PPPs in Oman – what will a new PPP law mean?

What are PPPs?

A public private partnership (PPP) are usually long-term contracts between a private party and a government entity, for providing a public asset or service, in which the private party bears significant risk and management responsibility, and remuneration is linked to performance.

PPPs project contracting is commonly used for public infrastructure projects such as new roads, hospitals, schools, telecommunication systems, airports or power plants.

PPPs in Oman

Oman has been a pioneer in the Middle East for PPP projects especially in the form of independent power producer projects (IPPs) and independent water and power projects (IWPPs).

In 1994 Oman saw its first PPP project, the Al-Manah independent power project and has since regularly used the PPP model. As recent as April this year the OPWP signed agreements to establish the Salalah Independent Water Project with an ACWA Power led consortium with Veolia and DIDIC for the Salalah Independent Water Project in Dhofar.

After a quarter of a century from Oman’s first PPP project, it is now on the verge of issuing a new PPP law. Oman will also establish a dedicated authority to oversee the implementation of this law.

Why regulate PPPs in Oman?

PPPs in Oman are not wholly unregulated. Local laws that apply to PPPs include, Oman’s Privatisation Law, Royal Decree 77/2004 which allows public utilities to be privatised or restricted under the law. Further IPPs and IWPs are currently tendered by the OPWP pursuant to Royal Decree 78/2004 amended by 59/2009 (Energy Sector Law) and Royal Decree 36/2008 (Tenders Law).

The Tenders Law is the key legislation that regulates government procurement in Oman. It establishes a Tender Board and sets out...
requirements relating to advertising of tenders, forms of bid submission, bid timetable and evaluation etc.

The new PPP law is being introduced to increase development. It will be interesting to see how the new PPP law, if at all, affects the risk allocation between parties.

Key areas to keep an eye out for in the Oman PPP law are:

- **Applicability:**
  Will it apply to all forms of public private agreements and to what extent it will impact and/or supplement the Energy Sector Law and Tenders Law?

- **Mandatory provisions:**
  Will there be mandatory provisions that parties cannot contract out of in a PPP contract?

- **Obligations of the Project Company:**
  Will a project company have any obligations imposed on it? For example, the Dubai PPP Law obliges a project company not to dissolve, liquidate or change legal status without prior consent of the Partnership Committee.

- **Governing law and dispute resolution provisions:**
  It is anticipated that the PPP law may allow a choice of arbitral rules provided the seat is in Muscat. This is not unheard off as for example the Dubai PPP Law requires the governing law of the PPP agreement to be Dubai and that the parties can agree on arbitration rules provided the seat is Dubai.

The exact date when Oman’s PPP law will be gazetted is unknown. We will keep you informed on any developments.

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For further information in relation to working in Oman, please contact:

**Scott Lambert**
Partner
T: +971 4 356 3904
E: s.lambert@beale-law.com

**Sadaff Habib**
Associate
T: +971 4 356 3902
E: s.habib@beale-law.com

**Jeremy Russell**
Associate
T: +971 4 356 3903
E: j.russell@beale-law.com

Dubai  www.beale-law.com