



المؤسسة العامة للرعاية السكنية
Public Authority for Housing Welfare

Investment Resolution



Definitions

Article (1)

In the application of the provisions of this Resolution, the following words and terms shall have the meaning attributed to each thereof:

Law: Law No. 47 of 1993 and Law No. 27 of 1995 referred to herein.

Authority: Public Authority for Housing Welfare.

Board of Directors: Board of Directors of the Authority.

Minister: The Minister of State for Housing Affairs.

General Manager: General Manager of the Authority.

Resolutions: Investment Resolution

Committee: a specialized technical committee designated in Article (4) clause (10) of Law No. 47 of 1993 referred thereto or the committee / body determined by the Board of Directors.

The Competent Body: the Sector Specialized in Investment

Investor: the natural or legal person of any nationality or entity.

Partnership Project: a project for the implementation of one or more activities with the aim of providing a public service of economic, social or service importance; procured by the Authority in accordance to the PPP Model, after the approval of the Authority's Board of Directors and issuance of the investment license in accordance with the provisions of the law.

Public- Private Partnership (PPP) Model: a model whereby a private investor invests on land owned and procured by the Authority in one of the projects, and after signing a contract with the Investor to implement, or build, or develop, or operate a project and arrange finances; and / or manage the same for a specific term after which the project will be transferred to the Authority.



Partnership Contract: one or more contracts executed for the implementation of PPP by the Authority with a local or foreign investor (a group of investors), for the purpose of planning, designing, implementing, operating, maintaining, developing, managing and financing an investment project or part of the foregoing on land intended for non-residential purposes. The Authority may participate in financing the project, in accordance with the conditions prescribed by the Board of Directors.

Terms of Reference: a document of the conditions issued by the Authority according to the nature of each project, and approved by the Committee for the solicitation of bids and offers for one of its projects.

Duration of Construction: the duration specified in the partnership contract for the completion of construction and installation or development works. The duration of construction shall not be counted in the investment period.

Duration of Investment: the period specified in the partnership agreement, starting from the date of completion of the construction and installation or from the completion date of the development works completely or in part, as stipulated in the project proposal documents and not exceeding 50 years.

Qualification: The procedures carried out by the Authority to ascertain the capabilities of investors wishing to invest in a partnership project before allowing them to submit their technical and financial bids.

Concept: A concept for a partnership project comprising an initial feasibility study, in line with the State strategy, its development plan and Authority's objectives, proposed by a natural or legal person, either Kuwaiti or foreign.

Initiative: an innovative partnership project for an unprecedented creative concept in the State of Kuwait that has been approved by the Board of Directors, based on a comprehensive feasibility study submitted by the concept proposer to the Authority, and that has an economic return or social benefit in line with State strategy, its development plan and the Authority's objectives.

Distinguished Project: a partnership project approved by the Board of Directors, based on a comprehensive feasibility study submitted by the concept proposer to the Authority, and has an economic return or social



benefit in line with State strategy, its development plan and the Authority's objectives.

Request for Expression of Interest: an optional phase during which the Authority will explore the interest of some parties to participate in a partnership project, in accordance with the standard and controls that are set for each project by the Competent Body.

Specialized Technical Committee

Article (2)

Under a Minister decision and upon the approval of the Board of Directors, a committee named the "Specialized Technical Committee" shall be formed to provide the alternatives intended to attract local and foreign investment. The Competent Body nominates a member and a rapporteur for it whose rank is not lower than a department manager.

The Committee may seek the assistance of expert(s), as it deems necessary. It may also invite those who it considers to attend its meetings to express an opinion on a subject presented before it, without having a counted vote.

Obligations of the Committee

Article (3)

The specialized Committee shall be specialized to cooperate with the relevant sectors of the Authority as follows:

- A. Proposing public policies to establish, manage and invest the facilities and services of the Authority's projects and follow up the necessary programs for implementation, evaluation and developing recommendations regarding the same.
- B. Conducting studies, research, procedures, and scientific policies necessary in accordance with the local conditions to make available the attraction factors for local and foreign investments, whilst attracting public and private capital to invest or participate in the implementation



of the Authority's investment projects, and suggest recommendations thereon.

- C. Considering the proposals on the development of the investment fields and the mechanisms of its use to support the activities of the Authority in achieving its objectives, in accordance with the highest standards for efficiency and flexibility, within the frameworks, controls and conditions of the Authority to achieve them and suggest recommendations thereon.
- D. Reviewing and evaluating the recommendations submitted by the Competent Body regarding the investment opportunities offered inside and outside Kuwait and expressing opinions thereon.
- E. The designation of the recommended representatives of the Authority in institutions and companies related to its direct investments.
- F. Following-up on the implementation of investment projects through the relevant sectors of the Authority and offering advice and opinions that support the Authorities achievements, while providing support, and proposals on the obstacles that maybe faced in the implementation of such projects.
- G. Study projects and initiatives, and provide an opinion on the feasibility studies presented.
- H. Proposing scientific and practical solutions on the usage of the non-residential sectors to support the Authority's financial resources.

The Committee shall present the results of its study, decisions and recommendations to the Minister to take the necessary action for submission to the Board of Directors. Any grievance by concerned parties in relation to the decisions made by the Committee shall be submitted to the Board of Directors.



Proposing Partnership Projects

Article (4)

The proposal for the method of procuring and implementing public-private partnership projects shall be by one of the following entities:

1. **Competent Body:** It may propose the method of procuring and implementing one of the investment projects on the lands allocated for non-residential purposes, indicating the method of preparing the feasibility studies for the project.
2. **Private Sector:** It may submit to the Authority concepts, including a preliminary feasibility study according to the requirements of the Authority, to implement the project and approve its procurement in accordance with the provisions of these regulations.

Approval Mechanism for Proposed Concepts

Article (5)

The Committee shall submit the results of the preliminary studies of the concepts presented by the Competent Body or the private sector to the Minister to be submitted to the Board of Directors with its recommendation to approve the project in principle as an initiative or as a distinguished project or reject it. In the case of acceptance, the concept proposer shall be granted six months to prepare the comprehensive studies thereof unless the Authority decides, based on the nature of the project, to grant him an additional period in accordance with the principles and procedures determined in this regard.

Approval Mechanism for Proposed Projects

Article (6)

The Committee shall submit the results of the comprehensive study to the Minister, either prepared by the Competent Body or by the private sector, accompanied by its recommendation to approve the project and procure it in



accordance with a partnership model or reject it. He/She shall present the recommendations to the Board of Directors.

In the case of a recommendation to adopt a project proposal according to a partnership model, the recommendation shall include the following:

1. The proposed method of competition to launch the partnership project.
2. Proposed partnership system.
3. Proposed timetable for project procedures and phases.
4. Proposed investment duration.
5. Exemptions and privileges proposed, as well as, any special advantage, specifically if the project is a concept proposed for approval.
6. The proposed service to be provided, whether economic, social or carries a service value or any thereof, provided that it is a development or improvement of an existing service, or reduction of its costs or improvement of its efficiency.
7. Any request to allocate land for the project, if available.
8. Any other standards or requirements according to the nature of the project and the guidebook prepared by the Competent Body.

Board of Directors Decision in relation to Partnership Projects

Article (7)

The Board of Directors shall issue a decision on the projects submitted to it, with consideration to the recommendations submitted to the Board by the Committee in accordance with the preceding article.



Contracting Rules and Regulations

Article (8)

The Authority shall procure the partnership projects with the private sector according to one of the partnership model approved by the Board of Directors.

Article (8 bis 1)

After the approval of the Board of Directors, the Authority shall procure the partnership projects, in which the total cost does not exceed Two Hundred and Fifty Million Kuwaiti Dinars (KD 250 Million); through competition between investors willing to invest in the project, and shall abide by the provisions of the law, these regulations and the conditions set by the Board of Directors.

Article (8 bis 2)

Following the approval of the Board of Directors, the Authority shall procure the partnership projects exceeding a total cost of KD 250 Million through competition between investors willing to invest in the project.

The Authority shall establish the project company following the procurement of the project and the selection of the successful investor in compliance with the conditions and procedures set by the Board of Directors.

Article (9)

The Competent Body shall receive the proposals and offers submitted by the companies to qualify for approval of the project to be implemented, and a special registry is prepared to list the applications referred to and the decisions issued by the Authority in this regard.

Article (10)

The Competent Body shall solicit, in accordance with the law, through various means of media to activate the project. The invitation shall include by way guidance, but is not be limited to:



- A brief description of the project to be procured.
- The manner in which the relevant documentation is obtained and the determination of the department releasing the documents within the Authority. .
- The cash compensation to be paid and the value to attain the relevant documents.
- The deadline for the acceptance and submission of the bids accompanied by the initial insurance as determined. The invitation shall specify the period prescribed between the receipt of the documents and the final date of acceptance.

Article (11)

The announcement of the investment project shall be published in the Official Gazette and two local newspapers issued in Arabic language and through any other means deemed appropriate by the Competent Body, at a maximum of three times and at such intervals as may be determined by the Competent Body.

Article (12)

The period between the publication and the date specified for the acceptance of bids shall not be less than two weeks from the date of the last announcement, with the possibility of external announcement by the Embassy of the State of Kuwait in the event of closing a contract with international companies besides local companies.

Article (13)

The Authority may enter into negotiations with a number not less than three international or local companies specialized in the subject of the partnership project to be implemented, provided that such companies have complied with all the qualification requirements specified by the Competent Body. The offers are then solicited from these companies, and the best fit for the Authority shall be selected.



Article (14)

A committee shall be formed through a decision by the Minister based on the studies submitted by the investor to the General Manager for the selection of the best bid, in accordance with the rules and regulations approved by the Board of Directors upon the Committee's recommendations.

Article (15)

In the case of an equal offer or more, negotiations shall be conducted with bidders to select the ideal bid technically and financially with the purpose of reaching the best offers made by the bidders.

Article (16)

In the event of withdrawal by the successful bidder or failure to complete procedures to fulfil the insurance value, or the signage of the contract on the date declared by the Authority; documented in the tender conditions; the insurance will be collected in full without the need for notification or taking any administrative action. Consequently, the Authority shall have the right to negotiate directly with the next bidder.

Feasibility Studies Predetermination Criteria

Article (17)

The Competent Body shall prepare a detailed guidebook, including all conditions, criteria and procedures for the preparation of the economic feasibility studies and the procurement of partnership projects.

Preparation of the Feasibility Study

Article (18)

The economic feasibility studies shall be prepared in the manner that the Competent Body deems fit, either through the Authority or by contracting with the consultant(s), in accordance with the nature of the project and needs thereof.



General Principles for Procurement of Partnership Projects

Article (19)

The Authority announces its interest to procure the partnership projects prior to the qualification procedures, in order to determine the extent of interest and concern of the private sector to participate in the implementation of the project before taking action on the procurement procedures. The expression of interest shall be announced in the Official Gazette and other local or international media that are consistent with the nature of the project, as well as, on the Authority's website.

The announcement shall contain a brief about the project, its objectives, proposed location for its implementation, and the proposals submission methods, as well as, any other information or conditions related to the project.

Applications for expressing interest may be accepted via e-mail.

Article (20)

The Competent Body shall examine the expression of interest applications received from investors. Based on this study, the Authority shall determine the feasibility of initiating the procedures prescribed by law to call for the prequalification of those parties wishing to compete for the implementation of the project.

Article (21)

Following approval by the Committee of the partnership project, the determination of the partnership model and the manner in which it shall be procured. The Authority shall announce the qualification invitation for the project in the Official Gazette and in at least two daily Kuwaiti Arabic newspapers, and other local or international means of media that are consistent with the nature of the project, as well as, publishing it on the Authority's website. The announcement of the invitation for qualification includes the following:



1. A brief of the project and its objectives.
2. Experiences required for qualification.
3. Contractual system and duration.
4. Consideration for obtaining the qualification documents and the Authority may postpone the payment thereof when submitting the qualification documents.
5. The date specified for the submission of applications for qualification and the place of their submission, and the postal and electronic address as the case may be. The period of submission of qualification applications shall not be less than (15) days from the date of publication of the announcement as detailed above unless the qualification is in a later date, which shall be included in the bid submission phase.

Qualification Principles

Article (22)

Any investor who wishes to participate in a project procured in accordance with the provisions of these regulations must demonstrate the ability to carry out the project and fulfill their obligations in the event of awarding him the competition and contracting therewith. The investor's abilities shall be ascertained through the qualification procedures. The committee may decide the prequalification or post qualification method upon the recommendation of the Competent Body and according to the nature of the project.

Article (23)

After approval of the feasibility studies and qualification documents by the committee, the Authority shall announce the acceptance of investor qualification applications that are interested to invest in a partnership project; through the prequalification procedures, to ensure the applicant's ability to implement the project based on the criteria and standards determined in the qualification document.



Article (24)

The committee may decide to combine the qualification phase with the solicitation phase of the bids as a post qualification, provided the conditions for qualification are announced in the tender documents.

Post qualification conditions shall fulfill the prequalification requirements. The investor interested to invest shall submit the qualification documents in an envelope separate from the envelopes containing the technical and financial offers.

The post-qualification envelopes must be opened before the technical and financial envelopes are opened and a list of qualified bidders shall be prepared and submitted to the Committee for approval before the technical and financial proposals are studied and evaluated.

Article (25)

While taking into account the specific nature of each partnership project, the qualification documents shall include the following conditions:

1. Instructions for submission and qualification procedures for bidders; clarifying the method request of submission.
2. Description of the partnership project for investment, including its location, nature, key elements and proposed land area for its implementation, if any.
3. Statement of the special experiences required by the investor to pass the qualification phase.
4. Qualification Standard.
5. The deadline determined by date and time for obtaining qualification documents.
6. Location and method to submit the qualification documents. The Committee may decide to accept such documents by means of electronic communication.



Article (26)

In the event of a consortium consisting of grouping of several companies to apply for qualification, this consortium shall determine a leader to be appointed by the official members of the consortium to represent the member companies before the Authority.

The consortium leader is required to maintain the conditions of experience and the ownership percentage by the consortium leader, which shall be determined in advance in the qualification documents.

In so evaluating qualification applications received from consortium, consideration shall be given to the qualifications and capabilities of each member of the consortium, and whether or not they jointly meet the qualification criteria and requirements. The qualification application shall be studied according to the role of each member of the consortium; in accordance with the tasks undertaken in terms of design, planning, construction, preparation, operation, development, maintenance, qualification or financing in accordance with the nature of the project and the type of partnership model approved; and in accordance with the conditions contained in the qualification documents. No entity may be allowed to participate in more than one consortium as a consortium member

Article (27)

The Competent Body shall study the qualification applications submitted by the investors and prepare a report confirming all its activities, the results of the evaluation process of the qualification applications, the investors approved to participate in the next phase of the launch, the investors proposed to be excluded and the reasons for exclusion. Such report shall be referred to the Committee.

The Committee shall study the said report by submitting its recommendations to the Minister to take the necessary action to submit such recommendations to the Board of Directors to take the appropriate decision. The Authority shall notify the investors of the final decision adopted in respect of the applications for qualification at the address specified in their respective applications.



Final Provisions

Article (28)

The contract document shall be drafted in the Arabic language and may be accompanied by an English translation. The correspondence, exchanges and minutes of the meetings related to the execution of works (contract) may be in English accompanied by a translation in the Arabic language .In all cases, the Arabic version shall prevail in interpretation and implementation of the contract.

Article (29)

The provisions of these Regulations shall apply to all matters relating to partnership projects concluded by the Authority. Unless otherwise provided in these Regulations, the general rules of Law No. 116 of 2014 and its Executive Regulations shall apply.

Article (30)

The Authority may lease the lands allocated for non-residential purposes, provided that the proceeds of leasing returns shall be deposited into the Authority financial resources in accordance with the provisions of Law No. (47) Of 1993 referenced herein. The Competent Body shall develop the lease contract models of the usufruct for public and private entities, and companies to be approved by the Board of Directors as each entity independently.

Article (31)

If the Authority establishes a company that manages and executes the investment activities on land designated for non-residential purposes, the company shall assume its functions, in accordance with the Articles of Association and company bylaws, and in conformity with the commercial regulations thus leading to the completion and implementation of the objectives, specialties and obligations assigned thereto.