

Federal Law No. (12) of 2023
on Regulating the Federal Public-Private Partnerships (PPP)

We, Mohammed bin Zayed Al Nahyan, President of the United Arab Emirates;

- Upon reviewing the Constitution;
 - Federal Law No. (1) of 1972 Concerning the Jurisdictions of Ministries and Powers of Ministers, as amended;
 - Federal Law No. (5) of 1985 Promulgating the Civil Transactions Law, as amended;
 - Federal Law by Decree No. (15) of 2018 Concerning the Collection of Public Revenues and Funds;
 - Federal Decree by Law No. (16) of 2018 concerning the Federal Government Union Owned Properties;
 - Federal Decree-Law No. (26) of 2019 Concerning Public Finance, as amended;
 - Federal Law by Decree No. (32) of 2021 Concerning Commercial Companies;
- Upon the proposal of the Minister of Finance as approved by the Cabinet and the Federal National Council; and as ratified by the Federal Supreme Council;

Have issued the following Law:

Article (1)

Definitions

In applying the provisions of this Law, the following words and expressions shall have the meanings ascribed thereto, unless the context requires otherwise:

State	∴ The United Arab Emirates.
Government	∴ The Federal Government of the State.
Ministry	∴ Ministry of Finance.
Minister	∴ Minister of Finance.

Federal Public Sector	: Any ministry established in accordance with Federal Law No. (1) of 1972 Concerning the functions of ministries and the powers of ministers, and its amendments, any federal authority, institution or regulatory bodies, as well as any other bodies affiliated with the federal government.
Concerned Federal Agency	: The federal agency responsible for proposing the project.
General Budget Committee	: The committee formed by the Cabinet.
Private Sector	: Companies and commercial institutions (this shall not include companies and commercial institutions wholly owned by the government).
Potential Partnership Project	: Any project that is proven - after evaluating its feasibility - to meet the criteria for partnership projects specified in the Partnership Projects Guide.
Partnership Project	: A contractual relationship between a federal agency (or several federal agencies) and one or more partners from the private sector established in accordance with the provisions hereof, which aims to provide a public service or operate a public facility.
Partner	: Any legal person or coalition of legal persons, from the private sector, that is a party to the partnership contract.
Project Company	: Any company or institution established by the partner to implement the project.
Project Agreement	: A contract concluded by the concerned federal agency with the partner with the aim of regulating the relationship between the parties regarding the partnership project.

Project Team	: The team responsible for developing the project idea and presenting it.
Grievance Committee	: A grievance committee formed by the Minister in accordance with the provisions of Clause (2) of Article (20) hereof.
Partnership Projects Guide	: A guide issued in accordance with the provisions hereof and contains the rules, provisions and procedures related to partnership projects.

Article (2)

Law Objectives

This Law aims to achieve the following:

1. Organising partnership projects between the federal public sector and the private sector in the State.
2. Encouraging the private sector to participate in development and strategic projects, and increase investment in projects of economic, social and service value.
3. Enabling the government to efficiently and effectively implement the strategic projects thereof
4. Benefiting from the financial, administrative, organisational, technical and technological capabilities and expertise available in the private sector, to enable the community to obtain the best services in a way that achieves the best value for the cost.
5. Increasing productivity and improving the quality of public services, while ensuring effective management for the development of those services.
6. Transferring knowledge and experience from the private sector to the federal agencies, and training and qualifying employees of federal agencies in the State to manage and operate projects.
7. Implementing projects that provide added value to public money.
8. Reducing the burden of financial and operational risks on the government that may result from implementing projects.
9. Shifting in the management of some infrastructure projects and public services from implementation, operation, and direct management to other forms of implementation in accordance with approved policies and controls to achieve quality.

10. Stimulating the competitiveness of projects in local, regional and global markets.

Article (3)

Scope of Application

The provisions of this law shall apply to any partnership project funded in whole or part by the private sector and proposed by a federal agency.

Article (4)

Exclusions

The provisions of this law shall not apply to:

1. Partnership contracts concluded before the entry into force of this law in a manner that shall not conflict with the provisions of Article (32) hereof;
2. Outsourcing the services specified in the Partnership Projects Guide;
3. Projects whose value is less than the financial limit stipulated in the Partnership Projects Guide;
4. Projects to privatise public assets and services;
5. Supply and procurement contracts related to national security identified in the Partnership Projects Guide; and
6. Federal agencies, sectors and projects that are excluded pursuant to the Cabinet resolution.

Article (5)

Competences of the Ministry

For the purposes of implementing this law, the Ministry shall have the following duties:

1. Proposing a guide for partnership projects and submitting Cabinet for approval;
2. Preparing and issuing a guide to the management and implementation of the partnership project, including the provisions regulating the management and supervision of partnership projects during the implementation phase;
3. Preparing, issuing and amending evidence and all forms and documents related to

- partnership projects, subject to Clause (1) of this Article;
4. Proposing to update the legislation regulating partnership projects between federal agencies and the private sector in accordance with international best practices;
 5. Working to provide the appropriate environment to attract the private sector to participate in partnership projects and overcome difficulties that may hinder the success of partnership projects;
 6. Providing assistance and support to federal agencies in the process of offering partnership projects pursuant to the stipulations hereof, if necessary, and encouraging federal agencies to use the partnership projects method;
 7. Studying and evaluating the offers and feasibility studies submitted by the federal agencies and the private sector and determine the feasibility of presenting them as a partnership project, after coordination with the relevant authorities if the need arises;
 8. Guiding federal agencies regarding the mechanism for preparing feasibility studies and other studies related to evaluating partnership projects;
 9. Providing advice to the federal agencies regarding the proposal and implementation of partnership projects, if necessary, according to the Ministry discretion;
 10. Creating a data record for partnership projects; and
 11. Measuring the success of partnership projects on a regular basis and submitting periodic reports thereon to the General Budget Committee.

Article (6)

Concerned Federal Agency Competences

For the purposes of implementing this law, the concerned federal agency shall have jurisdiction over the following:

1. Proposing partnership projects and preparing all the necessary studies to evaluate the partnership project and determine the financial, economic, technical and social feasibility of the project and the risks and implications thereof in accordance with the requirements of the Partnership Projects Guide;
2. Preparing the initial budget for the partnership project in cooperation with the project

- team in accordance with the guides and models related to preparing budgets issued by the Ministry and the Partnership Projects Guide;
3. Determining all the technical specifications and requirements related to the partnership project;
 4. Coordinating with the Ministry to formulate the structure of the partnership project, including determining the partnership methods appropriate to the nature of the project, the nature of the contribution of the two partnership parties to the project, and the distribution of shares and financial returns resulting from it;
 5. Proposing fees for services related to the partnership project;
 6. Supporting the project team in preparing the bidding documents and the terms and specifications booklet for the partnership project;
 7. Implementing its obligations stipulated in the project agreement and exercising the rights contained therein;
 8. Coordinating with other government and federal agencies concerned with the project to ensure that the partnership project outputs are aligned with their plans;
 9. Supervising the private sector proper implementation of partnership projects in accordance with the provisions of Article (25) of this law, without prejudice to the powers of other regulatory bodies;
 10. Working on overcoming the difficulties that prevent partnership projects from achieving their desired goals in coordination with the competent authorities in the State; and
 11. Preparing periodic quarterly reports for each of the partnership projects proposed thereby and submitting the same to the Ministry.

Article (7)

Project Team Formation

1. For each potential partnership project, a project team shall be formed, and the Partnership Projects Guide shall specify the mechanism for forming the team.
2. The project team shall undertake the following:
 - A. Coordinating and managing the bidding procedures for the partnership project and partner selection;
 - B. Preparing the initial budget for the project in coordination with the concerned federal agency;
 - C. Preparing the bidding documents, the terms and conditions booklet, the partnership project specifications, and the project agreement;
 - D. Evaluating and opening bids in accordance with the evaluation procedures and criteria specified in the bidding documents and the Partnership Projects Guide;
 - E. Ensuring the application of the principles of transparency, fair competition, and equal opportunities in accordance with the provisions of this law and the Partnership Projects Guide; and
 - F. Any other powers stipulated herein or in the Partnership Projects Guide.

Article (8)

Project Selection

1. The concerned federal agency, ministry, or private sector may propose a partnership project.
2. The Ministry shall decide, in agreement with the concerned federal agency whether the project proposed to be presented as a partnership project deserves to be selected as a potential partnership project, in accordance with the criteria specified by the Partnership Projects Guide.
3. When selecting a project as a potential partnership project, it shall be evaluated in accordance with the procedures stipulated in the Partnership Projects Guide.
4. The Partnership Projects Guide shall specify the standards and studies required in the project selection and approval stages.

Article (9)

Project Proposal by the Federal Agency

When intending to conclude a partnership project, the federal agency shall abide by the following:

1. Ensuring that the project meets the criteria for partnership projects specified by this law and the Partnership Projects Guide, and studying the suitability of presenting any of its projects as a partnership project;
2. Proposing the project in an alternative manner if there are strategic reasons or reasons related to the public interest;
3. Providing evidence that it has considered the option of partnership projects in relation to its projects whenever requested by the Ministry; and
4. Preparing a project presentation when it wishes to hold a partnership project, including justifications for selecting the project, and submitting it to the Ministry in accordance with the procedures specified in the Partnership Projects Guide.

Article (10)

Project Proposal by the Private Sector

1. The private sector may submit an initiative to any federal agency or the Ministry to propose a project as a partnership project. The federal agency shall, whenever the initiative is directly presented thereto, submit it to the Ministry in accordance with the procedures contained herein and the Partnership Projects Guide.
2. The Partnership Projects Guide shall specify the provisions that regulate partnership project initiatives submitted by the private sector, including the following provisions:
 - A. The mechanism for submitting initiatives and the method of evaluating, accepting and presenting them;
 - B. Guarantees to protect confidential information, intellectual property rights, business secrets, and any special exclusive rights associated with the initiative; and
 - C. Incentives and benefits provided to the initiative owner.

Article (11)

Project Adoption

1. The federal agency or the private sector shall submit the project to the Ministry for approval as a potential partnership project, including the details specified in the Partnership Projects Guide.
2. The Ministry shall study the project and evaluate it in accordance with the requirements hereof and the Partnership Projects Guide.
3. If the project meets the requirements of partnership projects and there is no financial approval for the project, the Ministry shall submit the proposal for the initial approval of the project by the General Budget Committee and after its approval, it shall be submitted to the Cabinet for final adoption.
4. The Ministry may submit the project directly to the Cabinet in case of the absence of a financial approval for the project.
5. In case of project adoption by the Cabinet, the Ministry shall notify the concerned federal agency of the project approval.
6. The Partnership Projects Guide shall specify the approvals required at each stage of developing and launching the partnership project.

Article (12)

Budget Approval

1. The project team, in cooperation with the concerned federal agency, shall develop the initial budget for the partnership project in accordance with the budget preparation provisions issued by the Ministry.
2. No partnership project that entails expenses may be proposed to any federal agency unless the cost of the project for the implementation duration thereof is fully approved by the government.

Article (13)

Government Financial Guarantees

1. Subject to the legislation in force in the State, the concerned federal agency may - based on the needs of the project - propose to the Ministry to issue a government guarantee to secure the financial obligations of the federal agency stipulated in the terms of the project agreement.
2. The Partnership Projects Guide shall specify the conditions and procedures for requesting a government financial guarantee, and the mechanisms for deciding thereon.

Article (14)

Types of Partnership Projects

Partnership projects implemented in accordance with this law shall fall within one of the following types:

1. Building, operating and transferring;
2. Building, owning, operating and transferring;
3. Building, owning and operating;
4. Financial benefit from the assets;
5. Building, owning, renting and transferring;
6. Management contracts; and
7. Any other types specified in the Partnership Projects Guide.

Article (15)

Bidding Methods and Procedures

1. Partnership projects shall be proposed according to one of the following methods:

A. The two-stage method shall be as follows:

Stage One: During which a pre-qualification shall be conducted for a group of private sector entities that have expressed interest in the project.

Second Two: During which the complete bidding documents shall be issued exclusively to the potential partners who have been qualified.

B. **Expedited procedure method:** The Bidding may be made through the expedited procedure method, which consists of one stage - without a qualification procedure - in any of the following cases:

- 1) There is a need to urgently put the project out for bidding; or
- 2) If the project team believes that there is no need to conduct qualification in the event that there is a limited number of suitable potential partners in the market or the absence of a complex technical aspect of the project, which makes the competition limited to financial aspects only, or for any other reason that does not require the qualification of partners.

C. **Direct appointment method:** The Bidding may be conducted through the direct appointment method, where the concerned federal agency negotiates directly with one or more potential partners. This method shall be used only in the following cases:

- 1) The need to provide assets or provide a service in an urgent manner that is not compatible with the procedures specified in paragraphs (A) and (B) of Clause (1) of this Article;
- 2) The presence of one potential partner in the market with the ability to implement the project;
- 3) The connection or attachment of some or all of the project components to national security or the protection of state secrets; or
- 4) Any other necessary and urgent matters related to the public interest, provided that the Minister agrees to use this procedure to raise them.

2. In the event that there is only one potential partner for the project, the concerned federal agency may terminate the tender or continue the bid and award the project to such potential partner, after taking into account the following two conditions:

- A. Fulfilling the requirements of the bidding documents; and
- B. There is evidence of a sufficient value to cost ratio in the bid to achieve a value-for-money assessment.

3. The Partnership Projects Guide shall specify the procedures for each of the bidding methods mentioned in this article.

Article (16)

Submitting Proposals

1. The proposal for the partnership project shall be submitted either by one partner from the private sector or from a coalition consisting of several partners from the private sector.
2. In case of submitting the proposal by a coalition of partners, it shall be submitted in the name of the coalition, and any member of the coalition shall be prohibited from submitting individual proposals, whether directly or through another coalition, or from submitting the proposal from a company in which one of the coalition members owns a majority of the capital or controls its management, unless the terms of the bid stipulate otherwise or with the approval of the concerned federal agency.
3. Any federal agency may participate in the public bidding for the partnership project, after the Ministry approval of such participation.

Article (17) Evaluating Proposals

1. The project team shall study and evaluate the submitted proposals considering the technical, financial and legal aspects, and determine the accepted and excluded ones, provided that each proposal shall be given a score for evaluation in accordance with the evaluation criteria specified in the bidding documents.
2. The project team shall submit its recommendations with the results of the proposals evaluation, including a list of proposals that have passed the minimum evaluation threshold, to the ministry and the concerned federal agency for approval.
3. The project team may, whenever it deems this to be in the interest of the project and in coordination with the Ministry and the concerned federal agency, decide to request additional clarifications after submitting the proposals, including but not limited to - asking the bidders to submit their "best and final bid".
4. If the project team is unable to agree on the project provisions and the project agreement with the best bidder according to the evaluation results, the project team shall be entitled to stop the discussion with the best bidder and move on to negotiating the project provisions and the project agreement with the following bidders according to their descending order on the list of bids that won the best rating.

Article (18)

Cancellation or Modification of the Bidding or Project Procedures

1. The concerned federal agency, in coordination with the Ministry, may cancel or modify the tender or project procedures at any time before awarding the project.
2. No party submitting a proposal for a partnership project may be entitled to claim a compensation for cancelling or amending the bid or project.

Article (19) Tender Awarding Announcement

The concerned federal agency shall notify the awarded bidder that the bid has been awarded thereto them, and inform the rest of the bidders of the result of the bid award.

Article (20)

Appealing Against Tender Procedures

1. The private sector bidder for any project may submit, within a maximum of ten (10) days from the date of awarding the bid, a grievance request to the Ministry in the following cases:
 - A. The bidding documents or procedures violate the provisions hereof, the Partnership Projects Guide, or other relevant laws;
 - B. The partner selection procedures violate the provisions hereof, the Partnership Projects Guide, or other relevant laws in a way that affects transparency and fair competition among bidders; or
 - C. Proving a bribery, illegal commissions, bid rigging, fraud, or power abuse with the aim of illegally influencing the tender procedures, to the extent that such actions have an actual impact on the results of the tender award, without prejudice to the provisions of any other relevant law.
2. Grievances committee shall be established by a decision of the Minister to consider the submitted grievances related to the bidding procedures. The Partnership Projects Guide shall specify the grievance mechanism, procedures, and durations.
3. The grievance request shall be based on one of the reasons referred to in Clause (1) of this

Article and shall include an explanation of the direct impact of those reasons in weakening the chance of winning the bid or that they were the direct reason for losing the bid in the event that the bid is awarded, along with all the documents supporting the application.

4. The Grievances Committee may suspend the tender procedures until the application is decided upon, whenever it finds the application worthy of consideration and that continuing the procedures would significantly weaken the applicant chances of winning the bid.

5. If the Grievances Committee finds that the reasons for the grievance are valid, it shall issue recommendations thereof, either to correct the wrong procedure, exclude one of the applicants, or take any other measures; or reject the grievance because the reasons are not valid, and submit its recommendations to the Minister for approval before taking any action.

Article (21)

Project Agreement

1. The project team shall prepare the project agreement in coordination with the Ministry and the concerned federal agency in accordance with the provisions hereof and the Partnership Projects Guide.

2. The Partnership Projects Guide shall specify the provisions that shall be included in the project agreement, including, but not limited to, provisions related to changing laws, changing economic conditions due to unforeseen circumstances when contracting, the project agreement amendment, termination provisions, and compensation resulting from termination.

3. The project agreement may include a statement of the financial revenues available to the private sector according to one of the following methods:

- A. Payments made in exchange for providing the project or service.
- B. Granting the partner, the right to collect and retain revenues from the use of an asset or service or to share in the revenue resulting from such use.
- C. Combining the two methods referred to in Paragraphs (A) and (B) of Clause (3) of this Article.
- D. Any other method agreed upon.

4. The project agreement may require the partner to employ national workers or local contractors and to use local materials, equipment and goods, and any of such requirements shall be explicitly disclosed in the bidding documents.
5. After the period for submitting the grievance or deciding upon it has passed in accordance with Article (20) of this law, the project agreement shall be signed in Arabic - or English if necessary - by the concerned federal agency and the partner to whom the tender is awarded.
6. The project agreement shall be subject to the laws in force in the State.

Article (22)

Troubled Projects

1. The concerned federal agency shall replace the partner and take control of the partnership project to ensure its continued implementation in cases where the partner fails to implement the project and their failure is detrimental to the public interest, an interruption in the services of a public facility, or the cessation of the provision of the public service whose continuation is required by the public interest, without prejudice to the right of the federal agency to claim any compensation for damages resulting from failure to implement the project.
2. The Partnership Projects Guide shall specify the provisions for troubled projects.

Article (23)

Mortgage

1. The partner may - after obtaining the approval of the concerned federal agency - mortgage any of their assets and the following rights related to the project to guarantee the financing they obtained to implement the project:
 - A. Mortgage of immovable and movable rights owned by a partner or the rights thereof to the assets of the partnership project or project company.
 - B. Mortgage the right of the partner or the project company, if it is owned in the name and for the account of any of them, to the revenues and payments resulting from the use of the facility or service subject to the partnership project.
2. The concerned federal agency shall be a party to any agreement that gives the funding

parties the right to replace the partner in the project agreement, and the concerned federal agency may object to any of the funding parties.

3. The provisions regulating mortgages in accordance with the laws in force in the State shall apply to the mortgages referred to in this article unless the project agreement stipulates otherwise.

Article (24)

Incentives and Exemptions

Incentives may be granted to private sector partners in partnership projects, for the purpose of increasing the attractiveness of the partnership project. The types of such incentives shall be determined by a decision of the Cabinet based on the Minister recommendation.

Article (25)

Supervising the Project Implementation

The concerned federal agency shall supervise the implementation of the project and manage the implementation phase in accordance with the provisions of the project agreement and the guides and forms issued by the Ministry. The Ministry role in the implementation phase shall be limited to monitoring and providing support to the concerned federal agency whenever required.

Article (26)

Partnership Projects Guide Content

The Partnership Projects Guide shall specify the detailed provisions regulating partnership projects, in particular:

1. Governance and procedures for offering partnership projects, including project proposals, value-for-money assessments, market studies, project structuring and management, bidding procedures, mechanisms for requesting clarifications, conferences, and criteria for offering projects.
2. Special requirements related to the content of the bidding documents and the project

agreement.

3. Special requirements related to any dates and time frames that shall be followed for the bidding procedures.
4. Special requirements related to the criteria for selecting a partner and evaluating bids, as well as the qualifications required for the project team.
5. The rules governing requesting the best and last offer and negotiating with a potential partner.
6. Requirements for disclosure and publishing the basic information related to presenting partnership projects on websites and the media.
7. The provisions regulating the management of contracts and the supervision of partnership projects during the implementation phase and the procedures for managing and implementing the project agreement, including the provisions for making payments and the Powers Matrix determined by the federal agency.
8. The rules governing the change of control, the composition of partners, or the partner structure.
9. The rules governing force majeure and exceptional circumstances that may occur during project implementation.
10. The rules governing the termination of the project agreement and the compensation mechanism upon termination.
11. The rules governing the arrangement of mortgages on assets related to the project and any agreement that may grant the financing parties the right to replace the partner in implementing the project or to control or acquire it.
12. Any other provisions that the law has regulated in the Partnership Projects Guide or that the Cabinet decided to add.

Article (27)

Transparency and Disclosure in the Bidding Procedures

1. Bidding procedures shall be subject to the principles of transparency, freedom of competition and equal opportunities, and shall be implemented in accordance with the rules and procedures stipulated in this law and the Partnership Projects Guide.

2. In order to achieve the principle of transparency and equal opportunities, the concerned federal agency shall publish the following information to the public:

- A. A summary of all major decisions related to the approval of the partnership project and bidding procedures; and
- B. Project awarding decision.

Article (28)

Project Company

1. In order to implement the project, the partner may establish the project company in accordance with the laws in force in the State. The founding company shall comply with all the provisions of the partnership agreement, and it may not be replaced, sold, or its ownership waived (directly or indirectly) or enter into a contract with a third party without the prior approval from the concerned federal agency and using the same mechanism by which the original partnership agreement was approved.

2. Foreign investors from outside the State may own the entire project company in accordance with the commercial companies law in force in the State, unless stipulated otherwise by the bidding documents.

Article (29)

Partnership Projects Information Centre

The Ministry shall establish a data register for partnership projects and an evaluation system for existing and implemented partnership projects. The Ministry may, whenever it deems appropriate, publish useful information to the public on its website.

Article (30)

Consultant Appointment

1. The Ministry may appoint external consultants to provide assistance in the process of selecting, structuring, offering, evaluating and supervising partnership projects whenever necessary.

2. The Ministry may direct the concerned federal agency or the project team to appoint external consultants whenever it deems optimal use of external resources.

Article (31)

Dispute Settlement

The state courts shall be competent to consider disputes arising from the implementation of the project agreement, and it may be agreed that disputes shall be settled through alternative dispute resolution methods applicable in the state, including mediation, arbitration, and resorting to an expert

Article (32)

Amending, Renewing or Extending Partnership Project Agreements

1. The provisions of the agreements related to the partnership projects and concluded before the applicability hereof shall apply as well as the applicable laws.
2. Such agreements and licences thereof, may not be amended, renewed, or extended except in accordance with the provisions of this law, the Partnership Projects Guide, and the Guides and forms issued by the Ministry.

Article (33)

Repeals

1. Any provision that violates or contradicts the provisions of this Law shall be abrogated.
2. Cabinet Resolution No. (1/1) of 2017 on the Procedures Guide for Partnership Between Federal agencies and the Private Sector, and Cabinet Resolution No. (4/8) of 2019 on the Procedures Guide for Partnership Between Public and Private Sectors in the UAE shall remain applicable, until the partnership projects guide is issued, insofar that it does not conflict with the provisions of this law
3. The provisions of the federal legislation regulating procurement and warehouse management in the federal government shall not apply to partnership projects concluded in accordance with the provisions hereof.

Article (34)

Law Publication and Enforcement

This Law shall be published in the Official Gazette, and shall enter into force as of the day following the date of its publication.

Signed

Mohammed Bin Zayed Al Nahyan

President of State of the United Arab Emirates

Issued by Us at the Palace of the Presidency in Abu Dhabi:

On: Jumada I 13, 1445 H

Corresponding to: November 27, 2023