of the public partner, in accordance with the public-private partnership agreement. In such cases, the public partner shall be fully responsible for fulfillment of obligations under the public-private partnership agreement.

The private partner may delegate its rights and obligations under the public-private partnership agreement to one or several organizations. In such cases, the private partner shall be fully responsible for fulfillment of obligations under the public-private partnership agreement.

Article 14. Rights and obligations of the parties to public private partnership

The public partner has the right to:

request and receive progress report from the private partner concerning fulfillment of terms and conditions under the public-private partnership agreement;

control fulfillment of terms and conditions under the public-private partnership agreement and assess public-private partnership project implementation results;

demand elimination of violations, identified during monitoring activities for compliance with the law and terms under the public-private partnership agreement;

demand compensation of losses under public-private partnership project, attributable to the private partner, in the manner prescribed in the public-private partnership agreement;

engage consultants to prepare public-private partnership projects.

The public partner shall:

Note from the Asian Development Bank: This document reflects the Amended PPP Law of Uzbekistan (Law No. 537, 10 May 2019, as amended by Law No. 669, 22 January 2021). As this is an unofficial translation, the English text is not authoritative and is intended only for reference.

comply with the requirements of the public-private partnership law and the agreement;
provide tender documentation to tender participants, clarify the provisions of the tender documentation to them;

provide necessary conditions to tender participants for inspection of the location and facility, where it is planned to implement the public-private partnership project;

provide property, intended for implementation of activities to the private partner under the right of ownership and (or) use;

support private partner in receiving licenses and permits, necessary for implementation of the public-private partnership agreement;

submit copies of concluded public-private partnership agreements by it to authorized government body, including appendixes, amendments or supplements thereto, within twenty calendar days as from public-private partnership agreement or a corresponding amendment or supplement signature date;

not restrict the private partner in freely administering and managing its investments and income, or managing and controlling assets and activities without restricting his rights, set forth in the public-private partnership agreement;

refrain from interfering into the activities, carried out by the private partner or third parties, engaged by the private partner;

bear responsibility as provided for in the legislation and public-private partnership agreement.

The private partner has the right to:

receive the required and available information for implementation of the public-private partnership project from the public partner;

submit proposals on amendment of the terms and conditions under the public private partnership agreement;

demand compensation of losses under public-private partnership project, caused by the public partner, in the manner prescribed in the public-private partnership agreement.

Private partner must:

comply with the requirements of the legislation and public-private partnership agreement;

bear responsibility as provided for in the legislation and public-private partnership agreement.

A private partner shall not transfer to other individuals or legal entities the right to use a land plot assigned to him on the terms of a public-private partnership, except for cases provided in Article 35 of this Law.

Chapter 4. Initiation and preparation of the public-private partnership project

Article 15. Initiation of the public-private partnership project

The public private partnership project may be initiated by a government body (organization) (hereinafter - the state initiator) and (or) by a private entrepreneur or legal entity (hereinafter - the private initiator).

Initiation of the public-private partnership project consists of:

development of the concept of public-private partnership project;

submission of the concept of public-private partnership project for assessment, coordination and approval to the appropriate government body;

consideration of the concept of public-private partnership project by the authorized government body;

approval, rejection or returning for improvement of the concept of public private partnership project by authorized government body;

approval of the agreed concept of public-private partnership project by the public partner or the Cabinet of Ministers of the Republic of Uzbekistan;

inclusion of the concept of public-private partnership project into the registry of public-private partnership projects by the authorized government body.

Article 16. Preparation of the public-private partnership project by public initiator

Public initiator develops the public-private partnership project, as a rule, in line with priority economic and social sectors, within its area of competence.

Preparation of public-private partnership project is carried out based on preliminary financial estimates, ensuring assessment of rationality and efficiency of public-private partnership project and optimal form of its implementation, particularly in line with:

financial and economic efficiency indicators of the public-private partnership project;
structure and parameters of designed, established, financed, reconstructed, operated or maintained object of public private partnership by the private partner in accordance with the public-private partnership agreement;

expected scope of investments by the private partner and envisaged scope of financing from the budgets of the budgetary system of the Republic of Uzbekistan;

obligations of the public partner and the private partner;

types of state support provided to the private partner;

time periods for holding negotiations;

conditions of access to goods (work, services), provided using the object of public-private partnership.

Preparation of the public-private partnership project must be accompanied by public discussions in order to take into account the interests of the population, consumers, users of goods (works, services).

Article 17. Preparation of the public private partnership project by a private initiator

Private initiator has the right to develop and submit the concept of public-private partnership project to a potential public partner. The concept of public private partnership project must contain an innovative approach to solving existing problems and provide a balanced benefit acceptable to the parties.

Prior to submission of the concept of public-private partnership project, private initiator may hold preliminary discussions, as well as exchange information about public-private partnership with the potential public partner.

In case of the private initiator passes the pre-qualification in accordance with the Article 23 of this Law, the potential public partner, which receives the concept of public-private partnership project, must within thirty calendar days approve or refuse its implementation.

In case of acceptance of the concept of public-private partnership project submitted by the private initiator with total value exceeding the equivalent of one million USD, the potential public partner submits this concept for agreement to the authorized government body.

Reasons for refusing implementation of public-private partnership project can be the following:

non-conformity of the private initiator with the requirements established by this Law;

absence of the right at the disposal of potential public partner to exercise economic jurisdiction or operational management over the object of public-private partnership;

absence of necessity for engineering, construction, establishment, financing, reconstruction, operation and maintenance of the object of public private partnership;

absence of economic feasibility and (or) public demand in implementation of the project.

If the concepts of public-private partnership project is approved, the potential public partner, within five calendar days, publishes the concept of public-private partnership project, on its official website, on the official website of the authorized government body and other specialized websites, with the proposal to other applicants to declare their interest in the implementation of the public-private partnership project, as well as the request for the submission of pre-qualification documents in accordance with Article 23 of this Law.

If within forty-five calendar days, starting from the publication date of public-private partnership project concept, no sole entrepreneur or legal entity declares its interest to the potential public partner on implementation of the public-private partnership project, the potential public partner

takes a decision on implementation of the public-private partnership project and starts direct negotiations with the private initiator, approves the draft public-private partnership agreement with the authorized government body and enters into public-private partnership agreement with the private initiator or special purpose vehicle without tendering within sixty days starting from the date of draft public-private partnership agreement approval by the authorized government body.

If any private entrepreneur or a legal entity has declared its interest in implementation of the public-private partnership project, then the selection of private partner for implementation of the public private partnership project shall be made through tendering processes.

At the same time, regardless of the cost of the public-private partnership project, one-stage tender is held without re-posting the tender announcement in the media and on the official websites of the public partner and the authorized government body, and the applicants, who meet the tender criteria provided for in Article 23 of this Law, will be provided with a package of tender documents by the public partner within thirty days. The deadline for the submission of bids by applicants is indicated in the request for tender proposals, and it should not be less than forty-five days from the date of sending this request to the bidders. The tender commission determines the winner of the tender and the reserve winner of the tender by evaluating their bids.

In the event none of the interested applicants submits qualification documents upon the request for pre-qualification within the prescribed period (except for the private initiator), the project shall not be re-tendered, and the potential public partner begins direct negotiations with the private initiator.

In the event the private initiator is not awarded in the tender, the real expenses related to preparation of the public-private partnership project may be reimbursed to the private initiator, in the amount, not exceeding one percent from the total value of public-private partnership project, at the expense of the winner or reserve winner.

Article 18. Approval of the public-private partnership project concept, introducing the amendments and additions to it

Approval of the concept of public-private partnership project with total value less than the equivalent of one million USD inclusive, as well as introducing the amendments and additions to it shall be carried out independently by relevant government body (organization).

Approval of the concept of public-private partnership project with total value exceeding the equivalent of one million USD and up to ten million USD inclusive, as well as introducing the amendments and additions to it shall be carried out by relevant government body (organization) upon approval by the authorized government body.

Approval of the concept of public-private partnership project with total value exceeding the equivalent of ten million USD, as well as introducing the amendments and additions to it shall be carried out by the Cabinet of Ministers of the Republic of Uzbekistan.

Upon approval of the public-private partnership project concept, the public partner shall proceed to the next stages of the public-private partnership project implementation.

Amendments and (or) addendums to the public-private partnership project concept and its re-approval shall be carried out in established manner on the basis of the proposals of the private initiator, direct negotiations participant, public partner, authorized government body or the Cabinet of Ministers of the Republic of Uzbekistan.

Article 19. Registry of public private partnership projects

Registry of public private partnership projects is a unified information system, containing data and information about public-private partnership projects under implementation.

Registry of public-private partnership Projects is a publicly available information resource published on the Internet.

Registry of public private partnership projects is maintained by the authorized government body.

The procedure for maintenance of the registry of public private partnership projects is established by the Cabinet of Ministers of the Republic of Uzbekistan.

Article 20. Data on public private partnership projects

The following data on public private partnership projects shall be published on the official websites of the public partner and the authorized government body, except for the cases related to the state secrets:

- name of the parties of the project;
- project area;
- location of the project;
- term of implementation of the project;
- tariffs for goods (works, services) realized to consumers (if available);
- total cost of the project;
- state support provided (where available).

Chapter 5. Selection of a private partner

Article 21. Tender for the right to conclude public-private partnership agreement

Public partner enters into a public-private partnership agreement with the private partner, determined based on tender results or direct negotiations.

Tenders can be single-staged and two-staged.

Public-private partnership project below an equivalent of one million USD inclusive, falls under single-staged tendering.

When holding single-staged tenders, consideration and assessment is made of (detailed technical and commercial (financial)) proposals submitted by tender participants, developed based on conceptual solution and conditions set forth in the tender documentation, . In the process of tender organization, it is permitted to hold negotiations with applicants concerning the parameters of tender scope.

Procedure for holding single-staged tender includes:

publication of tender announcement in the mass media and on the official websites of the public partner and the authorized government body;

receiving expressions of interest for participation in the tender from applicants;

submission of a package of tender documents to applicants who have declared their interest in the tender;

opening of envelopes with tender proposals submitted by applicants;

evaluation of tender proposals;

selection of the winner or reserve winner of the tender;

holding negotiations with the winner of the tender or the special purpose vehicle;

conclusion of public-private partnership agreement with the winner of the tender.

Deadline for submission of tender proposals for participation in the tender may not be less than thirty calendar days from the date of tender announcement.

Two-staged tender shall be held under public-private partnership projects with total value exceeding the equivalent of one million USD, except for the cases provided for in Article 17 of this Law.

The two-staged tender consists of the pre-qualification and selection of the winner of the tender.

The two-stage tender shall be held according to the following procedure:

on the first-stage, the qualification documents of the applicants are considered and their conformity to the qualification criteria specified in the tender documentation is evaluated. It is permitted to hold negotiations with applicants concerning the parameters of tender scope.

on the second-stage, consideration and evaluation of submitted technical and commercial (financial) proposals is made, such proposals shall take into account clarified parameters of tender scope, with mandatory indication of the price (tariff).

Procedure for holding two-staged tender includes:

publication of tender announcement and request for the submission of pre-qualification documents in the mass media and on the official websites of the public partner and the authorized government body;

collection and evaluation of pre-qualification applications, confirming the qualification of applicants;

formation of the list of applicants, who meet the pre-qualification requirements;

delivery of package of tender documentation by the public partner to pre-qualified applicants;

submission of tender proposals by pre-qualified applicants ;

opening of envelopes with tender proposals submitted by pre-qualified applicants;

evaluation of tender proposals;

determination of the winner and reserve winner of the tender;

holding negotiations with the winner of the tender;

conclusion of public private partnership agreement with the winner of the tender or the special purpose vehicle.

Deadline for collection of pre-qualification applications to participate in the preliminary qualification may not be less than thirty calendar days from the date of tender announcement.

At least two applicants must meet the qualification requirements at the outcome of the preliminary qualification. selection.

At the stage of winner selection, public partner shall send to applicants, who meet pre-qualification requirements, a request to submit tender proposals and the draft public-private partnership agreement.

Deadline for submission of tender proposals shall be indicated in the request for submission of tender proposals and may not be less than forty-five calendar days from the date of sending such request to applicants, who meet pre-qualification requirements.

None of the applicants shall have the right to submit more than one tender proposal. The applicant may change or withdraw the tender proposal at any time within the time period for submission of tender proposals to the tender commission.

Evaluation of tender proposals is performed within the period, established by the tender commission. Evaluation of proposals is carried out by the tender commission in accordance with the established tender criteria.

Tender participants or their representatives do not have the right to be present at evaluation of tender proposals. During evaluation, tender commission has the right to invite applicants to provide explanations, request additional information from them and confirmation of validity for submitted documents. Tenderers and/or their authorized representatives may participate during announcement of tender results.

If the tender commission recognizes tender proposals submitted by all applicants as inconsistent with the tender requirements, , the commission declares the tender to be unsuccessful and has the right to announce re-tendering. Re-tendering shall be held in accordance with the procedures established for tendering process.

If the tender commission recognizes the tender proposals of all applicants as non-satisfying, as well as if the number of pre-qualified applicants is less than two, the tender is declared invalid and the tender commission has the right to announce a re-tender. The second tender shall be held in the manner established for holding of the tender.

Submission of qualification applications and tender proposals can be carried out electronically in the manner and in the cases specified in the tender documentation.

Expenses incurred by applicants, in relation to participation in the tendering process are not subject to reimbursement, except in cases provided by Article 17 of this Law.

Article 22. Tender documentation

Public partner prepares and approves the tender documentation, which regulates the tendering process for the right to conclude public-private partnership agreement, and the draft of public-private partnership agreement.

For a public-private partnership project with a total value equivalent of more than USD one million, tender documents and a draft public-private partnership agreement shall be agreed with the authorized government body.

The tender documentation must contain:

requirements to documents confirming that applicants meet qualification requirements;

location of the object of public-private partnership;

general parameters and performance requirements of technical and economic specifications;

deadlines (time periods) for engineering, construction, financing, reconstruction, operation and maintenance of the object of public-private partnership;

indicators or minimum requirements to the quality of the object of public-private partnership or services, provided by the private partner;

scope of financing, list of property or property rights to be provided by the public partner to the private partner with the purpose to fulfill the public-private partnership agreement;

risks assumed by the parties to the public-private partnership agreement;

currency, in which the parameters of the public-private partnership project must be reflected in, and the exchange rate, which will be used during calculations to bring it into a single currency for the purpose of their comparison and evaluation;

description of the tender evaluation criteria;

requirements to the language for submission of tender proposals;

content of tender proposal, method, location, deadlines for submission and validity period of tender proposals;

conditions for providing the security under the tender proposal;

procedure, location, date and time for opening the envelopes with tender proposals.

Draft public-private partnership agreement shall be an integral part of the tender documentation.

Public partner in agreement with the authorized government body, has the right to introduce amendments and additions to the tender documentation. Public partner must inform all applicants about amendments and (or) additions entered into the tender documentation, within five calendar days, as from the date the decision is taken on introducing amendments and (or) additions into the tender documentation. In such cases, the deadline for submission of tender proposals shall be extended by the public partner for a minimum period of fifteen calendar days, for applicants to reflect these amendments and (or) additions in the tender proposals.

Article 23. Tender criteria

Tender criteria must be clear, and shall apply to all applicants without discrimination.

To participate in the tender, to declare interest in implementation of the public-private partnership project, the applicant must meet the following criteria:

possess legal capacity;

possess financial and material technical and (or) qualified human resources, required for fulfillment of obligations under the public-private partnership agreement;

do not have grounds for existence of conflict of interests.

Applicants at the stage of reorganization, liquidation and (or) bankruptcy are not permitted to participate in the tender.

Criteria used at the stage of winner selection, provides for:

amount of payments, effected by the public partner and private partner;

maximum prices and tariffs;

amount of funds available with the private partner, raised for implementation of the public-private partnership agreement;

scope and types of state support, provided to the private partner;

deadlines (time periods) for engineering and (or) construction, establishment, reconstruction, modernization, operation and maintenance of the object of public-private partnership;

term of the implementation of private-partnership agreement project;

technical and technological advantages, functional and innovative characteristics of the public-private partnership project.

Article 24. Tender commission

Public partner in agreement with the Cabinet of Ministers of the Republic of Uzbekistan shall establish a tender commission for determination of the winner, for the right to conclude public-private agreement.

The structure of the tender commission must include representatives of the public partner, the Ministry of Finance, the Antimonopoly Committee of the Republic of Uzbekistan and authorized government body.

The representative of the public partner shall be a chairman of the tender commission. Representative of the authorized government body included in the structure of the tender commission shall have a consultative vote.

Tender commission shall consist of an odd number of members.

Tender commission is competent to take decisions, if minimum seventy-five percent from total members are present at the meeting and one member of the tender commission shall have one vote.

Decisions of the tender commission are taken by a simple majority of votes from total number of voting members of the tender commission. If votes are equal, a chairman of the tender commission has a decisive vote.

Tender commission maintains minutes of its meetings, which shall be signed by all its members present at the meetings.

If a member of the tender commission has a conflict of interest with respect to the issues raised during the meeting, he must declare his refusal and withdraw from voting on this issue, which shall be reflected in the minutes of meeting.

Article 25. Direct negotiations

Parties may conclude public-private partnership agreement without tendering, based on direct negotiations in accordance with the decision of the public partner in the cases of:

ensuring defense and security capacity of the state;

ownership by a certain person of exclusive rights to intellectual property, other exclusive rights, land plot, other items of immovable property and other property, which is a pre-requisite for implementation of the public-private partnership project;

stipulation to this effect in decrees and resolutions of the President of the Republic of Uzbekistan, decisions of the Government of the Republic of Uzbekistan.

Chapter 6. Public-private partnership agreement

Article 26. Conclusion of public-private partnership agreement

Public partner enters into public-private partnership agreement with the winner of the tender, direct negotiations participant or special purpose vehicle, in accordance with Articles 17, 21 and 25 of this Law.

If, at the expiration of time period, specified in the tender documentation, winner does not sign the public-private partnership agreement or if the tender commission finds misrepresentations in information provided by the winner, tender commission takes a decision on its disqualification and recognizes the reserve winner as the winner and offers him to enter into public-private partnership agreement under the conditions of the initial winner within ten calendar days as from the date of such initial winner disqualification.

The reserve winner is the applicant who, according to the decision of the tender commission, submitted the best tender proposal after the tender proposal of the winner of the tender.

If the tender commission does not receive a positive response from the reserve winner within thirty calendar days from the date the public-private partnership agreement was delivered to him, the tender commission declares the tender unsuccessful and announces re-tendering.

Article 27. Main terms and conditions of public-private partnership agreement

Public-private partnership agreement is a document between the public partner and the private partner, executed in accordance with the procedure and subject to terms and conditions stipulated under this Law.

Public-private partnership agreement shall contain information on:

the parties to the public-private partnership agreement;

the subject of public-private partnership;

obligations and responsibilities of the parties;

distribution of risks between the public partner and the private partner;

general parameters and requirements to the effectiveness of the technical and economic indicators of the objects of public-private partnership, including description of other handed over or subject to engineering, construction, establishment, financing, reconstruction, operation and (or) maintenance objects of public-private partnership in the framework of public-private partnership agreement, goals and periods of their use;

deadlines and procedure for performance of works (services) related to the public-private partnership project;

distribution of rights of the parties, in relation to relevant infrastructure and according to the public-private partnership project, as well as about the procedure for their handover;

the order and the procedure for allocation of land plots, required for the implementation of public-private partnership project, other conditions relating to land plots;

conditions for regulating and changing prices, tariffs for goods, works, services provided by the private partner;

methods, amounts and deadlines ensuring fulfillment of obligations by the parties;

term of the public-private partnership agreement, procedure of its determination;

forms, amounts, deadlines, conditions and manner of remuneration payments, availability payment, user fees, payments of the private partner to the public partner and(or) other payments, including distribution of income (profit) related to execution of the public-private partnership project;

the procedure for introducing amendments and additions to the public-private partnership agreement;

basis, procedure and conditions for termination of the public-private partnership agreement, amount and procedure of payment for early termination;

the procedure for monitoring and control over implementation of public-private partnership project;

insurance obligations;

obligations on development of design documentation;

responsibilities of the parties for breach of obligations under the public-private partnership agreement;

the procedure for settlement of disputes;

conditions applicable to personnel recruitment and labor service in the Republic of Uzbekistan;

warranties and guarantees;
requirements in relation to shareholding by private partner and other property rights related to the property of the private partner and its affiliates;
on confidentiality;
on definitions and their explanations;

Other additional information may be included in the public-private partnership agreement in accordance with the established procedure.

Article 28. Term of the public-private partnership agreement

Term of the public-private partnership agreement may not be less than three years and must not exceed forty-nine years.

Parties to the public-private partnership agreement may agree to extend or shorten its term within the time period, set forth in the first paragraph of this article, in cases and subject to conditions, specified in the public private partnership agreement.

Article 29. Amendments, additions or termination of the public-private partnership agreement

The public-private partnership agreement may be amended, supplemented or terminated by agreement of the parties or by court, unless otherwise provided by law or by the public-private partnership agreement.

Amendment, addition or termination of a public-private partnership agreement for a public-private partnership project with a total value equivalent to one million USD inclusive is carried out by the public partner and the private partner independently in the manner established by the public-private partnership agreement.

Amendment, addition or termination of a public-private partnership agreement for a public-private partnership project with a total value equivalent to over one million USD is carried out in agreement with the authorized government body.

Amendment, addition or termination of a public-private partnership agreement for a public-private partnership project with a total value in the equivalent of over ten million USD is carried out in agreement with the Cabinet of Ministers of the Republic of Uzbekistan.

Article 30. Property involved in implementation of the public-private partnership project

Public-private partnership agreement may include an obligation of the public partner to transfer the private partner with the right of possession and use a property, constituting the object of public-private partnership and(or) other property, required for implementation of the public-private partnership project. Procurement of such transfer is carried out on the basis of the public-private partnership agreement and legislation of the Republic of Uzbekistan, and signing of additional contracts or agreements shall not be required.

Parties to the public-private partnership agreement, with the right of ownership, may grant each other such rights, including the right for rent, possession and use of land plots, other immovable, as well as movable property and intangible assets, including other property rights to the extent, required for implementation of the public-private partnership project.

Article 31. Allocation of land plots

The public partner or local executive authorities may provide the private partner with the land plots in their possession, on which the object of public-private partnership is located and (or) which is necessary for implementation of activities, set forth in the public-private partnership agreement, shall be provided to the private partner for a period, established by the public-private partnership agreement.

Land plot is provided to the private partner for fulfillment of obligations in the framework of the public-private partnership agreement without auctioning.

Public partner's non-performance of obligations on allocation of the land plot or rights thereto, may serve as the ground for unilateral termination of the public-private partnership agreement by the private partner.

Termination of the public-private partnership agreement constitutes grounds for termination of contractual relationship in relation to the land plot, provided for implementation of the public-private partnership project.

Article 32. Property liability of the parties to the public-private partnership agreement

Parties to the public-private partnership agreement shall bear property liability for non-performance or improper performance of their obligations in accordance with the public-private partnership agreement.

In case of non-performance or improper performance by any one party of their obligations, stipulated by the public-private partnership agreement, the other party has the right to be reimbursed for caused damage in accordance with the public-private partnership agreement.

Article 33. Procedure for transfer of ownership rights to the object of public-private partnership

Public-private partnership agreement establishes the procedure for transferring, the ownership rights for the designed, established, financed, reconstructed, operated and maintained in the framework of the public-private partnership project object of public-private partnership project to the public partner or to the state assets management body of the Republic of Uzbekistan, as well as to the private partner in accordance with the resolutions of the President of the Republic of Uzbekistan.

The public-private partnership agreement must stipulate the moment of transfer of ownership rights to the object of public-private partnership agreement, which may be:

- date of commissioning of the object of public-private partnership;
- date of expiration of the public-private partnership agreement;
- other date, set forth in the public-private partnership agreement.

Chapter 7. Protection of Private Partner and creditor interests

Article 34. Guarantee of private partner rights

From the date of execution of the public-private partnership agreement, if subsequent legislative acts of the Republic of Uzbekistan are enacted or existing legislative acts of the Republic of Uzbekistan are repealed, modified or re-enacted of any existing legislative acts that directly results in an increase in costs reasonably incurred by the private partner, or a decrease in its revenue, the private partner, depending on a type of the project being implemented, has a right for a compensatory increase of availability fees, user-pay fees, a one-time payment from the public partner and/or for the extension of the term of the public-private partnership agreement.

The procedure, terms, conditions, restrictions and exceptions for the application of guarantees provided for in part one of this Article are determined in the public-private partnership agreement.

The provisions of part one of this Article do not apply in the event of a change in the legislation of the Republic of Uzbekistan, providing for a change in the size of taxes and fees, enforced after the conclusion of the public-private partnership agreement.

Article 35. Protection of creditor interests

Public-private partnership agreement may include provisions that provide for guarantees of creditor rights, including the amount of compensation payable to creditors in case of early termination of the public-private partnership agreement.

Within the frames of the public-private partnership projects involving creditors, the creditors may enter into direct agreements with the public partner or private partner, where the following shall be considered:

the rights and obligations of creditors in connection with the replacement or exclusion of a private partner (management of a private partner);

the obligation of public partner to pay the creditors the payments payable by the public partner to the private partner under the public-private partnership agreement in case of replacement or exclusion of the private partner;

conditions to reduce the risk of termination of the public-private partnership agreement;

payments in case of early termination of the public-private partnership agreement;

procedure for the exchange of information on the implementation of a public-private partnership project, on ensuring the rights and obligations of the parties

Private partner may provide any type or form of security to its creditors, including its rights under the public-private partnership agreement and agreements, executed for fulfillment of this agreement, rights, assets, right to a land plot, pledge of shares, pledge or cession of rights, profits and amounts due under this agreement forming a part of the public-private partnership project.

Creditor and the public partner shall be entitled to suspend the private partner or its management from implementation of the public-private partnership project under the conditions set forth in the public private partnership agreement and replace him by new private partner or replace its management, in accordance with the conditions, set forth in the public-private partnership agreement.

The new private partner must satisfy requirements, necessary for completion of works and (or) rendering services in line with the public-private partnership agreement. In case if private partner is replaced by new private partner, the tendering process shall not be held.

Chapter 8. Monitoring and reporting in the area of implementation of public-private partnership projects

Article 36. Monitoring over implementation of public-private partnership projects

Public-private partnership agreement lays obligations on the parties to the agreement concerning information exchange about implementation of the public-private partnership project.

Authorized government body monitors over implementation of public-private partnership projects for compliance with the conditions of the public-private partnership agreement. Private partner must provide access to objects of public-private partnership and relevant documents for the purposes of monitoring.

Article 37. Reporting over implementation of public private partnership project

Every six months, the public partner submits report about implementation of the public private partnership project to the authorized government body, signed by the parties to the public private partnership agreement.

The procedure for submission and the form of report about implementation of the public-private partnership project are approved by the Cabinet of Ministers of the Republic of Uzbekistan.

Chapter 9. Mechanisms of support to public private partnership

Article 38. Types of support to public private partnership

Under the public-private partnership agreement, the following types of support may be provided by the Republic of Uzbekistan to protect the interests of the private partner and (or) creditors:

subsidies, including those directed to ensure a guaranteed minimum income of the private partner from implementation of the public-private partnership project;

contributions in the form of assets and property, necessary for implementation of the public-private partnership project;

budget funds from the budgetary system of the Republic of Uzbekistan, directed for payment for consumption or use of certain quantity or part of goods (work, services) manufactured or supplied during implementation of the public-private partnership project;

provision of budgetary loans, borrowing, grants, credit lines and other types of financing;

additional guarantees by mutual agreement in order to ensure the fulfillment of obligations by investors;

tax incentives and preferences, as well as other exemptions;

other guarantees and (or) compensations. Additional guarantees and (or) support are provided by way of execution of a government support agreement with the Republic of Uzbekistan or in the manner provided for in public-private partnership agreement.

A government support agreement is a written contract executed between the Republic of Uzbekistan and private partner for the purposes of granting of an additional guarantee and (or) means of state support (benefits and preferences) to the private partner and (or) creditors.

The government support agreement is signed by the Ministry of Finance of the Republic of Uzbekistan on behalf of the Republic of Uzbekistan.

The government support agreement shall become effective on the date of its approval by the decision of the President of the Republic of Uzbekistan or the Cabinet of ministers of the Republic of Uzbekistan, unless otherwise provided by such decision.

Any types of additional guarantees and (or) support, directly or indirectly affecting the State Budget of the Republic of Uzbekistan, must be agreed with the Ministry of Finance of the Republic of Uzbekistan before approving the public-private partnership project concept.

Tax incentives and preferences are established in the manner prescribed by the Tax Code of the Republic of Uzbekistan.

In exceptional cases, for public-private partnership projects carried out with the participation of foreign investments attracted within the framework of public-private partnership agreements it is allowed to peg the prices for goods (works, services) realized in the territory of the Republic of Uzbekistan to foreign currencies and conventional units on the basis of decisions of the President of the Republic of Uzbekistan.

The private partner-resident of the Republic of Uzbekistan is entitled to open bank accounts abroad for the purposes specified in the public-private partnership agreement and (or) government support agreement.

Article 39. Payments under the public-private partnership agreement

Public-private partnership agreement may provide for conditions of making payments, including the availability payment, payment for use, payment of the private partner to the public partner and (or) other payments, including the conditions for the distribution of income (profit) in connection with the implementation of a public-private partnership project.

Budgetary funds, allocated for availability payment, other payments shall be provided for on annual basis in the expenditure side of the corresponding budget during the entire validity period of the public-private partnership agreement.

Under the public-private partnership agreement, private partner may effect payments to the public partner in the form of:

fixed amounts, subject to payment on a periodic basis;

single payment;

certain part of any income, payable to the private partner from its activities.

The public-private partnership agreement may include combinations of different types of payments.

Chapter 10. Final provisions

Article 40. Settlement of disputes

Disputes arising in the area of public private partnership shall be settled in accordance with the procedure established by the legislation.

Article 41. Responsibility for violation of the public-private partnership law

Persons found guilty violating the public-private partnership law should bear responsibility in accordance with the procedure prescribed by law.

Article 42. Enforcement, notification, explanation of the essence and meaning of this Law

Authorized government body and other concerned organizations must ensure enforcement, notification of principals and explanation of the essence and meaning of this law among the population.

Article 43. Alignment of the legislation in conformity with this Law

Cabinet of Ministers of the Republic of Uzbekistan must:
bring government decisions in conformity with this Law;
ensure revision and abolition by public authorities of their regulatory and legal acts that are inconsistent with this Law.

Article 44. Entry of this law into legal force

This Law enters into force one month after the date of its official publication.

President of the Republic of Uzbekistan SH. MIRZIYOEV

Tashkent City,
May 10, 2019,
№ LRU-537