

GENERAL INFORMATION

Capital: Cairo

Population: 101,388,073 (2020)

GDP: 303.20 billion USD (2019)

LEGAL AND INSTITUTIONAL FRAMEWORK

PPP Law

- Egypt Public Private Partnership Law No.67, 2010
- PPP Executive Regulations of Law No.67 of 2010
- Ministerial Decree No. 2735 of 2018 on the Structure and Competence of the PPP Supreme Committee

Other Applicable Sectoral Laws

- Egyptian Electricity Law, Law No. 87 for year 2015

PPP Unit

- Public Private Partnership Central Unit (PPPCU) within the Ministry of Finance

Definition

(Law No.67, 2010, Art. 1)

“Partnership contract with the private sector and related advisory contracts concluded between the Administrative Authorities with the private sector to execute infrastructure projects, services and public utilities as well as in relation to the availability of related services”.

General Principles

(Law No.67, 2010, Art. 19 §1)

- Publicity;
- Free competition;
- Equal opportunity and fairness, in accordance with the rules and procedures stipulated in the PPP Law and its Executive Regulations.

Tendering and contracting procedures / Choice of the private partnership

(Law No.67, 2010)

- PPP projects cannot be tendered except with the approval of the SCPPPA, based on the request of the Competent Authority in the light of the studies prepared under the supervision of the PPPCU (Art.4). The PPPCU is mandated with the selection of advisers for PPP projects and is also, together with the Administrative Authority, responsible for preparation of the tender documents related to the project (Art.16 and 24).
- All published advertisements for bids and preparation for PPP competitions shall be undertaken in coordination with the PPPCU in the manner prescribed by the Executive Regulations (Art.19§2).
- The Administrative Authority in accordance with the PPPCU may invite qualified investors for private preliminary meetings and sessions.
- The Competent Authority of the Administrative Authority, with the prior approval of the PPPCU may decide that submission of technical and financial bids can be made in two phases with the first

phase being a non-binding offer to include broad outlines of the technical and financial bid followed by a competitive dialogue phase where final bids are submitted upon which the final evaluation is done.

- Competitive dialogue (Art.23): The dialogue will occur after prior approval and under the supervision of the SCPPPA. Principles of equality among investors, confidentiality and non-disclosure of information must be respected. During the competitive dialogue, the Administrative Authority and the PPCU may hold a competitive dialogue with the qualified investors who submitted their non-binding offers in order to obtain explanations for the contents of the technical and financial proposals.

- A committee is formed by a decree of the Competent Authority of the Administrative Authority from technical, legal, and financial experts to receive, study and rank the bids (Art.29)

The SCPPPA endorses the recommendation of the Competent Authority of the Administrative Authority related to the selection of the contracting party entering into the PPP contract (Art.15e)

- Conducted by a committee formed by a decree of the Competent Authority of the Administrative Authority from technical, legal and financial experts (Art.29).

Project Evaluation (Law No.67, 2010)

Negotiation and Signature of PPP Contracts (Law No.67, 2010)

Contract to be entered into between the Administrative Authority and a Project Company (Art.2). Conclusion of the contract approved by SCPPPA (Art 15.e)

Content of the PPP contract to include the nature and scope of works and services, ownership of the project's funds and assets, responsibility of obtaining authorizations, mode of quality assurance, contract duration, risk allocation etc. (Art 34). PPP contract to be subject to Egyptian law (Art 35).

Rights and Obligations of the public partner (Law No.67, 2010)

- Obligation to follow up on the Project Company during the construction and equipping of the project, provision of the products and services and ensure the fulfillment of quality levels determined by the law (Art.5).
- Right to amend the conditions of construction, equipment, rehabilitation, and other works, as well as the services availability

payment agreed upon under the PPP contract. The approval of the SCPPPA is necessary (Art.7)

- Right to manage the operation or utilization of the project if the Project Company breaches its obligations in operating the projects or in meeting the quality level set by law or in the PPP contract (Art.9)
- Right to object to the conclusion of the Project Company's shareholders' agreement and contracts intended to be entered into between the Project Company and third parties within a period not exceeding sixty days from the date of their submission (Art.12§2).
- Right to unilaterally terminate the PPP contract as outlined in the PPP contract (Art.34k))
- Right to enter in direct agreements with the project's financing institutions and the project company to regulate the method of payment of the financial obligations of the Administrative Authority to the Project Company and the financing institutions (Art.38)

Rights and Obligations of the private partner

(Law No.67, 2010)

- Obligation to fulfil all quality levels determined by the law (Art.5)
- Obligation to provide the monitoring committee formed by the Project Company and the Administrative Authority with all required documents, information, or data necessary for the committee to undertake its role and to allow the committee to visit and inspect the site at any time (Art.5§2)
- Obligation to guarantee that all beneficiaries of products or services provided by the project are treated equally (Art.6§1)
- Obligation to commit to preserve the asset related to the operation of the project and to maintain and care for, and use such assets for their intended purposes (Art.10)
- Obligation not to sell or arrange any right over the project's monies, assets, and facilities that are being constructed or rehabilitated save for the purpose of implementing the replacement and renewal program stipulated in the PPP contract and only after obtaining the approval of the Competent Authority (Art.11)
- Obligation to provide the Administrative Authority with its shareholders' agreements and draft contracts intended to be entered into by it with third parties (Art.12§1)
- Obligation to submit to the contracting Administrative Authority periodic reports on the construction, equipping, rehabilitation, maintenance, operation, and utilization of works (Art.13)
- Obligation to include in the article of incorporation of the Project Company a prohibition on the transfer of its shares prior to the date

of the completion of the construction, equipping, or rehabilitation works, and the transfer of shares owned by the majority of the equity holders of the Project Company after such date, unless a prior written approval is granted by the Competent Authority of the Administrative Authority (Art.36§2)

- Prohibition to dissolve the Project company or change its legal structure, or reduce its capital unless there is an approval from the Competent Authority of the contracting Administrative Authority (Art.36§1)
- Right to pledge the Project Company shares only for the purposes of financing and refinancing the PPP project (Art.36§3)
- Obligation to form a committee to ensure that the products or services rendered meet the required standard and submit periodic reports, if the PPP contract includes the entitlement of the Project Company to operate and utilize the project (Art.5§2)
- Right to amend the PPP contract in the case of the occurrence of unforeseen circumstances, in accordance with the conditions and rules stipulated in the PPP contract (Art.8)
- The PPP contract is subject to the Egyptian Law (Art.35§1)
- Subject to approval of the SCPPPA, disputes resulting from the PPP contract can be resolved through arbitration or any other non-judicial means of dispute resolution after the approval of the SCPPPA and according to what was stipulated in the PPP contract (Art.35§2).

Obligations of both public and private partners

(Law No.67, 2010)

Applicable Law

Dispute resolution

(Law No.67, 2010)

EXAMPLES OF PROJECTS STRUCTURED AS PPP

Power

West Bakr Wind Farm

Scatec Solar Portfolio

Integrated Solar-Thermal Power Plant of 150MW at Kuraymat

Ports

East Port Said Ro-Ro Terminal

Sokhna Port Bunkering Phase III

Terminal Damietta port (BOT)

Suez Canal Container Terminal (SCCT) in Port Said (BOT)

Water and Sewage

New Cairo Wastewater Treatment Plant