



DICTIONARY

LANGUAGE OF THE PUBLIC-PRIVATE PARTNERSHIP

This model of business cooperation between public and private partner is supported by legislative procedures and processes within the Law on public-private partnership.

Public-private partnership is a long-term contractual relationship between a public and private partner, based on right-sharing, obligations and risks, in order to perform the works of public interest on public infrastructure and objects. PPP can be contractual or institutional.

Montenegrin Investment Agency (MIA)

Established for the purpose of executing the public-private partnership, investments and promoting investment potentials of Montenegro as an investment destination

Public-private partnership PPP

Public-private partnership is a long-term contractual relationship between a public and private partner, based on right-sharing, obligations and risks, in order to perform the works of public interest on public infrastructure and objects (public works), and/or provision of services of public interest (public services)

Public Contracting Authority

Public contracting authority shall be a state authority, state administration authority, competent local self-government authority and a company, i.e. legal person performing business activity of public interest. Public contracting authority may also be another body, public service, legal entity and other beneficiary of budget funds of Montenegro, that is, the budget of the local self-government unit and other public revenues, or other contracting authority in accordance with the law regulating public procurement or a special Law

Public partner can be

1) the Government of Montenegro;
2) competent local self-government authority, and/or
3) company and legal entities performing business activities of public interest, which are the companies or legal entities:

1) in which the state and/or local self-government unit owns more than 50% of shares, i.e. stake;
2) in which more than half members of management boards are the representatives of state capital who represent a state authority or a competent local self-government authority; or
3) in which the funds from the budget of Montenegro, from local self-government and other public revenues or funds from a company and/or legal entity performing business activity of public interest exceed 50%

Public Private Partnership Subject

Public-private partnership can be implemented in various areas (see Article 13 and Article 14 where can be seen on which areas the Law on PPP can not be implemented.)

PPP types

Public-private partnership can be contractual or institutional.

In contractual public private partnership, mutual relationship between a public partner and private partner is regulated by public private partnership contract.

Institutional public-private partnership is based on the establishment of a joint company of the private partner and public partner, which provides public services, performs public works with the maintenance of public objects which are the subject of the works, or carries out construction, reconstruction, management or maintenance of public infrastructure, for the purpose of implementing the public-private partnership project

PPP Contract

Can be implemented depend on sources of private partner incomes and risk sharing as:

- 1)concession for public works or concession for public services or
- 2)public-private partnership contract for public works or public-private partnership contract for public services

Mixed Contract

Shall include concessions the subjects of which are both works and services

Preparatory actions

For the purpose of approving a public-private partnership project and concluding the contract, the public contracting authority is obligated to undertake set of activities

Self-initiated Proposal

Preparatory actions may be undertaken by the public contracting authority upon an initiative of an interested party accompanied with a public-private partnership project proposal.

The public contracting authority may accept the public-private partnership project proposal upon the initiative of an interested party, which includes a cost-benefit analysis for the implementation of the public-private partnership project, with the proof of costs of making the analysis, if public-private partnership project proposal is not included in the annual plan.

Feasibility study

Preparing of the feasibility study should particularly include achievement of public interest by the PPP project, environmental impact, risk assessment and technical, financial and economic effects of the proposed PPP Project

Advisor Commissioning

Public contracting authority may commission an advisor to provide expert support in preparatory actions in public-private partnership contracting and in public-private partnership contract execution

Approval of PPP Projects

PPP Project is approved after the positive opinion gave by the Agency and Ministry

PPP project of lower value	Is a project whose estimated value is equal to or less than EUR 5,000,000 (without value added tax)
Public Call for Awarding PPP Contracts	Shall be published in the Official Gazette of Montenegro, at least in one daily printed media distributed within Montenegrin territory, on the website of the public contracting authority and on the website of the Agency and, based on the assessment of the contracting authority, in one international financial printed or electronic media
Commission	<p>Concurrently with the adoption of the decision on the procedure initiation the public contracting authority shall appoint a Tender Commission which is obligated to:</p> <ol style="list-style-type: none"> 1) prepare the call for competition and tender documentation in line with the proposed public-private partnership project referred to in the Article 34 of this Law; 2) carry out the procedure of tender opening, evaluate and verify adequacy of tenderers to take part in the call for competition, verify regularity of tenders in relation to the conditions set up in the call for competition and tender documentation, evaluate tenders and produce a ranking list of tenderers; 3) draw up minutes on public opening of tenders and minutes on examination, appraisal and evaluation of tenders; 4) perform other activities required for carrying out the public-private partnership contract award procedure.
Participant in the procedure	Shall be a domestic or foreign legal entity or natural person or consortium that took over the tender documentation in the procedure of awarding a public-private partnership contract, or which participates in a procedure of awarding a public-private partnership contract in another way, in accordance with the Law
Tenderer	Is a domestic or foreign legal entity or natural person or consortium that submitted a tender in the procedure of awarding a public-private partnership contract
Criteria	In public-private partnership contract award procedures, the criterion for selecting the best tender shall be the most economically advantageous tender
Private partner	Private partner is a tenderer whose tender has been selected in the contract award procedure and who the PPP contract has been signed with
Tender Guarantee	Public contracting authority shall determine the amount of the tender guarantee in absolute monetary amount that may not exceed 5% value of the public-private partnership project
Risk of exposure	The risk of exposure of the private partner to market conditions in such a way that the public partner does not guarantee to the private partner that, under normal conditions of work, indirectly or directly, he will achieve return of the invested funds or costs incurred during the performance of works or provision of services, which are the subject matter of concession

Risk of demand	Shall cover the volatility of demand on the market for works and services, which are the subjects of a public-private partnership contract (higher or lower than the one foreseen by the contract)
Risk of supply	Covers the risk related to the performance of works or provision of services, which are subjects of the contract, especially when the performance of these works, and/or provision of services do not correspond to demand
Risk of availability	Is the risk of keeping the public infrastructure or a public object in a functional condition pursuant to the agreed standards of the quality of services
Register of Approved Projects	Is unique electronic data base on PPP project proposals approved by the Agency and Ministry
Contract Register	Is unique electronic data base on PPP Contracts
Guarantee for contract performance	A private partner shall submit to the public contracting authority a bank guarantee or other instrument of security for contract performance in accordance with the tender documentation, and the public-private partnership contract
Consortium	<p>For the purpose of taking part in the public-private partnership contract award procedure and its execution, a consortium may be formed, unless otherwise specified in the public call for competition or in tender documentation.</p> <p>Consortium consists of two or more legal entities or natural persons who jointly submit one tender in the public-private partnership contract award procedure.</p>
Ineligible tenderers	<p>A public contracting authority shall exclude from the public-private partnership contract award procedure tenderers whose responsible officer has been sentenced under a final judgment for one of the following crimes:</p> <ol style="list-style-type: none"> 1 criminal association; 2 creation of a criminal organization; 3 active bribery; 4 passive bribery; 5 active bribery in commercial activities; 6 passive bribery in commercial activities; 7 fraud; 8 terrorism; 9 terrorism financing; 10 terrorist association; 11 participation in foreign armed formations; 12 money laundering; 13 trafficking in persons; 14 trafficking in minors for adoption; 15 submission to slavery and transportation of persons held in slavery. <p>View article 54</p>
Commission for Protection of Rights in Public Procurement Procedures	In the process of awarding a public-private partnership contract, the protection of rights in the proceedings is carried out by the Commission for Protection of Rights in Public Procurement Procedures in accordance with this Law and the law governing public procurement.