

Pursuant to Article 32 paragraph 4 of the Law on Public-Private Partnership (“Official Gazette of Montenegro”, number 073/19), the Council of the Montenegrin Investment Agency **passed** the

RULEBOOK ON THE METHODOLOGY FOR VALUE-FOR-MONEY ASSESSMENT

Article 1

This Rulebook regulates the methodology for value-for-money assessment for public-private partnership projects, given in Appendix 1 which is an integral part of this Rulebook.

Article 2

The discount rate shall be used to determine the present value of total costs in the reference contract period.

The Agency shall publish the discount rate on its website, which shall be used in the feasibility analysis, as well as in other documentation related to the public-private partnership project.

Article 3

This Rulebook shall be published in “Official Gazette of Montenegro”, and shall enter into force on 6 July 2020.

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Podgorica, 1 June 2020

PRESIDENT OF THE COUNCIL

Ljubo Knežević

METHODOLOGY FOR VALUE-FOR-MONEY ASSESSMENT

- 1) The value-for-money means the positive difference between the present value of whole life costs according to the public procurement model (traditional model) during the term of the contract expressed in the Public Sector Comparator and the present value of whole life costs in the case of implementation of the project according to the public-private partnership model for same term of the contract expressed through the Private Offer Model or “*shadow offer*”;
- 2) Value for money exists when by applying the PPP model in relation to the traditional model of project implementation, the contracting authority achieves savings at the level of whole life costs observed during the contract term;
- 3) Whole life costs means the total cost of public infrastructure including investment costs, financing costs, costs of maintaining and managing public infrastructure, and risk costs as well as revenues of the public partner from third parties (commercial revenues) if such a possibility exists;
- 4) Investment costs include costs associated with the delivery of new facilities and may include, but are not limited to, initial project preparation costs, including financial, legal, procurement, technical and project management services, design costs, costs of land or acquisition of new assets, costs of site preparation, facility construction and commissioning costs, including raw materials, equipment, installations, labour, management, training and other liabilities;
- 5) Financing costs means costs incurred in connection with the financing of all project investments;
- 6) Maintenance costs means costs during the entire project cycle of maintaining the property in the condition necessary to achieve certain results, and may include the cost of raw materials, tools and equipment, as well as labour costs associated with maintenance;
- 7) Management costs are related to the day-to-day operation of the facility and will include total staff costs (including salaries, employee benefits, accrued pension liabilities, insurance contributions, training and development, annual leave, travel and all expected redundancy costs), utility costs, raw materials and consumables, direct management costs, accounting, legal, collection costs and other similar costs, as well as insurance costs;
- 8) Risk costs are costs incurred from a risk event in the reference period of project implementation;
- 9) Public Sector Comparator implies the determination of the Basic Public Sector Comparator, which is adjusted to determine the present value of project risk costs in the traditional model of project implementation.
- 10) The Basic Public Sector Comparator implies the determination of the present value of all whole life costs of the project that the public partner would have during the contract term if the project was implemented according to the traditional public procurement model, without project risk costs.
- 11) Private offer model or “*Shadow offer*” means the determination of the present value of the whole life costs of the project during the term of the contract if the project would be implemented according to the public-private partnership model.
- 12) Present value means the value of future cash flows reduced on the date of discounting with the application of a given discount rate;

- 13) Discount rate is the rate at which all future cash flows are reduced to present value, and must be determined in the application of the value-for-money methodology.

The methodology for determining the value for money consists of the following steps:

- a) Determining the Basic Public Sector Comparator;
- b) Determining the present value of project risks;
- c) Determining the Public Sector Comparator;
- d) Determining the Private Offer Model;
- e) Determining the value for money.

- a.) **The Basic Public Sector Comparator** implies the determination of the total costs of the project if the project would be implemented according to the (traditional) public procurement model, less the value of revenues (commercial revenues) that the public partner can generate from third parties.

The determination of the Basic Public Sector Comparator, which involves determination that consists of the following steps:

- Defining the reference time period (defines the term of the contract);
- Defining the discount rate (defines the discount rate on the basis of which the present value is determined);
- Estimate of investment costs (estimate of all investment costs is done);
- Estimate of financing costs (estimate of financing costs for project realization is done);
- Estimate of maintenance costs (estimate of all maintenance costs during the contract term is done);
- Estimate of operating costs (estimate of all management costs for the reference time period is done);
- The determination of project costs referred to in the previous points must exclude those costs that cannot be treated in the same way in the traditional model and the private offer model (e.g. costs of taxes, fees, etc.);
- Estimate of revenues from third parties (may include estimate of revenues related to payments for the use of the public partner's property or payments for services provided by the public partner);
- The determination of the Basic Public Sector Comparator, which includes determining the present value of all project costs less the present value of the contracting authority's revenue from third parties for a particular reference period.

- b.) After determining the Basic Public Sector Comparator, the **present value of project risks is determined**, which consists of the following steps:

- **Identification and analysis of all project risks** (identification of all risks for the entire reference duration of the project, which may have an impact on the project);
The following risk categories, but not limited to them, may be taken into account during the project risk identification and analysis process and analyzing and determining public sector comparator:

- a) Risks associated with the project location: risks related to the availability and quality of the project location, such as the cost of project site procurement, required permits or ensuring the right of passage on roads, the impact of geological or other project site conditions and the cost of meeting environmental standards;
 - b) Risks of design, construction and commissioning: risks associated with situations where construction takes a long time or costs more than expected, or if the design or quality of construction means that the property is not suitable to meet the project requirements;
 - c) Management risks: risks associated with the success of the management of the facility, including the risk of interruption of service or availability of assets, or that the costs of management and maintenance of the facility are different than expected;
 - d) Demand risk and other commercial risks: risks associated with situations where the use of the facilities is different than expected or revenues are not collected as expected;
 - e) Economic or financial risks: risks associated with changes in interest rates, bankruptcy or inflation that adversely affect results;
 - f) Risk related to property ownership: risks associated with property ownership, including the risk that technology will become obsolete or that the value of assets at the end of the contract will differ from what is expected;
 - g) Political risks: risks associated with political decisions that may adversely affect the project;
 - h) Risk of changes in the legal framework: the risk that a change in the Law on Public-Private Partnership or regulations will negatively affect the project, such as changes in corporate income tax, or rules governing currency convertibility or repatriation of profits;
 - i) Force majeure risks: risks associated with external events beyond the control of the contracting parties, such as natural disasters, war or civil unrest, which affect the project.
- **Quantification of risk** (an assessment is made of the probability of realization of risk events, as well as costs that may be incurred for the public partner in the case of realization of risk events for the reference duration of the project);
 - **Determining the present value of project risks** (determining the present value of all costs from the occurrence of risk events that the public partner would have in the event that the project is implemented according to the traditional model);
- c.) After the previous two steps, the next step is to determine the **Public Sector Comparator**. The Public Sector Comparator shall be determined in such a way that the Basic Public Sector Comparator determined in a manner that is in accordance with this Rulebook is adjusted i.e. increased with the determination of the present value of risk costs in accordance with this Rulebook.
- d.) The next step is to determine the **Private Offer Model** or “shadow offer”. The Private Offer Model involves the determination of the total project costs if the project would be implemented according to the public-private partnership model, and consists of the following steps:
- 1) Determining the present value of total costs (excluding risk costs) for the case of project implementation according to the model of public-private partnership.

2) Determining the present value of the cost of retained risks of the contracting authority. In order to make the above determinations, after the identification and quantification of the risk, it is necessary to make an appropriate risk allocation. **Risk allocation between the public partner and the private partner** involves the activity of analyzing all project risks through retained risks, transferable risks and joint risks.

- a) retained risks are those risks that will be retained by the public partner,
- b) transferable risks are risks that are transferred to the private partner,
- c) joint risks are risks to be borne by both parties.

After determining which risks are borne by the public partner (retained risks and part of the joint risks), the cost of the retained risks is determined, i.e. the present value of these costs for a certain reference duration;

3) The Private Offer Model is determined in such a way that the determination of the present value of the total project costs for the public-private partnership model is adjusted, i.e. increased and the determination of the present value of the costs of retained risks of the public partner.

e.) The last step of the Methodology is to compare the present value of total project costs according to the traditional model expressed through the Public Sector Comparator and the present value of whole life costs according to the PPP model expressed through the Private Offer Model.

- Value for money exists, i.e. the value for money is obtained if the determination of the present value of the whole life costs of the PPP model expressed through the Private Offer Model is lower than the determination of the present value of total project costs according to the traditional model expressed through the Public Sector Comparator.

1) In the case of public-private partnership projects in which the public partner pays compensation to the private partner, it is necessary to determine the total cost of the project that the public partner will pay to the private partner.

2) The compensation for the traditional (budget) model includes all payments from the budget required to cover the total costs and other expenses of the project in the defined lifetime of the public facility and is calculated in relation to the determination of the total project costs from the Public Sector Comparator.

3) The compensation in case of public-private partnership model includes all payments of the public partner to the selected private partner required to cover the whole life costs and other expenses of the project, in the defined lifetime of the public facility and is determined from the private offer model.