



BILATERAL MEETING

Chapter 05- PUBLIC PROCUREMENT

Country Session: The Republic of TURKEY
28 November 2005



SCREENING CHAPTER 05 PUBLIC PROCUREMENT

AGENDA ITEM X: PUBLIC PRIVATE PARTNERSHIPS (PPP)

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Turkey does not have a special general legislation to regulate Public-Private Partnership (PPP) projects.

An expert group within State Planning Organization has been working to prepare a preliminary study envisaging to determine general principles of PPP projects which will be alternative PPP methods to be implemented in a transparent, non-discriminatory and competitive environment.



Examples for PPP projects are Build-Operate-Transfer (BOT), Build-Operate (BO) and Build-Lease (BL) models.

Important infrastructure projects are conducted by BOT and BO models.

BL model has recently been introduced into health sector.

BOT, BO and BL models are not covered by Public Procurement Law and have their own procurement procedures.

General BOT Model- the Law No 3996 (1994)

- ✓ covers bridges, tunnels, dams, irrigation channels, water purification and sewerage systems, communication networks, mining operations, manufacturing plants, generation, transmission and distribution of electricity, environmental pollution protection systems, highway and railway construction, subway and railway garages, seaports and airport construction and other related investments.**
- ✓ provides exemption of stamp duty and fees**
- ✓ has a contract term up to 49 years**
- ✓ dictates that at the end of contract term all facilities need to be given back to the state at no cost**



- ✓ consists of the tendering procedures, open, transparent, competitive and non-discriminatory
- ✓ allows all firms including foreign companies to equally participate in tendering
- ✓ enables investors to go to an international arbitral tribunal to settle disputes arising out of BOT contracts

BOT in Energy Sector -the Law No 3096 (1984)

❖ *covers*

- ✓ assignment for the generation, transmission and distribution
- ✓ construction and operation of power plants, including cogeneration plants
- ✓ transfer of operational rights of existing power plants and transmission and distribution facilities owned by the state

❖ *has maximum 99 year contract term*

❖ *lacks of a competitive tendering process*

❖ *dictates that at the end of contract term all facilities and immovable assets must be hand over the state at no cost*

❖ *has not been applicable for new projects after 2000*

BOT in Expressway -the Law no 3465 (1988)

- ✓ regulates BOT model for the projects of expressways, and construction, maintenance and operation of all establishments such as hotels, restaurants and gasoline stations on the expressways**
- ✓ has its own competitive tendering procedures**
- ✓ has a maximum 49 year contract term**
- ✓ dictates that at the end of contract term all facilities and immovable assets must be handed over the state at no cost**



BO Model- the Law No 4283 (1997)

- ✓ is designed specially for the construction and operation of thermal power plants**
- ✓ allows investor company to retain the ownership of investment at the end of contract period**
- ✓ necessitates that the related government body purchases during the operational phase**



Treasury Investment Guarantees

Treasury guarantees to buy the products or service supply of investments at a certain price over a certain period of time within the scope of BOT and BO models.

The Electricity Market Law No 4628 which introduces competition into electricity sector prohibits granting Government guarantees for electricity projects within both BOT and BO models.

State owned enterprises responsible for purchasing power suffered much from stranded costs arising from the past practices based on high tariff power purchasing agreements with state guarantees.



BL in Health Sector- the Law No 5396 (2005)

- ✓ allows Ministry of Health to lease medical centres (hospitals, policlinics etc.) built by private investors via tendering process**
- ✓ authorizes Ministry of Health to determine technical standards of medical centres**
- ✓ has a contract term up to 49 years**
- ✓ furnishes private investors with free of charge treasury lands**
- ✓ provides exemption of stamp duty and fees**
- ✓ has not been in use, since the secondary legislation has not been enacted**



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