



# PUBLIC-PRIVATE PARTNERSHIP (PPP)

INDUSTRY AND LEGAL UPDATE

**KALIKOVA &  
ASSOCIATES**  
*law firm*

*Information for effective business solutions*

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## Industry Update

October 20, 2016

### State Agency for Investment and Export Promotion under Ministry of Economy

The Ministry of Economy of the Kyrgyz Republic established the State Agency for Investment and Export Promotion (SAIEP). SAIEP is formed on the basis of the Investment Promotion Agency of the Ministry of Economy of the Kyrgyz Republic, which was responsible for maintaining investor communication and assistance in promotion of investment projects in Kyrgyzstan.

The main objectives of SAIEP will be to participate in the development and implementation of measures to stimulate investment activity and export potential of the Kyrgyz Republic; to create the favorable environment for development of public-private partnership (PPP); to develop international and inter-regional foreign economic relations of the Kyrgyz Republic in promotion of investment, export and PPP; to promote diversification of the Kyrgyz economy by promoting investment, export, and PPP; to assist in the resolution of investment disputes arising from the investment activities in the Kyrgyz Republic.

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September 21, 2016

### Safe City: judicial casuistry masters

The Safe City is a project on creation of hardware and software complex of the automated video surveillance, photo and video recording system that would provide an opportunity to quickly identify and respond to emergency

## Legal Update

June 22, 2016

### Amendments to law on public-private partnership

On June 22, 2016, President Almazbek Atambayev signed the law on amendments to the law on public-private partnership in the Kyrgyz Republic.

The law was adopted by the Jogorku Kenesh on May 18, 2016.

The law amends the law on public-private partnership in the Kyrgyz Republic of February 22, 2012 №7 by introducing the following amendments/modifications:

- the Government of the Kyrgyz Republic was excluded from the list of the "public partners", i.e., now the Government is not eligible to act as a public partner in the PPP projects;
- the competence of the authorized state body in the field of PPP (the Ministry of Economy) was expanded to include the assessment and approval of the PPP projects initiated by the public partners, and assistance in promotion and support of the PPP projects;
- the competence of the state body on risk management (the Ministry of Finance of the Kyrgyz Republic) was expanded to include the approval of tender documentation and revisions thereto;
- the list of types of state financial support was expanded to include two new types of support provided to the private partner and/or the project company: (1) guaranteed minimum profitability of the Project in order to ensure its financial viability, (2) guarantee with regard to possible fluctuation of currency exchange rates and/or interest rates for loans borrowed to implement the PPP

situations and to take corrective measures. It was supposed to be implemented through a public-private partnership (PPP) arrangement.

The project also involved the creation of a single crime recording center under the Ministry of Internal Affairs, which would increase the speed of rapid response of law enforcement agencies to citizen complaints. In its turn, this would allow the prosecutor's office to improve control and supervision and to timely make relevant decisions.

According to media reports, as a result of the bidding process conducted by the tender commission consisting of 25 members, Stilsoft Bishkek LLC (Russia) was selected as the winning bidder. However, the results of the bidding were challenged in court by Shenzhen Topform Computer Technology Co. (China), which had taken the fourth place in the bidding.

At the summer press conference in Cholpon-Ata, President Almazbek Atambayev mentioned that there were attempts to conduct the bidding process in a corrupt manner and instructed the Secretary of the Council of Defense to investigate the matter thoroughly.

According to 24.kg news agency, later the claimant (Shenzhen Topform Computer Tehnology Co.) withdrew its claims and requested to terminate proceedings. However, the court rejected the claimant's request and cancelled the decision of the tender commission announcing Stilsoft consortium as the winning bidder.

[www.24.kg](http://www.24.kg)

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September 7, 2016

## **Bishkek negotiates supply of modern Russian equipment to local health organizations**

Talantbek Batyraliev, the Minister of Health of the Kyrgyz Republic (KR), and the representatives of Schwabe Holding (Russia) specializing in the production of neonatal, intensive care, gynecological and ophthalmologic equipment met to discuss opportunities of supply of modern Russian equipment to local health organizations, including through a PPP arrangement, in order to improve the quality of health services in Kyrgyzstan.

"One of the top priorities is to create the competitive environment for health care services which can be achieved by organizing an open and transparent market", the official noted.

He assured the Russian delegation that the Government represented by the Ministry of Health of the Kyrgyz Republic will provide overall support.

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project;

- the process of "search and initiation of a PPP project" includes the following: a) preparation of a preliminary assessment by the public partner of the prospective project (including justification of practicability of PPP arrangement to selected infrastructure facility, minimum requirements for the project, types and conditions of providing state financial and / or economic support and state guarantees, etc.); b) substantiation that the initiated PPP project is for the public interest;

- the PPP project preparation includes: (a) determination of the requirements for the PPP project and assessment of financial, social and economic consequences and possible risks in its implementation (e.g. preparation of a feasibility study of the PPP project); (b) preparation of tender rules, tender documentation and other documents; (c) formation of tender commission by the public partner; and other documents.

- the tender commission shall evaluate qualification of each bidder participating in pre-qualification within 15 calendar days instead of 30 days required previously;

- The public partner shall accept or reject the proposal of a private partner to initiate a PPP project within 30 calendar days instead of 60 days required previously.

Dispute resolution provisions were amended as follows:

- all disputes arising out of or in connection with the procedure of selection of private partner shall be settled in the manner set forth in the Law on Fundamentals of Administrative Activities and Administrative Procedures";
- all disputes arising out of or in connection with the execution, performance and termination of the PPP agreement shall be settled by negotiation in accordance with provisions of the PPP agreement. In case if the dispute cannot be settled by negotiation, it shall be settled in the institute determined by the parties in the PPP agreement. The parties to the PPP agreement may determine the courts or arbitral tribunals of the Kyrgyz Republic or international commercial arbitration institutions as the institute for dispute resolution;
- all disputes arising out of or in connection with the provision by the private partner or the project company of infrastructure services to consumers in the course of the PPP project implementation, shall be settled in the courts of the Kyrgyz Republic. The Law also stipulates that when executing the PPP agreement, the public partner may demand that the private partner or the project company shall establish easy and efficient mechanisms to resolve such disputes as a method of pretrial dispute resolution.

The law was published in the Erkin Too newspaper on June 28, 2016 № 57.

Toktom legal information system

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July 11, 2016

## Ministry of Health may involve private sector in provision of hemodialysis services

KR Ministry of Health (MoH) is planning to expand the delivery of dialysis services through a public-private partnership.

According to MoH, currently, the delivery of dialysis services fails to meet the highest standards of quality. In addition, there is a long waiting time for treatment that cannot but affect patients' health and their quality of life. In this regard, MoH is considering the possibility of involving the private sector in projects aimed at improving the quality of services and increasing access to treatment through the use of the PPP models.

"According to official data, there are 250 thousand adults with chronic kidney disease in Kyrgyzstan. In 2015 alone, 475 people died from kidney disease. To some extent, this is due to the use of the outdated and worn-out equipment. However, only 20% of patients needing life-saving medical treatment have access to such services through health care benefits. The use of the PPP project will ensure access to high-quality dialysis services that meet international standards," the Minister of Health Talantbek Batyraliev told.

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