



APPROVED
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**THE METHODOICAL RECOMMENDATIONS FOR THE PREPARATION OF THE
PROPOSAL OF THE PROJECT INITIATION OF THE PUBLIC-PRIVATE
PARTNERSHIP OF THE PRIVATE ENTITY**

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USED ABBREVIATIONS AND DEFINITIONS

The CPMA – the Public Institution the Central Project Management Agency

The initiation proposal – the initiation proposal of the PPP project of the private entity

The Law on Investment – the Law on Investment of the Republic of Lithuania

The IP – the investment project

The Law on Concession – the Law on Concession of the Republic of Lithuania

The RL – the Republic of Lithuania

The service – intangible activity of commercial nature or in accordance with legal acts attributed to the established functions of the public entity, which directly or indirectly contributes to the meeting of the needs of society

The procurement – the organization of the selection of the supplier / participant, established in the Law on Public Procurement or the Law on Concessions and the procedures until the conclusion of the PPP agreement

The PP – the partnership project

The private entity (private entities) – a legal entity, interested in participating in the implementation of the PP.

Recommendations – the methodical recommendations of the initiation proposal of the project of the public and private partnership of the private entity

The Rules – the rules of the preparation and implementation of the projects of the public-private partnership, approved by resolution No. 1480 of 11 November, 2009 by the Government of the Republic of Lithuania “On the public-private partnership”

The Law on Property – the Law on the management, use and disposal of the property of the State and municipalities of the Republic of Lithuania

The public entity – the institution of the central government or local government, which can be the institution, implementing the PP in accordance with legal acts of the Republic of Lithuania.

The Law on Public Procurement or the LPP- the Law on Public Procurement of the Republic of Lithuania

The Law on Local Self-Government- the Law on Local Self-Government of the Republic of Lithuania

The PPP – the public-private partnership

The PPP agreement – the agreement, concluded in order to implement the IP by the PPP method. This definition is used in general terms for all types of the PPP agreements.

The PFI – the public finance initiative

In order to promote the cooperation between the public entity with the private entity, item 10 of paragraph 1 of Article 13 of the Investment Law stipulates that private subjects have the right to initiate (to propose to implement) the PPP project.

The more detailed regulation is established in the Rules, according to which private subjects have the right to initiate (to propose to implement) the new PPs or the PP, planned to implement in accordance with the requirements, established in item 4 of the Rules, for which the IP is not prepared, submitting the PP initiation proposal to the competent (enforcing functions, assigned by legal acts) state or municipal institution.

The recommendations apply in the preparation of the initiation proposal to the state of municipal institution. A private entity submits the initiation proposal to the state or municipal institution by completing the initiating proposal form, specified in Annex 1 of the Recommendations.

Both public entities, having the right to conclude the PPP agreements, and the private entities, submitting the initiating proposal, follow the recommendations.

The column “The date of filling in of the initiation proposal form“

The date of filling in of the initiating proposal is specified“.

The column “The location of the filling in of the initiation proposal form“

The location of the filling in of the initiation proposal form is specified.

The column “The data of the private entity, submitting the initiation proposal“

When providing the information in this column, the exact data of the private subject, submitting the initiation proposal, must be specified (the private entity name, code, legal form) and contact information (the office address, telephone number, e-mail address, an authorized person).

The column “The name of the public entity for which the initiation proposal is provided“

When providing the information in this column, the name of the institution, implementing the PP, must be specified. The institution, implementing the PP is the institution, which according to the procedure, established by legal acts, has the right to conclude the PPP agreement. When providing the above-mentioned information, it is necessary to make sure that the institution can be the PP implementing institution.

In accordance with item 6.3 of the Rules, the PP implementing institution is the public entity, when it is planned to conclude the PPP agreement due to the PP implementation or the providing institution, when it is planned to conclude a concession agreement due to the PP implementation. The PP implementing institution can be the central government institution or the municipal government institution.

1. In accordance with paragraph 17 of Article 2 of the Law on Investment, when implementing the PP project by the PPP method, the central government institution is the government institution or organization, authorized by the decision of the Government of the Republic of Lithuania to which the government function is assigned by legal acts, and in accordance with the above-mentioned provision of the Law on Investment, and the Law on the Local Self-Government, the local government institution is the municipal executive institution – the administration director or the deputy director, if the authorization of the executive institution are conferred to this position.

2. In accordance with Paragraph 7 of Article 2, when implementing the PP project by concessions method, the providing institution of the central government is the Government of the Republic of Lithuania or an institution, authorized by it, and in accordance with the provision of the above mentioned Law on Concessions, also the Law on the Local Self-Government, the providing institution of the local government is the municipal executive institution – the administration director or the deputy director, if the authorizations of the executive institution are conferred to this position.

1. The general data of the initiated partnership project

1.1 The description of the current situation

The private entity must provide the description of the current situation, to reveal the existing problems, which the initiated PP would help to solve. The private entity must evaluate that often not all practical problems of the field, assigned to the activity of the public entity may be known to the public entity, so it is proposed to provide the information in this part, which would allow to the public entity to properly understand the shortcomings of the current situation, would specify the urgency, scope of the problems and the need of solving them. It is advisable to base the arguments on numbers or on other essential information, thus demonstrating the need or the necessity to implement the PP.

1.2 The purposes and results pursued

The private entity must specify the purposes and expected results of the initiated PP. The purposes and results of the PP must directly contribute to the effective implementation of the functions of the public entity, the meeting of the public interest and the needs of society.

The private entity must sufficiently clearly convey the vision of the final result, so that the purposes of the PP would be understood equally. The conceptual vision of the pursued result must be provided, the information must be specified structurally. The attractiveness of the initiated PP would be increased by the arguments, provided by the private entity, why the PP will be successful.

1.3 The location of the implementation of the partnership project

The private entity must specify the preliminary or, if available, the accurate data of the planned location of the PP implementation (address, city, region, street, building, piece of land, the unique number of real estate register, etc.).

1.4. The period of the implementation of the partnership project

The private entity must specify the preliminary period (in years or months, etc.), during which, in accordance to its calculations, it is possible to implement the PP. Also, the private entity must evaluate that in accordance with Paragraph 3 of Article 15¹ of the Law on Investment and Item 3 of Paragraph 1 of Article 22 of the Law on Concessions, the PPP agreement can be concluded for the maximum period of 25 years.

1.5. Is the partnership project included into the strategic and (or) inter-institutional action plans and (or) municipal medium or short-term strategic planning documents? Which ones?

When submitting the information, it must be stated whether the PP is provided in the applicable strategic action plans and (or) inter-institutional action plans and (or) medium or short-term strategic planning documents. Also, the specific, valid, strategic planning document must be

specified, by indicating its name, number, date of approval and the name of the institution, which approved it, where the PP is provided. The mentioned documents are announced on the public entity website. The strategic planning documents of the public entity, where the PP can be provided are listed below.

The state strategic planning documents:

1. The medium term documents – the Government program, the National progress program, the Development program;
2. The short-term documents – the Government priorities, strategical action plans, inter-institutional action plans, annual progress works, annual action plans, action plans.

The municipal strategic planning documents:

1. The medium term documents – the municipal general plan, the municipal development strategic plan, the strategies of individual areas (for example, sports, tourism, etc.);
2. The short-term documents – the municipal three-year strategic action plan.

1.6. The activity (services), assigned to the public entity functions, to which the private entity would invest and implement, while carrying out the partnership project

The public entity must specify the activity (-ies), in which it is proposed to invest the funds of the private entity. When defining the PPP concept, the Law on Investment primarily relates it to the transfer of the activities, assigned by the state or municipal legal acts to the attributed function to the private entity. Therefore, it is necessary to determine in advance whether the public entity is assigned by legal acts to implement certain activity and whether such activity can be transferred to the private entity. Paragraph 2 of Article 3 of the Law on Concession lays down the areas of activities, where concession can be granted. Analogous areas are applicable also to those PP, which are implemented by the PPP method, i.e.

1. The areas of energy, including heating and electrical energy, petroleum and natural gas extraction, transmission, distribution, supply.
2. The area of the railway lines and systems.
3. The area of water management, including water extraction, supply, treatment, improvement and distribution.
4. The area of waste water.
5. The area of waste handling, recycling and management.
6. The area of the roads, tunnels, parking and land transport.
7. The area of health care.
8. The area of telecommunications.
9. The area of education services.

10. The area of harbours and piers.
11. The area of the airports.
12. The area of the public transport.
13. The area of tourism service.
14. The area of culture, sports and leisure.
15. Law enforcement and judicial areas.
16. The area of social services.

It should be noted that the the law enforcement, judicial and social services areas are not specified in the Law on Concessions. However, Item 15 of Paragraph 2 of Article 3 of the Law on Concessions provides that in accordance with the decision of the Government of the Republic of Lithuania, concession can be provided also in other areas, not specified in this law.

As for the local government PP, it should be noted that part of the services, provided in the Law on the Local Self-Government, cannot be transferred to the private entity. Such activities include:

1. The planning of territory, the analysis of economic development, prognoses, the formation of the development conceptions.
2. The management of geographical information system – the register of infrastructure, property, residents, their activity, income and other data, its analysis, prognosis.
3. The environmental control – the planning of construction, environmental protection, land rehabilitation, the quality control of buildings and constructions.
4. The development of the communal infrastructure.
5. The maintenance of the public order, civil safety, traffic control.
6. The organization of social and health protection.
7. The protection of natural, cultural, historical heritage and rational use.
8. The organization and control of education.

However, part of the services, attributed by the above mentioned law to the competence of the institution, implementing the local government PP, can also be completely or at least to a large extent transferred to the private entity:

1. The district heating, the supply of electricity, water, gas, the treatment of rainwater and wastewater, landfills.
2. The organization of public transport.
3. The organization of non-commercial cultural, leisure activities (theaters, cinemas, exhibition halls).

4. The basic (mandatory) education.
5. The organization of the day care centres of children and youth, pre-school and after-school education.
6. Special education (arts, sports, technical creation clubs and schools).
7. The organization of residents' employment and public works.
8. The construction of the social housing.
9. The cemetery care.
10. The collection and management of communal waste.
11. The transportation of passengers and freights.
12. The organization of tourism.
13. The construction and maintenance of infrastructure objects.
14. Social welfare.

In the column "The Service name", the service name is indicated. The private entity can additionally detail the listed specific services, that it could perform / provide (for example, the building maintenance, cleaning, disinfection, catering, etc.).

In the column "The target group of the Service", the target group for which the Service will be dedicated, is indicated, by specifying its size (preferably). The recipients of the Services or the target group can be the whole society (for example, the ensurance of the country's security by implementing the modernization projects of the national roads, prisons), the certain part of the population is distributed in accordance with Lithuanian administrative units (the ensuring of the security, while implementing the projects of the renewal of local roads and street lighting, etc.). if possible, it is advisable to specify at what time (all year round or seasonally; all days or only on weekdays / weekends; permanently or in the specified hours, etc.) that public Service would be provided.

2. The information of the property, necessary for the initiated partnership project

2.1 The data about the existing property (immovable and / or movable), necessary for the implementation of the partnership project

The private entity must indicate the preliminary and, if available, accurate data of the existing property, necessary for the implementation of the initiated PP (address, city, region, street, construction, piece of land, the unique number of the register of real estate, etc.)

2.2 The data about the new property (immovable and movable), which will be created by the implementation of the partnership project

The private entity must indicate the new property (movable and / or immovable), planned to create during the implementation of the initiated PP, its preliminary data (address, city, region, street, piece of land, characteristics, etc.) and to indicate, whose property (the public entity or

the private entity) the newly created property should remain / be after the PP ends and to provide the arguments of such a proposal.

In the PPP case, after the PPP agreement expiration (or termination), the whole property, i.e. both transferred by the public entity, and the newly created property must be returned /transferred to the public entity. In the case of the concession, after the PPP agreement expiration, the ownership right of the whole or the part of newly created property can remain for the private entity. If such a decision will be made by the public entity, such a condition must be provided in the initial procurement documents.

3. Technical information of the initiated partnership project

The proposed technical and engineering solutions

The private entity must specify the preliminary technical and engineering solutions of the planned to implement PP (the proposed solutions can be provided by describing them (maximum volume-up to 5 pages) or by attaching the sketches, drawings, technical specifications, etc. to the query), related to the repairs / reconstruction or the creation of the new property and provision of services. The provided information must disclose the general idea of the PP, which is proposed to implement and its technical realization methods, proposed by the private entity.

4. The financial information of the initiated partnership project

4.1. The need for financial resources for the implementation of the partnership project

The private entity must specify the need for the funds for the implementation of the PP, based on the preliminary calculations, i.e. the amount which is necessary for the complete implementation of the purposes of the initiated PP and to achieve the planned results during the whole PPP validity period.

4.2. The planned income structure of the private entity.

The private entity must specify the structure of the planned income, based on the preliminary calculations, highlighting the components of the income, also indicating which part it is intended to receive from the public entity and which part (if planned) – from the direct users (the PP beneficiaries). It should be noted that considering the distribution of payments, the PP depends on the fact, whether it is implemented by the PPP method or the concession method, because in the first case the public entity pays for the provided services, in the second case – the direct (final) users of the service.

4.3. The proposed procedure of the settlements and payments.

The private entity must specify the main principles of the proposed procedure of the settlements and payments (for example, settlement terms, start of the payment, etc.)

5. The legal information of the initiated partnership project

5.1. The legal status of the property during the implementation of the partnership project and after the termination of the partnership project

This part specifies whether considering the PPP form, the property is planned to be transferred to the private entity by the trust right or the lending right (in the PPP case), or to lease (in the case of concession). In the case, if it is planned to transfer the piece of land to the private entity, both in the case of the PPP, and in the concession case, it must be specified that the piece of land will be transferred on the base of the lease.

It should be noted that after the expiration of the PPP agreement, the Law on Concessions allows to leave to the private entity the ownership right of the whole or part of the newly created property, in the case of Concession, such a provision must be provided in the primary procurement documents.

It should also be noted that when submitting information in this part, the provisions of the Law on property must be followed.

5.2. The proposed term of the PPP agreement

The private entity must evaluate that in accordance with Paragraph 3 of Article 15¹ of the Law on Investment and Item 3 of Paragraph 1 of Article 22 of the Law on Concessions, the PPP agreement can be concluded for the period not exceeding 25 years.

6. Other examples of partnership projects, similar by their essence (if known)

In this part, the private entity can specify other examples of the PPs, similar according to their scope. It is advisable that the specified examples would be as close as possible to the current situation. The provided private initiative would create more interest, if analogous public sector PPs would be successfully implemented in other states. It is also possible to provide the examples of the best practices of the private sector activity.

7. Annexes

7.1. The financial model of the partnership project (business plan).

In the business plan (maximum volume – up to 5 pages), there is described the PP idea, purposes and benefits, costs structure, financing sources, the prognoses of investments, income and profit, risks description, also other important information. The provided information must be argumentative, if possible, based on the objective calculations, the results of analyses, studies or surveys.

7.2. Technical-engineering documents, descriptions, sketches (subject to the availability)

If possible, technical information of the proposed to implement PP is provided (text, graphics or other form), revealing the preliminary technical data of the proposed PP for the implementation.

7.3. Other documents, certifying or supporting the information, submitted in the initiation proposal.

If possible, there are provided other documents which in the opinion of the private entity, reveal, certify or base the information, related to the PP, proposed for the implementation.

1. The initiation proposal form

Recommendation annex No. 1

THE INITIATION PROPOSAL FORM

The date of filling in the initiation proposal form	
The location of filling in the initiation proposal form	
The data of the private entity providing the initiation proposal	
The name of the public entity, whom the initiation proposal is submitted	

NOTE: when filling in the fields provided below, the number of characters must not exceed 500 symbols. The more detailed information is submitted as a separate annex to the filled in initiation proposal form.

1. The general data of the initiated partnership project

1.1. The description of the current situation	
1.2. The purposes and results pursued	
1.3. The location of the implementation of the partnership project	
1.4. The period of the implementation of the partnership project	
1.5. Is the partnership project included into the strategic and (or) inter-institutional action plans and (or) municipal medium or short-term strategic planning documents? Which ones?	
1.6. The activity (services), assigned to the public entity functions, to which the private entity would invest and implement, while carrying out the partnership project.	
The name of the Service	The target group of the Service

2. The information about the property, necessary for the initiated partnership project.

2.1 The data about the existing property (immovable and / or movable), necessary for the implementation of the partnership project
2.2 The data about the new property (immovable and movable), which will be created by the implementation of the partnership project

3. Technical information of the initiated partnership project

The proposed technical and engineering solutions
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4. The financial information of the initiated partnership project

4.1. The need for financial resources for the implementation of the partnership project

4.2. The planned income structure of the private entity

4.3. The proposed procedure of the settlements and payment
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5. The legal information of the initiated partnership project

5.1. The legal status of the property during the implementation of the partnership project and after the termination of the partnership project

5.2. The proposed term of the PPP agreement

6. Other examples of partnership projects, similar by their essence (if known)

7. Annexes

7.1. The financial model of the partnership project (business plan)

7.2. Technical-engineering documents, descriptions, sketches (subject to the availability)
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7.3. Other documents, certifying or supporting the information, submitted in the initiation proposal
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<i>1. The Initiation proposal is not considered to be the document, binding the public entity or generating obligations in regard to the private entity</i>
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<i>2. Upon submitting the initiation proposal, the private entity agrees that the data and information provided in it would be revealed to third parties, participating in the initiating process of the partnership project</i>

<i>3. The private entity agrees that there is no confidential information in the initiation proposal and its annexes</i>

Private entity

(name, surname)

(signature)