



Special Secretariat for Public – Private Partnerships

**Guide for the implementation of
Public Private Partnerships in Greece**

Athens, 2006

Law 3389/2005 (Official Journal A 232/2005): Public - Private Partnerships in Greece

Law 3389/2005 establishes a new legal framework for the implementation of Public - Private Partnerships in Greece. This legal framework aims to promote the implementation of PPP projects, taking into consideration the experience gained from concession agreements that were successfully implemented in Greece, but also the important attempts over the last year to implement privately funded projects, many of which, however, were not successful because of the inadequate preparation of the contracting authority, the incomplete business justification or the unrealistic estimation of their feasibility. For the first time, Law 3389/2005 introduces a stable legal framework that overcomes the above mentioned obstacles.

Specifically the law defines the Public Entities (Central Administration, local government organizations, legal entities under public law) that can implement partnership contracts with Private Entities, in areas falling within the scope of their competence. The private sector undertakes a significant part of risk, related with financing, constructing and providing infrastructure or services. Their investment is repaid either by the Contracting Authority or by the end users. This means that these projects are funded, in total or partly by funds and resources of the private sector. Public-Private Partnerships are not allowed to engage in projects or activities that are the direct and exclusive province of the State, under the terms of the Constitution of the Hellenic Republic, such as national defense, police work, the award of justice, and the execution of judicially imposed penalties and sentences.

Law 3398/2005 provides incentives for both public and private entities to be engaged in partnerships for constructing infrastructure or delivering services, mainly through the simplification of relevant procedures. It defines the minimum content of a PPP contract, with clear description of the rights and obligations of both parties, regulating particular issues such as financing, the participation of public entities in partnerships, the payment mechanism, granting of permits, protection of the environment, treatment of archeological findings, expropriations and cases of projects undertaken by Public Utility companies. Moreover, legal issues related to these partnerships, such as the

transfer of claims, validity of sureties in rem, taxation and resolution of disputes are clearly defined.

Under Law 3389/2005, two new administrative bodies have been established, aiming at the support of Public Authorities, in order to improve the effective preparation and management of PPP projects.

- The Inter-Ministerial Committee for Public-Private Partnerships (IM PPP Committee) is a collective governmental body that defines and specializes PPP policy, approves PPP projects that fall under Law 3385/2005 for the provision of infrastructure and the delivery of services by private funds, and coordinates and monitors the implementation of PPP projects.
- The Special Secretariat for Public-Private Partnerships (PPP Unit) has been established within the Ministry of Economy and Finance. This Special Unit identifies projects that can be delivered via a PPP scheme, promotes their implementation and provides support and assistance to IM PPP Committee and to the Public Entities in the context of all necessary procedures for the finalization of a PPP project.

According to the new legal framework, parliament ratification of PPP contracts is no longer needed, while specific issues related with risk allocation, which were difficult to be dealt in the case of traditional procurement methods, that fall under Law 3389/2005 are efficiently manipulated. Finally, the procurement procedures are in line with the EC Directive 2004/18, aiming at the customization of relevant procedures and the improvement of the efficiency of public administration.

Conditions of Inclusion to the Provisions of Law 3389/2005

Partnerships may be subject to the provisions of Law 3389/2005, provided that all the following conditions are met:

- a. they aim at the construction of works or provision of services, which fall within the scope of the Public Entities pursuant to a provision of the law, or a contract, or their articles of incorporation,
- b. they provide that the Private Entities, against payment to be made as a lump sum or in installments by the Public Entities or by final users of the works or services, shall assume a substantial part of the risks associated with the financing, construction, availability of or demand for the partnership object, and related risks, such as, for example, management and technical risk,
- c. they provide that the financing, in whole or in part, of the construction of the works or provision of services, shall be accomplished with capital and resources secured by the Private Entities, and
- d. the total contractually budgeted cost for implementing the Partnership object does not exceed two hundred million Euros, not including the Value Added Tax payable.

By unanimous decision of the Inter-Ministerial Committee for Public-Private Partnerships, it is possible, in exceptional circumstances, for Partnerships to be subject to the provisions of this law, even though one or more of the above under (b), (c) or (d) conditions are not met.

Public-Private Partnerships shall not be allowed to engage in projects or activities that are the direct and exclusive province of the State, under the terms of the Constitution of the Hellenic Republic, such as national defense, police work, the award of justice, and the execution of judicially imposed penalties and sentences.

Minimum content of a partnership contract

1. Contract Framework – Applicable legislation

The Partnership Contracts and Ancillary Agreements contain the terms and conditions which were set by the Public Entity in the relevant Invitation to Tender during the preceding contract award procedure, and represent the sole contract framework binding the Public and Private Entities involved. The Partnerships included under Law 3389 are only subject to the terms of the Partnership Contract. The Greek Civil Code may also apply.

The Partnership Contracts and Ancillary Agreements shall contain clear and detailed descriptions of the rights and obligations of the Parties under the specific Partnership. Indicatively , the above contracts shall make special provision for the following:

- a. The object of the Partnership, including the specifications of the work or service to be provided, the sum to be paid to the Private Entity under the contract, and the provisions defining how any amounts paid by the final users for use of the work or provision of the service shall be shared by the contracting parties.
- b. The method of monitoring the performance and operation of the work or provision of the service either by independent companies recruited for this purpose by the Public and Private Entities acting in common, or by the competent State agencies.
- c. The methods of ensuring quality during implementation and operation of the work or provision of the service.
- d. The time-schedule for the performance of the object of the Partnership, the conditions under which it may be amended, the penalties and bonuses to be applied in the event of failure to comply with the time-schedule or early completion, the duration of the Partnership Contract, and the conditions under which its term may be extended or abridged.

- e. The formal concession to the Private Entity of the use or exploitation of the fixed assets necessary for implementation and operation of the work or provision of the service, and any payments which may be envisaged.
- f. The way of financing the implementation of the Partnership object.
- g. Any approval which may be required by the Public Entity for the financing contracts executed by the Private Entity, and the procedure for amending that approval.
- h. The allocation of risk between the parties and the consequences of events representing *force majeure*.
- i. The insurance policies for the Contract object, or for the Private Entity.
- j. Protection of the environment and of archeological remains.
- k. Protection of rights of intellectual and industrial property.
- l. The mode of operation, maintenance and exploitation of the Partnership object.
- m. The amounts to be paid for use of the work or service by the users; the manner in which these payments will be collected, and the grounds and methods for revision of such payments.
- n. The method of allocating between the Public and Private Entity the benefits that will accrue either from a re-structuring of the loans of the Private Entity, or after a specific percentage return on its own capital has been attained.
- o. The extent of the guarantees to be provided by the Private Entity for the proper implementation, operation and maintenance of the work, or for proper provision of the service.
- p. The eventual substitution of the Private Entity or the creditors by decision of the Contracting Authority, the circumstances under which such substitution may be permitted, and all related issues.

- q. The payment of compensation and in general the reparation of any loss or damage caused in the event that either of the contracting parties is in violation of its contractual obligations.
- r. The grounds for termination of each contract and the consequences thereof.
- s. The applicable law.
- t. The procedure for resolving disputes.
- u. The order of priority of any appendices or annexes to each contract.
- v. A detailed definition of the minimum operation and maintenance requirements contained in the tender documents.
- w. Determining the procedures for delivery of the project to the public sector upon the end of the exploitation period, the eventual obligations for training and transfer of know-how from the Private Entity to the Public Entity, the specifications applicable to the object on handover and the guarantees, as well as their duration, following the handover of the work or the service by the Public Entity.
- x. The requirements for the hygiene and safety of the employers and the users of the work or the service.
- y. The procedures for the resolution of disputes that may arise, by an experts panel nominated by a joint decision of the involved parties.

Applicable Law – Resolution of disputes

For the resolution of disputes arising out of the interpretation, application or validity of the Partnership Contract, Greek substantial Law shall be applicable.

According to Law 3389/2005, any dispute arising in relation to the application, interpretation or validity of the Partnership Contracts or Ancillary Agreements shall be resolved by arbitration.

In deviation from the provisions in force relating to public sector arbitration, the Partnership Contract or Ancillary Agreements set out rules for the nomination of arbitrators, the applicable rules of arbitration to be applied, the place of the Arbitral tribunal (or other body), the fees to be paid to the arbitrators (where fees are not specified in the applicable arbitration rules) and the language in which the arbitration shall be conducted. The arbitral award shall be final and irrevocable, and not subject to any further judicial or extra-judicial means; it shall be executed without any requirement of ratification by the regular courts, and the parties involved shall be committed to comply immediately with its terms and conditions.

Funding structure of PPP projects

In the traditional forms of public procurement, the public sector possesses and maintains its infrastructure, while it finances their construction via taxes or loans. The private sector is responsible for the project only during the construction period and upon the completion of works. The State also undertakes possible budget overruns that can result from problems and delays during the construction phase, while after a period of time there is no guarantee for the good operation and the quality of the project.

The nature and risk of financing are totally different in the case of PPP projects. The private sector is responsible for the initial financing of the project, its maintenance and the delivery of relevant services during the lifetime of the contract. Via PPP, the State procures services or works without the obligation to finance them immediately, since their initial financing is undertaken by the private sector. The invested private funds return to the private sector through periodic payments, whereas the State knows beforehand the precise payments that have to be made during the contractual period.

These payments cannot increase, if the private sector that has undertaken the project faces issues with risks undertaken by itself, since it is the private sector that assumes the construction risk, the financing risk, and the availability / demand risk. Payments on behalf of the State or the end-users can only be made once the project is operational, and are directly linked with the performance of the offered services, which the private sector must maintain up to certain quality standards, until the very last day of the contract. Low services result to lower payments.

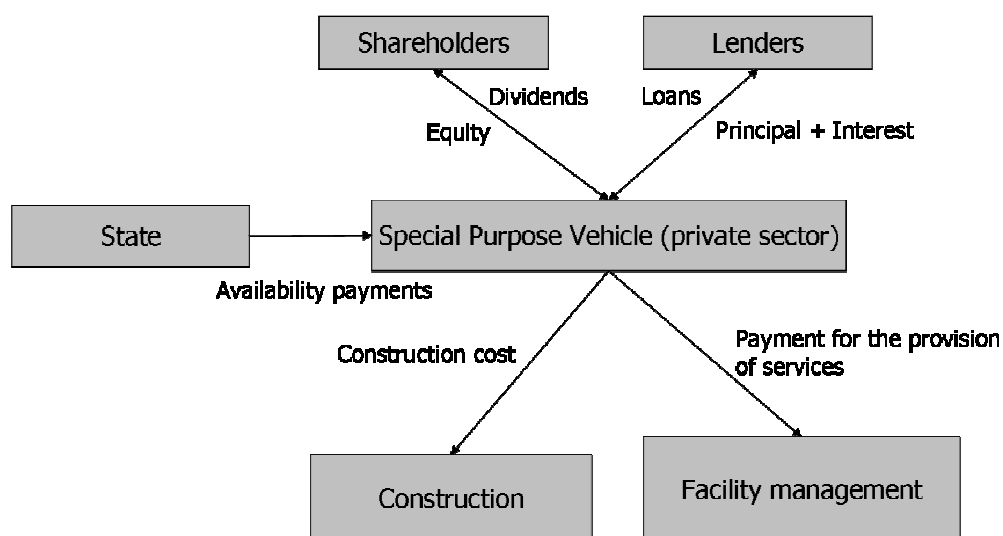
According to their financing scheme, PPP projects fall into the three following categories:

- Projects that are designed, built, financed and maintained / operated by the private sector and their cost is repaid directly by the public sector (e.g. hospitals, schools, and prisons).

- Projects, the cost of capital of which is shared between the State and the private sector, while the private sector has the total responsibility for the project.
- Financially free-standing projects, financed by the private sector, the investment of which is repaid via revenues from the end-users of the project.

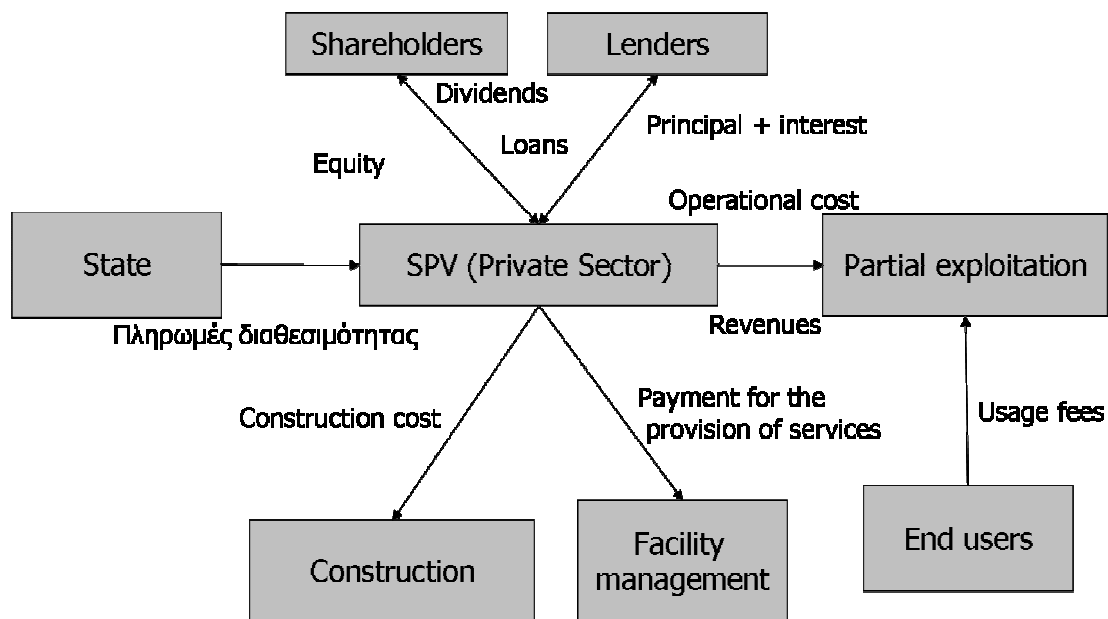
1) *Privately financed projects repaid by the State (PFI-Private Financed Initiative)*

In the context of such partnerships, the private entity sets up a Special Purpose Vehicle (SPV), which may be composed of specialised contractors, construction companies, operation and management companies, technical equipment suppliers and other institutions with proven previous experience in delivering services, as required by the output specifications of the project. Other entities that usually participate in the SPV are financial institutions (mainly banks that usually provide big long-term loans). Loans and equity of the SPV are used for the construction of infrastructure or the delivery of services related with the PPP project. No payments are made until the structures and the relative services are delivered for use to the contracting authority. During the operational period of the contract, the contracting authority makes annual payments (availability payments) based on a payment mechanism, which is linked to the quality specifications set. With these payments, the Special Purpose Vehicle repays its loans and ensures a legitimate profit.



2) *Privately financed projects requiring State revenue support*

In the context of such partnerships, commercial or other uses stemming from the exploitation of infrastructure or services may arise (e.g. exploitation of commercial spaces in a building, in which availability is accommodated public). In the case of these projects, the State supplements with annual entity payments the income of the SPV from the exploitation of such uses. Basically, it is the same payment mechanism, as in the first case, which, because of the additional income from commercial exploitation, renders the payments that are finally paid by the State smaller.

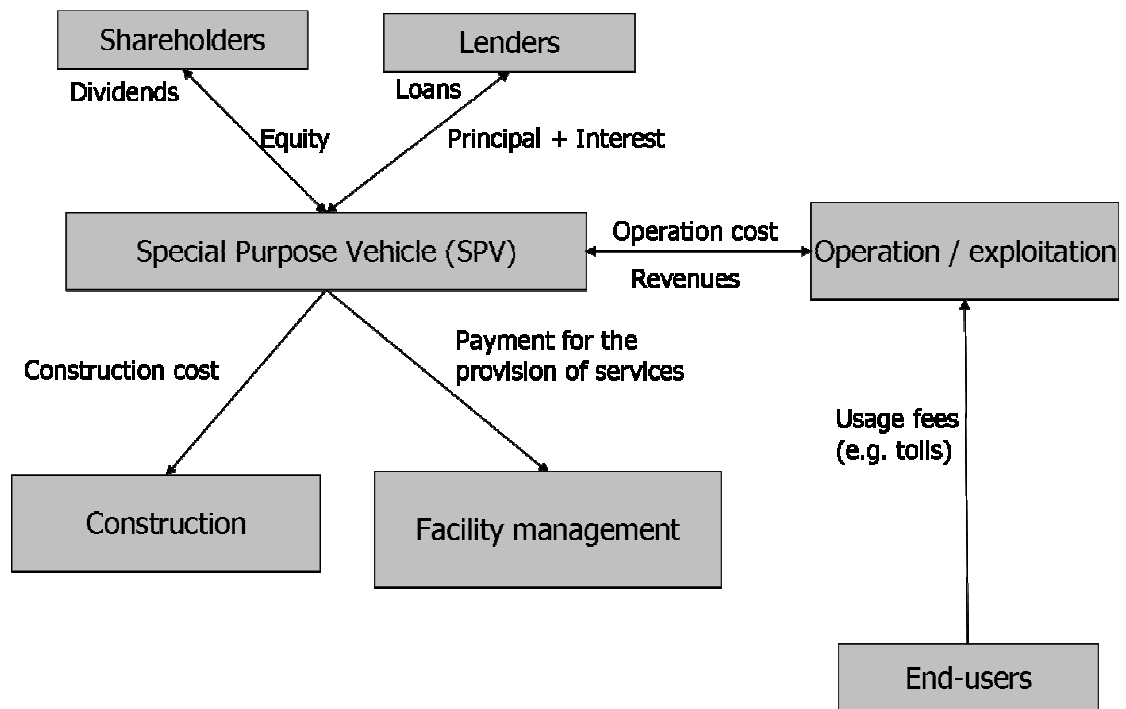


3) *Privately financed projects repaid by the end-users*

The difference of retributive projects from the two previous forms discussed above is that in this case, the Private Entity, apart from the design, construction and financing of work or service, will also undertake the operation or exploitation of the underlying infrastructure.

Via the operation or exploitation of infrastructure and the fees imposed to the final users, the SPV does not receive any payment from the State. These projects, because of the higher risk undertaken by the Private Sector, need special preparation and regulation of a series of issues that are related with their bankability. Based on the experience of concession agreements that were ratified by the Greek Parliament in the

past for such projects, Law 3389/2005 introduces a series of special regulations that facilitate the bankability of such projects.



How can a Public Entity submit a project proposal to the PPP Unit?

The Public Entity (Contracting Authority) wishing to implement a PPP project may submit a proposal to the PPP Unit, which then evaluates the feasibility of the specific project under a PPP scheme. This proposal should include the following:

- (a) Presentation of the Public Entity
- (b) Detailed description of the project / service that will be provided as a PPP
- (c) Technical characteristics of the proposed partnership and timetables
- (d) Presentation of the proposed PPP scheme, which may include the following:
 - Design
 - Built
 - Financing
 - Maintenance
 - Operation
 - Exploitation
- (e) Indicative budget of the proposed PPP project and analysis of the budget according to the proposed PPP form
- (f) Socio – economic criteria, which justify the necessity of the proposed PPP.
- (g) Repayment of the SPV
 - PPP projects repaid by the end-users.
 - Exploitation plan
 - Demand data

- Competition
 - Forecasted revenues and expenses
 - Forecasted Profit and Loss account of the SPV
 - Basic and alternative scenaria
 - Indicative terms of financing of the SPV
 - Potential contribution of the State, in order to ensure the bankability of the PPP project
- PPP projects repaid by the State
- Justification of the need to cover the cost of the project by the State
 - Historic data of the budget of the contracting Authority and forecasted budgetary needs, stemming from the implementation of the project
- (h) Legal issues, related with the proposed PPP project
- (i) Timetable of the actions that need to be taken by the contracting Authority

The PPP Unit collects all needed information, examines the proposal of the Public Entity and evaluates its implementation as a PPP project, so as to include it in the provisions of Law 3389/2005. In case that this proposal meets the evaluation criteria, then the PPP Unit includes the project in the ‘List of Proposed Partnerships’ and drafts a brief report to the IM PPP Committee. The PPP Unit notifies the Public Entity about this decision. This Public Entity must submit an ‘Application for Inclusion’ to the IM PPP Committee, within two months after this notification.

Which are the criteria examined by the PPP Unit for the evaluation of a proposed project?

The evaluation criteria that the PPP Unit takes into consideration, when evaluating a proposal submitted by a Public Entity are the following:

- The competence of the Public Entity to implement the project
- The maturity of the proposed PPP project
- Financial criteria, namely the feasibility, bankability and value for money of the project vs a public sector comparator
- Socio economic criteria, such as the necessity of the project, the consent of the public opinion, boost to entrepreneurship, etc
- Technical criteria, such as improved quality of services to the end-users, etc.

The PPP Unit collects all necessary information so as to judge which projects can be implemented as PPPs, and evaluates financial and technical parameters, as well as related legal issues.

The PPP Unit then drafts a non – binding list of projects and services (‘List of Proposed Partnerships’) that may be implemented as PPPs under the provisions of Law 3389/2005.

The PPP Unit notifies the Public Entity of its decision. The Public Entity must then submit an ‘Application for Inclusion’ to the IM PPP Committee within two months after this notification. This deadline is given to the Public Entities, so as to let them judge whether they wish to proceed with the project, in case their proposal has been amended by the PPP Unit.

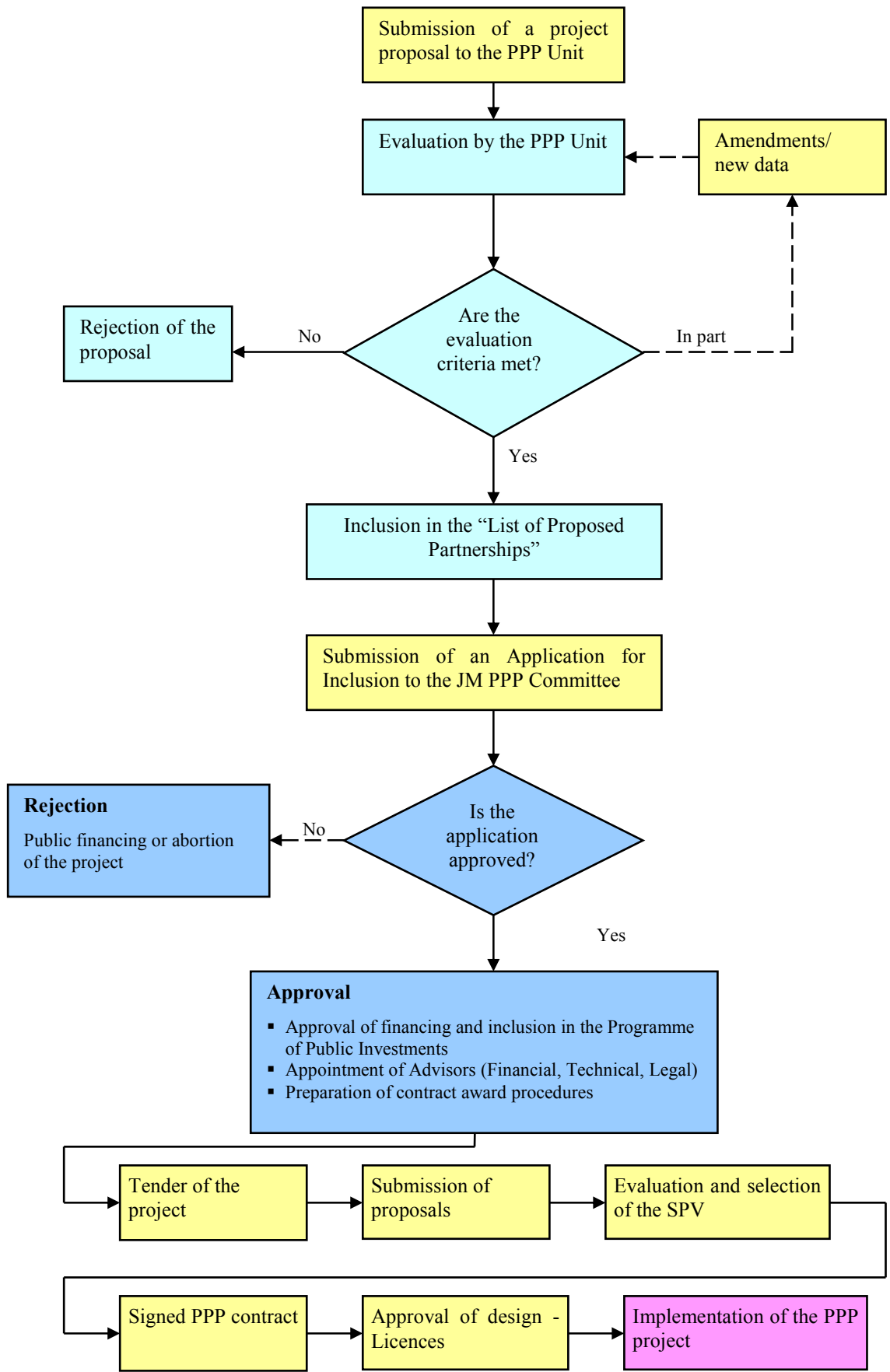
Which is the procedure followed in view of the inclusion of a project under the provisions of the PPP Law?

For each project or service, which is included in the ‘List of Proposed Partnerships’, the PPP Unit drafts a brief report to be presented to the IM PPP Committee, presenting the following:

- a) the financial, technical, socio-economic and legal reasons for which it considers that the construction of the specific works or provision of the specific services ought to proceed by means of a PPP,
- b) the criteria taken into account to select the specific works or services that have been included in the List of Proposed Partnerships,
- c) the actions which may have been taken by the Public Entity involved to meet the needs of preparing the award of the relevant contracts, such as – for example – the recruitment of financial, technical and legal advisors, the elaboration of preliminary designs and/or studies and the preparation of draft contracts,
- d) the form of the proposed Contract Award Procedure, as defined in article 8 of Law 3389/2005, which is deemed most appropriate for the particular case, as well as the Public Entity acting as Contracting Authority,
- e) an indicative time schedule of the Contract Award Procedure
- f) a report of the indicative budget of the works or services to be undertaken by the partnership under the contract and, where appropriate, the ancillary agreements.

If the involved Public Entity decides to submit an ‘Application for Inclusion’ within no more than two months after the date of notification the Minister of Economy and Finance, acting as the President of the IM PPP Committee, sets this application as an item of the agenda of the next meeting of the IM PPP Committee and invites all regular members and the Minister that supervises the involved Public Entity.

In this meeting, the report drafted by the PPP Unit is presented to the IM PPP Committee, and all necessary and additional information and clarifications are provided, so as to help Ministers to reach a decision. After that, the IM PPP Committee announces its decision, to either approve or reject the application. If the IM PPP Committee decides to approve a partnership, the PPP Unit shall coordinate and monitor all contract award procedures, as defined in Law 3389/2005, so as to select the SPV that will participate to the partnership.



Which are the general principles applied during the selection of the SPV ?

Beyond specific regulations related with the award of PPP contracts, it must be noted that Law 3389/2005 is in line with the general principles applied under both national and Community law.

- a. The principle of *Equal treatment* requires the avoidance of any discrimination on the basis of nationality or any other criterion that can't be objectively justified. The application of this principle entails not only defining non-discriminatory terms of access to an economic activity, but also the adoption and application by the public authorities of all measures necessary to ensure the exercise of this activity.
- b. The principle of *Transparency* means that the contracting Authority ought to publicise its intention to conclude a Work Contract, Service Contract or Mixed Contract, in order to ensure conditions of fair competition without distortion.
- c. The principle of *Proportionality* means that any measure adopted by the Contracting Authority should be necessary and suitable for attaining the respective objective, and cause the fewest possible problems in the exercise of an economic activity. In the specific context of the Contract Award Procedures, there ought to be no requirements for technical, professional or financial capabilities that are disproportionate or excessive in respect of the object of the Work Contract, Service Contract or Mixed Contract in question.
- d. The principle of *mutual recognition* means that the Contracting Authority ought to accept the technical specifications, controls, qualifications and certifications required in another member state of the European Union, insofar as these are recognized as equivalent to those required in Greece.
- e. The principle of *protection of the public interest* means that all decision-making concerning the award of a Work, Service or Mixed Contract ought to take into account the following factors:

- the respective funding needs, and the need to minimize as far as possible the financial burden or contribution of the Contracting Authority,
 - the needs of the users for improved services, and
 - the need to employ specialised know-how
- f. The principle of *protection of the rights of private individuals* means that all decisions – positive, negative or decisions to reject proposals – must be properly reasoned and may give rise to judicial protection for Private Entities and private individuals in general. The concept of judicial protection also includes the notion of provisional judicial protection.
- g. The principle of *free competition* means that:
- there should be the greatest possible involvement of candidates capable of constructing the works or providing the services desired by the Contracting Authority,
 - the competition should be conducted on equal terms and using objective criteria, and
 - the creation of monopolistic or quasi-monopolistic situations or distortions should be avoided.
- h. The principle of *protection of the environment and sustainable development* requires that the planning and implementation of the Work, Service or Mixed Contracts ought to take into account that the natural and man-made environments are assets that must be protected *per se*, in order to maintain the environmental balance, and to preserve natural resources for the sake of coming generations.

The adherence to all above mentioned principles aims at ensuring conditions of true competition for all involved private entities.

Which are the contract award procedures?

Article 11 of Law 3389/2005 defines the following procedures for contract award:

Open procedure

In the case of open procedure, any Private Entity may submit a tender (including supporting documentation on their financial adequacy, their professional qualification and their technical and financial offer) provided that it may be qualified and able pursuant to the requirements of the Invitation to tender.

Restricted procedure

In the case of restricted procedure, any Private Entity may request to participate, provided that it is qualified as able. In the second stage, only these Private Entities meeting the qualification criteria are invited by the Contracting Authority to submit a tender.

Competitive dialogue

The competitive dialogue is a new procedure introduced by the EU Directive 18/2004.

In the case of particularly complex contracts, where the Contracting Authority considers that the use of the Open or Restricted Procedure will not permit the awarding of a particular contract, it can have recourse to the Competitive Dialogue Procedure.

The contracting Authority will publish an Invitation to Tender setting out its needs and requirements. The Contracting Authority will open with the candidates selected a dialogue, the aim of which is to identify and define the means best suited to satisfy the Authority's needs. During this dialogue, the Contracting Authority will ensure equality of treatment among all candidates making sure, *inter alia*, that all candidates are provided with exactly the same information. The solutions, proposals and in general all confidential information entrusted to the Contracting Authority by a candidate are confidential and must not be communicated to other candidates without the consent of the candidate providing the information.

The Competitive Dialogue Procedure may take place in successive phases, in order to reduce the number of solutions being examined during the dialogue phase by applying the contract award criteria indicated in the Invitation to Tender.

After selecting the solution or solutions which best meet its needs, the Contracting Authority will declare the dialogue concluded and inform accordingly the candidates, inviting them to submit their final tender on the basis of the solution(s) selected during the dialogue. The Contracting Authority will evaluate the tenders on the basis of the contract award criteria laid down in the Invitation to Tender, and choose the most economically advantageous Tender. If the Contracting Authority deems that the cost of participation in the Competitive Dialogue Procedure is high, it may award prizes or pay part of the respective expenses incurred by the Tenders.

Negotiated procedure

The Contracting Authority may use the Negotiated Procedures in the following cases:

- a. After an Open or Restricted Procedure, or Competitive Dialogue, provided that:
 - aa. The Tenders submitted were unacceptable under the provisions of Law 3389/2005 or did not meet the terms and conditions of this law.
 - bb. The terms of the proposed contract are not substantially altered from the terms proposed during the Open or Restricted Procedure, or the Competitive Dialogue.
- b. In exceptional cases involving works or services whose nature or various non-definable factors do not allow prior overall pricing.
- c. In the case of Service Contracts and particularly intellectual services contracts, insofar as the nature of the services is such that the specifications of the contract cannot be determined with sufficient precision and for this reason the contract cannot be awarded on the basis of the selection of the best tender according to the rules governing the Open or Restricted Procedures.

d. In the case of Work Contracts for works performed exclusively for purposes of research, testing or development, and not with the aim of ensuring profitability or recovering research and development costs.

What are the criteria for contract award?

Contracts will be awarded by the Public Entity acting as Contracting Authority either on the criterion of the tender being the most economically advantageous or on the criterion of lowest price.

When the contract is to be awarded to the most economically advantageous tender, the Contracting Authority will examine and take into account not only the economic parameters but also various other parameters of the contract object, such as quality, price, technical merit, aesthetic and functional characteristics, environmental characteristics, running cost, cost-effectiveness, after sales service and technical assistance, delivery date and delivery period or period of completion and so on.

These criteria must be clearly specified by the Contracting Authority, along with the relative weighting assigned to each of these.

How can possible delays be avoided in the context of PPP projects?

Law 3389/2005 makes special provisions in order to avoid delays caused by issues arising as PPPs are implemented. These provisions are similar to those implemented in the ratified concession agreements (Attiki Odos, El. Venizelos Airport, Rio – Antirio Bridge, Attiko Metro).

- Granting of permits

All permits required for the design, construction, financing, operation, exploitation and maintenance of the works or provision of services under the Contract shall be issued in the name of and for the account of the Special Purpose Company. These permits shall be deemed to have been issued, if the authorities responsible for issuing them have not proceeded to issue a written, reasoned refusal to issue the permits within a period of sixty days after the Special Purpose Company has submitted the application for the permit. An application for a permit shall be deemed to have been legally submitted only if (a) it is accompanied by the supporting documentation required by law for the issuing of the permit in question (b) it has been pre-approved for the fulfillment of the needed documents in case such pre-approval is provided for by law

- Archaeological finds

In the event that archaeological remains are uncovered during construction, the Public Entity shall, upon being notified by the Special Purpose Company, communicate the event to the appropriate Archaeological Authority, which within sixty days must indicate ways for continuing the project works and proceed to the necessary actions in order to secure the protection of the antiquities. If the above deadline is not met by the Archaeological Service, the Special Purpose Company may request, and the Public Entity is obligated to grant, an extension of the contract deadlines equal to the delay caused by the non-compliance of the competent Archaeological Service or the execution of the possibly needed actions for the preservation of the Archaeological finds. In this case, the Special Purpose Company has the right to seek redress for any loss it may sustain as a result of such delay.

- Protection of the environment

The environmental impact studies required in each project shall be prepared and submitted for approval, and need to be approved before the award of the Partnership Contract. If the Public Entity involved, for reasons that could not originally have been predicted even if special care was applied, imposes additional regulations, it must indemnify the Special Purpose Company for any additional cost or expense it may have sustained.

The Partnership Contract may include measures for increased protection of the natural and cultural environment, as long as these measures have been included in the respective Invitation to Tender.

- Expropriations

The expropriations required for the construction of works or the provision of services under this law, or the constitution of rights *in rem* or liens to those properties, where permitted, serve purposes of obvious public interest and shall be regarded as urgent and of major significance, provided that the official approval of the compulsory purchase includes adequate evidence that the particular expropriation serves objectives of public interest. The expropriation of such properties or the constitution of rights *in rem* or liens to those properties, shall be effected to the benefit of the Public Entity involved in each case. The expropriation shall be declared by joint decision of the Minister of Economy and Finance, and the Minister in the field of competence relevant to the project. If the scheduled deadline for completion of the expropriation or for constitution of rights *in rem* or liens to those properties passes and the relevant procedures are still pending, then the Special Purpose Company shall be entitled to request, and the Public Entity shall be obligated to grant, an extension of the Contract time-schedule and deadlines equivalent to the effective delay. In these cases, the Special Purpose Company shall be entitled to seek redress for any loss it may have sustained as a result of the said delay.

If the compulsory expropriation or the constitution of right *in rem* or liens to the above properties is made at the expenses of the Special Purpose Company, these expenses shall be construed as payment for the use of these properties or the rights thereon.

- Public agencies and projects undertaken by and / or behalf of Public Utility companies

Public Agencies, Public Enterprises and Public Utility companies are entitled to proceed immediately in order of priority to carry out work and implement measures within their area of responsibility, which are necessary or useful for the smooth and unhindered execution of works or provision of services under this law. If the public agencies, enterprises and utility companies do not fulfil their obligations as set out above, the Special Purpose Company may request and the Public Entity shall be obligated to grant an extension of the deadlines laid down in the Contract equal to the delay caused by this failure to fulfil obligations. In these cases, the Special Purpose Company shall be entitled to seek redress for any loss it may have sustained as a result of the said delay.