

The Basic Plan for Public-Private Partnerships in Infrastructure

Ministry of Economy and Finance Notice No. 2024-123

As the Basic Plan for Public-Private Partnerships in Infrastructure (Ministry of Economy and Finance Notice No. 2023-195) has been amended, an announcement herein is made pursuant to Article 7 of the Act on Public-Private Partnerships in Infrastructure.

May 20, 2024

Minister of Economy and Finance

I. Reason for Amendment

- o To establish the 2024 Basic Plan for Public-Private Partnerships in Infrastructure in accordance with Article 7 and Article 8 of the Act on Public-Private Partnerships in Infrastructure

II. Main Focus

1. PPP Policy Direction

- o **(Identify New Projects and Strengthen Investment Management)** Identify new projects eligible as PPP and strengthen the execution review system;
- o **(Reduce Burden of PPP Implementation)** (1) by easing the initial project proposal costs, (2) by shortening the duration of Reassessment of Demand Forecast.

2. 2024 Investment Plan

- o The total investment cost of PPP projects in 2024 amounts to KRW 37.5 trillion (86 projects).
 - *Total investment cost by implementation stage: contract award KRW 2.0 trillion; execution plan approved KRW 1.7 trillion; construction start KRW 24.3 trillion; construction complete KRW 9.6 trillion
- o The amount to be executed in 2024 is KRW 5.7 trillion* (71 projects, estimated).
 - *Net private investment cost (excluding government investment): KRW 3.5 trillion

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Part 1 General Guidelines for Implementation of Public-Private Partnerships

Chapter I General Provisions

Article 1 (Purpose)

The purpose of this Basic Plan is to prescribe detailed procedures, methods, etc. necessary for the implementation of Public-Private Partnership Projects (hereinafter referred to as the “PPP projects”) pursuant to the provisions of the Act on Public-Private Partnerships in Infrastructure and the Enforcement Decree of the same Act.

Article 2 (Definitions)

The terms used in this Basic Plan are defined as follows:

1. The term "competent authority" means the head of an administrative agency in charge of the affairs of the relevant infrastructure project pursuant to the relevant statutes. For national projects, the term refers to the head of the relevant central government administrative agency, and for local projects with or without central government subsidies, the head of the relevant local government.
2. The term "concessionaire" means an entity not in the public sector who is either a private corporation or a public-private joint corporation that implements a PPP project who is designated as a concessionaire pursuant to the Act on Public-Private Partnership in Infrastructure (hereinafter referred to as the "Act").
3. The term "infrastructure project" means a project to establish, expand, improve, or operate infrastructure under Subparagraph 1 of Article 2 of the Act in accordance with the procedures prescribed by the Act.
- 3-1. The term "expansion" means expanding the area, height, etc. of existing infrastructure or increasing its capacity. <Newly established on April 20, 2015.>
- 3-2 The term "improvement" means improving existing infrastructure physically and functionally to improve its use and exchange value. <Newly established on April 20, 2015>
- 3-3 In the case of a public office building, new construction that accompanies transferring of the earlier facility shall be excluded. <Newly established on April 27, 2016>
4. The term "supplementary project" means a project falling under each Subparagraph of Article 21 (1) of the Act that is related to the smooth operation and use of the relevant PPP project (hereinafter referred to as the "main project") and implemented in an area geographically close to the implementation area of the main project. <Amended on May 12, 2014>
5. The term "ancillary project" means a small-scale project implemented by a concessionaire in addition to the main project to enhance the efficiency of facility use for general users and to recover part of investment expenses by utilizing the infrastructure established under the main project, as recognized by the competent authority in accordance with the provision to Article 14(4) of the Act. <Amended on April 20, 2015; February 10, 2020>
6. The term "government-solicited project" refers to a project that has been identified and designated for eligible PPP project by the competent authority pursuant to Article 8-2 of the Act and for which such authority identifies and designates private sector entities to partake in the relevant partnership.
7. The term "unsolicited project" means a project that has been discovered and proposed by a private sector entity to the competent authority for eligible PPP project pursuant to Article 9 of the Act.
8. The term "Build-Transfer-Operate (BTO) project" means a project in which investment costs are recovered through usage fees paid by facility users.
9. The term "Build-Transfer-Lease (BTL) project" means a project in which investment costs are recovered through usage fees, such as facility rental fees paid by the central or local government.
- 9-1. The term "aggregate ceiling of BTL projects" means an estimate of the total project costs under Article 2-2 of the Decree necessary for the implementation of BTL projects. <Newly established on May 12, 2014>
- 9-2 The term " Hybrid (BTO+BTL) projects" means a project in which investment costs are recovered from usage fees, such as usage fees paid by facility users and facility rents paid by the central or local government. <Newly established on February 10, 2020>
10. The term "Preliminary Value-for-Money (VfM) test of PPP" means the analysis carried out at the preliminary feasibility study phase for those projects that are subject to mandatory consideration for public-private partnerships on whether it is appropriate to implement as a PPP project rather than a government-financed

project by comparing and analyzing a public sector comparator (PSC) and a private finance initiative (PFI). <Amended on April 20, 2015>

11. The term "feasibility analysis" means an economic feasibility and policy feasibility analysis of a government-solicited PPP project carried out pursuant to Article 8-2 (2) of the Act to determine the feasibility of the relevant project, whereby determination is made on whether it is appropriate to implement the relevant project under a public-private partnership through comparative analysis of cost and financial benefits vis-à-vis a government-financed project (hereinafter referred to as the "Value-for Money (VfM) test"), thereby to review the appropriateness of the method of implementation and to seek for the optimal mix of costs and services <Amended on May 10, 2013; May 7, 2019>
12. The term "Value-for-Money (Vfm) test of PPP" means the analysis carried out pursuant to Article 7 (6) of the Enforcement Decree of the Act on Public-Private Partnership in Infrastructure (hereinafter referred to as the "Decree") in order to determine the economic and policy necessity of an unsolicited project as well as the comparative suitability of such project vis-à-vis a government-financed project. <Amended on May 7, 2019>
13. The term "quantitative analysis" means a method of analyzing value for money of PPP by comparing costs incurred during the life cycle of a government-financed project and a PPP project (life cycle cost, "LCC").
14. The term "qualitative analysis" means a method of analyzing value for money of PPP by comparing a government-financed project and a PPP project in terms of improvement of service quality, early realization of the benefits of the project, risk-sharing effect, etc.
15. The term "refinancing" means changing the equity of an investor, the capital structure, terms of conditions for debt financing, etc. from the provisions for such matters originally stipulated in the concession agreement (including any Amended on concession agreement). <Amended on May 10, 2013; May 12, 2014>
- 15-1. The term "sharing of refinancing gains" means that the concessionaire and the competent authority share the expected increase in the gain of the investor arising from the refinancing. <Newly established on May 12, 2014; May 7, 2019>
16. The term "request for alternate proposals" means the public announcement of the required details for a proposal, etc. so that proposals can be made by third parties other than the proponent when it is decided that a project proposed by the private sector will be implemented as a PPP project pursuant to Article 6.
17. The term "government procurement agreement, etc." means a multilateral or bilateral government procurement agreement or international agreement joined or concluded by the Government of the Republic of Korea <Newly established on May 10, 2013>
18. Except as otherwise provided for in this Basic Plan, the Act on Public-Private Partnership in Infrastructure (hereinafter the "Act") shall apply.
19. The term "specialized institution" means an institution designated as specified in Attached Table 12 by the Minister of Economy and Finance, which has expertise and track record related to public-private partnerships and may conduct a review of proposals under Article 7 (3) of the Decree at the request of the competent authority. <Newly established on April 27, 2016. Amended on March 29, 2018; May 7, 2019>
20. The term "preliminary feasibility study institution" means an institution under Article 7 (3) 2 of the Decree recognized by the Minister of Economy and Finance as capable of performing the duties referred to in Article 96 (1) because it has organizations and professionals necessary for conducting Value-for-Money (Vfm) test of PPP. <Newly established on May 7, 2019>
21. The term "head of the PIMAC, etc." means the head of the Public and Private Infrastructure Investment Management Center (hereinafter the "PIMAC") of the Korea Development Institute under Article 23 of the Act and the head of a preliminary feasibility study institution under Article 7 (3) 2 of the Decree. <Amended on May 7, 2019>
22. The term "Rehabilitate (R) Project" means a project in which, upon refurbishment and/or expansion of existing infrastructure, investment costs are recovered through usage fees for the entire facility, including the parts refurbished or expanded. <Newly established on July 18, 2022>

Article 3 (Methods of Implementation of PPP Projects)

① PPP projects may be implemented in the following ways pursuant to Article 4 of the Act:

1. Build-Transfer-Operate (BTO) Method: A method where the ownership of the infrastructure facility is vested in the central or local government upon the completion (of new construction, expansion or improvement) of the infrastructure and the concessionaire is granted the right of management and operation of the facility for a

- specified period of time. <Amended on May 10, 2013; April 20, 2015>
2. Build-Transfer-Lease (BTL) Method: A method where the ownership of the relevant infrastructure facility is vested in the central or local government upon completion (of new construction, expansion or improvement) and the concessionaire is granted the right of management and operation of the facility for a specified period of time, where the central or local government leases the facility for the time period specified in the concession agreement for use and generation of profit <Amended on May 10, 2013; April 20, 2015>
 3. Build-Operate-Transfer (BOT) Method: A method where the concessionaire is granted the ownership of the relevant infrastructure facility upon completion (of new construction, expansion or improvement) for a specified period of time, upon expiration of which the ownership is vested in the central or local government <Amended on April 20, 2015>.
 4. Build-Own-Operate (BOO) Method: A method where the ownership of the relevant infrastructure facility is vested in the concessionaire upon completion (of new construction, expansion or improvement) <Amended on April 20, 2015>
 5. Build-Lease-Transfer (BLT) Method: A method where the concessionaire leases the relevant infrastructure facility to a third party upon completion (of new construction, expansion, improvement) for a specified period of time, upon expiration of which the facility is transferred to the central or local government. <Amended on April 20, 2015>.
 6. <Deleted April 20, 2015>
 7. <Deleted April 20, 2015>
 8. <Deleted April 20, 2015>
 9. <Deleted April 20, 2015>
 10. Hybrid (BTO+BTL) Method: A method where a single infrastructure facility is constructed and operated under a scheme that combines the methods prescribed in Article 4, Subparagraphs 1 and 2 of the Act. <Newly established on February 15, 2012. Amended on May 12, 2014; February 10, 2020>.
 11. Conjoined Method: A method of physically dividing the relevant infrastructure facility, upon the resulting sections of which two or more of the methods prescribed in Article 4, Subparagraphs 1 through 6 are used. <Newly established on February 10, 2020>
 12. Rehabilitate (R) method: A method where existing infrastructure is refurbished or expanded, and the management and operation rights are granted for the entire facility including the parts refurbished or expanded (the reversion of ownership, the recognition of management and operation rights, methods for use, and profit making may be as per Subparagraphs 1 through 11; in such cases, the relevant provisions in the Basic Plan shall apply mutatis mutandis). <Newly established on July 18, 2022>
 13. Other methods presented by the private sector and recognized as appropriate by the competent authority or presented by the competent authority in this Basic Plan (including cases in which the Ministry of Education seeks to construct private school facilities through a method similar to that prescribed in Subparagraph 2). <Amended on February 10, 2020>
- ② The competent authority shall specify the method of implementation of the relevant project in the request for proposals or in the request for alternate proposals that the private sector it is informed thereof before participation.
 - ③ Procedures for the implementation of PPP project shall be as specified in Attached Table 1.

Article 4 (General Principles of Designation of PPP Projects)

The competent authority shall consider the following general principles in designating PPP projects:

1. Principle of Payment by Beneficiary: Projects that can provide higher-quality services in comparison with existing facilities that can be used with the lower burden of expenses so that users are willing to pay higher usage fees in return for such high benefits
2. Principle of Profitability: Projects that can secure a rate of return sufficient for the recovery of investment expenses made by the private sector investor within the scope of usage fees acceptable to the government and payable by the users, and the construction subsidies the government is able to provide
3. Principle of Project Benefits: Projects that are unlikely to be completed early or provide services due to budget restraints if implemented as government-financed projects but are anticipated to be completed on time and generate early benefits if implemented under a public-private partnership
4. Principle of Efficiency: Projects that are anticipated to generate increased benefits and reduced cost compared

to a government-financed project thanks to the creativity and efficiency of the private sector and are likely to produce higher quality of services due to competition with government-financed projects

Article 5 (Designation of Government-Solicited Projects)

- ① For projects deemed more efficient under a public-private partnership, the competent authority shall, in principle, formulate a preliminary plan and implement the relevant project as a government-solicited project.
- ② A government-solicited project shall meet the general principles under Article 4 and the following requirements:
 1. Facilities prescribed in Article 2, Subparagraph 1 of the Act <Amended on February 15, 2012>
 2. Consistent with the medium to long-term plans for infrastructure and the priorities for national projects
- ③ The competent authority shall, with regard to government-financed projects that are deemed likely to be implemented as PPP projects at the preliminary feasibility study phase, conduct the Preliminary Value-for-Money (VfM) test of PPP of such projects, taking into account financial conditions, level of usage fees, other policy directions, etc. and implement them as government-solicited projects. <Amended on April 20, 2015>

Article 6 (Designation of Unsolicited Projects)

The competent authority shall determine whether to designate and implement a project proposed by the private sector as a PPP project pursuant to Article 9 of the Act based on comprehensive consideration of the designation principles under Articles 4 and 5, the opinions of the head of the PIMAC, etc. or specialized institutions and the requirements stipulated in the following Subparagraphs <Amended on May 7, 2019>

1. Feasibility in light of the national economy must be ensured through cost and benefit analysis.
2. The private proposal or a private finance initiative (PFI) alternative shall be able to reduce the government's burden and raise the quality of services above that where it had been implemented as a government-finance project.

Article 7 (Selection of BTL Projects)

- ① The competent authority shall select BTL projects based on comprehensive consideration of the principle of designation under Subparagraphs 3 and 4 of Article 4, Articles 5 and 6, and the following matters:
 1. Legal Suitability
 - A. The facilities prescribed in Subparagraph 1 of Article 2 of the Act, which are mandatory to provide basic services to the public, and the type of projects already being invested in by the central or local government <Amended on February 15, 2012; March 29, 2018>
 - B. Projects provided for in mid to long-term investment plans, etc. formulated based on relevant statutes, etc.
 2. Economic and Financial Suitability
 - A. Projects that are expected to lead to earlier project benefits, improved quality and safety of the facilities, and improved quality of services, etc. and reduced total cost including the reduction of total costs incurred during the life cycle of a project comprising design, construction and operation phases relative to a government-financed project thanks to the creativity and efficiency of the private sector
 - B. Projects whose life-cycle costs are largely comprised of operating costs and will benefit from consolidated management of design, construction, operation and maintenance in terms of efficiency
 - C. Projects for which it is difficult to collect usage fees from users or for which the recovery of investment is structurally impeded. Provided, however, that projects for which investment can be recovered through usage fee proceeds or partial construction subsidies shall be implemented as BTO or BTL/BTO projects <Amended on February 10, 2020>
 - D. Projects whose facilities are physically distinct and allow independent project and accounting management
 3. The Urgency of the Project and Other Considerations
 - A. Projects with significant anticipated benefits and the securement of which is urgent but are not receiving sufficient investment due to financial circumstances and require advance investment to a significant degree
 - B. Projects funded with private sector investment where the ownership of the constructed facilities will be donated to the central or local government upon completion
 - C. Projects where the level of services required of the private sector operator can be objectively and clearly

presented

- ② The competent authority shall select eligible projects in full consideration of the following preparations so that the project can be implemented within the relevant year in which the aggregate ceiling is set:
 1. Projects that can be executed smoothly in terms of securing additional manpower needed for facility expansion, etc.
 2. As for construction projects, projects for which the needed land and required permits and licenses can be acquired in a timely manner
 3. As for civil engineering projects, projects whose construction can be started early thanks to timely completion of the basic designs and unimpeded acquisition of the required permits and licenses
 4. Projects where it is possible to provide for the relocation and or temporary housing of existing users and that do not present significant difficulties in terms of handling complaints, other difficulties, etc. and allow for speedy resolution of such matters

Article 7-2 (Designation of Hybrid (BTO+BTL) Projects)

The competent authority may pursue hybrid (BTO+BTL) projects if it is difficult to recover the investment under a BTO project scheme, or if necessary for the public good, such as for maintenance of the level of usage fees, etc. <Newly established on February 10, 2020>

Chapter II Investment Models for PPP Projects

Section 1 User fees and Total Project Cost

Article 8 (User fees)

- ① The term "user fee" means monetary charges imposed on facility users in any of the following manners pursuant to Article 25 (4) of the Act and Article 23 of the Decree:
 1. The profit method, whereby the facility users directly pay the concessionaire.
 2. The lease method, whereby the central or local government pays the concessionaire in the form of rent, etc.
- ② The competent authority may specify the upper limit of user fees in the request for proposals or request for alternate proposals taking into account the level of user fees for alternative facilities, the nature of the relevant project, etc.

Article 9 (Estimation of Total Project Cost)

- ① The total project cost refers to the total expense to be incurred in the construction, expansion or amelioration of infrastructure, calculated by the sum of the survey cost, design cost, construction cost, compensation cost, incidental cost, operation equipment cost, taxes and charges, and operating reserve specified in Article 2-2 of the Decree. <Amended on May 10, 2013>
- ② In principle, when determining the amount of compensation for land, the appraised value of the land shall apply. If no such appraised value is available, the cost shall be determined in accordance with the detailed guidelines for Value-for-Money (VfM) test of PPP prepared and promulgated by the head of the PIMAC.
- ③ Incidental costs shall include the costs of project feasibility analysis, environmental impact assessment, strategic environmental impact assessment, supervision, construction project management in connection with the implementation of the project, review of construction unit, and review of economic viability of the design, and incidental costs related to financing (the fees for the guarantee of the Korea Credit Guarantee Fund), etc., as set forth in Subparagraph 5 of Article 2-2 of the Decree. <Amended on July 17, 2017; March 24, 2021; July 18, 2022>

Article 9-2 (Prior Sample Reference Price Survey of Land Compensation Cost) <Newly established on May 12, 2014. Amended on April 27, 2016>

- ① The competent authority of a PPP project that may incur land compensation costs under Article 20 (1) of the Act (excluding projects under Subparagraph 4 of Article 4 of the Act and projects under similar schemes) shall request the Korea Appraisal Board as provided for in the Korea Appraisal Board Act (hereinafter the “Korea Appraisal Board”) for a prior sample-based survey of the reference price of the land for the PPP project . <Amended on July 17, 2017>
- ② The prior sample-based reference price survey referred to in Paragraph 1 refers to the selection of sample land, etc. under Article 20 (1) of the Act and determination of the reference price, previous cases of suitable compensation, actual transaction price, etc. of such samples. <Amended on July 17, 2017>
- ③ The prior sample-based reference price survey under Paragraph 1 shall apply to PPP projects comprised of ten (10) or more parcels the estimated amount of compensation for which is KRW 5 billion or more, and for PPP projects comprised of not less than three (3) parcels and less than ten (10) parcels the estimated amount of compensation for which exceeds KRW 20 billion.
- ④ The term sample land, etc. in Paragraph 1 means land that may represent the land subject to compensation, and prior sample-based reference price survey shall be based samples comprising at least 10% of the number of parcels and total area of the land. Provided, however, that for land comprising three (3) or more parcels but less than ten (10) parcels, the sample shall comprise at least one (1) parcel. <Amended on July 17, 2017>
- ⑤ When requested to conduct a prior sample-based reference price survey pursuant to Paragraph 1, the Korea Appraisal Board shall conduct such survey within sixty (60) days, and shall notify the result thereof to the requesting competent authority and to the Minister of Economy and Finance. <Amended on May 7, 2019>
- ⑥ The competent authority shall provide the appraisal result notified pursuant to Paragraph 5 to the appraisers of the land, etc. subject to the relevant project as reference material for valuation for compensation purposes, etc.

Article 10 (Change in Total Project Cost)

- ① The competent authority and the concessionaire shall not change the total project cost determined at the time of conclusion of the concession agreement except where the grounds prescribed in Article 22 (2) of the Decree arise during construction. <Amended on February 15, 2012; May 12, 2014>
- ② Where any of the following grounds arise under Article 22 (2) 2 of the Decree, the competent authority and the concessionaire may change the total project cost through mutual agreement. <Amended on February 15, 2012; May 12, 2014>
 1. Where the change in construction costs, etc. during construction significantly exceeds or falls below the rate of inflation.
 2. Where the total project cost is increased or decreased due to reasons attributable to the competent authority or force majeure.
 3. Where the total project cost increases or decreases due to the enactment or amendment of Acts and subordinate statutes, etc. <Amended on April 20, 2015>
 4. Where the total project cost is increased or decreased due to environmental or traffic impact assessment, the requests by licensing and approving authorities, and civil petitions following consultation with the relevant local government among which the competent authority recognizes as acceptable.
 5. Where the total project cost is increased or decreased due to the request of the competent authority, such as a change in the scope of construction.
 6. Other unavoidable reasons prescribed in the concession agreement.
- ③ Notwithstanding Paragraph 1, the competent authority shall, if the actual supervision cost is less than the supervision cost provided for in the concession agreement, adjust the total project cost by deducting the difference in the supervision cost. <Newly established on May 12, 2014>
- ④ Change in total project cost under Paragraphs (1) through (3) shall be in accordance with the following principles:
 1. In principle, ex post facto adjustment of other cost not linked to changes in construction cost as at the time of conclusion of the concession agreement shall be prohibited.
 2. In prescribing the grounds for adjustment resulting from increase or decrease in the total project cost under the concession agreement, grounds shall be provided not only for increase but also for decrease.
 3. A change in the total project cost shall be based on the calculation statements of an approved detailed implementation plan. <Newly established on May 12, 2014>
 4. Notwithstanding Subparagraph 3, for items or expenditures not included in the calculation statement of the

approved detailed implementation plan (including cases where the content, function, specification, etc. significantly differs. Hereinafter referred to as “new expenditure items”), their amount shall be determined through mutual agreement between the competent authority and the concessionaire within the amount derived by multiplying the design price for the new expenditure items by the application ratio of the construction cost under the concession agreement relative to the said design price. Provided, however, that when no agreement can be reached, the amount shall be 50/100 of the amount derived by the sum of the design price and the amount derived by multiplying the design price to the application ratio of the construction cost relative to the said design price. <Newly established on May 12, 2014>

- ⑤ Where it is necessary to compensate for the decrease in profits or increase in losses, etc. of the concessionaire due to changes in the total project cost, the competent authority shall consult with the concessionaire about the possibility of adjusting user fees and free use period in parallel with government financial support.

Section 2 Determination of Rate of Return and User fees for BTO Projects

Article 11 (Determination of Rate of Return and User fees)

- ① The rate of return and user fees for BTO projects shall be determined according to the following formula <Amended on July 18, 2022>:

$$\sum_{i=0}^n \frac{CC_i \text{ or } RC_i}{(1+r)^i} = \sum_{i=n+1}^N \frac{OR_i - OC_i}{(1+r)^i}$$

n : Time of completion of construction of facility
N : End of free-use period or given period for management and operation rights
 (or period subject to the analysis if the ownership of the facility belongs perpetually to a private-sector entity)
CC_i : Injected costs in each year for completion of the new facility
 (excluding amount of government financial support)
RC_i : For a rehabilitate (R) project, costs to expand/refurbish existing facility
 (excluding amount of government financial support)
OR_i : Operating revenue for each year
OC_i : Operating costs for each year (excluding corporate tax)
r : Internal rate of return (IRR) of project (real, before tax)

- ② The competent authority shall specify the base time for calculating the constant price of the total private project cost (CC_i, or RC_i for a rehabilitate (R) project), operating revenue (OR_i), operating costs (OC_i), etc., in the request for proposals or in the request for alternate proposals, but may determine a different base time when concluding the concession agreement. <Amended on April 20, 2015; July 18, 2022>
- ③ The competent authority shall specify the period of construction (*n*), free use period or the given period for management and operation rights (*N-n*: refers to the period subject to the analysis, if the facility is owned by the concessionaire) of the facility in the request for proposals or the request for alternate proposals, and the given period for management and operation right for government revertible facilities shall not exceed fifty (50) years.
- ④ Operating costs shall be the sum of all expenses incurred in operating the facilities and the provision of operation

services, taking into consideration costs invested for the maintenance, repair, amelioration, and substantial repair of the facility during the operation period after completion of the facility.

- ⑤ Notwithstanding Paragraph 4, interest expense is reflected in the agreed project rate of return (r) and depreciation costs (including start-up cost, organization cost, goodwill, etc.) is covered by the recovery of the total project cost during the given period for management and operation rights; therefore, the foregoing items shall not be separately accounted for as operating costs. <Amended on July 17, 2017>
- ⑥ The rate of return shall be calculated based on the rate of return before corporate tax.

Article 12 (Determination of Agreed Rate of Return of a Project)

- ① The agreed project rate of return shall be voluntarily proposed by the project applicant based on the expected rate of return in consideration of investment, operating revenue, financing costs, etc. for the project, but shall be determined through negotiations between the project applicant and the competent authority.
- ② When negotiating, the competent authority may determine the level of the project rate of return in consideration of the following matters:
 - 1. The level of average interest rate on loans of domestic and foreign financial institutions for infrastructure facilities (Amended on February 15, 2012).
 - 2. Risk premium and expected rate of return of investors in consideration of the characteristics of the relevant project, such as the type of project, the scale of the project, the stability of operating revenue, and the level of risk sharing by the government. <Amended on April 20, 2015; March 29, 2018>
 - 3. The rate of return on similar domestic and foreign PPP projects
- ③ In principle, the agreed project rate of return provided for in the concession agreement cannot be adjusted during the period of implementation of the project. Provided, however, that if the scale of government financial support is reduced or the user fee is reduced, the agreed project rate of return may be adjusted through agreement between the parties.
- ④ The competent authority may receive support from the PIMAC, etc. in connection with the calculation of the project rate of return to be presented in negotiations and negotiation thereon. <Amended on February 10, 2020>

Article 13 (Collection of User fees, etc.)

- ① Matters pertaining to the calculation of user fees shall comply with Article 23 (1) of the Decree. <Amended on March 29, 2018>
- ② When the concessionaire intends to collect the user fees prescribed in the concession agreement, he/she shall comply with Article 23 (2) of the Decree. <Amended on May 10, 2013; March 29, 2018>

Article 14 (Adjustment of user fees)

- ① The initial user fee for the first year of operation of a BTO project shall be calculated by the concessionaire and reported to the competent authority in accordance with the method of changing user fees stipulated in the concession agreement, which may include reflecting the changes in consumer price index during construction period, etc.
- ② Every year after the first year of operation, user fees shall be calculated by the concessionaire and reported to the competent authority in accordance with the method of changing user fees stipulated in the concession agreement, which may include reflecting the changes in consumer price index of the previous year. Provided, however, that the competent authority may separately determine the calculation frequency of user fees in consultation with the concessionaire in consideration of the characteristics of the individual projects, the level of changes in consumer price index, etc. <Newly established on May 12, 2014>
- ③ Where the method of use and user fees determined by the concessionaire are likely to significantly hinder the users' benefits, the competent authority may adjust the method of use, user fees, and other matters necessary for the management and operation of the facilities in consultation with the concessionaire.

Section 3 Determination of Government Payments, etc. for BTL Projects

Article 15 (Determination of Government Payments)

Government payments for BTL projects shall be calculated by adding facility rental fees, which are compensation for facility investment expenses invested by the private sector, and operating costs, which are compensated for costs spent by the private sector while taking charge of the operation of the facility, including maintenance and repair. The method of determining the government payments shall be as specified in Attached Table 2.

Article 16 (Determination of Facility Lease Fee)

- ① Facility lease fee shall be determined in accordance with the following formula where the investment principal and interest, which reflects the rate of return on the total private investment cost (if a rehabilitate (R) project, private investment cost invested for refurbishment or expansion) by the concessionaire, is divided and paid in the same amount every year, according to equal installments of principal and interest, during the period of the lease. <Amended on February 15, 2012; July 18, 2022>

- 1. Determination of facility lease fee at the time of completion

$\text{Facility Lease Fee} = \frac{\text{Total Private Investment Cost} \times \text{Rate of Return}}{1 - (1 + \text{Rate of Return})^{-(\text{Lease Period})}}$
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*If a rehabilitate (R) project, private investment cost for refurbishment/expansion.

- 2. Determination of facility lease fee if the rate of return is adjusted in accordance with Article 17 (2).

$\text{Facility Lease Fee After Adjustment} = \frac{\text{Remaining Total Private Investment Cost} \times \text{Adjusted Rate of Return}}{1 - (1 + \text{Adjusted Rate of Return})^{-(\text{Remaining Lease Period})}}$
<p>Remaining Total Private Investment Cost: Total Private Investment Cost – Principal of Total Private Investment Cost Included in Already Paid Lease Fee</p>

- ② Where deemed necessary for reducing the burden of long-term rent, etc., the competent authority may pay construction subsidies during construction.
- ③ Total private investment cost shall be calculated by adding the change in price index under Subparagraph 1 and the interest during construction under Subparagraph 2 to the total private project cost stipulated as a constant price in the relevant agreement.
 - 1. Change in Price Index shall be calculated separately by using the appropriate price indexes, such as the GDP deflator for the construction investment sector.
 - 2. Interest during Construction shall be calculated by applying the interest rate reflecting the spread (β) under Subparagraph B to the base interest rate under Subparagraph A.
 - A. Base interest rate for calculating interest during construction shall be the arithmetic average interest rate of unsecured corporate bond (AA-) maturing in three years from the date of announcement of the request for proposals to 120 days prior to the conclusion of the concession agreement. <Amended on February 15, 2012; April 20, 2015>
 - B. Spread (β) for calculating interest during construction shall be determined through competition among project proposals. for each individual project in consideration of project bankability, etc.

Article 17 (Determination of Rate of Return)

- ① The rate of return on BTL projects shall be determined with proposals made through a competition between project proponents for each project, based on the pre-corporate tax rate of return, taking into consideration financing costs, level of risks in the project, etc., but shall be calculated by adding the spread (α), in which the premium on long-term investment, the risk premium on construction and operation, etc. are reflected, to the interest rate of treasury bonds maturing in five years, which serves as a reference rate.
- ② In principle, the initial reference rate shall be the average interest rate on five-year treasury bonds as of five (5) business days prior to the effective date of the right of management and operation. Subsequent adjustments of the reference rate shall be made in principle every five (5) years based on the average interest rate of five-year treasury bonds as of five (5) business days prior to the adjustment.
- ③ The spread (α) shall be determined at the conclusion of the concession agreement and shall not be modified afterwards.

Article 18 (Determination of Operating costs)

- ① Operating costs shall be determined by summing up all expenses necessary for the provision of operating services, such as the cost of maintenance, project management expenses, etc. of the facility incurred by the concessionaire during the agreed operation period after completion of a facility completion of the facility.
- ② Annual operating costs shall be the current prices calculated by reflecting the actual change in price index in the constant prices fixed by the concession agreement in advance.
- ③ Operating costs in nominal terms reflecting the actual change in price index under Paragraph 2 shall be calculated as follows:

Operating costs in nominal terms	=	Operating costs in real terms	×	$\left[\frac{\text{Consumer price index of the last month of the quarter before the quarter for which the operating costs should be paid}}{\text{Consumer price index of the month in which the reference date for calculation of prices under the agreement}} \right]$
*The consumer price index shall be the one announced by the Bank of Korea at the time of request, and shall not be retroactively modified even if the price index changes afterwards. <Newly established on May 12, 2014>				

Article 19 (Adjustment of Operating costs)

- ① Where operating costs can be classified into parts that vary depending on demand and parts that do not, operating costs may be adjusted in consideration of changes in demand, as prescribed by the concession agreement.
- ② Where it is necessary to adjust operating costs due to changes in statutes, government policies, or other significant changes in operating conditions, it may be adjusted as prescribed by the request for proposals of the relevant facility project and the concession agreement.
- ③ The competent authority shall adjust operating costs in the event where the payment of minimum wages has been rendered difficult due to changes in the minimum wages prescribed by the Minimum Wage Act for simple labor services specified in Article 22-3 of the Enforcement Decree of the Act on Contracts in Which the State Is a Party, if the conditions prescribed by the Minister of Economy and Finance are satisfied. <Newly established on May 7, 2019>
- ④ For the conditions prescribed by the Minister of Economy and Finance under Paragraph 3, Article 76-6 (1) of the Standards for the Execution of Government Biddings and Contracts shall apply mutatis mutandis. <Newly established on May 7, 2019>
- ⑤ The adjustment of operating costs under Paragraph 3 shall be determined as follows. <Newly established on June 4, 2020>

Additional labor costs for payment of minimum wage in nominal terms	=	Labor costs in nominal terms subject to the minimum wage requirement for the relevant quarter for which operating costs are to be paid	×	$\left[\frac{\text{Minimum wage for the relevant year}}{\text{Minimum wage for the reference year}} - \frac{\text{Consumer price index for the year before the relevant year}}{\text{Consumer price index for the year before the reference year}} \right]$
<p>* The reference year is the year in which the initial concession agreement was concluded; however, for projects whose concession agreement was concluded prior to 2020, 2020 shall be the reference year. Provided, however, for projects for which adjustment of operating costs, including the operating costs incurred in 2020, is being sought, a different reference year may apply through agreement between the competent authority and the concessionaire.</p> <p>* This applies only in cases where the rate of increase in the consumer price index of the reference year from the previous year is less than the rate of increase in minimum wages vis-a-vis the reference year.</p>				

Article 20 (Duration of Facility Lease)

- ① In competent authority shall establish an appropriate duration of facility lease within the usual range of ten (10) to fifty (50) years for each individual project based on consideration of annual fiscal burdens, the economic life of the facility, etc. <Amended on June 4, 2020>
- ② The competent authority shall establish a duration of lease in such a manner that it will coincide with the given period management and operation rights. Provided, however, in cases where multiple independent facilities are consolidated and operated as a single project, separate management and operation rights may be granted for each individual facility, in which case the request for proposals of the project shall provide details concerning the establishment of separate rights of management and operation.

Article 21 (Disbursement of Government Payments)

- ① The competent authority shall disburse government payments to the concessionaire by selecting between quarterly or semi-annually, taking into account the procedures for budget execution, the timing of payment of central government subsidies to local governments, etc. Provided, however, that if requested by the concessionaire, semi-annual or quarterly payments may be disbursed in installments at a certain monthly rate.
- ② Where the competent authority fails to disburse the government payment to the concessionaire within the deadline prescribed by the concession agreement, it shall pay damages for late payment. In such cases, damages for late payment shall be calculated applying the rate of return that was applied to the calculation of the rent for the relevant project.

Article 22 (Subsidization of Rent, etc. for Central Government-Subsidized Projects)

For projects of local governments subsidized by the central government, rent subsidies, etc. shall be provided to the local government by applying the rate of subsidization by the central government for the construction cost, etc. of government-financed projects.

Article 23 (Evaluation of Service Performance)

- ① The competent authority shall prepare appropriate performance inspection standards and include them in the concession agreement so that the evaluation of service performance is conducted as objectively and fairly as possible.
- ② The evaluation shall be conducted based on the availability, safety, durability and user satisfaction rate of the facilities, the details and point allocation of which shall be determined in consideration of the characteristics of each facility.
- ③ The competent authority shall operate a performance evaluation committee comprised of public officials in charge, the concessionaire, specialized institutions in related fields, facility users, etc.

- ④ The competent authority shall present the basic direction of service performance evaluation in each field for it is responsible as pertains to BTL projects under Subparagraph 2 of Article 4 of the Act and faithfully conduct such performance inspection. After each service performance inspection, the competent authority shall immediately disclose the results including the following matters on the relevant website, etc. <Newly established on May 10, 2013. Amended on April 27, 2016>
1. Year and quarter subject to the performance evaluation
 2. Current composition of the performance evaluation committee
 3. Scores for each facility and evaluation item
 4. Ratings for each evaluation item
 5. Comments of facility users

Article 24 (Deduction of Government Payments)

- ① The competent authority shall classify actual government payments paid during the operation period into lease fee adjusted by applying the results of availability evaluation of the facilities, and operating cost payment, which shall be adjusted applying the results of performance evaluation considering the output specification, as shown in the Subparagraphs below. The details concerning the method of deduction of each government payment, etc. shall be provided in the request for proposals.
1. Lease fee: Where it becomes virtually impracticable to use part or all of the facilities due to reasons attributable to the concessionaire, it shall be paid with a deduction based on the degree of non-availability.
 2. Operating cost payment: The amount shall be deducted based on the results of performance evaluation in terms of availability safety and durability, service satisfaction, etc. of the facilities.
- ② Where the concessionaire restores the original level of services after a deduction of subsidies by the competent authority under Paragraph 1, the competent authority may partially refund the deduction.

Section 4 Determination of Rate of Return, User fees and Government Payments, etc. for Hybrid (BTO+BTL) Projects <Newly established on February 10, 2020>

Article 24-2 (Mixing Ratio, etc. of BTO and BTL of Hybrid (BTO+BTL) Projects) <Newly established on February 10, 2020>

- ① A hybrid (BTO+BTL) project is divided into a portion where the investment is recovered through user fees paid by facility users (hereinafter the “BTO portion”) and a portion where the investment is recovered through government payments, including facility lease fee, etc., paid by the central or local government (hereinafter the “BTL” portion).
- ② The competent authority shall determine the ratio of the BTL portion (hereinafter the “mixing ratio”) of the total private investment cost in consideration of the level of construction subsidies, user fees and rate of return.
- ③ In the case of a unsolicited project, the proponent shall consult in advance with the competent authority about the mixing ratio, etc. before submitting the project proposal.
- ④ The mixing ratio shall be set within 50% of the total private investment cost.
- ⑤ The competent authority shall present the free use period or the given period for management and operation rights in the request for proposals or the request for alternate proposals; the free use period or the given period for management and operation rights may not exceed fifty (50) years. When granting a free use period or the given period for management and operation rights, the same term shall apply for both the BTO and BTL portions. <Amended on June 4, 2020>

Article 24-3 (Rate of Return and User fees of Hybrid (BTO+BTL) Projects) <Newly established on February 10, 2020>

- ① In a hybrid (BTO+BTL) project, the rate of return and user fee of the BTO portion shall be determined according to the following formula. Matters not otherwise prescribed in this Article concerning the rate of return and user fee of the BTO portion shall be governed by Articles 11 through 14. <Amended on July 18, 2022>

$$\sum_{i=0}^n \frac{CC_{i(bto)} \text{ or } RC_{i(bto)}}{(1+r_{bto})^i} = \sum_{i=n+1}^N \frac{OR_i - OC_i}{(1+r_{bto})^i}$$

n : Time of completion of construction of facility

N : End of free-use period or given period for management and operation rights

$CC_{i(bto)}$: Private project cost in BTO portion of new facility (excluding government subsidies)

$RC_{i(bto)}$: For a rehabilitate (R) project, private project cost in BTO portion to expand/refurbish existing facility (excluding government subsidies)

OR_i : Operating revenue for each year

OC_i : Operating costs for each year (excluding corporate tax)

r : Internal rate of return (IRR) of BTO portion (real, before tax)

- ② If the actual operating revenue for the year exceeds the anticipated operating revenue, the competent authority may recover the excess in proportion to the mixing ratio.

Article 24-4 (Government Payments, etc. for Hybrid (BTO+BTL) Projects) <Newly Established on February 10, 2020>

- ① Government payments for hybrid (BTO+BTL) projects shall be the facility lease fee paid as compensation for the private investment cost of the BTL portion. The competent authority shall determine government payments calculated based on the following formula and pay its principal and interest in equal installments. <Amended on July 18, 2022>

$$GC' = CC'_{i(btl)} \text{ or } RC'_{i(btl)} \times \frac{r'_{btl}}{1 - (1+r'_{btl})^{-(\text{operating period})}}$$

r'_{btl} : Pre-tax current rate of return of the BTL portion

$CC_{i(btl)}$: Private project cost for the BTL portion of the new facility

$CC'_{i(btl)}$: Private investment cost in the BTL portion of the new facility [calculated by adding the private project cost in the BTL portion ($CC_{i(btl)}$) to the change in price index and the interest during construction in accordance with Article 16 (3)]

$RC_{i(btl)}$: For a rehabilitate (R) project, private project cost for refurbishment and expansion in the BTL portion

$RC'_{i(btl)}$: For a rehabilitate (R) project, private investment cost for refurbishment and expansion in the BTL portion [calculated by adding the private project cost for refurbishment and expansion in the BTL portion ($RC_{i(btl)}$) to the change in price index and the interest during construction in accordance with Article 16 (3)]

GC'_i : Government payment in nominal terms for Year i

- ② The pre-tax current rate of return for the BTL portion shall be calculated and adjusted in accordance with Article 17, and the matters pertaining to government payments and central government subsidies for the BTL portion shall be governed by Articles 21 and 22.
- ③ The competent authority may deduct from the government payments based on the availability of the facility during its operation in accordance with the criteria and methods provided for in the concession agreement.

Article 24-5 (Procedures for Implementation of Hybrid (BTO+BTL) Projects) <Newly Established on February 10, 2020>

For hybrid (BTO+BTL) projects, Section 3, Chapter 1 (for government-solicited projects) and 2 (for unsolicited projects) shall apply mutatis mutandis. However, Articles 112 through 117, and 140 through 142 shall govern the BTL portion. Provided, however, for government-solicited projects, the submission of request for aggregate limit by the competent authority under Article 114 (1) shall be accompanied by the results of feasibility analysis under Article 65, rather than Article 107.

Chapter III Financing of PPP Projects

Article 25 (Equity Financing by Concessionaire)

- ① The concessionaire of a BTO project shall raise equity capital in accordance with the following.
 - 1. During construction period, the equity ratio shall be maintained at 15/100 or more of the total private investment cost in order to maintain the stability in the construction of the relevant facility. <Amended April 20, 2015>
 - 2. During operation period, the equity ratio shall be maintained at 10/100 or more of the balance of the management and operation rights excluding the government subsidies on the audit report.
 - 3. Notwithstanding Subparagraph 1, if a project which was originally initiated as a government-financed project but was later converted to a PPP project and a public sector entity with expertise in the construction or operation of the project invests through equity financing 40/100 or more of the total private investment cost and takes charge of construction and operation of the project, the equity capital ratio may be reduced to 5/100 of the total private investment cost during construction period. <Amended February 15, 2012>
 - 4. Notwithstanding Subparagraphs 1 and 2, if it is deemed necessary to lower the equity ratio due to low project risk, or if an alternative is prepared for the stable operation of the PPP project, such as through public-sector investment, insurance subscription, etc., the equity ratio may be lowered to 10/100 of the total private investment cost during the construction period and to 5/100 of the remaining value of the management and operation rights excluding government subsidies on the audit report during operation period. Provided, however, that when calculating the termination payment pursuant to Article 37, the minimum equity ratio under Subparagraphs 1 and 2 shall apply. <Newly established on February 10, 2020. Amended on June 4, 2020; March 24, 2021>
- ② The concessionaire of a BTL project shall raise its equity capital in accordance with the following criteria:
 - 1. The competent authority shall determine the minimum equity ratio within the range of 5/100 to 15/100 of the total private investment cost, taking into consideration the level of risks in each project, other requirements for guarantee and insurance, etc., and shall state it in the request for proposals.
 - 2. Notwithstanding Subparagraph 1, the minimum equity ratio of a project with a total project cost of less than KRW 100 billion shall, in principle, be 5/100 of the total private investment cost.
- ③ The concessionaire of a hybrid (BTO+BTL) project shall raise equity capital to a ratio at least equal to the weighted average of the respective minimum equity ratio of the BTO portion under Paragraph 1 and the BTL portion under Paragraph 2. <Newly established on February 10, 2020>
- ④ The minimum equity ratio of a rehabilitate (R) project shall be determined within the range between 5/100 and 15/100 of the initial value of the management and operation rights on the audit report and shall be provided in the request for proposals. <Newly established on July 18, 2022>
- ⑤ Where the capital structure is changed pursuant to Paragraphs 1 through 3, the concessionaire shall maintain the equity ratio stipulated in the concession agreement. <Amended on February 10, 2020>

Article 25-2 (Debt Financing) <New 2014.5.12.>

- ① The concessionaire of a BTO project and a hybrid (BTO+BTL) project with a total project cost of KRW 500 billion or more shall endeavor to maintain the ratio of senior loans from shareholders at 70/100 or less and shall also endeavor to apply the interest rate obtained from non-shareholders through competition to loans from shareholders. Here, the interest rate of the senior loans from shareholders shall not exceed the rate of return on the project. <Amended on May 7, 2019; February 10, 2020>
- ② The concessionaire of a BTO project or hybrid (BTO+BTL) project shall endeavor to maintain the interest rate and size of subordinated loans within reasonable levels. <Amended February 10, 2020>
- ③ Where a concessionaire finances subordinated loans in excess of the lowest interest rate among the following, the competent authority may request the concessionaire to provide reasonable and logical grounds therefor or take measures to resolve them. <Newly established on March 29, 2018. Amended on May 7, 2019>
 1. Interest rates under Article 5 (2) of the Enforcement Decree of the Act on the Registration of Credit Business, etc. and Protection of Finance Users.
 2. Highest interest rate under the Regulations on the Highest Interest Rate under Article 2 (1) of the Interest Limitation Act.
 3. Where the competent authority agrees with the concessionaire on the highest interest rate at which it borrows funds, that interest rate.
- ④ At the time of initial financial close, if significant changes have occurred to the terms and conditions of debt financing relative to the conditions stipulated in the concession agreement, the consent of the competent authority shall be obtained. <Newly established on March 29, 2018>

Article 25-3 (Time of Financial Closure) <Newly established on May 12, 2014>

The competent authority and the concessionaire shall endeavor to ensure that the concession agreement (including amendments thereto) and the financing agreement are concluded at the same point of time.

Article 26 (Change of Investors)

- ① Where an investor (including a prospective investor) who owns 5/100 or more of the shares intends to transfer the share of equity or status as a prospective investor to a third party, the competent authority shall cause such investor to obtain prior approval. <Amended on February 15, 2012; February 10, 2020>
- ② In any of the following cases, the competent authority shall approve the change of investor after review by the Committees for Review on Public-Private Partnerships (hereinafter the “Review Committee”) and shall notify the decision and details thereof within three (3) months. <Amended on May 12, 2014; February 10, 2020>
 1. Where the concessionaire’s financial position or credit rating is expected to deteriorate due to the change of investor
 2. Where it is expected that the completion of the project or operation and management of the facility will face hindrance following the change of investor
 3. Where the change of investor is inconsistent with the social and public interests on any other ground
- ③ Where an investor who owns a share of equity less than 5/100 intends to transfer its share of equity or status as a prospective investor to a third party, the concessionaire shall immediately notify the competent authority of the details of the transfer. Provided, however, that where the operating company is the concessionaire, a different timeline for notification, such as a quarterly or a half-quarterly one, may be determined through consultation with the competent authority.

Article 27 (Sharing of Refinancing Gains) <Amended on May 12, 2014>

- ① Projects with a total project cost (for BTL projects, the total private investment cost; same below) of KRW 50 billion or more (or projects with a total cost of less than KRW 50 billion for which the competent authority deems it is necessary to verify the appropriateness of refinancing and to share the gains therefrom) that satisfy each of the following conditions shall be subject to the sharing of gains from refinancing. <Amended on May 12, 2014; April 20, 2015>
 1. Projects falling under the scope of refinancing under Article 28
 2. A project in which refinancing gains exist under Article 29 (1)
 3. Projects that do not fall under any of the following grounds for exclusion:

- A. Where none of the following conditions pertain: Government financial support, minimum revenue guarantee, risk sharing under Article 32 and termination payment
 - B. Where the refinancing is a bailout in nature
 - C. Where the project pertains to restructuring of concession conditions under Article 33-3 <Amended on July 17, 2017>
 - D. Where the project pertains to debt financing for advance compensation of land
 - E. Implementation of supplementary projects under Article 62 (provided, however, that projects with a termination payment clause in accordance with Article 37 (2) shall be excluded)
 - F. Projects for which a refinancing at the present time would impede the operation of the project, such as by causing excessive operating deficits, etc., and have been reviewed by the Review Committee pursuant to Article 38. <Newly established on February 10, 2020>
- ② In principle, the ratio of sharing refinancing gains between the competent authority and the concessionaire shall be 30 to 70, 50 to 50 for BTO projects with minimum revenue guarantees for the operation, and 40 to 60 for BTO-rs projects under Article 32 and hybrid (BTO+BTL) projects. Provided, however, that the competent authority and the concessionaire may determine a different ratio of gain sharing in comprehensive consideration of government subsidies including construction subsidies, extent of contribution to the refinancing effect, level of user fees, actual demand, the financing conditions of the concessionaire, increase in national benefit, etc. <Amended on May 12, 2014; April 20, 2015; February 10, 2020>
- ③ With regard to the use of the government's portion of refinancing gains, the competent authority shall give priority to the reduction of user fees. If, however, the competent authority deems such priority inappropriate, it may use the gains for other purposes, such as reduction of the minimum revenue guarantee, reduction of the amount of investment risk sharing or the reference amount for investment risk sharing under Articles 32 through 33-2, reduction of the free use period, reduction of government payment, and other purposes pertinent to the improvement of the implementation conditions of the project. <Amended on May 12, 2014; April 20, 2015; February 10, 2020>
- ④ The timing of use of shared gains under Paragraph 3 shall be as follows. <Amended May 12, 2014>
- 1. Where refinancing occurs during construction, the point of time under Article 29 (4) or the time for completion, in principle. Provided, however, that if the relevant refinancing occurs due to one of the following grounds due to a financial investor's withdrawal or change after the conclusion of the concession agreement, 50/100 of the portion of refinancing gains allotted to the competent authority shall be used at the time of completion, while the remaining portion shall be used five (5) years after completion; if another case of refinancing occurs within five (5) years after completion, at that point of time.
 - A. Initial financing closure
 - B. Change in share of equity prior to the initial financing closure
 - 2. Where refinancing occurs during operation, the point of time referred to in Article 29 (4). Provided, however, that in cases where the use of the shared gains is not suitable at the point of time referred to in Article 29 (4), such as where the actual income falls short of the estimated income and leads to excessive operating deficits, etc., the use of the shared gains may be carried forward to the following year. <Amended on May 7, 2019>
- ⑤ Detailed matters concerning Paragraphs (1) through (4) shall be governed by the detailed guidelines on refinancing (hereinafter referred to as the "detailed guidelines on refinancing") issued by the PIMAC. <Amended on May 12, 2014>

Article 28 (Scope of Refinancing) <Amended on May 12, 2014>

- ① The scope of refinancing shall be as follows. <Amended May 12, 2014; April 20, 2015>
- 1. Changes in investors' share of equity of 5/100 or more. Provided, however, that absent a minimum revenue guarantee and amount of investment risk sharing or the reference amount for investment risk sharing under Articles 32 through 33-2, simple changes in investors' share of equity of 5/100 or more shall be excluded (for cases that do not fall under Subparagraph 2 or 3 below).
 - 2. Changes in the capital structure that increase or decrease the equity capital, subordinated loans, etc.
 - 3. Significant changes in the terms and conditions of debt financing, such as interest rate, repayment period, terms of the debt service reserve account, etc.
- ② Notwithstanding Paragraph 1, the scope of refinancing at the initial financial closure or prior thereto shall be as follows. <Amended on May 12, 2014; April 20, 2015>

1. Changes in investors' share of equity of 5/100 or more. Provided, however, that absent a minimum revenue guarantee and amount of investment risk sharing or the reference amount for investment risk sharing under Articles 32 through 33-2, simple changes in investors' share of equity of 5/100 or more shall be excluded (for cases that do not fall under Subparagraph 2 or 3 of Paragraph 1 above).
2. Changes in the capital structure that increase or decrease the equity capital, subordinated loans, etc.
- ③ Detailed matters concerning the scope of refinancing shall be governed by the detailed guidelines on refinancing. <Amended on May 12, 2014>

Article 29 (Calculation of Refinancing Gains)

- ① Refinancing gains are the increase in the expected return of the investor due to the refinancing, which consists of gains from the weighted average capital cost effect and gains from the increase in the expected return of the investors. <Amended May 12, 2014>
- ② Gain from the weighted average capital cost effect referred to in Paragraph 1 refers to the increase in expected return due to the decrease in weighted average capital cost due to the change in capital structure after the conclusion of the concession agreement. <Amended May 12, 2014>
- ③ Gain from the increase in the expected rate of return of the investors under Paragraph 1 means the gain generated by the increase in the nominal rate of return of the investment of the investors due to the effect of early recovery of equity capital and the effect of changes in the conditions of debt financing. <Amended on May 12, 2014>
- ④ The timing of the calculation of refinancing gain shall be as follows. <Amended on May 12, 2014>
 1. Where the refinancing is carried out following the financial closure, that point of time
 2. Where the refinancing is carried out without financial closure but only pursuant to a change in equity capital, the point of time of approval of the competent authority under Article 26 (1).
- ⑤ Notwithstanding Paragraph (4), for preliminary review under Article 30 (1) 4, the refinancing shall be considered to have occurred at one of the following point of time: <Newly established on May 12, 2014>
 1. The scheduled date under each of the Subparagraphs of Paragraph 4
 2. Reference date of settlement on the latest audit or review report
- ⑥ Where the concessionaire has provided additional benefits for users, the ratio of sharing refinancing gains between the competent authority and the concessionaire shall be decided differently depending on the extent of such benefit. <Newly established on May 12, 2014>
- ⑦ Detailed matters concerning the method of calculating refinancing gains shall be governed by the detailed guidelines for refinancing. <Newly established on May 12, 2014>

Article 30 (Procedures for Refinancing)

- ① In principle, the following procedures shall apply when carrying out a refinancing.
 1. The concessionaire shall notify the competent authority of the plan related to the refinancing in advance and report the process of refinancing from time to time. In the case of a national project reviewed by the Review Committee (hereinafter referred to as a "national project"), advance notification and report shall be submitted to the Minister of Economy and Finance as well. <Newly established on May 12, 2014>
 2. The Concessionaire shall endeavor to ensure that fair market prices and conditions are reflected in the refinancing. <Amended on May 12, 2014>
 3. The concessionaire shall obtain consent from the competent authority for the final conditions of the refinancing, and submit necessary data to the competent authority for determining the gain from the refinancing. Where a concessionaire makes financial closure for refinancing without the consent of the competent authority, the competent authority may take necessary measures pursuant to Article 45 of the Act. Provided, however, that if the refinancing conditions are changed in a manner unfavorable to the concessionaire or excessively favorable to the shareholders, it must be reviewed by the Review Committee. <Newly established on May 12, 2014. Amended on February 10, 2020>
 4. In the case of refinancing of a national project, the competent authority shall request the head of the PIMAC to conduct a preliminary review and then consult the Minister of Economy and Finance. Absent special circumstances, the head of the PIMAC shall complete the review within 180 days. <Amended on May 12, 2014; February 10, 2020>
 5. The competent authority and the concessionaire shall amend the concession agreement within a reasonable period to reflect the conditions for implementing the project changed due to the refinancing. Here, in cases

falling under Article 38 (1) 5, the concession agreement shall be amended after review by the Review Committee. <Revision 2014.5.12.>

6. Where a concessionaire concludes an investor change agreement or a financing agreement following a change in the concession agreement, it shall submit the pertinent details to the competent authority (in the case of a national project, to the Minister of Economy and Finance also) within five (5) days of the conclusion of the agreement. <Newly established on May 12, 2014>
7. The competent authority shall, if the materials submitted pursuant to Subparagraph 6 present significantly different terms and conditions relative to the concession agreement amended pursuant to Subparagraph 5, recalculate the gain from refinancing and reflect the result thereof on the concession agreement. <Newly established on May 12, 2014>
8. Detailed matters concerning the procedures for refinancing under Subparagraphs 1 through 7 shall be governed by the detailed guidelines on refinancing. <Newly established on May 12, 2014>
- ② The competent authority may have the head of the PIMAC or a specialized institution conduct negotiations with the concessionaire related to sharing of refinancing gains on its behalf. <Amended on March 29, 2018>
- ③ The head of the PIMAC may set up a refinancing advisory group comprising experts on public-private partnerships, project financing, etc. to provide advice on refinancing and act as a mediation body during disputes on refinancing, etc., and may draft and promulgate detailed guidelines on refinancing not provided for in this Basic Plan.

Chapter IV Reasonable Allocation of Risks in PPP Projects

Article 31 (Principles for Mitigation and Allocation of Risk)

- ① Risks associated with the implementation of a PPP project shall be classified into those attributable to the government, those attributable to the concessionaire and those associated with force majeure (which are further classified into those associated with non-political force majeure such as natural disasters, etc. and political force majeure such as war, terrorism, etc.) based on the attributable cause thereof, and the detailed types of risk and classification and allocation of risk for each attributable cause shall be stipulated in the concession agreement taking into consideration of domestic and foreign cases, ease of risk management, fairness of risk allocation, etc. <Amended on May 12, 2014>
- ② The competent authority shall, to the extent possible, present the types, criteria of classification, etc. of risks associated with a project in request for proposal or the request for alternative proposal in order to increase the predictability of risk allocation for project applicants.
- ③ For the following foreseeable and insurable risks, insurance coverage shall be obtained to the extent possible, and losses or additional costs not covered by insurance shall be allocated through consultation between the parties to the concession agreement.
 1. During construction period: Contractors' all risks insurance, advanced loss of profit insurance, employer's liability insurance, completion guarantee insurance, etc.
 2. During operation period: Completed construction work insurance, employer's compensation liability insurance, business compensation liability insurance, heavy equipment safety insurance, etc.
- ④ In principle, in the case of a revertible facility project, risks attributable to the government that arise during the duration of the project shall be borne by the government, while those attributable to the concessionaire shall be borne by the concessionaire. Provided, however, that in cases of cost increase due to force majeure not covered by insurance, the ratio of allocation thereof shall be determined through consultation between the competent authority and the concessionaire, and that the competent authority shall bear 80/100 of costs arising from non-political force majeure while bearing 90/100 of costs arising from political force majeure, in principle. < Amended on May 12, 2014>
- ⑤ The government or a concessionaire may not demand additional adjustment to user fees or post-fact compensation of losses on the grounds of their respective burden of risk sharing.

Article 32 (Sharing Investment Risks Associated with BTO Projects) <Amended on April 20, 2015>.

- ① Where the competent authority expects public interest effects, such as maintaining of the appropriate level of user fees and easing of financial burdens, it may partially share the risk of investment of the concessionaire to implement a BTO project. <Newly established on April 20, 2015>
- ② The method of sharing investment risk shall be in accordance with Article 33 or 33-2, but the method under Article 33-2 may be applied to projects that are expected to have a low demand risk, projects that need to reduce user fees, and projects whose fiscal burden may be significantly reduced. <Newly established on April 20, 2015>
- ③ Notwithstanding Article 12 (3), the competent authority may adopt a method of adjusting all or part of the return on the part of the investment risk sharing based on the average interest rate of treasury bonds maturing in five years when investment risk is shared pursuant to Paragraphs 1 and 2. <Newly established on April 20, 2015>
- ④ Notwithstanding Article 14 (2), where the competent authority divides investment risks pursuant to Paragraphs 1 and 2, the method of adjustment of user fees during operation may be determined in consideration of the average rate of user fee increase, frequency of increase, etc. of similar public facilities. <Newly established on April 20, 2015>
- ⑤ The competent authority may evaluate performance, such as the availability of the facilities, during operation period in accordance with the standards and methods prescribed by the concession agreement and may deduct the amount of financial support according to the results. <Newly established on April 20, 2015>
- ⑥ Where the government provides financial support for the sharing of investment risk, it shall not provide separate support for the corporate tax burden imposed thereon. <Newly established on April 20, 2015>
- ⑦ Detailed matters for the implementation of projects, such as methods of sharing investment risk between the competent authority and the concessionaire, method of feasibility assessment, method of Value-for-Money assessment, shall be governed by the “Detailed Guidelines on Sharing Investment Risk in BTO Projects” drafted and promulgated by the PIMAC. <Newly established on April 20, 2015>
- ⑧ Except as otherwise provided for in Articles 33 through 33-2, Articles 11 through 14 shall govern. <Newly established on April 20, 2015>

Article 33 (Sharing Investment Risk in BTO Projects – BTO-rs) <Amended on April 20, 2015>

- ① In the case of BTO projects, the competent authority may bear the investment risks of a portion of the private project costs (hereinafter “portion of investment of which the competent authority bears the investment risk”) and may stipulate the rate of return, allocation of operating revenue, ratio of risk-sharing associated with operating costs, etc. in the concession agreement with respect to the portion of investment of which the competent authority bears the investment risk. <Newly established on April 20, 2015. Amended on April 27, 2016>
- ② Notwithstanding Article 11 (1), where the competent authority shares investment risk pursuant to Paragraph 1, the rate of return on the project and user fees shall be calculated in accordance with the formula specified in Attached Table 2-1. <Newly established on April 20, 2015. Amended on April 27, 2016>
- ③ The competent authority shall calculate the reference amount for investment risk sharing according to the formula in Attached Table 2-2, and may provide financial support for the deficiency if the actual operating revenue attributed to the competent authority falls short of the level of the annual reference amount for investment risk sharing provided for in the concession agreement. <Newly established on April 20, 2015. Amended on April 27, 2016>
- ④ The competent authority may redeem the excess if the actual operating revenue attributed to the competent authority exceeds the level of the annual reference amount for investment risk sharing. <Newly established on April 20, 2015. Amended on April 27, 2016>
- ⑤ When concluding a concession agreement under Paragraph 1, the total amount of government financial support under Paragraph 3 during the given period for management and operation rights shall not exceed the total amount of redemption under Paragraph 4. <Newly established on August 19, 2019>

Article 33-2 (Sharing Investment Risk in BTO Projects – BTO-a) <Newly established on April 20, 2015>

- ① In the case of BTO projects, the competent authority may share the investment risk by means of providing financial support for the shortfall if the amount of actual annual operating revenue deducted by variable operating costs (hereinafter referred to as “contribution margin”) falls short of its annual reference amount for investment

- risk sharing. <Newly established on April 27, 2015>
- ② Notwithstanding Article 11 (1), where the competent authority shares investment risks pursuant to Paragraph 1, the rate of return on the project and the user fee shall be calculated in accordance with the formula in Attached Table 2-1. <Newly established on April 20, 2015. Amended on April 27, 2016>
 - ③ Where the contribution margin of the concessionaire exceeds the annual reference amount for redemption the competent authority may redeem a portion of the excess amount. The redemption ratio of the competent authority shall be determined in the concession agreement in consideration of the ratio of investment risk sharing, user fees, etc., but where the relevant project is terminated, the already determined redemption amount of the competent authority shall be deducted from the termination payment. <Newly established on April 20, 2015. Amended on April 27, 2016>
 - ④ The reference amount for investment risk sharing and the reference amount for redemption shall be calculated according to the formula in Attached Table 2-3. <Newly established on April 20, 2015. Amended on April 27, 2016>

Article 33-3 (Restructuring of Concession Conditions) <Amended on May 12, 2014; April 20, 2015>.

- ① Where a BTO project falls under any of the following subparagraphs, the competent authority and the concessionaire may restructure concession conditions, such as by changing the method of sharing risks, method for determining user fees, etc. through agreement. For port projects, changes in types of cargoes handled may also be made. <Amended on May 10, 2013; May 12, 2014>
 - 3. Where excessive fiscal burden occurs due to the minimum revenue guarantee, off-setting of unrealized increase of user fees, etc.
 - 4. Where it is anticipated that temporary provision of government financing (for termination payment, etc.) will be necessary due to the termination of the concession agreement as a result of difficulties in the construction or normal operation of the facilities.
 - 5. Where it is necessary to adjust the conditions for the implementation of the project in conjunction with the dispositions under Article 46 and 47 or measures under Article 49.
- ② The competent authority shall ensure that the results of the restructuring of concession conditions under Paragraph 1 are not disadvantageous to the competent authority in light of comprehensive consideration of the following. <Newly established on February 15, 2012. Amended on May 12, 2014; February 10, 2020>
 - 1. Effect of reducing fiscal burden compared to the existing project implementation conditions
 - 2. The effect of sharing refinancing gain
 - 3. Increase or decrease in the burden of termination payment
 - 4. Increase or decrease in the value of the management and operation rights
 - 5. Increase or decrease in the management and operation period
 - 6. Increase or decrease in user fees
 - 7. Increase or decrease in the rate of return
 - 8. Increase or decrease in operating costs
 - 9. Increase or decrease in the risk and burden of the government
 - 10. Other effects on the public interest due to the termination of the concession agreement or the termination of the project, etc.
- ③ The competent authority may request cooperation from the head of the PIMAC or a specialized institution when performing the duties under Paragraphs 1 and 2. <Newly established on February 15, 2012. Amended on March 29, 2018>
- ④ The following procedures shall apply to the restructuring of concession conditions under Paragraphs 1 and 2. <Newly established on May 10, 2013. Amended on May 12, 2014>
 - 1. Where the project under restructuring of concession conditions is subject to review by the Review Committee, the competent authority shall consult with the Minister of Economy and Finance after prior review by the PIMAC.
 - 2. The competent authority and the concessionaire shall amend the concession agreement to reflect the details of the changes of implementation conditions upon restructuring of concession conditions, which, if falling under Article 38 (1) 5, shall be reviewed by the Review Committee.
 - 3. The competent authority shall send the relevant details and materials to the Minister of Economy and Finance (including for national projects and local government projects) within five (5) business days after the

amendment to the concession agreement.

- ⑤ The competent authority may present criteria for restructuring of concession conditions under Paragraph 1 in the request for proposals or the request for alternate proposals. <Newly established on February 10, 2020>
- ⑥ The Minister of Economy and Finance may formulate and support working guidelines after consultation with the competent authority, PIMAC, etc. for the efficient and smooth performance of related affairs. <Newly established on October 7, 2016. Amended on February 10, 2020>

Article 34 (Sharing of Interest Rate Fluctuation Risks Associated with BTL and BTL/BTO Projects)

<Amendment 2020.2.10.>

- ① If interest rates change rapidly due to financial market conditions, the competent authority may share part of the risks associated with interest rate fluctuation to facilitate the smooth implementation of BTL and hybrid (BTO+BTL) projects.
- ② The sharing of risks associated with interest rate fluctuation shall be conducted by providing support or redemption at each section of interest rate fluctuation values as shown on Attached Table 3. <Newly established on February 15, 2012>

Article 35 (Buyout Right)

- ① Where the construction or management of infrastructure is impossible due to unavoidable reasons, such as natural disasters, the concessionaire of a revertible facility project may request the central or local government to purchase the relevant project, including supplementary projects, pursuant to Articles 59 of the Act and Articles 39 and 40 of the Decree. <Amended on April 20, 2015>
- ② Where the concessionaire of a revertible facility exercises its buyout right, the standard for calculating the purchase amount paid to the concessionaire, etc. may be determined in the concession agreement based on the appropriate value of the project facility, related operating facilities, goodwill, etc. at the time of the claim, the grounds and reasons for exercising the buyout right, etc. In such cases, the calculation, etc. of the purchase amount may be governed by the provisions of Article 37 concerning termination payment through consultation between the parties to the agreement. <Newly established on April 20, 2015>

Article 36 (Prevention of Project Termination)

- ① The competent authority and the concessionaire shall do their best to continue the project by preferentially seeking methods for resolving risks to continue implementing the concession agreement, selecting alternative concessionaires, etc. prior to executing the buyout right or early termination of the agreement.
- ② The competent authority and the concessionaire shall clearly prescribe procedures for consultation in the event of risk, a sufficient period for resolving risks, etc. in the concession agreement.

Article 37 (Termination and Calculation of Termination Payment) <Amended on April 20, 2015>

- ① If the competent authority or concessionaire terminates the concession agreement on a revertible facility, the relevant facility shall immediately be vested in the competent authority and related rights and authorities, including the concessionaire's management and operation right, shall also be extinguished. <Newly established on April 20, 2015>
- ② The competent authority may make an arrangement for termination payment where the relevant supplementary project facility falls under any of the following subparagraphs and is necessary or easily managed by the central or local government. In such cases, the arrangement for termination payment shall apply only to termination due to causes attributable to the government, and the calculation of the termination payment shall be governed mutatis mutandis by Attached Table 4. <Newly established on April 20, 2015>
 1. Where the central or a local government may directly use the relevant facility.
 2. Where the central or a local government may have the public sector use the relevant facility for its duties.
 3. Where the acquisition of the relevant facility is beneficial to the finances of the central or local governments.
 4. If the cost of maintenance is not too high compared to the value of the property
- ③ Termination payment shall be calculated as specified in Attached Table 4. In such cases, the value added tax to the termination payment shall be added and paid by the competent authority.

Chapter V Organizations Related to Public-Private Partnership Projects

Article 38 (Public-Private Partnership Review Committee)

- ① Matters to be subject to prior review by the Review Committee pursuant to Article 5 of the Act shall be as follows:
 1. Matters concerning the appropriateness of eligible projects subject to public-private partnerships under Subparagraph 1 of Article 2 of the Act. Provided, however, that the infrastructure included in Attached Table 13 shall be excluded. <Amended on July 17, 2017; June 4, 2020>
 2. In any of the following cases, the designation of eligible projects under a government-solicited project scheme, formulation and public notification of request for proposals, designation of unsolicited projects, request for alternate proposals. <Amended on July 17, 2017>
 - A. Infrastructure projects with a total project cost of KRW 200 billion (KRW 100 billion in cases of BTL projects).
 - B. Infrastructure projects involving central government subsidies. Provided, however, that the foregoing shall not apply where subsidies are granted or long-term loans are made with the budget of local governments, or where the central government subsidy is less than KRW 30 billion. <Amended on May 7, 2019>
 - C. Projects with two or more competent authorities are involved or a project that stretches over an area within the jurisdiction of two or more different local governments. Provided, however, that the foregoing shall not apply to projects with two or more competent authorities if so agreed between the competent authorities.
 3. Cases where the request for proposals of a project with a total project cost of KRW 200 billion or more (for BTL projects, KRW 100 billion) is amended and re-notified. Provided, however, that the foregoing shall not apply to cases where the amendment is made within 30/100 of the total project cost. <Amended on May 10, 2013>
 4. Designation of a concessionaire for PPP project falling under any of the following:
 - A. Infrastructure projects with a total project cost of KRW 200 billion or more (KRW 100 billion in cases of BTL projects)
 - B. Infrastructure projects involving central government subsidies. Provided, however, that the foregoing shall not apply where subsidies are granted or long-term loans are made with the budget of local governments, or where the central government subsidy is less than KRW 30 billion. <Amended on May 7, 2019>
 5. Where the concession agreement concluded after review by the Review Committee is amended with implementation conditions unfavorable to the government. Provided, however, that the foregoing shall not apply to cases falling under Article 60 (2).
 6. Even if the concession agreement is concluded without review of the Review Committee, projects whose total project cost is amended to KRW 200 billion or more (for BTL projects, KRW 100 billion), projects the size of central government subsidy for which increase by 20/100 or more and projects for which provision of central government subsidy is newly incurred. <Newly established on May 10, 2013. Amended on July 17, 2017>
 7. Changes in the facility use details of projects reviewed by the Review Committee.
 8. Cancellation of the designation of an eligible project designated through the review on the Review Committee.
 9. Disposition of a project designated through review of the Review Committee for public interest.
 10. Matters concerning the comprehensive evaluation of PPP projects.
 11. Approval of supplementary projects if the sum of the PPP project and the supplementary project exceeds KRW 200 billion won (KRW 100 billion won in the case of BTL projects) as a result of implementation of the supplementary project under Article 21 (3) and (4) of the Act. <Amended on February 15, 2012>
 12. Other matters referred to by the Minister of Economy and Finance for the smooth implementation of PPP projects. <Amended on February 15, 2012>
- ② In the case of a project subject to review by the Review Committee, review by the competent authority's own Review Committee on PPP projects may be omitted.
- ③ The scope of central government subsidies subject to review by the Review Committee pursuant to Paragraph 1 shall include construction subsidies, long-term loans, subsidies for key infrastructure facilities, and shall exclude government payment for lease fee, etc. under BTL and BTL/BTO projects. <Amended on May 10, 2013; February

Article 38-2 (Cooperation System for Promotion, etc. Public-Private Partnerships) <Newly Inserted on May 7, 2019>

The Minister of Economy and Finance may, if necessary, operate a cooperative system consisting of competent authorities, experts, etc. to smoothly carry out the purpose of the statutes governing public-private partnerships, including the promotion of private sector investment, management of PPP projects, etc.

Article 39 (Duties of the PIMAC) <Amended on March 29, 2018>

The PIMAC shall perform the following in relation to the duties under Article 23 of the Act and Article 20 of the Decree and in relation to the operation of the public-private partnership system of the Ministry of Economy and Finance and implementation of PPP projects by the competent authority.

1. Identifying eligible PPP projects, conducting prior review on the eligibility as PPP of the relevant facility, conducting feasibility analysis, and reviewing the results of feasibility analysis <Amended on April 13, 2023>
2. Assisting in all stages of negotiations in works related to the designation of a concessionaire, including the conclusion or amendment, etc. of a concession agreement or assisting in the determination of the level of the rate of return on a project or negotiations on the rate of return on a project
3. Advising on concluding or amending concession agreements and reviewing concession agreements
4. Conducting Value-for-Money (VfM) test of unsolicited projects with a total project cost of KRW 200 billion or more and reviewing unsolicited private proposals for projects with a project cost of less than KRW 200 billion.
5. Conducting prior review of refinancing under Article 30 (1) 4, review of adjustment of project conditions pursuant to Article 33-3, consultation on matters pertaining to refinancing and support for dispute resolution, organizing refinancing advisory groups and assisting negotiation with concessionaires. < Amended on May 12, 2014; April 20, 2015>
6. Advising and reviewing on a financial model modified in accordance with the rate of return determined at the operation date, the adjustment of a rate of return due to a change of the reference interest rate, the allocation of the risk of interest rate changes, or other cause
7. Assisting, etc. the academic societies and organizations related to public-private partnerships <Amended on April 20, 2015>
8. Preparing and announcing comprehensive statistics concerning the current state of operation of PPP projects
9. Preparing and announcing detailed guidelines for each work relating to the implementation of PPP projects
10. Reviewing changes in aggregate ceiling under Article 116 pertaining to BTL projects. <Amended on April 20, 2015>
11. Preparing and reviewing the management and implementation plan for the expiry of the free-use period or given period for management and operation rights. <Amended on April 20, 2015; July 18, 2022>
12. Assisting dispute settlement activities, such as consultation with the dispute resolution committee for PPP projects <Amended on April 20, 2015>
13. Assisting evaluation work for the designation of specialized institutions by the Minister of Economy and Finance <Newly established on May 7, 2019>
14. Reviewing other matters specified by the Minister of Economy and Finance in relation to the implementation of PPP projects < Amended on April 20, 2015>

Article 40 (Preparation and Publication of Detailed Guidelines)

The head of the PIMAC shall prepare and publish the following implementation guidelines, etc. after advance consultation with the Minister of Economy and Finance to maintain the transparency and objectivity of PPP projects and support the competent authority's duties pertaining to PPP projects, and shall reflect the contents of formulations, amendments, etc. to the relevant statutes and regulations, including this Basic Plan for Public-Private Partnerships, on such detailed guidelines as soon as possible. <Amended on February 15, 2012; April 20, 2015>

1. Detailed guidelines on feasibility analysis and Value-for-Money (VfM) test <Amended on February 15, 2012>
2. Guidelines and standards for preparation of request for proposals <Amended on February 15, 2012>.
3. Detailed guidelines on evaluation and management of project plans

4. Detailed guidelines on refinancing
5. Detailed guidelines on the management and operation of facilities for BTL projects
6. Standard concession agreement form
7. Detailed guidelines on feasibility analysis of BTL projects. <Amended on February 15, 2012>
8. Guidelines for preparing request for proposals for BTL projects
9. Draft standard basic agreement for integrated projects and detailed guidelines on integrated projects. <Amended on July 18, 2022>
10. Detailed guidelines for reviewing supplementary projects <Newly established on April 20, 2015>
11. Detailed guidelines on procedures for competitive dialogue <Newly established on April 20, 2015>
12. Detailed guidelines on risk sharing for BTO projects <Newly established on April 20, 2015>.
13. Detailed guidelines on the expiry of given period for management and operation rights <Newly established on April 20, 2015>
14. Detailed guidelines on hybrid (BTO+BTL) projects. <Newly established on February 10, 2020>
15. Detailed guidelines on the implementation of rehabilitate (R) projects. <Newly established on July 18, 2022>

Article 41 (Operation, etc. of the PIMAC)

- ① The head of the PIMAC shall prepare and disclose regulations on operation containing matters related to the organization, function, operation, budget, etc. after prior consultation with the Minister of Economy and Finance. <Amended on February 15, 2012>
- ② The head of the PIMAC shall submit an operation performance report and a financial settlement report to the Minister of Economy and Finance every year.
- ③ The head of the PIMAC may prepare “standards on fee rates” after consultation with the Minister of Economy and Finance in order to provide for the expenses incurred in the process of providing support to works of competent authorities or private proponents and may invoice such actual expenses to the competent authority, etc. The head of the PIMAC may afterward adjust “standards on fee rates” to reflect increases in the consumer price index. <Amended on February 15, 2012; April 20, 2015>
- ④ Where necessary, the head of a preliminary feasibility study agency or a specialized institution may apply mutatis mutandis the standards on fee rates under Paragraph 3 in order to provide for the expenses incurred in providing support to works, etc. of private proponents. <Newly established on May 7, 2019>

Article 42 (Establishment, etc. of Infrastructure Credit Guarantee Fund)

- ① The Infrastructure Credit Guarantee Fund (hereinafter referred to as the “Fund”) shall be established in accordance with Article 30 of the Act in order to provide credit guarantee to concessionaires under Article 34 (1) of the Act who receive loans for PPP projects from lenders under Article 34 (1) 1 of the Act and shall be managed by the Korea Credit Guarantee Fund (hereinafter the “managing agency”). <Amended on February 15, 2012>
- ② The managing agency may guarantee the financial obligations borne by a concessionaire, etc. for loans, considerations, etc. from lending institutions for PPP projects, infrastructure bonds issued under Article 58 of the Act, loans for the payment of principal and interest of such bonds, etc. <Amended on February 15, 2012>

Article 43 (Guarantee Limit)

Article 29 (2) of the Decree shall govern the maximum limit at which the managing agency may provide credit guarantee for the same PPP project at the expense of the Fund. (Amended on February 15, 2012; May 12, 2014; April 20, 2015)

Article 44 (Guarantee Fees)

The guarantee fees of the Fund shall be applied differentially as specified in Attached Table 5 pursuant to the Industrial-Based Credit Guarantee Standards within the scope of 1.5/100 per annum prescribed in Article 30 of the Decree. <Amended on February 15, 2012>

Article 45 (Guarantee Procedure)

A concessionaire may apply for a credit guarantee after consultation with the Fund’s guarantee, and the management agency shall conclude a credit guarantee agreement and issue a credit guarantee certificate (which includes a credit guarantee in the form of electronic document in line with the Framework Act on Electronic Documents and Transactions)

after checking a credit standing on the concessionaire. <amended on February 15, 2012; April 13, 2023>

Article 46 (Management of the Fund)

- ① The Fund shall be used for making deposits at financial companies, etc. pursuant to Article 32 of the Act and Article 28 of the Decree, and for purchasing government bonds, local government bonds, or special bonds under Article 4 (3) of the Financial Investment Services and Capital Markets Act and bonds whose payment is guaranteed by the government or financial institutions, etc. <Amended on February 15, 2012>
- ② The phrase "the purchase or acquisition of stocks (including equity securities), bonds, and other securities deemed necessary by the Minister of Economy and Finance" in Subparagraph 3 of Article 28 of the Decree refers to making deposits in pension fund pools and investments in securitization companies that guarantee infrastructure bonds as specified in the Act on Public-Private Partnerships in Infrastructure. <Amended on April 27, 2016; March 29, 2018; March 24, 2021>

Article 47 (Assistance of the Managing Agency)

The management agency may provide educational programs on the public-private partnership system for local governments, etc., free advisory and referral services, etc. for small and medium-sized enterprises. <Amended on April 13, 2023>

Chapter VI Competent Authority and Concessionaires

Article 48 (Project Implementation of Multiple Competent Authorities)

- ① If multiple competent authorities are involved in implementing a project by integrating a number of projects for facilities into a bundle project, the competent authorities may organize "joint competent authorities" to implement the project.
- ② Multiple competent authorities, such as heads of local governments, who jointly participate in a project may delegate the competent central administrative agency or higher-level local governments to carry out the duties of the competent authorities.

Article 49 (Duties of a Competent Authority)

- ① A competent authority shall take charge of the following affairs regarding the implementation, management and operation of PPP projects pursuant to the relevant Act and subordinate statutes, and shall endeavor to collect and reflect opinions of interested parties, facility users, etc. at each stage of the implementation of the projects, including design, construction, and operation:
 1. Identifying eligible PPP projects and conducting feasibility analysis thereon
 2. Designating and announcing an eligible PPP project
 3. Formulating and announcing a request for proposals or a request for alternate proposals
 4. Assessing project plans or project proposals and designating preferred bidders
 5. Negotiating for concluding or amending concession agreements, concluding or amending concession agreements, designating concessionaires <Amended on June 4, 2020>
 6. Approving detailed implementation plans
 7. Approving amendment to detailed implementation plans in relation to the approval of implementation of supplementary projects under Article 21 (3) or (4) of the Act, or approval of proposals therefor <Newly established on February 15, 2012>
 8. Matters regarding project management and supervision, such as supervision of project performance including construction and operation, management of concession agreements, evaluation of service performance of BTL projects, and payment of government payments. <Amended on February 15, 2012>
 9. Operating competent authority's own Review Committee (excluding where a review by the Review Committee under Article 38 is necessary). <Newly established on April 27, 2016>
 10. Other matters regarding the provision of information about projects to interested parties through the website, etc. <Amended on February 15, 2012; April 27, 2016>
- ② A competent authority may delegate the head of the PIMAC or a specialized institution with duties relating to the

assessment of project plans or proposals and negotiations for conclusion and amendment to concession agreements among its duties under Paragraphs 1 (4) and (5). Furthermore, a competent authority may delegate part or whole of its duties under Paragraphs 1 (3) through (5) to the head of the PIMAC or a specialized institution based on consideration of the characteristics, etc. of the relevant project. In such cases, the head of the PIMAC or specialized institution shall handle the duties in close consultation with the competent authority. <Amended on April 20, 2015; March 29, 2018; June 4, 2020>

- ③ The competent authority shall take necessary measures in advance in consultation with the relevant administrative agencies where approval and consultation with the relevant administrative agencies is necessary under the individual law or where it is necessary to reflect the pertinent changes in the a higher-level plan, etc., as in the following:
 1. Consultation on budgetary support in advance with the competent central administrative agency or higher-level local governments, if the competent authority needs central government subsidies.
 2. Prior consultation on the establishment, operation, etc. of facilities specified in the relevant statute.
 3. Matters pertaining to the implementation and support of supplementary projects. <Amended on February 15, 2012>

Article 50 (Concessionaire)

- ① In the case of a private corporation, a PPP project may be implemented separately or through an existing established corporation. Where a corporation is established separately, it shall be established before the application for approval of an implementation plan under Article 15 of the Act.
- ② A joint public-private corporation shall be established jointly by the public sector and the private sector. In such cases, where a facilities project is implemented in the manner referred to in Subparagraph 4 of Article 4 of the Act, the total investment ratio by the public entity shall be less than 50/100, except in special cases prescribed in Articles 52 of the Act and 36 of the Decree, and no voting rights may be exercised by the public entity.

Chapter VII Management and Operation of PPP Projects

Article 51 (Management of PPP Projects)

- ① The competent authority and the concessionaire shall establish a regular cooperation system in implementing a PPP project and endeavor to contribute to the increase of public benefits in accordance with the principle of good faith.
- ② The concessionaire shall report the occurrence of refinancing conditions, such as changes in investors or capital structure or conditions for debt financing, to the competent authority on a yearly basis (including the Minister of Economy and Finance for a national project). In such cases, the detailed guidelines on refinancing shall apply to specific contents (including the reporting format) of the report, reporting procedure, etc. <Amended on May 12, 2014>
- ③ The competent authority may request the concessionaire to refinance if it determines that refinancing is possible under better terms than the terms of the financing agreement in light of the materials submitted pursuant to Paragraph 2. Absent verifiable special circumstances, the concessionaire shall comply with such request. <Newly established on May 12, 2014. Amended on March 29, 2018>
- ④ The detailed matters pertaining to Paragraphs 2 and 3 be governed by the detailed guidelines on refinancing. <Newly established on May 12, 2014>
- ⑤ Where the competent authority deems that an adjustment of project implementation conditions pursuant to Article 33-3 is necessary for the relevant project, it may report the relevant details to the Minister of Economy and Finance and request the concessionaire for consultation relating thereto. Where a concessionaire fails to comply, it shall submit explanatory materials. <Newly established on May 12, 2014. Amended on April 20, 2015>
- ⑥ In the case of projects with a high minimum revenue guarantee burden of where the difference between the actual demand in the previous year and the promised demand is 50/100 or more, the concessionaire shall report various revenue growth plans, including proposals for improving the toll rate system, establishment of additional IC's, development of supplementary projects, etc. and reports on the current status of costs to the competent authority

on a half-quarterly basis, and the competent authority shall review, supplement and submit these materials to the Minister of Economy and Finance. <Amended on February 15, 2012>

- ⑦ The competent authority may conduct feasibility studies during operation to lower the level of a minimum revenue guarantee and user fee rates through adjustment of the given period for management and operation rights.
- ⑧ The concessionaire shall submit data on the actual demand, operating revenue, operating costs, profit or loss status, etc. of the relevant PPP project to the competent authority within 90 days after the end of each fiscal year, and shall keep the relevant books and supporting data. In such cases, if an external audit is required pursuant to Article 2 of the Act on External Audit of Stock Companies, an accounting report audited by an auditor shall be submitted also. <Newly established on March 29, 2018>
- ⑨ The Minister of Economy and Finance shall survey the user fees of facilities being operated under public-private partnerships and shall endeavor in consultation with the competent authority to maintain such user fees at an appropriate level compared to government-financed projects. <Newly established on May 7, 2019>

Article 52 (Prevention of Defects)

The competent authority shall prepare the following institutional devices to prevent defective design and construction of facilities to which ownership is vested in the central or local government after completion or after the end of the period of ownership and operation:

1. Deliberation or assessment of the validity of design, the safety of structures, and the appropriateness of performance of the project by the Construction Technology Deliberation Committee under the Construction Technology Management Act and other relevant Acts <Amended on April 27, 2016>
2. Construction project management under the Construction Technology Management Act for the maintenance and improvement of the quality of construction works <Amended on July 17, 2017>

Article 53 (Completion Guarantee and Delay Damages)

- ① The competent authority shall obtain a project performance guarantee from the concessionaire by receiving a certain amount of contract deposit or a completion guarantee, etc. to ensure the timely construction of facilities and prevent the concessionaire from giving up the project during construction. <Amended on April 27, 2016>
- ② In cases of large-scale projects, etc. that are implemented in stages over several years, the competent authority may separately receive a project performance guarantee for each stage.
- ③ Where a BTO project or a hybrid (BTO+BTL) project is not completed by the scheduled date of completion due to causes attributable to the concessionaire, the concessionaire shall obtain the approval of the competent authority for the portion completed as of the scheduled date of completion, in which case the competent authority shall require the payment of a certain portion of the total project cost excluding the amount corresponding to the completed portion as daily delay damages. <Amended on February 10, 2020>
- ④ Where a BTL project is not completed by the scheduled date of completion due to causes attributable to the concessionaire, the competent authority shall cause the concessionaire to pay delay damages in accordance with Article 74 of the Enforcement Decree of the Act on Contracts to Which the State Is a Party and Article 75 of the same Act.

Article 54 (Maintenance and Management of Revertible Facilities)

- ① The competent authority may establish and enforce standards for the maintenance and management of revertible facilities in accordance with the concession agreement to prevent the deterioration in the quality of the maintenance and management of such facilities.
- ② Absent special circumstances, the competent authority shall conduct a joint facilities inspection with the concessionaire four (4) years prior to the expiration of given period for management and operation rights or the term of free use (hereinafter the “given period for management and operation rights”), and the concessionaire shall complete the repair, maintenance of the facilities by six (6) months prior to the expiration of the given period for management and operation rights and transfer the facilities to the competent authority by the date of expiration. As for facilities whose economic useful life remains as of the date of expiration of the management and operation rights, they shall be considered depreciated and shall be transferred to the competent authority for free. Provided, however, the competent authority may determine a different timeline for joint inspection within a scope not effecting the timeline of the management and implementation plan under Article 54-2, based on consideration of the characteristics, current state, etc. of the relevant facilities. <Amended on February 15, 2012; April 20, 2015>

Article 54-2 (Implementation Methods and Formulation, etc. of Management Plans of the Projects at the end of Given Period for Management Operation Rights) <Newly established on April 20, 2015>

- ① For facilities at the end of given period for management and operation rights, the competent authority may implement the relevant infrastructure project in accordance with any one of the following methods based on consideration of facilities inspection results under Article 54 (2), the public nature of the facilities, efficiency of budget spending, efficiency of the project operator, etc. <Newly established on April 20, 2015>
 1. A method where the relevant facilities are newly constructed, expanded or improved and managed under one of the schemes prescribed in Article 4 of the Act
 2. Entrusting operations to the private sector through competitive bidding
 3. Management and operation by the competent authority or the public sector
 4. A method whereby the competent authority may realize profits from the sale or disposition of the relevant facilities in accordance with the laws governing the facilities owned by the central or local government.
- ② Where the competent authority intends to implement the project in any manner referred to in the subparagraphs of Paragraph 1, he/she shall formulate an implementation plan upon project expiry for the relevant facilities including the following components by requesting the head of the PIMAC or a specialized institution by not later than three (3) years before the expiration of the term of the right of management and operation. <Newly established on April 20, 2015. Amended on March 29, 2018>
 1. Whether the relevant infrastructure should be maintained continuously
 2. Discussion on the respective suitability of each of the methods prescribed in Paragraph 1
- ③ Where the relevant facility is a facility constructed under a project implemented after a review by the Review Committee pursuant to Article 38, the competent authority shall request the PIMAC to review the management and implementation plan established pursuant to Paragraph by two (2) years prior to the expiration of the given period for management and operation rights and shall consult the results of the review with the Minister of Economy and Finance by one (1) prior to the expiration of the right of management and operation. <Newly established on April 20, 2015>
- ④ Detailed matters regarding the formulation of an implementation plan upon project expiry, etc. of projects at the end of given period for management and operation rights shall be governed by the detailed guidelines for projects at the end of given period for management and operation rights published by the PIMAC. <Newly established on April 20, 2015>

Article 55 (Cancellation, etc. of Designation of a Concessionaire)

The competent authority may take necessary measures, such as revocation of the designation of a concessionaire and termination of the concession agreement, when the grounds prescribed in Articles 46–47 of the Act and the concession agreement arise.

Article 56 (Cancellation of Project Designation)

- ① The revocation of the designation of a project shall be governed by Article 50 (1) of the Act, and the revocation of the designation of a project designated after the review of the Review Committee shall be reviewed by the Review Committee. <Amended on May 10, 2013; March 29, 2018>
- ② Where the designation of an eligible project is revoked pursuant to Paragraph 1, the competent authority shall, without delay, announce such fact on its official publication (including by posting on the website) and notify the Minister of Economy and Finance and the head of the PIMAC of the same.

Article 57 (Reassessment of Demand Forecasts)

- ① The competent authority shall request the head of the PIMAC or a specialized institution, etc. to conduct a reassessment of demand forecasts in any of the following cases at each stage of a project, including the announcement a request for proposals or a request for alternate proposals, designation of concessionaire, approval of an implementation plan, etc. Provided, however, that in the case of a project subject to review by the Review Committee under Article 38, the request for reassessment of demand forecast shall be made with the head of the PIMAC after consultation with the Minister of Economy and Finance. <Amended on May 12, 2014; April 20, 2015>
 1. Projects for which a reassessment of demand forecast is deemed necessary due to significant changes in the

basic premises for demand forecast, including cancellation or changes to large-scale international events, new town development plans, development plans for surrounding areas, etc. that have direct bearing on demand for the relevant project, approval of a detailed implementation plans of projects that may compete with the relevant project, etc.

2. Projects that were originally planned as government-financed projects but are now implemented under a public-private partnership scheme, whereby a reassessment of demand forecast statistics is deemed necessary.
 3. Projects whose implementation stages are apart by five (5) years or more.
 4. Projects whose demand estimated during the feasibility study and demand forecast presented by the private sector differ by 30/100 or more.
- ② Where the head of a public investment center or a specialized institution is requested to conduct a reassessment of demand forecast pursuant to Paragraph 1, he/she shall perform it by comparing the demand predicted at each stage of project implementation with the estimated demand at the time of the request. The head of the PIMAC or a specialized institution shall commence a review within thirty (30) days of the request for reassessment, and shall complete the review within 150 days of the start of the review (240 days for railroad projects), and no more than 240 days at the latest (1 year for railroad projects). <Newly established on May 12, 2014. Amended on April 20, 2015; May 7, 2019; May 20, 2024>
- ③ When the head of the PIMAC completes a reexamination under Paragraph 2, he/she shall submit the results thereof to the competent authority and the Minister of Economy and Finance. <Newly established on May 12, 2014>
- ④ Where the reassessment of demand forecast under Paragraph 3 confirms that the estimated demand volume has decreased by at least 30/100, the competent authority shall conduct a feasibility analysis or Value-for-Money (VfM) test under Article 65 or 96. In such cases, the review shall be completed within 210 days (300 days for railroad projects) from the date of commencement. Provided, however, that in the case of a project for which construction has started, the appropriateness of design change and total project cost change shall be analyzed and the Value-for-Money (VfM) test under Article 65 (2) 2 shall be carried out again. <Newly established on May 12, 2014. Amended on May 20, 2024>
- ⑤ The competent authority shall attach the results related to the reassessment of demand forecast under Paragraphs 1 through 4 and the name of the institution conducting the reassessment to the appendix of the concession agreement and keep the materials related to the reassessment. <Newly established on May 12, 2014; April 27, 2016>

Article 58 (Reassessment of Value-for-Money)

- ① Where major details of the project have undergone change, including where the total project cost has increased by at least 20/100 at the relevant project implementation stage compared to a request for proposals or a request for alternate proposals due to increase in the project scale or project property excluding inflation or increases on land value, or where the estimated demand (if a concession agreement has been concluded, the estimated demand therein) has decreased by at least 30/100, the competent authority shall request the head of the PIMAC or a specialized institution to reassess the Value-for-Money (VfM) of PPP under Paragraph 1 or 3 of Article 65 (2). Provided, however, that if the project is subject to review of the Review Committee pursuant to Article 38, request for reassessment of Value-for-Money shall be made with the head of the PIMAC after consultation with the Minister of Economy and Finance. <Amended on May 12, 2014; April 20, 2015; April 13, 2023>
- ② In cases where it is recognized that, for projects falling under any of the following cases, there is no real benefit in determining the Feasibility Analysis under Subparagraph 1 of Article 65 (2), the Feasibility Analysis under Subparagraph 2 of Article 65 (2) may be omitted, and the appropriateness of project scale or modified total project cost must be reviewed by the head of the PIMAC or a specialized institution which conducts reassessment of Value-for-Money under Paragraph 1. <Newly established on April 13, 2023>
1. Although the reassessment of Value-for-Money is requested due to the total project cost increase of more than 20/100 as a result of increases in the project scale or project property excluding inflation or increases on the land value, civil engineering or informatization projects where existing facilities are on construction or on operation, for which an increased amount of the project cost is less than KRW 30 billion and accounts for less than 50% of the initial project cost. Provided, that if the increase in total project cost has occurred on a number of occasions, the cumulative amount of increased costs shall be the reference amount.
 2. Although the reassessment of Value-for-Money is requested due to the estimated demand (if a concession

agreement has been concluded, the estimated demand therein) decrease of 30/100 or more, the decrease in demand is less than 30/100 as a result of the reassessment of demand forecast.

3. Cases where large sunk costs have been incurred, statutory obligations are reflected, etc., and it is recognized that there is no practical benefit in determining the feasibility of the relevant project.
- ③ Articles 57 (2) through (5) shall apply mutatis mutandis to procedures for performance after the request for re-examination under Paragraph 1<Newly established on May 12, 2014. Amended on April 13, 2023>

Article 59 (Review of Specialized Institutions for Changes in Financial Models of BTL and Hybrid (BTO+BTL) Projects) <Amended on February 10, 2020>

Where the financial model of a BTL or a hybrid (BTO+BTL) project has changed due to the sharing of interest rate fluctuation risks under Article 34, settlement of price fluctuations pursuant to Article 16 (3), application of initial base interest rate pursuant to Article 17, and adjustment of base interest rate carried out every five (5) years, the competent authority shall request the head of the PIMAC or a specialized institution for a review. <Amended on July 17, 2017; March 29, 2018>

Article 60 (Amendment to Concession Agreement)

- ① Where a concession agreement concluded with the review of the Review Committee pursuant to Article 38 is amended with terms unfavorable to the government, such as an increase in subsidy, increase in user fees, increased total project cost, extension of the term of management and operation, etc., the Review Committee shall review such amendment in advance without delay. Provided, however, that a prior review is deemed difficult due to the urgency of the matter, such as that pertaining to the safety of the facility, occurrence of substantial damages in case the project is delayed, etc., a follow-up review may be conducted instead after consultation with the Minister of Economy and Finance.
- ② Notwithstanding Paragraph 1, in cases where the total project cost is increased due to changes in the traffic volume of the project arising from route changes, installation of new IC's, adjustment of facility size for safety, underground conversion of urban sections as a result of consultation with the local government or as inevitable results of demands of permit and licensing authorities, complaints, etc., leading to increased subsidy, increase in user fees, etc., if the amount of increase is less than 10/100, the review of the Review Committee may be exempted. Here, if the total project cost is increased through multiple increments, the total amount of increase shall be the reference amount. Provided, however, that even in cases of increase in total project increase under this Paragraph, the Minister of Economy and Finance shall be notified with respect to the details of the increase and amendment to the concession agreement, etc.
- ③ Even if the concession agreement is concluded without review by the Review Committee, if the total project cost has increased to KRW 200 billion or more (for BTL projects, KRW 100 billion), or if the size of subsidy increases by 20/100 or new subsidy is provided, the concession agreement shall be amended after review by the Review Committee. <Amended on July 17, 2017>
- ④ In cases falling under Paragraphs 1 and 2, the increase in the total project cost shall be provided for from user fees, government subsidy and adjustment of the given period for management and operation rights.
- ⑤ Where the financial burden increases in due to the violation of any of the provisions of Paragraphs 1 through 3 of the competent authority, the following measures shall be taken. <Newly established on May 10, 2013>
 4. In the case of a project in which the competent authority is the central government, disadvantages may be imposed when the basic costs of the competent authority are arranged for.
 5. In the case of a project in which the competent authority is a local government, the amount of increase in the total project cost may be borne by the relevant agency notwithstanding the conditions for the allocation of financial responsibilities, etc.
- ⑥ If financial burden increases due to the violation of any of the provisions of Paragraphs 1 through 3 by related officials, etc., Article 112 of the guidelines on total project cost shall apply mutatis mutandis. <Newly established on May 10, 2013>

Chapter VIII Prevention and Resolution of Disputes <Newly Established on February 15, 2012>

Article 60-2 (Prevention of Disputes)

The competent authority and the concessionaire shall reasonably share the risks of the project, prepare a clear concession agreement, faithfully consult the relevant parties with respect to disputes that arise during the implementation of the project, and shall endeavor to prevent disputes related to the implementation of public-private partnerships by employing the assistance of the head of the PIMAC or the Korean Government Legal Services Corporation established pursuant to the Korean Government Legal Services Act (hereinafter the “Government Legal Services”). <Newly established on February 15, 2012. Amended on April 20, 2015; March 29, 2018>

Article 60-3 (Resolution of Dispute)

- ① Where a dispute arises in the process of implementing the project, the parties to the agreement shall resolve the relevant dispute as soon as possible and smoothly implement the project.
- ② The parties to the agreement shall consider resolving disputes through a dispute mediation committee for PPP projects established pursuant to Article 44-2 of the Act.
- ③ Where mediation by a dispute mediation committee is established pursuant to Article 44-10 (4) of the Act and the results of the mediation are reflected in the concession agreement for the relevant project, the review by the Review Committee on PPP projects shall be exempted. <Amended on May 10, 2013>

Article 60-4 (Notification of Litigation)

- ① The competent authority shall notify the Minister of Economy and Finance of in the event that a lawsuit has been filed in the court due to failure to smoothly resolve dispute related to the implementation of a PPP project pursuant to Articles 60-2 and 60-3. <Newly established on May 12, 2014>
- ② Where a major change in circumstances has occurred during a litigation under Paragraph 1 or where such litigation has ended, the details thereof shall be reported to the Minister of Economy and Finance. <Newly established on May 12, 2014>
- ③ Where necessary for the prosecution of a litigation related to a PPP project, the competent authority may request the Government Legal Services for legal representation. <Newly established on April 20, 2015>

Chapter IX Supplementary and Ancillary Projects

Article 61 (Development, etc. of Supplementary and Ancillary Projects)

- ① The competent authority shall induce the development of creative supplementary and ancillary projects to the extent that they do not undermine the purpose and function of the relevant infrastructure in order to enhance the benefits of users and ease financial burdens. <Amended on April 20, 2015>
- ② In order to implement a supplementary project, the competent authority shall first determine the viability of the project, and if it determines that the project is viable, the competent authority shall specify the project on the request for proposals or request for alternate proposals of the relevant main project. Here, the competent authority may provide an additional period within the scope of ninety (90) days (if urgent, 30 days) to the period of notification of the request for proposals or request for alternate proposals under Article 70 (2) and Article 99 (3) to allow the private sector a sufficient time for the preparation and submission of project plans or proposals relating to the supplementary project. <Amended on April 20, 2015>
- ③ In the case of a project prescribed in Article 21 (1) of the Act, the competent authority may allow the implementation of a supplementary project where it falls under Paragraph 13 of the same Article. <Amended on February 15, 2012; April 20, 2015>
- ④ Where falling under Article 21 (2) through (4) of the Act, the competent authority shall determine whether to approve the supplementary project through a review of the feasibility, profitability, etc., of the implementation of the supplementary project. In such cases, if the combined total cost of the main project and the supplementary project exceeds KRW 200 billion (KRW 100 billion for BTL projects), the competent authority may request the

head of the PIMAC or a specialized institution for review prior to determining whether to approve (in cases falling under Article 21 (2) of the Act, during negotiations on the concession agreement). <Newly established on April 20, 2015. Amended on July 18, 2022>

- ⑤ Detailed matters concerning the review of supplementary project plans under Paragraph 4 shall be governed by the detailed guidelines for reviewing supplementary projects published by the PIMAC. <Newly established on April 20, 2015>
- ⑥ The competent authority may provide support for the implementation of supplementary projects pursuant to Article 21-2 of the Act and other relevant statutes, in which case the support shall be prescribed in the concession agreement. <Amended on February 15, 2012>

Article 62 (Implementation of Supplementary Projects) <Amended on April 20, 2015>

- ① Where the competent authority and the concessionaire intend to implement a supplementary project pursuant to Article 21 (2) through (4) of the Act, they shall faithfully consult on the details of the project, conditions for the implementation of the project, etc. <Amended on April 20, 2015>
- ② The competent authority shall actively endeavor to promptly implement supplementary projects, such as organizing a collective council of related administrative agencies under Article 17 of the Act. <Newly established on April 20, 2015>
- ③ The concession agreement shall specify the implementation conditions of the supplementary project, including revenue, cost, profit, rate of return, support of the competent authority, terms of profit sharing, etc. Here, the implementation conditions of the supplementary project shall be specified separately from the implementation conditions of the main project, and a separate rate of return may also be determined in consideration of the overall conditions and risks associated with the supplementary project. <Newly established on April 20, 2015>
- ④ The competent authority and the concessionaire shall conclude an amended concession agreement to reflect changes in the implementation conditions of the project due to the implementation of the supplementary project under Article 21 (2) through (4) of the Act. <Newly established on February 15, 2012; April 20, 2015>

**Article 62-2 (Operation and Management of Profits, etc. of Supplementary and Ancillary Projects)
<Amendment 2015.4.20>**

- ① An incidental project shall be operated under the responsibility of the concessionaire.
- ② The profits of supplementary projects shall be shared according to the ratio prescribed by the concession agreement in consideration of the scale of the profits of the supplementary projects of similar projects, the role of the competent authority, etc. <Amended on April 20, 2015; May 7, 2019>
- ③ The scale of profits, ratio of profit sharing, etc. of supplementary projects shall be determined in the concession agreement, but the scale of profits may be adjusted afterwards. When adjusting the scale of profits, there shall be approval from the competent authority for the reasons for adjusting the scale of profits. <Newly established on April 20, 2015>
- ④ Where permitting the adjustment of the scale of profits afterwards pursuant to Paragraph 3, the competent authority shall include provisions related to project completion guarantees and delay damages for the supplementary project in order to promote the timely completion of the facilities constructed under the supplementary project and to prevent the concessionaire from abandoning the project during construction. Article 53 shall apply mutatis mutandis to specific matters concerning project completion guarantees and delay damages. <Newly established on April 20, 2015>
- ⑤ The competent authority may use the shared profits of supplementary projects to reduce subsidies, user fees, etc. <Newly established on April 20, 2015>
- ⑥ The ancillary project shall be the responsibility of the operator if the actual net profit falls short of the estimated profit or loss prescribed in the concession agreement, and if the estimated profit is exceeded, the excess profit shall be shared between the competent authority and the concessionaire at a certain ratio. <Amended on April 27, 2016; May 7, 2019>
- ⑦ Where it is necessary to adjust the ancillary project prescribed in the concession agreement due to changes in policy, changes in operating conditions, etc., the concessionaire may make such additions or changes with the approval of the competent authority. In such cases, profits arising from the addition or change made to the ancillary project may be shared by the competent authority and the concessionaire only if the profit exceeds the

initially estimated net profit. <Amended on April 27, 2016>

- ⑧ The standards for managing profits from supplementary and ancillary projects shall be as specified in Attached Table 6. <Amended on April 27, 2016>
- ⑨ Facilities used for supplementary projects may be owned by the concessionaire or donated to the central or local governments in accordance with relevant statutes. <Amended on April 27, 2016>

Part 2 Procedures for Implementation of Public-Private Partnerships

Chapter I Procedures for Implementation of Government-Solicited Projects

Section 1 Designation of Eligible Projects

Article 63 (Preliminary Feasibility Study)

- ① Where the competent authority intends to implement a project with a total project cost of KRW 50 billion or more, of which KRW 30 billion or more will be subsidized by the national government, as a public-private partnership project, it shall request to the Minister of Economy and Finance for a preliminary feasibility study under Article 38 (1) of the National Finance Act, and if the feasibility study is exempted for the project under Article 38 (2) of the same Act (hereinafter “preliminary feasibility exempt-project”), a request for the exemption of the preliminary feasibility study shall be submitted in conjunction. Provided, however, that where a government-financed project that has been started is converted into a public-private partnership project, the procedure for preliminary feasibility may be omitted. <Amended on February 15, 2012; July 17, 2017 >
- ② The Minister of Economy and Finance, upon having received an application for a preliminary feasibility study pursuant to Paragraph 1, shall request a preliminary feasibility study pursuant to Article 13 of the Enforcement Decree of the National Finance Act and the implementation procedures under the Operational Guidelines for Preliminary Feasibility Studies and shall thereby receive feedbacks on the respective feasibility of a government-financed project and a project under a public-private partnership. <Amended on March 29, 2018>
- ③ When the competent authority files an application for a preliminary feasibility study with the Minister of Economy and Finance pursuant to Paragraph 1, it shall file the application under the label “Project Subject to Preliminary Feasibility Study and Feasibility Analysis” so that a preliminary feasibility study pursuant to the Operational Guidelines for Preliminary Feasibility Studies and a feasibility analysis under Article 8-2 and Subparagraph 11 of Article 2 of the Act may be carried out conjointly. < Newly established on February 15, 2012>

Article 64 (Preliminary VfM test of PPP for Prospective Government-Financed Projects) <Amended on April 20, 2015>.

- ① The Minister of Economy and Finance shall, in order to strengthen the linkage between government-financed projects and PPP projects and to promote government-solicited projects, perform a Preliminary VfM test of PPP for projects subject to mandatory consideration for public-private partnerships as shown in attached Table 6-1 at their preliminary feasibility study phase, and then determine whether to convert them into PPP projects. Provided, however, that even for facilities falling under attached Table 6-1, projects deemed by the government-financed project evaluation committee for which implementation under a public-private partnership is difficult in consideration of the level of usage fees, profitability, or possibility of independent operation based on the results of the preliminary feasibility analysis and preliminary feasibility-exempt projects shall be exempted from the Preliminary VfM test of PPP. <Amended on April 20, 2015; April 27, 2016; July 17, 2017; July 18, 2022>
- ② The Preliminary VfM test of PPP shall be carried out by a comparative analysis of a public sector comparator (PSC) and a private finance initiative (PFI) based on the result of the preliminary feasibility study to determine whether a PPP project would be more suitable than a government-financed project. <Amended on April 20, 2015>
- ③ In principle, the Preliminary VfM test of PPP shall be made at the preliminary feasibility study phase by the agency responsible for the implementation of the preliminary feasibility study, and projects for which a Preliminary VfM test of PPP has been made shall be deemed examined for feasibility analysis under Article 65. <Amended on April 20, 2015>
- ④ As for projects deemed appropriate for implementation under a public-private partnership based on the Preliminary VfM test of PPP under Paragraph 1 and 2, the competent authority shall implement such project as government-solicited PPP projects based on consideration of financial conditions, level of usage fees and other policy directions. <Amended on April 20, 2015>

Article 65 (Feasibility Analysis)

- ① The competent authority shall request the head of the PIMAC or a specialized institution to conduct feasibility analysis pursuant to Article 8-2 (2) of the Act prior to designating a PPP project, and in cases of government-solicited BTO projects with a total project cost of KRW 200 billion or more, shall request the head of the PIMAC to review the results of the feasibility analysis, upon which request the head of the PIMAC shall draft and submit a review opinion to the competent authority and the Minister of Economy and Finance. Provided, however, that a feasibility analysis should be conducted on the same project as the preliminary feasibility study, and in cases where the change to the project falls under conditions to for preliminary feasibility study or a reassessment study of feasibility, equivalent examination shall be conducted. <Amended on July 17, 2017; March 29, 2018>
- ② The feasibility analysis under Paragraph 1 shall be performed in the following steps. <Amended on February 15, 2012>
 1. Feasibility assessment: This step determines whether the implementation of the relevant project is feasible through the Analytic Hierarchy Process (AHP) based on the results of the economic viability analysis of the relevant project, including the cost and benefit analysis, as well as the policy analysis and the balanced regional development analysis thereof. Provided, however, that in cases where it is recognized that there is no real benefit in determining the feasibility of the relevant project, such as where the project is preliminary feasibility study-exempt or a project not subject to preliminary feasibility study that also falls under any of the Subparagraphs of Article 38 (2) of the National Finance Act, etc., the appropriateness of the project scale must be reviewed prior to the Value-for-Money (VfM) Test under Subparagraph 2. <Amended on May 10, 2013; May 12, 2014; July 17, 2017; May 7, 2019; February 10, 2020>
 2. Value for Money (VfM) assessment: Where the feasibility of implementation under Subparagraph 1 is secured, determination shall be made as to whether the relevant project is eligible to be implemented as a PPP project rather than a government-financed project based on comparative analysis of the public sector comparator (PSC) and the private finance initiative (PFI), which in turn shall be based comprehensively on qualitative and quantitative analysis.
 3. Establishment of private finance initiative (PFI) alternative: In case where the Value-for-Money (VfM) as a PPP project under Subparagraph 2 has been secured, or where the project has been determined possible to be implemented as a PPP project, additional financial analysis shall be conducted to calculate the appropriate project cost, usage fees, the scale of government subsidies, etc. to propose a private finance initiative (PFI) alternative, identify and discover practical supplementary and ancillary projects and analyze their impact on the Value-for-Money of PPP. <Amended on April 20, 2015>
- ③ The Analytic Hierarchy Process (AHP) analysis method under Paragraph 2 (1) shall be governed mutatis mutandis by the Operational Guidelines for Preliminary Feasibility Studies, but separate standards may be established based on the characteristics of the relevant PPP project. <Newly established on April 20, 2015. Amended on May 7, 2019>
- ④ The quantitative analysis under Paragraph 2 (2) shall be in accordance with the following standards. <Amended on February 15, 2012; April 20, 2015>
 1. The analysis shall be based on comparison of the respective life cycles costs of a government-financed project and a PPP project at their construction and operation stages in light of estimated demand, and comparison of the present value of the burden on the government after adjustment for risk, fair comparison, etc. In such cases, the discount rate applied to calculate the present value shall be pursuant to Article 65-2. <Amended on February 15, 2012; March 29, 2018>
 2. The public sector comparator (PSC) and the private finance initiative (PFI) shall be calculated on the assumption that the levels of services provided in both cases are equal..
 3. The level of usage fees of the private finance initiative (PFI) shall be comprehensively assessed by considering sensitivity to the demand and the quantitative Value-for-Money (VfM,) for which cases where usage fees are levied 1.0 time to 1.5 times as much as the usage fees for a government-financed project (special bridges may be exceptional) shall be analyzed at the time a private finance initiative (PFI) alternative is reviewed.
 4. The estimation of demand for the use of the infrastructure shall be made based on the demand reasonably estimated by the government based on consideration of policy matters including development plans for the surrounding area, the level of usage fees for each private finance initiative (PFI) alternative, etc.
- ⑤ In case of government-solicited project where the competent authority has applied for as the project subject to the “Preliminary Feasibility Study and Feasibility Analysis” in accordance with Article 63 (3), the “Preliminary

Feasibility Study and Feasibility Analysis” of the relevant PPP project shall be conducted by the head of the PIMAC after the designation of the project by the Minister of Economy and Finance, and the head of the PIMAC shall prepare and submit the results of the “Preliminary Feasibility Study and Feasibility Analysis” to the competent authority and the Minister of Economy and Finance. <Newly established on February 15, 2012; April 20, 2015>

- ⑥ <Deleted on May 20, 2024>
- ⑦ If so requested by the competent authority, the head of the PIMAC or a specialized institution shall provide support for the drafting of an announcement of the request for proposals based on the results of the feasibility analysis under Paragraph 5. <Newly established on February 15, 2012. Amended on April 20, 2015; July 18, 2022>
- ⑧ In principle, the latest national transportation database shall always be applied when conducting feasibility analysis under Paragraph 1. However, if the competent authority determines that the degree of database change and the resulting change in demand estimation are minimal, the existing national transportation database can be applied in consultation with the head of the PIMAC or specialized institution. <Newly established on March 29, 2018>
- ⑨ For rehabilitate (R) projects, a feasibility analysis shall be conducted for the improvement and expansion parts only. <Newly established on July 18, 2022>
- ⑩ When establishing an implementation plan, the feasibility analysis shall be deemed conducted if reviews under Subparagraphs 1 through 3, Article 65(2) have been completed. <Newly established on July 18, 2022>

Article 65-2 (Financial Discount Rate) <Newly established on March 29, 2018.>

- ① In conducting Value-for-Money (VfM) Test under Article 65 (2) 2, the real discount rate shall be 4.5 % for BTO projects, 2.5% for BTL projects and for BTL/BTO projects, the rate shall be 4.5% for the BTO portion and 2.5% for the BTL portion, respectively. <Amended on February 10, 2020>
- ② The financial discount rate shall be adjusted every three (3) years in consideration of changes in economic and social conditions, etc. Provided, however, that if a sudden change in the economic situation occurs or there is an urgent national policy need, the discount rate may be adjusted prior to three years after the previous adjustment.

Article 66 (Designation of Eligible PPP Projects)

- ① The competent authority shall designate eligible PPP projects in accordance with each of the following procedures.
 - 1. In the case of a project with a total project cost of KRW 200 billion or more, the Minister of Economy and Finance shall request the Review Committee for a review, along with the results of the feasibility analysis and the review opinion of the head of the PIMAC. In such cases, review by the Review Committee of the competent authority may be omitted.
 - 2. For projects other than those referred to in Subparagraph 1, the competent authority shall designate eligible PPP projects on its own according to the results under Articles 5 and 65 without review by the Review Committee.
- ② When the competent authority designates an eligible PPP project pursuant to the procedures under Paragraph 1, it shall promptly announce the designation on its official publication (including by posting it on its website) and shall notify the Minister of Economy and Finance and the head of the PIMAC of the same.
- ③ When the competent authority designates an eligible PPP project of a size falling under the scale specified in Article 6 of the Decree in accordance with the procedures of Paragraph 1 (1) it shall comply with the procedures prescribed in Article 8-2 2 of the Act. <Amended on May 10, 2013; March 29, 2018>

Section 2 Formulation and Public Notification of Requests for Proposals

Article 67 (Formulation of Request for Proposals)

- ① When the competent authority designates an eligible PPP project pursuant to Article 66 hereof and Article 8-2 of the Act, he/she shall formulate a request for proposals for the PPP project (hereinafter referred to as "request for proposals") pursuant to Article 10 of the Act..
- ② When the competent authority intends to formulate a request for proposals, he/she shall consult thereon with related ministries before requesting the review by the Review Committee or before giving public notice thereof

and shall resolve differences in advance.

- ③ The competent authority shall consult in advance with the Minister of Environment pursuant to Article 27 of the Environmental Impact Assessment Act to maintain the appropriateness of environmental standards and preserve the natural environment. <Amended on May 10, 2013; March 29, 2018>
- ④ If deemed necessary, the competent authority may gather opinions from local residents, etc. by utilizing public hearings, policy meetings, the Internet, etc. before requesting review by the Review Committee or making a public notice.

Article 68 (Review of the Draft Requests for Proposals by the PIMAC, etc.)

- ① The competent authority shall request the head of the PIMAC to review the draft request for proposals before designating an eligible project. Provided, that specialized institutions may be requested to review projects that do not undergo review by the Review Committee pursuant to Article 38. <Amended on April 27, 2016>
- ② The head of the PIMAC or the specialized institution requested to review pursuant to Paragraph 1 shall review compliance with the relevant statutes, this Basic Plan, related detailed guidelines, etc. and reply to the competent authority within thirty (30) days from the date of the request for review. <Newly established on April 27, 2016. Amended on March 29, 2018>
- ③ In the event that the details of the draft request for proposals are changed relative to the result of the feasibility analysis pursuant to Article 65 and changes to Value-for-Money (VfM) of PPP is therefore anticipated, the competent authority shall ensure that the Value-for-Money (VfM) of PPP is secured prior to requesting a review pursuant to Paragraph 1. <Newly established on February 10, 2020>

Article 69 (Contents of a Requests for Proposals)

- ① The competent authority shall ensure that a request for proposals shall include each of the matters prescribed in Article 11 (1) of the Act.
- ② "Matters concerning qualification requirements for concessionaires" under Article 11 (1) 7 of the Act shall include the following matters:
 - 1. The capital requirement for a concessionaire under Article 25 (1) and equity ratio of the largest investor and major investors as flexibly determined based on the scale and characteristics of the project.
 - 2. Form of the company, such as a material entity or a nominal company.
- ③ "Other matters deemed necessary by the competent authority" under Article 11 (1) 8 of the Act means the following matters. <Amended on May 10, 2013>
 - 1. The level of performance requirements, such as the performance and service level of the specific facilities required for the relevant facilities.
 - 2. Matters concerning the designation, cancellation, etc. of a preferred bidder.
 - 3. Details of requests for bidding guarantees, project performance guarantees, etc. to ensure performance on the project.
 - 4. Form and deadline for the submission of project plans.
 - 5. The method of determining a potential concessionaire and designating the concessionaire where there is only a single applicant for the project.
 - 6. The deadline for negotiations and the deadline for concluding a concession agreement.
 - 7. Matters regarding a modified proposal by a private-sector entity in regard to provisions of a request for proposals, etc.
- ④ In principle, the competent authority shall set the deadline for negotiations and conclusion of a concession agreement under Paragraph 3 (6) to one year, and if an extension of the deadline is necessary, may make one (1) extension by a period of up to six months. <Amended on May 12, 2014; May 7, 2019>
- ⑤ The competent authority may, if necessary for determining the appropriate level of usage fees, present an upper limit of usage fees in consideration of the level of usage fees for alternative facilities, characteristics of the relevant project, etc. in addition to each of the matters specified in Subparagraph 3, in the request for proposals. Examples of criteria for presenting an upper limit of usage fees shall be as specified in Attached Table 7. <Amended on May 10, 2013>

Article 70 (Public Notification of Requests for Proposals)

- ① Where the competent authority intends to publicly announce a request for proposals with a total project cost of at least KRW 200 billion, it shall undergo review by the Review Committee in advance and shall simultaneously publish important matters of the relevant plan in English.
- ② The competent authority shall announce a request for proposals for a period of at least ninety (90) days so that the private sector may prepare and submit a project plan to the competent authority. Provided, however, if deemed necessary based on consideration of the scale, characteristics, etc. of the project, such as where urgency is required, a period of thirty (30) days or more may be set for the announcement.
- ③ Where the competent authority has to amend and re-announce the request for proposals with a total cost of KRW 200 billion or more as the total project cost has been modified by at least 30/100 after the initial announcement, the competent authority shall request the Review Committee for a review in advance.
- ④ When the competent authority publicly announces a request for proposals pursuant to Article 10 of the Decree, it shall also post it on the website of the PIMAC, etc. <Amended on May 10, 2013; March 29, 2018>
- ⑤ Where no project plan is submitted by the private sector after the public announcement of a request for proposals, the competent authority may re-announce it only once within six months from the deadline for the submission of project plans for the relevant infrastructure project, pursuant to Article 10 (4) of the Act. <Amended on February 15, 2012>

Article 71 (Attachment of a Standard Concession Agreement)

The competent authority may prepare a concession agreement, based on the standard concession agreement prepared and published by the head of the PIMAC, containing conditions for the implementation of the project such as matters concerning the maintenance and operation of the project, sharing of risks, etc., and attach it when publicly announcing a request for proposals for the relevant infrastructure project.

Article 72 (Proposal of Amendment to the Requests for Proposals by the Private Sector)

- ① Where the private sector submits an amended request for proposals pursuant to Article 12 of the Act and Article 11 of the Decree, and the adoption of the amended proposal makes possible the reduction of the total project cost, construction period, improvement of the capacity and quality of the facilities, etc., the competent authority may grant additional points not to exceed 5/100 of the total evaluation score to the proposer of such amendment.
- ② The competent authority shall determine in advance the method and level of granting additional points under Paragraph 1 and present them in the request for proposals.
- ③ Where the business entity who submitted a proposal for amendment has been designated a preferred bidder as a result of the evaluation of the project proposals submitted by the private sector, the relevant proposal for amendment shall be deemed a valid project proposal under the relevant request for proposals without an announcement of amendment to the request for proposals.
- ④ Where the private sector submits a proposal for amendment to a request for proposals established and announced after review by the Review Committee, the competent authority shall consult with the Minister of Economy and Finance in advance on whether to adopt the proposed amendment.

Section 3 Submission of a Project plan

Article 73 (Project Applications by Private Sector Entities)

A person who intends to implement a PPP project shall prepare a project plan in accordance with the request for proposals, etc. announced by the competent authority and submit the plan to the competent authority. In such cases, if the plan is submitted in the name of a corporation or a corporation to be established (hereinafter a “corporation to be established”), the application may be submitted in the name of the representative (including a representative corporation) of that corporation.

Article 74 (Contents of a Project Plan)

A person who intends to implement a PPP project shall submit a project plan containing the items prescribed by each of the Subparagraphs of Article 12 of the Decree along with the documents required by the competent authority. Here, the “other matters deemed necessary by the competent authority” under Subparagraph 9 of the aforesaid Article are as follows.

1. Matters concerning the composition of the concessionaire
2. Plan for securing the required land
3. Technology to be applied at the time of construction
4. A letter of commitment to invest of the investors in the case of a corporation to be established; letter of intent or commitment to lend, or a letter of conditional commitment to lend issued by financial institutions, etc.; letter of intent to provide guarantee issued by the Korea Credit Guarantee Fund, etc. <Amended on February 15, 2012>

Article 75 (Composition, etc. of Project Applicants)

- ① An applicant for a project may be comprised of a construction corporation with experience and track record in construction and operation, a facilities operation corporation, a financial investor, etc.
- ② If deemed necessary for the smooth implementation of a project, the competent authority may encourage small and medium-sized enterprises (hereinafter “SME”s), local SMEs in the case of projects where the competent authority is a local government, to participate in a certain percentage of investment, construction, etc. in order to promote participation of SMEs. The provisions may be made that construction loans by such SME’s may be given priority for credit guarantee provided by the Korea Credit Guarantee Fund. <Amended on April 13, 2023>
- ③ An applicant for a project shall maintain a sound financial position so that the project can be carried out smoothly. <Amended on February 10, 2020>
- ④ An applicant for a project shall submit a written guarantee of investment of each investor for capital investment, and shall provide a statement of intent or loan guarantee of a financial company, etc. or a letter of intent to provide guarantee of the Korea Credit Guarantee Fund for loans. Provided, however, that where a financial company, etc. participates as an investor, the applicant may submit a conditional investment guarantee or a letter of intent to invest, and in such cases, a letter of commitment to invest shall be submitted by the conclusion of the concession agreement. <Amended on February 15, 2012; April 27, 2016>
- ⑤ A financial company, the Korea Credit Guarantee Fund, etc. may issue multiple letters of intent to lend, letters of commitment to lend and letters of intent to provide guarantee to multiple applicants for the same project. In such cases, a financial institution, etc. may issue letters of intent to lend to up to three (3) applicants. <Amended on February 15, 2012>
- ⑥ Notwithstanding Paragraph 5, where a financial company, etc. participates as an investor, letters of intent to lend may not be issued to applicants other than the applicant with which it is participating as an investor. <Amended on February 15, 2012>

Section 4 Review and Evaluation of Project Plans

Article 76 (Prequalification Examination)

- ① The competent authority may, if deemed necessary for the reduction of the cost of proposal, efficient evaluation, etc. of the private sector in the process of selecting a potential concessionaire, examine in advance the eligibility of persons that may submit project proposals (hereinafter referred to as the "prequalification examination").
- ② When the competent authority intends to conduct a prequalification examination pursuant to Paragraph 1, it shall establish criteria for such prequalification based on which technology, financing capacity, operating ability, etc. may be comprehensively evaluated and publicly announce them on the request for proposals.
- ③ The criteria for prequalification examination shall include items concerning the minimum qualifications and abilities for the implementation of the project, and where prequalification examination is conducted, these items not be included in the evaluation items for technology and price under Article 78.
- ④ Notwithstanding Paragraph 1, the competent authority may, if deemed necessary in consideration of the scale, characteristics, etc. of the project, conduct a prequalification examination and evaluation of technology and price

separately at the same time.

Article 77 (Evaluation of Project Plans)

- ① The competent authority shall designate a preferred bidder who has the ability to implement the relevant project by evaluating project plans fairly pursuant to Article 13 (2) of the Act and Article 13 of the Decree.
- ② When evaluating a project plan, the competent authority may utilize detailed guidelines for the evaluation and management of project plans prepared and published by the head of the PIMAC.

Article 78 (Composition of Evaluation Elements)

- ① The evaluation elements of a project plan shall be comprised mainly of technology and price factors and shall not overlap with each other.
- ② Price components shall be evaluated based on factors that can induce price competition, such as evaluation focused on usage fees, subsidies, etc. based on conversion of price factors such as total project cost, rate of return, demand volume, usage fees, operating cost, subsidies, etc. with equal conditions.
- ③ Matters concerning the necessary qualifications or abilities of an applicant for a project shall be examined when conducting a prequalification examination under Article 76, or where no prequalification examination is conducted, they shall be examined based on the qualification for participation specified in the request for proposals of the relevant project.

Article 79 (Allocation of Evaluation Points and Criteria therefor)

- ① The competent authority shall objectively and specifically establish and operate the evaluation items and evaluation criteria of project plans, such as adjusting the evaluation items under Article 13 (1) of the Decree appropriately or weighting the evaluation items appropriately.
- ② The evaluation points for technology and price components shall be appropriately allocated in consideration of the following:
 1. The deviation of evaluation point of technology elements, such as construction and operation plans, and the deviation of evaluation points of price elements, etc. shall be maintained at an appropriate level based on consideration of the characteristics of the project, the difficulty of construction and operation price competition conditions, etc.,
 2. In the case of a project where technical skills, management skills, etc. are deemed relatively less important, the ratio of points allocation for price elements shall be increased to at least 50/100 for evaluation.
 3. A mutually balanced distribution and deviation of evaluation points between evaluation items shall be maintained so that evaluation results are not excessively affected by specific items.
- ③ The evaluation criteria, which shall be quantified to the extent possible, shall be presented as objectively and specifically as possible, and the method of calculation shall be presented in advance. Provided, however, that where qualitative evaluation is inevitable, objective evaluation criteria, such as the utilization of a grading system, shall be applied and subjective factors shall be reduced as much as possible.

Article 80 (Preferential Treatment in Evaluation of Project Plans)

- ① The competent authority may give preferential treatment to a person who has submitted a project plan in consistent with the smooth implementation of the project, such as the provision of long-term investment funds favorable to the public interest, procurement through a bidding system, etc. <Amended on February 10, 2020>
- ② When evaluating a project plan, the competent authority may increase the points allocation for investment ratio of financial investors or strategic investors from 1/100 to 5/100, or grant additional points within 5/100 of the total evaluation score for project plans that propose procurement of financing or placement of construction orders through competitive process, etc. based on consideration of effects such as reduction in subsidy, usage fees, etc.
- ③ When evaluating a project plan, the competent authority may grant additional points within 5/100 of the total scores for price elements to a project plan that presents a method of contributing to easing the government burden, such as the sharing of land compensation expenses, shortening of the management and operation period, and recovery of excess operating revenue. <Newly established on February 15, 2012>
- ④ The term "strategic investor" in Paragraph 2 means a company specializing in the operation of infrastructure, such

as a shipping company or a port operator in the case of a port project, and a rail operator in the case of a rail project.

- ⑤ Projects that may contribute to easing the government's financial burden as described in Paragraph 3 are limited to projects that anticipate a higher rate of return than the rate of return determined based on the matters specified in Article 12 (2), and in such cases, the competent authority may demand the submission of explanatory materials, etc. including objective explanations, evidentiary materials, etc. if deemed necessary, and may grant additional points if such explanations are accepted by the project evaluation team after review. <Newly established on February 15, 2012>

Article 81 (Designation of Preferred Bidder and Notification of Designation)

- ① The competent authority shall designate preferred bidder in accordance with Article 13 (4) of the Decree by the descending order of their combined scores on technology and price evaluations.
- ② The competent authority shall notify the following matters to the persons who have submitted project plans after the evaluation is completed:
 1. Comprehensive evaluation score of the project plan
 2. Respective scores on major evaluation items, such as design, operation, construction, etc. of the project plan
 3. Names of members participating in the project plan evaluation team and their respective scores

Section 5 Designation of Concessionaires and Conclusion of Concession Agreements

Article 82 (Designation of a Concessionaire)

- ① The competent authority shall designate a concessionaire by concluding a concession agreement containing the implementation conditions of the project etc. with a preferred bidder pursuant to Article 13 (3) of the Act, and where review by the Review Committee is required pursuant to Article 38, an advance review by the Review Committee shall be conducted prior to the designation of a concessionaire.
- ② Where only one entity has submitted a project plan, the competent authority shall designate a concessionaire in accordance with the matters pre-determined in the request for proposals of the relevant project.
- ③ Where major details of the project have been modified as of the time of the conclusion of the concession agreement (or an amended concession agreement) and changes to Value-for-Money (VfM) of PPP is therefore anticipated, the competent authority shall conduct review to ensure that the Value-for-Money (VfM) of PPP is secured. In such cases, the Value-for-Money test may be conducted through simplified methods. <Amended on April 27, 2016>

Article 83 (Key Contents of a Concession Agreement)

The competent authority shall ensure that the following matters, etc. are included in the concession agreement.

1. Basic matters related to a PPP project, such as the designation of a concessionaire, determination of the period of use, operation and management of facilities, rights and obligations of the parties to the agreement, revocation of the designation of a concessionaire, dispositions against violation of the relevant laws, etc.
2. Matters concerning the procedures for implementing the project, such as the establishment of a corporation, application for an implementation plan, guarantee of project performance and risk-related matters, safety and environmental management
3. Construction start date, construction period and necessary measures including construction inspection and damages for delay in construction
4. Total project cost, usage fee determination and modification, target rate of return (the project rate of return and the shareholders' expected rate of return shall be stated, in addition to the project rate of return before taxes) and other operating revenue and expenses-related matters
5. Matters relating to the support to be provided by the competent authority, including the criteria and procedures for subsidies, such as allocation of risks, permit and licensing agency, etc.
6. Matters concerning the maintenance, management, and operation of the facilities
7. Matters concerning the criteria for classification of risk types and the principle of allocation thereof
8. Matters concerning the requirements and procedures for the termination of the agreement and the payment

- criteria and procedures for termination payment due to early termination
9. Matters concerning the requirements and methods for exercising a right to demand buyout
 10. Other matters concerning the termination of the agreement and procedures for handling disputes, etc.

Article 84 (Negotiation)

- ① The competent authority shall ensure that negotiations can be completed in a timely manner by maintaining consistency in negotiations and enhancing efficiency.
- ② The competent authority shall conclude negotiations within the negotiation period prescribed in the relevant request for proposals pursuant to Article 69 (3) 6 and (4), and, if he/she fails to reach an agreement within the deadline for negotiations, may take necessary measures, such as the commencement of negotiations with the next-ranking bidder, the renotification of the request for proposals, and the revocation of the designation of the PPP project.
- ③ The competent authority shall maintain the consistency of negotiations, shall not present conditions for the implementation of the project inconsistent with those announced in the request for proposals of the relevant project, and shall actively participate in negotiations even where an external agency has been engaged for support during negotiations.
- ④ In the case of projects with a high proportion of foreign investment, the competent authority shall respect foreign investors' opinions to the utmost in connection with provisions regarding language on the concession agreement, the settlement of disputes, etc.
- ⑤ In order to accelerate the commencement of construction, a concessionaire may implement procedures, such as detailed design, simultaneously with the process of negotiation.

Article 85 (Utilization of Expert Support, etc.)

The competent authority may utilize the support of experts in construction, operation, law, finance, etc. during negotiations, and shall bear the expenses thereof.

Article 86 (Review of Draft Concession Agreement by the PIMAC, etc.) <Amended on April 27, 2016.>

- ① The competent authority shall request the head of the PIMAC to review the draft concession agreement before concluding the agreement. Provided, however, that specialized institutions may be requested to review the concession agreement for projects that do not undergo review by the Review Committee under Article 38. The competent authority shall cooperate with the specialized institution's request for submission of the materials necessary for the review (including financial models, etc.). <Amended on April 27, 2016>
- ② The head of the PIMAC or a specialized institution requested to review pursuant to Paragraph 1 shall review compliance with the relevant statutes, this Basic Plan, related detailed guidelines, etc. and reply to the competent authority within thirty (30) days from the date of the request absent special circumstances. <Newly established on April 27, 2016. Amended on March 29, 2018>
- ③ Notwithstanding Paragraph 1, where the competent authority has requested the head of the PIMAC to conclude or negotiate amendments to the concession agreement, the process of consultation and review by the head of the PIMAC may be omitted. <Amended on April 27, 2016>
- ④ Pursuant to Article 49 (2), the competent authority may entrust all or part of its duties to the head of the PIMAC or a specialized institution from the request for proposals to the negotiation stage for concluding the concession agreements to enhance efficiency through expedited handling of duties, etc. In such cases, the competent authority shall endeavor not to change the details of the project plan to the extent possible. <Newly established on February 20, 2015. Amended on April 27, 2016; March 29, 2018>
- ⑤ If there is a change in the contents of the project compared to the original project plan during the consultation process on the concession agreement, the head of the PIMAC shall review the change through inquiry, etc. with the parties to negotiation (the competent authority and the preferred bidder). <Newly established on April 27, 2016>

Article 87 (Advance Consultation on Central Government-Subsidized Projects)

Where the competent authority intends to enter into a concession agreement that includes an agreement on central government subsidy, it shall hear the opinions of the Minister of Economy and Finance in advance. In such cases, the

scope of central government subsidies shall include support for infrastructure, etc. in addition to construction subsidies and long-term loans.

Article 88 (Verification of Total Project Cost)

- ① The competent authority shall request the Public Procurement Service, the Korea Expressway Corporation, the Korea Environment Corporation, related research institutes, etc. (hereinafter the “related agencies”) to review the appropriateness of the construction cost, economic viability of the design under the Construction Technology Promotion Act, etc. to verify the total project cost when designating a concessionaire or modifying the total project cost. Provided, however, that in any of the following cases, the appropriate review of construction cost at the concessionaire designation stage may be omitted. <Amended on May 10, 2013; April 20, 2015; March 29, 2018>
 1. Cases where the review of the economic viability of the design was carried out concurrently with a review on the appropriateness of the construction cost by the related agencies <Amended on March 29, 2018>
 2. Where the competent authority presents an estimated price consistent with historical unit price for government-financed projects
 3. Where the estimated total construction cost is less than KRW 10 billion
 4. Standardized projects where the benefit of a separate review is minimal in light of the total construction costs of similar projects
- ② Where a project requires a change in the details after selecting a preferred bidder, such as a change of route, etc. in a road project, the competent authority shall determine the details of the change before the negotiation begins in order to ensure an unhindered review of the economic viability of the design.

Article 89 (Conclusion of Concession Agreement)

A concession agreement shall be concluded in the name of a corporation or a person who is scheduled to invest in a corporation scheduled to be established.

Article 89-2 (Compensation in the Event of Project Cancellation or Withdrawal During Negotiations) <Newly Established on April 27, 2016>

Where the competent authority cancels or withdraws a project due to its own circumstances during negotiations, it shall compensate the preferred bidder the expenses equivalent to Article 160 (4). <Amended on July 17, 2017; July 18, 2022>

Section 6 Approval of Detailed Implementation Plans, Construction and Completion

Article 90 (Approval of Detailed Implementation Plan)

- ① The deadline for application for approval of a detailed implementation plan, approval of a detailed implementation plan by the competent authority, etc. shall be governed by the concession agreement within the scope prescribed in Articles 13 (5) and 15 of the Act and Article 15 and 16 of the Decree.
- ② When a concessionaire intends to obtain approval for a detailed implementation plan, he/she shall submit an application, etc. for approval prescribed in Article 16 of the Decree to the competent authority. Here, “other matters deemed necessary by the competent authority” under Article 16 (1) 6 of the Decree shall include financing plans, written commitment on financing, etc. <Amended on February 15, 2012>
- ③ The competent authority shall endeavor to shorten the period of approval of the detailed implementation plan, and may shorten and specify the approval period in the concession agreement in advance in consideration of the nature of the project, etc.
- ④ The competent authority may commence a basic investigation for the environmental impact assessment in order to expedite the project even before the designation of a concessionaire, and may deliver the basic investigation data for the environmental impact assessment to the preferred bidder or concessionaire at the time of designation of such parties.
- ⑤ When approving a detailed implementation plan, the competent authority shall examine whether major provisions of the detailed implementation plan, such as conditions for financing, terms of repayment, etc. have been reasonably established in consideration of the purpose of the public-private partnership system, conditions facing the project, profit structure, etc. (Newly establish on April 27, 2016)

Article 91 (Confirmation of Completion)

When the concessionaire completes the construction of the relevant facility in accordance with the detailed implementation plan, it shall submit a construction completion report to the competent authority within fifteen (15) days from the date of completion of construction and receive confirmation thereof.

Chapter II Procedures for Implementation of Unsolicited Projects

Section 1 Submission of Proposals

Article 92 (Project Proposals by Private Sector Entities)

- ① Pursuant to Article 9 (1) of the Act, a private-sector entity may propose an unsolicited project to the competent authority, if the project is for a facility specified in each item of subparagraph 1 of Article 2 of the Act and has not been designated and publicly notified by the competent authority as an eligible PPP project. <Amended on February 15, 2012; April 27, 2016>
- ② In order to propose a project under Paragraph 1, a private-sector entity shall submit a proposal including the matters specified in the Subparagraphs of Article 7 (1) of the Decree to the competent authority.
- ③ The PIMAC may prepare and publish appropriate standards to minimize the cost of project proposals by the private sector in relation to design documents submitted to explain the "details of a project plan" under Article 7 (1) 2 of the Decree. <Amended on April 20, 2015>
- ④ "Other matters deemed necessary by the proposer for the implementation of the project concerned" under Article 7 (1) 8 of the Decree shall include a letter of confirmation for loans or a letter of conditional confirmation for loans issued by a financial institution, etc., a letter of intent to provide guarantee issued by the Korea Infrastructure Credit Guarantee Fund. <Amended on February 15, 2012>

Article 93 (Receipt, etc. of the Initial proposal)

- ① Where the private sector proposes a project pursuant to Article 92, the competent authority shall receive the proposal and shall not reject it. <Newly established on May 12, 2014>
- ② The competent authority shall not receive a proposal from a third party for the same project from the time of receipt of the initial proposal to the date of public announcement of the details of the proposal. In such cases, the determination as to who is the initial proponent shall be based on the order in which the proposals are received by the competent authority, and in cases of proposals received on the same day, the initial proposal received shall be recognized as the initial proposal.
- ③ Except where the competent authority requests the initial proponent to supplement the details of the proposal by setting a fixed deadline in any of the following cases, the initial proponent shall not supplement the details of the proposal until the date of public announcement.
 1. Where required details are omitted in the proposal.
 2. Where the details of the proposal are not clear.
 3. Where a request is made by the head of the PIMAC due to a lack of relevant data necessary for the review of the proposal;
- ④ When falling under any of the Subparagraph of Article 7 (2) of the Decree, the competent authority may return the proposal by specifying specific reasons within thirty (30) days from the date of receipt. <Amended on May 12, 2014>
- ⑤ Where the project whose proposal has been received or returned pursuant to Paragraph 1 or 4 is subject to review by the Review Committee pursuant to Article 38, the competent authority shall immediately report such fact to the Minister of Economy and Finance. <Newly established on May 12, 2014>

Section 2 Review of proposals and designation of Projects

Article 94 (Review of Proposals)

- ① When a project proposal is submitted pursuant to Article 92, the competent authority shall examine the details of the project proposal as to whether it conforms to the relevant development plan, the higher plan of the relevant facility project and the financial conditions pertaining to the project, etc.
- ② Where the competent authority reviews a project proposal pursuant to Paragraph 1, if the proposal suffers from a lack of details or if the competent authority determines that consideration of making changes to the proposal is necessary, as in the case of a route change in a road project following consultation with related agencies, etc., the competent authority may demand the project proposer to make the necessary supplementations within a certain period of time.
- ③ Where a project proposal submitted pursuant to Article 92 is exempt from the preliminary feasibility study under Article 63 (1), the competent authority shall request the Minister of Economy and Finance for exemption, and if the competent authority determines that the Review Committee may omit the economic viability and policy need analysis in accordance with Article 7 (6) of the Decree, it shall request the Minister of Economy and Finance for a review by the Review Committee. <Newly established on May 12, 2014. Amended on May 7, 2019>

Article 95 (Request for Review of Proposals, etc.)

- ① Where the competent authority determines that a proposal submitted under Article 94 meets the formal requirements and conforms to the relevant statutes and the policies, etc., of the competent authority, it shall request the head of the PIMAC or a specialized institution to review the proposal within 30 days of the receipt of the proposal (in cases where a supplementation to the proposal is requested, from the date of completion of the supplementation) along with the evidentiary materials for such a determination and the results of the competent authority's evaluation of detailed evaluation items in the policy analysis provided in the implementation guidelines for preliminary feasibility studies pursuant to Article 7 (3) of the Decree. After submitting such a request for review to the head of the PIMAC or a specialized institution, the competent authority shall endeavour not to change the contents of the project plan to the extent possible. In such cases, the competent authority shall submit the details of the decision to exempt the preliminary feasibility study under Article 94 (3), or the economic viability and policy need analysis under Article 7 (6) of the Decree to the head of PIMAC or the specialized institution prior to the completion of the value-for-money (VfM) test of PPP or review of the proposal. <Amended on May 12, 2014; April 20, 2015; May 7, 2019; July 18, 2022>
- ② If there are unavoidable reasons to present alternatives to a project proposal based on consultation with the related agencies, the competent authority may request the head of the PIMAC or the head of a specialized institution, etc. to conduct further proposal by submitting detailed materials on such other proposals. In such cases, detailed matters concerning the details of the proposal and the alternatives thereto shall be governed by the Detailed Guidelines on the Feasibility Analysis and Value-for-Money (VfM) test of PPP. <Amended on April 20, 2015; May 7, 2019>
- ③ Where the proposed project is subject to review by the Review Committee under Article 38, the competent authority shall notify the Minister of Economy and Finance of the request for or submission of related materials to the head of the PIMAC, etc. pursuant to Paragraph 1 and 2. <Newly established on May 12, 2014. Amended on May 7, 2019>
- ④ The head of the PIMAC, etc. a specialized institution may request the competent authority to supplement a proposal submitted pursuant to Paragraphs 1 and 2 within a set period of time if the proposal lacks relevant materials necessary for review. Provided, however, if the head of the PIMAC or the specialized institution determines that the proposal fails to meet the formal requirements prescribed in each of the Subparagraphs of Article 7 (1), thereby precluding a review, it may reply to the competent authority that a review is not possible. <Amended on April 20, 2015; May 7, 2019>
- ⑤ The head of the PIMAC, etc. or the head of a specialized institution shall review the details of proposals submitted by the private sector in accordance with each of the following criteria. <May 7, 2019>
 1. Whether it meets the government's medium to long term plans and priorities for state investment.
 2. Adequacy of investor composition.
 3. Anticipated quality in light of creativity, efficiency, appropriateness of cost, etc. and appropriateness of the

- construction and operation plans.
4. Appropriateness of the demand estimation method, and appropriateness of estimated demand based on comparison with the government's estimation of demand.
 5. Adequacy of consultation with the related agency and plans for handling complaints.
 6. Adequacy of the project plan drawings, including the appropriateness of financial models, drawings, calculation methods, etc.
 7. The economic viability of the construction of the relevant facilities and the resultant increase in benefit.
 8. Appropriateness and validity of business feasibility analysis results, such as basis for calculating costs and revenues.
 9. Whether the method and scale of the requested government subsidy are appropriate.
 10. Whether it meets the other purposes of the Act.
- ⑥ The head of the PIMAC, etc. or the head of a specialized institution shall complete the review of the proposal under Paragraph 5 within sixty (60) days from the date of receipt of a request for review pursuant to Article 7 (6) of the Decree and submit his/her opinion to the competent authority and the Minister of Economy and Finance. However, in the case of conducting a Value-for-Money (VfM) test of PPP under Article 96 (1), the review shall be commenced within thirty (30) days and completed within 270 days (210 days in the case of an environmental project, 1 year in the case of a rail project) from the date of commencement of the review, and within one (1) year (1 year and 6 months in the case of a rail project) at the latest. Provided, that in the case of projects exempt from Preliminary Feasibility Study and the projects subject to simplified VfM test pursuant to Article 96 (3), the review period must be shortened by 60 days (30 days for environmental projects) <Newly established on May 12, 2014 Amended on May 7, 2019; April 23, 2023>

Article 96 (Value-for-Money (VfM) test of PPP and Review of Proposal) <Amended on May 12, 2014>

- ① For projects with a total project cost of less than KRW 200 billion that are requested for review pursuant to Article 95, the head of the PIMAC, etc. shall conduct a Value-for-Money (VfM) test of PPP comprising of economic viability and policy need analysis, analysis of the respective suitability of a public sector comparator (PSC) and a private finance initiative (PFI), etc. <Amended on May 7, 2019>
- ② The Value-for-Money (VfM) test of PPP under Paragraph 1 shall be conducted through the same steps as prescribed in Article 65 (2) through (4). <Amended on February 15, 2012; April 20, 2015>
- ③ For projects with a total project cost of less than KRW 200 billion, the head of the PIMAC, etc. or the head of a specialized institution shall, in principle, conduct a proposal review by applying a method similar to the Value-for-Money (VfM) test of PPP under Paragraph 1, but may simplify the method based on consideration of the characteristics, time needed for review, etc. of the project. <Amended on May 12, 2014; May 7, 2019>
- ④ The head of the PIMAC, etc. or a specialized institution may, if deemed necessary for verifying the economic feasibility of the project, appropriateness of the business feasibility analysis of the project, etc. during the review process pursuant to Paragraphs 1 and 3, receive advice from experts in the relevant field or commission services from research institutes, institutions with recognized expertise in the relevant field, etc. and shall hear the opinions of the project proposer prior to the commencement of the review in order to enhance the efficiency and accuracy of the review. <Amended on April 27, 2015; May 7, 2019; February 10, 2020>
- ⑤ The head of the PIMAC, etc. or the head of a specialized institution may propose to the competent authority a plan to raise the allocation of evaluation scores to price components to at least 50/100 for projects where technical capacity, managerial capability, etc. are deemed less important based on review pursuant to Paragraphs 1 and 3. <Amended on May 7, 2019>
- ⑥ Where the head of the PIMAC or a specialized institution determines that a private sector proposal submitted by the competent authority for review is suitable for implementation under a PPP, he/she may present opinions on the implementation conditions of the project, such as appropriate project cost, user fees, rate of return, etc. that differ from those proposed in the initial proposal. <Amended on May 7, 2019>
- ⑦ A Value-for-Money (VfM) test of PPP shall be conducted on the same project as the preliminary feasibility study, and if changes made are subject to a preliminary feasibility study or a reassessment study of feasibility, review procedures equivalent thereto shall be implemented. <Amended on July 17, 2017>

Article 96-2 (Securing Objectivity in Value-for-Money (VfM) test of PPP and Proposal Review) <Newly established on February 10, 2020>

The head of the PIMAC, etc. or the head of a specialized institution shall endeavor to secure objectivity in consideration of the following matters in order to resolve issues arising in the process of feasibility analysis, Value-for-Money (VfM) test of PPP, and proposal review under Articles 65 and 96.

1. Authoritative interpretation of the relevant authorized agency.
2. Established or validated theory.
3. Determination of institutions recognized for their expertise in the relevant field.
4. Consistency with other surveys of the same type.

Article 97 (Hearing of Opinions, Consultation, etc.)

- ① The competent authority may, if deemed necessary in its internal examination process of the relevant private sector proposal, such as whether to implement an unsolicited project as a PPP project, etc., seek advice from relevant specialized institutions or request services from a specialized research institution.
- ② The competent authority may, if deemed necessary, collect opinions from local residents, etc. through public hearings, policy meetings, the Internet, etc. before announcing the details of a proposal or requesting review by the Review Committee.
- ③ The competent authority shall publicly make a request for alternate proposals under Article 99 within one 1) year (excluding the period required for review by the Review Committee in cases of projects subject to review of that Committee under Article 38) of being notified of the results of the Value-for-Money (VfM) test of PPP or proposal review by the head of the PIMAC or a specialized institution pursuant to Article 96. Provided, however, that if there are compelling circumstances, this period may be extended by up to one (1) year. <Newly established on April 20, 2015>
- ④ In the event where the competent authority returns, due to circumstances it faces, a project proposal that meets feasibility and eligibility requirements based on the Value-for-Money (VfM) test of PPP or proposal review under Article 96 and has secured sufficient financial resources for the smooth implementation of the project, the competent authority shall immediately notify the Minister of Economy and Finance of such fact and shall compensate the proposer for the cost of proposal as determined pursuant to each of the Subparagraphs of Article 160 (2). Provided, however, that in the case of a project whose construction cost as reported on the Value-for-Money (VfM) test of PPP exceeds KRW 500 billion, the cost of construction shall be deemed KRW 500 billion for the purpose of calculating the amount of compensation for the cost of proposal. <Newly established on May 12, 2014. Amended on July 17, 2017>

Article 98 (Review by the Review Committee)

- ① Where the competent authority intends to implement an unsolicited project as a PPP project, the project shall undergo a review by the Review Committee if it falls under Article 38. <Amended on March 29, 2018>
- ② Prior to requesting the Review Committee for a review, the competent authority shall submit a comprehensive report on matters including consistency with the medium to long-term investment plans of the government, appropriateness of the level of subsidy requested, results of consultation with the related agencies, matters pointed out by the head of the PIMAC, etc. to the Minister of Economy and Finance.

Section 3 Third-Party Proposal

Article 99 (Request for Alternate Proposals)

- ① Where the competent authority decides to implement a project proposed by the private sector as a PPP project, it shall notify the proposer of the proposal and publicly announce the details of the proposal on the website of the official gazette, three or more daily newspapers and the website of the PIMAC to ensure that proposals by third parties will be possible, pursuant to Article 9 (3) of the Act and Article 7 (8) of the Decree. <Amended on May 10, 2013>
- ② In order to shorten the period of project implementation, the competent authority shall specify and publicly announce the details of the project reflecting the results of consultation with related agencies, such as routes of road projects.

- ③ The competent authority shall publicly announce a request for alternate proposals for at least ninety (90) days so that third parties may prepare and submit proposals. Provided, that if deemed necessary in consideration of the scale and characteristics of the project, such as in cases of urgency, an appropriate period of at least 30 days may be determined and publicly announced.
- ④ The competent authority shall not disclose the details of the initial proposal against the proposer's will from the date of receipt of the proposal until the public announcement of the request for alternate proposals, and shall not include matters infringing on the Initial proponent's interests on a solicitation for third-party proposals.
- ⑤ The designation of a eligible PPP project under Article 8-2 of the Act and a request for proposals under Article 10 (1) shall be deemed established and announced at the time the competent authority has made a request for alternate proposals.

Article 100 (Contents of a Request for Alternate Proposals)

- ① The competent authority shall specify the following matters in a solicitation for third-party proposals.
 - 1. An overview of the contents of a proposal.
 - 2. Matters concerning the level of service and operation and management required for the relevant facility;
 - 3. Matters concerning the qualification requirements, such as capital, of a concessionaire.
 - 4. The form of a company, such as a material company or a nominal company.
 - 5. Form and deadline for submission of a project plan.
 - 6. Method of evaluation of proposals, such as whether a prequalification examination will be conducted, and items and standards for evaluation.
 - 7. The ratio of preferential points to be given to the initial proponent when evaluating a project plan.
 - 8. Matters concerning the designation, cancellation, etc. of a counterparty for negotiation.
 - 9. Details needed for bidding guarantee, project performance guarantee, method of project performance guarantee, etc.
 - 10. The deadline for negotiations and the deadline for concluding a concession agreement. <Newly established on May 12, 2014>
 - 11. Other matters deemed necessary by the competent authority for the implementation of the relevant project.
- ② The competent authority may, if necessary for the determination of the appropriate level of user fees, present an upper limit of user fees in consideration of the level of user fees for alternative facilities, the characteristics of the relevant project, etc. The criteria for presenting an upper limit of user fees shall be as specified in Attached Table 7.
- ③ The competent authority shall prepare a concession agreement, based on the standard concession agreement prepared and published by the head of the PIMAC, containing conditions for the implementation of the project such as matters concerning the maintenance and operation of the project, sharing of risks, etc., and attach it to a request for alternate proposals. <Amended on April 20, 2015>
- ④ In principle, the competent authority shall set the deadline for negotiations under Paragraph 1 (10) and the deadline for concluding a concession agreement to one (1) year, and if an extension of the deadline is necessary, may make one (1) extension by a period of up to six months. <Amended on May 12, 2014; May 7, 2019>

Section 4 Preferential Treatment and Evaluation of the Initial Proponent

Article 101 (Preferential Treatment for the Initial Proponent)

- ① Pursuant to Articles 9 (4) of the Act and 7 (11) of the Decree, the competent authority shall grant preference points to the initial proponent according to the ratio of preference points presented by the head of the PIMAC, etc. on the report on Value-for-Money (VfM) test of PPP. <Amended on February 10, 2020>
- ② The preference point referred to in Paragraph 1 shall be granted within 10/100 of the total evaluation score, but where the competent authority announces details different from those of the initial proposal and the initial proponent thereby makes a proposal for amendment during the third-party competition process, preference point treatment may be given to the initial proponent within 5/100 of the total evaluation score based on consideration of the creativity, etc. of the initial proposal.

- ③ Where a private sector entity proposes a project for which feasibility studies and basic designs have already been carried out by the competent authority, preferential status as an initial proponent shall not be recognized in principle. Provided, however, that if a private sector entity makes significant improvements to a facility design of the competent authority and thereby significantly reduces the project cost or operating costs, or submits a proposal containing a significant improvement in the use efficiency of the facility, such contribution may be recognized during evaluation.
- ④ Where the competent authority determines the ratio of preference points to be given to the initial proponent pursuant to Paragraphs 1 and 2, it shall specify it on a request for alternate proposals.

Article 102 (Evaluation of Proposals)

- ① Where proposals have been submitted by third parties within the period prescribed in a request for alternate proposals, the competent authority shall review and evaluate the proposal of the initial proponent and the third-party proposals and designate preferred bidders for negotiation.
- ② The competent authority shall designate at least two (2) preferred bidders for negotiation based on the results of the evaluation of the proposals, absent special circumstances.
- ③ Where a proposal by a third party is not submitted within the period prescribed in a request for alternate proposals, the competent authority shall designate the initial proponent as the preferred bidders for negotiation.

Section 5 Designation of a Concessionaire and Conclusion of a Concession Agreement

Article 103 <Deleted on May 12, 2014>

Article 103-2 (Negotiation and Approval of Detailed Implementation Plan) <Newly Established on May 12, 2014>

- ① The competent authority shall conclude a concession agreement within the negotiation period specified in a request for alternate proposals pursuant to Article 100 (4) and may take necessary measures, such as the commencement of negotiations with the lower-priority counterparties or the cancellation of the designation of the PPP project if a concession agreement is not concluded within said period.
- ② An entity designated as a concessionaire shall file an application for approval of the implementation plan with the competent authority within one (1) year from the date he/she is designated pursuant to Article 13 (5) of the Act, and where the competent authority deems an extension inevitable, the deadline may be extended only once.
- ③ Except in extenuating circumstances pursuant to Article 16 (3) of the Enforcement Decree, the competent authority shall notify the concessionaire in writing of whether the implementation plan has been approved within three (3) months from the date of receipt of the application for approval of the implementation plan pursuant to Paragraph 2.

Section 6 Application Mutatis Mutandis of Procedures for Government-Solicited Projects

Article 104 (Application Mutatis Mutandis of Procedures for Government-Solicited Projects)

The provisions for the implementation of government-solicited projects prescribed in Chapter 1 of this Part shall apply mutatis mutandis to matters not otherwise prescribed in connection with the procedures for the implementation of unsolicited projects.

Chapter III Special Cases Concerning the Implementation of Government-Solicited BTL Projects <Amended on April 27, 2016>

Section 1 Formulation of a Project Plan and Feasibility Analysis

Article 105 (Formulation of a Project Plan)

The competent authority shall formulate an investment plan for each eligible facility based on consideration of consolidation of multiple facilities into a bundle project, integration with related facilities, development of diverse supplementary and ancillary projects, consistency with high-level plans, etc. and shall formulate a specific project plan containing matters pertaining to the scale, details, operation, etc. of the relevant facility.

Article 106 (Preliminary Feasibility Study)

- ① Where the competent authority intends to implement a project with a total project cost of KRW 50 billion or more, out of which at least KRW 30 billion of which will be subsidized by the national treasury, as a PPP project, he/she shall apply to the Minister of Economy and Finance for a preliminary feasibility study under Article 38 (1) of the National Finance Act. Provided, however, that projects exempted from preliminary feasibility studies pursuant to Article 38 (2) of the National Finance Act shall be accompanied by a request for exemption from preliminary feasibility studies. <Amended on February 15, 2012; May 12, 2014>
- ② When the competent authority files an application for a preliminary feasibility study with the Minister of Economy and Finance pursuant to Paragraph 1, he/she shall file an application with the label “Project Subject to Preliminary Feasibility Study and Feasibility Analysis” so that a preliminary feasibility study under the Operational Guidelines for Preliminary Feasibility Studies and a feasibility analysis under Article 8-2 and Article 2, Subparagraph 11 of the Act may be carried out conjointly. <Newly established on February 15, 2012>

Article 107 (Feasibility Analysis)

- ① The competent authority shall conduct a feasibility analysis of all unit projects in accordance with Article 65 (2), Paragraph 4 (1), Subparagraph 2 and 4 and the Detailed Guidelines on the Feasibility Analysis of BTL Public-Private Partnerships published by the head of the PIMAC. <Amended on February 15, 2012; March 29, 2018>
- ② Notwithstanding Paragraph 1, the competent authority may commission a bundled feasibility analyses as a package project if the unit projects are of the same or similar facility type, and in cases of standardized projects with a total project cost of less than KRW 100 billion that are not subject to a preliminary feasibility study (schools, college and university dormitories, military residential facilities, sewage pipe facilities, etc.) and integrated projects with a total project cost of less than KRW 30 billion (living infrastructure such as welfare, cultural, and sports facilities), the quantitative analysis pursuant to Article 65 (2) 2 may be conducted in a simplified manner using the standard model for simplified value-for-money test published by the head of the PIMAC. <Amended on May 12, 2014; April 27, 2016; July 18, 2022>
- ③ The competent authority shall request the head of the PIMAC to review the results of the feasibility analysis, and the head of the PIMAC shall prepare a review opinion and submit it to the competent authority and the Minister of Economy and Finance. Provided, however, that the preliminary feasibility study and feasibility analysis of BTL projects submitted to the Minister of Economy and Finance by the competent authority under the label “Project Subject to Preliminary Feasibility Study and Feasibility Analysis” in accordance with Article 106 (2) shall be conducted by the head of the PIMAC after the designation of the eligible project by the Minister of Economy and Finance, and the head of the PIMAC shall prepare and submit the results of the preliminary feasibility study and feasibility analysis to the competent authority and the Minister of Economy and Finance. <Amended on February 15, 2012>
- ④ Notwithstanding Paragraph 3, BTL projects initiated by a local government, excluding projects with a total cost of KRW 100 billion or more and projects subject to a preliminary feasibility study and feasibility analysis, may be reviewed by a specialized institution in lieu of a review by the PIMAC. In such cases, the specialized institution that has been requested to review the project shall prepare a review opinion and submit it to the competent authority and the Minister of Economy and Finance. <Amended on February 15, 2012; March 29, 2018; July 18,

Article 108 (Composition and Design of Bundle Projects)

- ① When formulating a project plan, the competent authority shall establish the scale of a bundle project as appropriately as possible for the realization of the economy of scale, etc. of construction and operation.
- ② Small-scale facilities may be integrated into a project by grouping a number of facilities based on consideration of the scope of jurisdiction of the competent authority, the possibility of efficient operation of the private sector entity, etc.

Article 109 (Integration of Related Facilities)

- ① When formulating a project plan, the competent authority may implement an integrated project (including a school complex project where cultural or welfare facilities, etc., as specified in Article 2, Subparagraph 1 of the Act are constructed on the school grounds along with the school facilities) whereby two or more functionally related facilities among eligible facilities specified in Article 2, Subparagraph 1 of the Act are conjointly established in order to maximize facility use, enhance user convenience, reduce government spending on BTL projects, etc. <Amended on February 15, 2012; July 18, 2022>
- ② If integrating related facilities, the competent authority shall prepare measures to reduce government spending on BTL projects to avoid excessive burden of government spending arising from integration by, for example, developing supplementary and ancillary projects. <Newly established on July 18, 2022>
- ③ The competent authority may grant appropriate allocation points when evaluating a project plan for creative business designs, such as enhancing the use of facilities, by pursuing an integration of related facilities, etc.
- ④ Where a local government implements a BTL PPP project as a bundle project by integrating two or more facilities, among eligible facilities specified in Article 2, Subparagraph 1 of the Act as entitled to central government subsidies, the ratio of the central government subsidies grantable to the local government may be increased by ten percent point (20 percent point for a school complex project) for a limited period, and the method of granting central government subsidies and further specific details thereof are as set out in attached Table 8.. <Amended on February 15, 2012>

Article 110 (Procedures for Implementation, etc. of Integrated Projects)

- ① Where multiple ministries intend to implement an integrated project, the relevant ministries (hereinafter referred to as the "ministries involved in integrated project") shall jointly formulate a plan to develop and support integrated projects by the end of January each year, and if the project is a local government project, the plan shall be notified to the relevant local government (in the case of a school complex project, including the local education authority).
- ② A local government notified of a plan to develop and support integrated projects pursuant to Paragraph 1 shall establish a cooperative system, including a integrated project implementation council comprising agencies related to the integrated project, etc., and shall verify cultural and welfare demands etc. of local residents (for a school complex project, including a verification concerning the implementation of the project under a BTL project scheme) and formulate a plan for integrated project by the end of February of the following year.
- ③ A local government that has formulated a plan for an integrated project pursuant to Paragraph 2 shall report the plan to the relevant local legislative body, and shall submit an application for consideration for implementation under an integrated project scheme with the competent authority after undergoing the prerequisite procedures, including the conclusion of an agreement between the related agencies, information sessions on the project for interested parties, etc.
- ④ In order to designate an integrated project from among the applications received pursuant to Paragraph 3, an integrated project designation conference comprising the Ministry of Economy and Finance, ministries involved in integrated project, the relevant local government, etc. shall be held to designate an integrated project by March of the following year based on the specificity and level of preparedness, willingness to implement the project, etc. of the received project applications.
- ⑤ The competent authority of an integrated project designated pursuant to Paragraph 4 may pursue the preliminary procedures for the implementation of a BTL project, including the feasibility analysis, etc. of the relevant project. <Amended on May 10, 2013>

- ⑥ The ministries involved in integrated project may designate the PIMAC, the Korea Educational Development Institute (the Educational Facilities and Environment Institute), the Korea Culture and Tourism Institute, the Korea Health Industry Development Institute, etc. as supporting agencies for the relevant integrated project to provide consulting, services, etc. related to the implementation of the project. <Amended on March 29, 2018>
- ⑦ In order to ensure the smooth operation of the facilities constructed under an integrated project scheme, an integrated project operation council shall be composed and operated by persons related to the relevant integrated project (in the case of a school complex project, including the school principal and officials from the relevant local government). In such cases, the council may be operated under a joint leadership between the agencies related to the project.
- ⑧ The head of the PIMAC may prepare and publish a draft of a standard basic agreement between the related agencies in order to ensure that the relevant integrated project will be effectively operated by the competent authority.

Article 111 (Scope of Participation of Private-Sector Entities)

- ① When formulating a project plan, the competent authority shall ensure that the private sector entity assumes responsibility for design, financing, construction and operation to the extent possible in order to maximize investment efficiency arising from consolidated management and to guarantee the responsible management of the project by the private sector entity.
- ② The competent authority shall concentrate its capabilities on the core functions of the operation, such as education, academic management, etc. of school facilities, but may share some functions in any of the following cases for efficient implementation of the project.
 - 1. Where there are strong reasons to utilize the design drawings already drafted by the government.
 - 2. When a government-financed project is converted to a PPP project.
 - 3. Some operational tasks that are difficult for the private sector to take charge of or are difficult to expect efficient performance even if the private sector takes charge of, such as maintenance, management, cleaning, security landscaping management, environmental sanitary management, etc.
- ③ In principle, facility operations where the private sector is expected to contribute to efficiency and the maintenance of the facilities shall be performed by the private sector entity, while operations that require expertise may be outsourced, etc.
- ④ In principle, expenses incurred in the nature of which it is difficult to expect the exercise of creativity and efficiency of the private sector shall be excluded from the scope of the private sector investment and borne by the competent authority.

Section 2 Submission of Project Plans and Request for Aggregate Ceiling

Article 112 (Submission of Mid-Term Project Plans)

The competent ministry shall submit a mid-term project plan for new and ongoing projects for at least five fiscal years from the pertinent fiscal year by January 31 each year to the Minister of Economy and Finance.

Article 113 (Notification of Guidelines for Setting Aggregate Ceiling)

The Minister of Economy and Finance will notify the competent ministry of guidelines for setting aggregate ceiling for BTL projects for the following year by March 31 each year. <Amended on April 27, 2016>

Article 114 (Request for Aggregate Ceiling)

- ① The competent ministry shall prepare a request for the following year's aggregate ceiling for its jurisdiction pursuant to the guidelines for settling aggregate ceiling for BTL projects and submit the request to the Minister of Economy and Finance by May 31 each year. In such cases, the competent ministry shall apply for a preliminary feasibility study (or an exemption from preliminary feasibility study) pursuant to Article 106, conduct a feasibility analysis pursuant to Article 107 and submit the results thereof along with the request for aggregate ceiling.

<Amended on April 27, 2016>

- ② The competent authority that implements central government-subsidized local government projects shall submit project applications to the competent ministry pursuant to the guidelines for setting aggregate ceiling on BTL projects, and the competent ministry shall review and adjust the eligible facility project plans received from the competent authority to establish project plans. Afterward, the competent ministry shall request the Minister of Economy and Finance for an aggregate ceiling. Provided, however, that where a local government is the competent authority, the project applications shall be submitted to the competent ministry after review by the metropolitan local government.
- ③ When requesting an aggregate ceiling for the following year pursuant to Paragraphs 1 and 2, the competent ministry shall submit the details of use of the reserve limit for each eligible facility submitted in the previous year and an estimate of government payments along with the request. <Amended on May 10, 2013>
- ④ The estimate of government payments submitted pursuant to Paragraph 3 shall be an estimate of the scale of government subsidies for central government projects, central government-subsidized projects and local government projects whose detailed implementation plans have been approved in accordance with Article 15 of the Act for ten (10) fiscal years from the relevant fiscal year arranged by year, by competent authority, and by eligible facility, and shall include an analysis on the causes of decrease or increase, etc. in the scale of government payments. <Amended on June 4, 2020>

Section 3 Setting up of an Aggregate Ceiling and National Assembly Deliberation and Resolution

Article 115 (Setting up of an Aggregate Ceiling, etc.)

- ① The Minister of Economy and Finance shall review the request for aggregate ceiling submitted by the competent ministry pursuant to Article 114 and shall determine the total aggregate ceiling, aggregate ceiling for each eligible facility, and reserve aggregate ceiling for unforeseen expenses incurred during the implementation of the project.
- ② The reserve aggregate ceiling shall be established within 20/100 of the sum of the respective aggregate ceiling of the central government and central government-subsidized local government projects.
- ③ The Minister of Economy and Finance shall submit the total aggregate ceiling, etc. to the National Assembly no later than 120 days before the commencement of the fiscal year, as prescribed in Article 7-2 of the Act. <Amended on April 27, 2016>
- ④ Projects in which a local government is the competent authority shall be subject to a resolution of the local legislative assembly as an act of assuming an obligation under Article 39 (1) 8 of the Local Autonomy Act at an appropriate time before the designation and announcement of the relevant project as eligible project.

Article 116 (Change in Aggregate Ceiling)

- ① Where a change to the aggregate ceiling for an eligible facility or a bundle project due to the addition of a bundle project, changes in the scale of the project, details of the facilities, unit cost, etc., the competent authority may request the competent ministry to change the aggregate ceiling after a preliminary review, such as feasibility analysis. For this purpose, the addition of a bundle project shall be considered relevant to the extent that it affects a change to the aggregate ceiling of each eligible facility.
- ② Where there is a request by the competent authority to change the aggregate ceiling for each eligible facility (including cases where the competent ministry is the competent authority), the competent ministry shall review the need for the change and submit a review opinion to the Ministry of Economy and Finance along with the competent authority's request for change of aggregate ceiling. Provided, that in the case of a special accounting project for balanced national development, a written consent form of the local government for the change of aggregate ceiling for each eligible facility shall be submitted as well. <Amended on May 7, 2019>
- ③ The Ministry of Economy and Finance may revise the aggregate ceiling for each eligible facility within the reserve project aggregate ceiling for the relevant year based on the request for change of aggregate ceiling for eligible facilities, review opinion, letter of consent of the relevant local government, etc. submitted by the competent ministry in accordance with Paragraph 2. <Amended on May 7, 2019>
- ④ Where the competent authority has submitted a request for a change of the aggregate ceiling of bundle projects

(including cases where the competent ministry is the competent authority), the competent ministry may revise the aggregate ceiling for bundle projects within the scope of the aggregate ceiling for eligible facilities. Provided, however, that in the case of an increase in the aggregate ceiling for bundle projects, the Minister of Economy and Finance shall be consulted in advance, and in the case of a decrease in the aggregate ceiling for bundle projects, the competent ministry shall make the adjustments on its own and immediately report the results thereof to the Minister of Economy and Finance.

Article 117 (Expiration of Aggregate Ceiling)

- ① Where a project is not designated for PPP project within the year for which an aggregate ceiling has been approved pursuant to Article 7-2 of the Act, the aggregate ceiling shall expire. <Amended on May 10, 2013>
- ② The competent ministry shall, by January 10 of the following year, notify the Minister of Economy and Finance of projects not designated for PPP project pursuant to Paragraph 1 by the end of the relevant year and whose aggregate ceiling have therefore expired. Provided, that in the case of a local government project, the total amount announced shall be notified as well. <Amended on May 10, 2013; May 12, 2014>

Section 4 Formulation and Public Notification of Requests for Proposals

Article 118 (Formulation of Request for Proposals)

- ① The competent authority shall clearly and specifically formulate a request for proposals as prescribed by the relevant statutes, this Basic Plan, etc.
- ② The details and level of facilities presented in the request for proposals shall be consistent with the results of feasibility analysis.
- ③ The competent authority shall formulate and publicly announce a request for proposals so as to maximize the creativity and efficiency of the private sector as follows:
 1. The level of design documents for facilities presented by the competent authority shall be flexibly set, but where it is possible to utilize the creativity and efficiency of the private sector or where the level of performance required can be clearly presented, basic plan-level design documents shall suffice.
 2. The competent authority shall induce to propose various supplementary or ancillary projects that will improve the level of usage of a facility and ease the government's burden for subsidies.
- ④ The details of the request for proposals shall be prepared in such a manner that the statutory elements are faithfully reflected and the input elements and the performance elements are properly harmonized. In this regard, the competent ministry may establish a "standard output specifications" for each type of facility and have the competent authority utilize it.
- ⑤ Where possible, the competent authority shall formulate a project plan on the premise that related facilities will be implemented under an integrated project scheme through consultation between competent authorities.
- ⑥ When formulating a request for proposals, the competent authority shall faithfully implement various procedures under the relevant statutes, such as consultation on the review of environmental feasibility in advance.

Article 119 (Review of the Draft Requests for Proposals by PIMAC, etc.)

- ① The competent authority shall request the head of the PIMAC to review the draft request for proposals before designating an eligible project. Provided, that specialized institutions may be requested to review projects that do not undergo review by the Review Committee under Article 38. <Amended on April 27, 2016; March 29, 2018>
- ② The head of the PIMAC or a specialized institution requested to review pursuant to Paragraph 1 shall review compliance with the relevant statutes, this Basic Plan, related detailed guidelines, etc. and reply to the competent authority within thirty (30) days from the date of receipt of the request for review. <Amended on March 29, 2018>

Article 120 (Preparation and Provision of Detailed Guidelines for Each Type of Facility)

- ① The competent ministry may prepare detailed guidelines for each type of facility and provide them to the competent authority based on the detailed guidelines related to BTL projects prepared and provided by the head of the PIMAC pursuant to Article 40.
- ② The competent ministry that intends to enact or amend detailed guidelines for each type of facility pursuant to

Paragraph 1 shall undergo prior review by the head of the PIMAC.

Article 121 (Designation of an Eligible Project and Public Notification of Request for Proposals)

- ① The competent authority shall designate a project with a total cost of KRW 100 billion or more or a project that involves central government subsidy after a review by the Review Committee, and shall announce a request for proposals. Provided, however, in cases where subsidies are paid out of a local government's budget or a loan from a local government, or where the total project cost is less than KRW 30 billion, the review by the Review Committee shall be omitted. <Amended on May 7, 2019>
- ② The scope of the central government subsidy referred to in Paragraph 1 shall include construction subsidy, long-term loans, subsidies for key infrastructure facilities, etc., and shall exclude government payment for lease fee, etc. under BTL projects. <Amended on May 10, 2013>
- ③ In the case of a project subject to review by the Review Committee pursuant to Paragraph 1, the competent authority shall request the Minister of Economy and Finance for a review by the Review Committee, which request shall be accompanied by the results of the feasibility analysis and the opinion of the head of the PIMAC on the analysis. <Amended on May 10, 2013>
- ④ Even when amending and re-announcing a request for proposals, if the total cost of the relevant project is KRW 100 billion or more and the amendment changes the total cost by 30/100 or more, the competent authority shall ensure that the Review Committee reviews the amendment in advance.
- ⑤ The competent authority shall clearly present its level of acceptance, criteria for evaluation, procedure, etc. for the implementation conditions of the project by including the following:
 1. The level of total project cost, rate of return, lease fee, etc. pertaining to the PFI alternative that is acceptable to the government
 2. Detailed guidelines for the prequalification examination and the evaluation of technology and qualification for the selection of a preferred bidder
 3. A standard concession agreement
 4. Method of calculation and payment of government payment for lease fee, etc.
 5. Procedures and methods for questions and answers regarding the relevant request for proposals.
- ⑥ The competent authority shall present in advance the method and procedures for inspecting or monitoring the private sector entity's performance in terms of facility maintenance in light of the level of services required by the competent authority and the level of services stipulated in the concession agreement during operation, and the measures for ensuring the accountability of the private sector entity in the event where the level of services rendered falls short of the level of services stipulated in the concession agreement.

Article 122 (Provision of Information)

- ① The competent authority shall endeavor to provide sufficient information on request for proposals, guarantee at least two (2) opportunities for questioning and answering at least four (4) weeks before the submission of the project plan, and disclose the details thereof.
- ② The competent authority shall publish necessary information, such as data related to the project, on its website along with the designation of an eligible project or the announcement of a request for proposals, and utilize the website as a window for questions and answers.

Section 5 Evaluation of Project Plans and Designation of Preferred Bidder

Article 123 (Evaluation of Project Plans)

- ① In order to reduce the cost of proposal for the private sector and promote efficient evaluation, etc., the evaluation of project plans shall be conducted through a two-stage method, where a prequalification examination is first carried out and the applicants who pass that stage are evaluated in terms of technical capacity and price.
- ② In the first stage of project plan evaluation, project performance capacities, including construction, financial, and operating capabilities pertinent to the nature of the facility, shall be evaluated to disqualify applicants who fail to meet the criteria.

- ③ In the second stage of evaluation, the technical factors specified in the following Subparagraph 1 and the price factors in Subparagraph 2 shall be evaluated.
 - 1. Technical factors: To be evaluated based on the contents of the plan and design, construction plan, operational plan, etc. in light of the required level of performance sheet presented in the relevant request for proposals, as well as based on consideration of whether the construction and operating cost proposed are adequate for the design, construction and operational plans presented in the plan
 - 2. Price factors: To be evaluated based on the present value (based on the discount rate prescribed in Article 65-2) of the total government payment from the competent authority to the project operator during the period of operation, which, if exceeding the threshold set by the government, shall disqualify the plan. Provided, however, that exceptions may be made if reasonable grounds, such as the creativity of the plan, are recognized. <Amended on March 29, 2018>
- ④ Notwithstanding the provisions of Paragraphs 1 through 3, the competent authority may, if deemed necessary in consideration of the scale, characteristics, etc. of the project, separate the evaluation into prequalification examination and evaluation of technology and price and conduct the examination and evaluation simultaneously.

Article 124 (Evaluation Points and Criteria therefor)

- ① To the extent it is able, the competent authority shall objectify and quantify evaluation criteria, present evaluation formula and point allocation in advance, and shall reduce subjective elements in evaluation items for which quantification is difficult.
- ② In principle, the competent authority shall maintain a 5:5 ratio for point allocation between technical and price components, but may adjust the ratio based on consideration of difficulties in construction and operation, etc.
- ③ When evaluating a project plan, the competent authority may grant the following preferential treatment if necessary for the efficient performance of the project, etc.:
 - 1. If deemed necessary at the operation stage for ensuring the stability of the project, preferential treatment of investments by financial investors and specialized operating firms, etc. to the extent not adverse toward the competitive submission of proposals
 - 2. In the case of a project in which a local government is the competent authority, preferential treatment based on the ratio of investment by local enterprises, number of investors, ratio of participation by local SME's at the construction stage, etc. Provided, in the case of a project in which the central government is the competent authority, preferential treatment can be made based on the ratio of participation by SMEs at the construction stage, etc. <Amended on April 13, 2023>
 - 3. Preferential treatment for employment of local residents, use of products developed by SME's, etc. to promote the local economy and participation of local SME's
 - 4. Preferential treatment based on job creation effect and the quality and quantity of jobs created, etc. to promote job creation <Newly established on March 29, 2018>
 - 5. Preferential treatment for safety-related certificates and track records, including health and safety certificates, of construction companies <Newly established on May 7, 2019>
 - 6. Preferential treatment for choosing a bidding-based method of procurement <Newly established on February 10, 2020>

Article 125 (Designation of Preferred Bidder and Notification of Designation)

- ① The competent authority shall designate preferred bidders based on the ranking of the sums of scores for technical and price components under Article 124, in descending order of priority.
- ② Where a preferred bidder is selected as a result of a single bidding, the competent authority may demand that a constructor be selected through competitive bidding. In such cases, the total private sector investment shall be adjusted accordingly afterward by reflecting the successful bid price.
- ③ After completing an evaluation, the competent authority shall notify the following to the entities that submitted project plans:
 - 1. Comprehensive evaluation score of each project plan
 - 2. Respective scores of major items of evaluation, such as design, operation, construction, etc. of each project plan
 - 3. Names of members participating in the project plan evaluation team and evaluation score given by each member

Section 6 Conclusion of Concession Agreement

Article 126 (Direction of Settlement of Major Project Implementation Conditions)

- ① A deposit for guaranteeing the concessionaire's performance in the project shall be set at or around 10/100 of the total investment cost or the total project cost.
- ② The competent authority may select a construction project manager and have the concessionaire bear the supervision expenses. In such cases, the supervision expenses of the total private investment cost under the concession agreement shall be adjusted to the supervision cost included in the successful bid price after a supervisor is selected. <Amended on July 17, 2017>
- ③ In the event of force majeure, the competent authority and the concessionaire share expenses not covered by insurance. Here, the competent authority shall bear 80/100 of expenses arising from non-political force majeure such as natural disaster, etc., and 90/100 of expenses arising from political force majeure such as war, terror, etc.

Article 127 (Shortening of Negotiation Period)

- ① The competent authority shall tentatively finalize the implementation conditions of the project, including the total project cost, lease fee, etc. in the course of selecting a preferred bidding in order to shorten the negotiation period on the concession agreement as much as possible.
- ② The negotiations for the conclusion of a concession agreement shall be for adjusting the details to be entered in a standard concession agreement, and absent reasonable grounds, a preferred bidder may not propose terms more favorable to itself than the terms proposed in the project application.

Article 128 (Deliberate Delay of Negotiations by Preferred Bidder)

The competent authority may engage in negotiations with the next-ranking bidder in the event that the first-ranking bidder deliberately delays negotiations. In cases where there are no next-ranking bidder, the project may be deferred or re-announced.

Article 129 (Review of Draft Concession Agreement by PIMAC, etc.)

- ① The competent authority shall request the head of the PIMAC to review a draft concession agreement before its conclusion. Provided, however, that in cases of a project that does not require a review by the Review Committee under Article 38, a specialized institution may be requested to review the draft concession agreement.
- ② The head of the PIMAC or a specialized institution requested to review pursuant to Paragraph 1 shall review compliance with the relevant statutes, this Basic Plan, related detailed guidelines, etc. and reply to the competent authority within thirty (30) days from the date of receipt of the request for review. <Amended on March 29, 2018>

Article 130 (Designation of a Concessionaire)

- ① The competent authority shall designate a concessionaire by concluding a concession agreement with a preferred bidder that includes the conditions for implementation, etc. of the project and shall, in each of the following cases, request the Minister of Economy and Finance for a review by the Review Committee along with the review opinion of the head of the PIMAC.
 1. Designation of a concessionaire for a project with a total project cost of KRW 100 billion or more
 2. Designation of a concessionaire for a project that involves central government subsidies, regardless of the total project cost. Provided, however, in the case of a project whose total project cost is less than KRW 30 billion, a review of the Review Committee shall not be necessary. <Amended on May 7, 2019>
- ② The scope of central government subsidies referred to in Paragraph 1 shall include construction subsidy, long-term loans, subsidies for key infrastructure facilities, etc., and shall exclude government payment for lease fee, etc. for a BTL project. <Amended on May 10, 2013>

Article 131 (Conclusion, etc. of Concession Agreement)

The concession agreement shall be concluded in the name of a corporation or a person who is scheduled to invest in a corporation scheduled to be established.

Section 7 Approval of Detailed Implementation Plan and Commencement of Construction

Article 132 (Establishment, etc. of a Corporation)

- ① A person designated as a concessionaire on condition of the establishment of a corporation shall establish a corporation in accordance with the corporate establishment plan submitted before applying for approval of a detailed implementation plan unless the competent authority approves an amendment thereof.
- ② The competent authority may revoke the designation of a concessionaire if the concessionaire fails to apply for approval of a detailed implementation plan within the period prescribed by the concession agreement.

Article 133 (Consignment Contract, Subcontract, etc. for Design, Construction, Operation, etc.)

- ① When submitting a project plan, the concessionaire shall notify the competent authority immediately after concluding a consignment contract or a subcontract, etc. with a person who has submitted a letter of commitment of participation.
- ② Where intending to conclude a consignment contract or a subcontract, or to change the counterparty to the contract, the prior approval of the competent authority shall be obtained.

Article 134 (Shortening the Approval Period for Detailed Implementation Plan)

The competent authority shall endeavor to shorten the approval period of the detailed implementation plan by analyzing traffic impact and establishing plans for improvement under Article 15 of the Urban Traffic Improvement Promotion Act and early commencement of environmental impact assessment, timely preparation of construction designs, etc. under Article 13 of the Environment Impact Assessment Act.

Section 8 Application Mutatis Mutandis of Procedures for Government-Solicited Projects

Article 135 (Application Mutatis Mutandis of Procedures for Government-Solicited Projects)

The procedures for government-solicited projects provided in Chapter 1 of this Part shall apply mutatis mutandis to matters otherwise not prescribed concerning the implementation of BTL projects.

Chapter IV Special Cases Concerning the Implementation of Unsolicited BTL Projects <Newly Established on April 27, 2016>

Article 136 (Project Proposals by the Private Sector) <Newly Established on April 27, 2016. Amended on May 7, 2019>

The competent ministry and the competent authority may determine policies concerning the timeline for project proposals based on the results of the competent authority pursuant to Article 94, reviews pursuant to Article 96, review of an aggregate ceiling pursuant to Article 138 and the procedures for the review and resolution of the National Assembly, characteristics of the individual projects, etc. in order to promote project proposals by the private sector.

Article 137 (Implementation of Complex Projects) <Newly Established on April 27, 2016>

- ① A proposer may propose a complex project (including a school complex project where facilities specified in Article 2, Subparagraph 1 of the Act, including cultural and welfare facilities, are constructed along with the school on the school ground) where two or more of the facilities specified in Article 2, Subparagraph 1 of the Act are conjointly constructed in a complex to maximize the use of the facilities, enhance user convenience, reduce project cost, etc.
- ② Where the competent authority intends to implement a non-complex project as a complex project to maximize the use of facilities, enhance user convenience, reduce the project cost, etc., it may reject the original, non-complex project proposal.
- ③ Where the competent authority intends to implement a unsolicited BTL project, Articles 109 and 110 shall apply mutatis mutandis.

Article 138 (Review of Proposals) <Newly Established on April 27, 2016>

For the review of proposals pursuant to Article 94, the competent authority shall include the government's capacity to pay subsidies, the appropriateness of the operation period, etc. as evaluation criteria.

Article 139 (Request for Review of Proposals) <Newly Established on April 27, 2016>

- ① When the competent authority requests the head of the PIMAC or the head of a specialized institution to review a proposal pursuant to Article 95, the results of the review of the competent authority pursuant to Article 138 shall be submitted along with the request. Provided, however, that in cases of a project with a total project cost of KRW 100 billion or more, the head of the PIMAC, etc. shall be requested to review the proposal. <Amended on May 7, 2019; February 10, 2020>
- ② The head of the PIMAC or a specialized institution may offer opinions on the government's capacity to pay subsidies when reviewing private sector proposals pursuant to Article 95 (5). <Amended on May 7, 2019>

Article 140 (Submission of Project Proposals and Request for an Aggregate Ceiling) <Newly Established on April 27, 2016. Amended on May 7, 2019>

Articles 112 through 114 (Chapter 3, Section 2: Submission of Project Plans and Request for an Aggregate Ceiling) shall apply mutatis mutandis to the submission of project proposals and request for an aggregate ceiling by the competent ministry. Provided, however, in cases where the competent ministry prepares and submit a request for an aggregate ceiling pursuant to Article 114 (1), a Value-for-Money (VfM) test of PPP or a proposal review pursuant to Article 96 shall be conducted and the results thereof shall accompany the request, in lieu of the results of a feasibility analysis pursuant to Article 107.

Article 141 (Notification to Proposer) <Newly Established on April 27, 2016>

- ① Where the competent authority intends to implement a project after receiving the results of a Value-for-Money (VfM) test of PPP or a proposal review from the head of the PIMAC or the head of a specialized institution, the competent authority shall notify the proposer as to the remaining procedures for the implementation of the project, including the procedures for establishing the aggregate ceiling, the National Assembly's process for reaching a resolution on the aggregate ceiling, etc. <Amended on May 7, 2019>
- ② When the competent authority receives approval from the National Assembly for an aggregate ceiling, it shall immediately notify the proposer on whether the project will proceed.

Article 142 (Setting of an Aggregate Ceiling and National Assembly Deliberation and Resolution) <Newly Established on April 27, 2016>

Articles 115 through 117 (Chapter 3, Section 3: Setting of an Aggregate Ceiling and National Assembly Deliberation and Resolution) shall apply mutatis mutandis to the procedures for the establishment of an aggregate ceiling by the Minister of Economy and Finance.

Article 143 (Contents of a Request for Alternate Proposals) <New 2016.4.27.>

The competent authority shall specify the given period for management and operation rights in addition to the contents of a request for alternate proposals under Article 100.

Article 144 (Evaluation of Project Plans) <Newly Established on April 27, 2016>

Articles 123 through 125 (Chapter 3, Section 5: Evaluation of Project Plans and Designation of Preferred Bidders for Negotiation) shall apply mutatis mutandis when the competent authority evaluates a proposal pursuant to Article 102. In such cases, a request for proposals under Articles 123 through 125 shall be deemed a request for alternate proposals.

Article 145 (Conclusion of Concession Agreement and Approval of Detailed Implementation Plan, etc.) <Newly Established on April 27, 2016>

Articles 126 through 134 (Chapter 3, Section 6: Conclusion of Concession Agreement; Section 7: Approve of Detailed Implementation Plan and Commencement of Construction) shall apply mutatis mutandis when the competent authority concludes a concession agreement and intends to approve a detailed implementation plan.

Article 146 (Application Mutatis Mutandis of Procedures for Unsolicited Projects) <Newly Established on April 27, 2016>

Articles 92 through 104 (Chapter 2 Procedures for Implementation of Unsolicited Projects) shall apply mutatis mutandis to matters not otherwise provided for in this Chapter in relation to the procedures for implementing unsolicited BTL projects.

Chapter V Competitive Consultation process <Newly Established on April 20, 2015. Amended on April 27, 2016>

Article 147 (Competitive Consultation process) <Newly established on April 20, 2015>

- ① The competent authority may designate a concessionaire through Competitive Consultation process for projects falling under any of the following.
 1. A BTO or a Hybrid (BTO+BTL) project with a total project cost of KRW 200 billion where it is difficult for the competent authority to specifically present the technical requirements or the optimal legal and financial conditions. <Amended on February 10, 2020>
 2. A BTO or a Hybrid (BTO+BTL) project with a total project cost of KRW 200 billion or more for which a solicitation for designs is necessary for the competent authority to find the optimal option for the project. <Amended on February 10, 2020>
 3. Where the competent authority deems it necessary for the implementation of the project, such as the expansion or improvement of existing infrastructure, projects with high difficulty of operation, etc. <Amended on April 27, 2016>
- ② The details of this Chapter shall apply to government-solicited projects and matters not otherwise prescribed in this Chapter shall be governed by the procedures for implementing government-solicited projects in Chapter 1.
- ③ The competent authority may utilize the detailed guidelines on competitive consultation process prepared and published by the head of the PIMAC when implementing competitive consultation process.

Article 148 (Composition and Operation of the Project Plan Evaluation Team) <Newly Established on April 20, 2015. Amended on April 27, 2016>

- ① In order to proceed with competitive consultation process, the competent authority shall organize a project plan evaluation team including specialized institutions from each field, and in such cases, costs incurred shall be governed by Article 85.
- ② The competent authority may wholly entrust the head of the PIMAC or a specialized institution with a range of duties from the formulation of a request for proposals pursuant to Article 49 (1) 3 through 5 to negotiations for concluding a concession agreement. In such cases, the institution entrusted with duties shall perform the duties in close cooperation with the competent authority. <Amended on March 29, 2018>
- ③ Where the competent authority entrusts duties pursuant to Paragraph 2, it shall endeavor not to change the details of the project plan to the extent possible until the conclusion of a concession agreement in order to facilitate a smooth implementation of the project.

Article 149 (Formulation and Public Notification of a Request for Proposals and Prequalification Examination) <Newly Established on April 20, 2015. Amended on April 27, 2016>

- ① Where the competent authority decides to implement a PPP project through competitive consultation process, it shall present specific details concerning the procedures, including whether and how such procedures will be implemented, schedule, etc.
- ② The competent authority may have participants submit documents related to the project separately for each phase of the project as prescribed in Article 12 of the Decree for prequalification examination and the first and second phase of consultation.
- ③ The competent authority shall examine the documents submitted for the prequalification examination and the summary of the project plan to designate participants deemed to have construction, operation and financing capacity for the first phase of the consultation.

- ④ The competent authority may request an entity deemed to meet the requirements of the prequalification examination based on past participation in similar projects, etc. to participate in the relevant competitive consultation process.
- ⑤ In cases where only one (1) or less applicants have submitted documents for prequalification examination despite requests under Paragraph 4, the competent authority shall suspend the competitive consultation process and conduct the evaluation of project plans pursuant to Article 77.

Article 150 (First and Second Phases of Competitive Consultation) <Newly established on April 20, 2015. Amended on April 27, 2016>

- ① In the first phase of consultation, the competent authority shall clearly communicate the details of a request for proposals to the participants to the consultation. Upon the completion of this phase, the competent authority shall request the participants to submit project plans, excluding price components. Participants who do not submit a project plan shall be excluded from the second phase of consultation.
- ② In the second phase of consultation, the competent authority shall clearly communicate the requirements of the competent authority for the relevant project, including the specifications of the facilities, etc. Upon the completion of this phase, the competent authority shall request the participants to submit final project plans (including price components) reflecting the result of the consultation. Participants who do not submit a final project plan shall be excluded from consideration for designation as a counterparty for negotiation.
- ③ During each phase of consultation, the competent authority may exclude participants whom it deems unable to meet the requirements of the government. Where only (1) qualifying participant remains in the consultation, the competitive consultation process shall be suspended and the project evaluation procedure under Article 77 shall be implemented. <Amended on April 27, 2016>

Article 151 (Evaluation of Project Plans and Designation of Preferred bidders for Negotiation) <Newly Established on April 20, 2015. Amended on April 27, 2016>

- ① The competent authority shall conduct an evaluation of the final project plan for the designation of a counterparty for negotiation under Article 13 (2) of the Act. In such cases, the competent authority may designate the person who has made the most favorable proposal as a counterparty for negotiation, and shall establish specific evaluation criteria for project plans.
- ② After the completion of the evaluation pursuant to Paragraph 1, the competent authority shall notify the participants who have submitted a final project plan as to their rank of priority for negotiation in accordance with Article 81.
- ③ Compensation for participants who are disqualified during the final evaluation of the project plans shall be made in accordance with each of the Subparagraphs of Article 160 (2). <Amended on July 17, 2017>

Article 152 (Negotiation for Conclusion of Concession Agreement) <Newly Established on April 20, 2015. Amended on April 27, 2016>

- ① The competent authority shall conduct negotiations with persons designated as preferred bidders for negotiation for the conclusion of a concession agreement. These negotiations shall be conducted in order to specify and simplify the project implementation conditions agreed upon during the first and second phases of consultation, and to reflect the results of the project plan evaluation under Article 135-6 on the concession agreement.
- ② The competent authority and the preferred bidders for negotiation shall maintain the consistency of negotiations, and may not propose terms inconsistent with the implementation conditions agreed upon during the first and second phases of consultation.

Part 3 Supplementary Provisions

Chapter I Supports for PPP Projects

Article 153 (Financial Support) <Amended on April 27, 2016>

- ① Pursuant to Articles 53 of the Act and 37 of the Decree, the competent authority may provide financial support to a concessionaire within the scope necessary to maintain the appropriate level of usage fees by comparing usage fees calculated given that there is no government support for the facilities at issue, such as a road, a railway, a port, with the appropriate usage fees calculated by taking into consideration benefits generated and competitiveness in comparison with substitute facilities.
- ② The timing of financial support shall be stipulated in the concession agreement in conjunction with the concessionaire's equity investment plan, but construction subsidies provided by the competent authority shall be appropriately allocated by year and quarter in order to prevent the subsidies from being concentrated on a certain year, considering the work progress of the project, the schedule and scale of investment of the equity capital, and shall be calculated by applying the price index at the end of the immediately preceding quarter.
- ③ Construction subsidies from the competent authority shall be paid after the conclusion of a financing agreement on the loans to the concessionaire.
- ④ If equity investment is not made in accordance with the schedule prescribed by the agreement, the loan agreement is terminated, or the cumulative work process fails to reach a specified rate, the competent authority may suspend or reduce the payment of construction subsidies.
- ⑤ The competent authority shall consult with the Minister of Economy and Finance on the scale of government subsidies before publishing the request for proposals based on the results of the "preliminary feasibility study and feasibility analysis" on BTO projects." <Newly established on February 15, 2012>
- ⑥ Where it is required to negotiate or revise the concession agreement for a construction subsidy in excess of what submitted from the request for proposals or alternate proposals in consequence of inevitable circumstances such as the establishment or amendment to following statutes or regulations, the competent authority shall re-conduct the VfM test and consult with the Minister of Economy and Finance before making such a decision for negotiation or revision along with reviews of alternatives to an adjustment of the management and operation period, adjustment of usage fees, or reduction of the construction cost. In such cases, the VfM test may be conducted with a simplified method. <Newly established on February 15, 2012>
- ⑦ Other matters regarding specific guidelines and procedures for financial support shall be stipulated by each concession agreement.

Article 154 (Reduction of Levies and Taxes) <Amended on April 27, 2016>

The central or a local government may exempt levies and taxes in relation to PPP projects as specified in Attached Table 9, as to Articles 56 and 57 of the Act, the Farmland Act, the Mountainous Districts Management Act, the Restriction of Special Taxation Act, the Local Tax Act, the Corporate Tax Act, or prescribed by relevant statutes.

Article 155 (Relaxation of Financial Regulations, etc.) <Amended on April 27, 2016>

The central or a local government, or a related supervising authority may recognize exceptions to the application of financial-related regulations in relation to PPP projects as specified in Attached Table 10, as to the Monopoly Regulation and Fair Trade Act, the Insurance Business Act, the Financial Investment Services and Capital Markets Act, the Banking Act, the Act on the Structural Improvement of the Financial Industry, the Financial Holding Companies Act, etc. <Amended on February 15, 2012>

Article 155-2 (Integrated Insurance System) <Newly Established on July 17, 2017>

The Minister of Economy and Finance may support the operation of an integrated insurance system by assigning insurance advisors, etc. for the reduction of insurance premiums of PPP projects.

Article 156 (Support for Acquisition of Land) <Amended on April 27, 2016>

- ① In order to facilitate a PPP project, a concessionaire may use or expropriate land or other property pursuant to Article 20 (1) of the Act, and may entrust the competent authority or the head of the relevant local government with acquisition of land, compensation for losses and other affairs pursuant to Article 20 (3) of the Act and Article 18 of the Decree.
- ② Pursuant to Article 19 of the Act, the competent authority may provide support by permitting a concessionaire to use or generate earnings from state-owned and public property within areas prearranged for the project free of charge.

Article 157 (Pre-input of Compensation Cost) <Newly Established on May 12, 2014. Amended on April 27, 2016>

- ① With respect to the compensation cost to be made by the competent authority from its budget pursuant to Article 2-2, Subparagraph 4 of the Enforcement Decree, a concessionaire may invest such compensation cost funds in advance in lieu of the competent authority after consultation therewith by loaning such compensation cost funds or issuing infrastructure bonds (hereinafter “pre-input of compensation cost”, and loan agreements or infrastructure bond issuance agreement concluded between the concessionaire and financial institutions shall be referred to as “loan agreements for pre-input of compensation cost” and financial institutions and purchasers who have concluded or acquired such loan agreements or infrastructure bonds shall be referred to as “compensation financial institutions”)
- ② The competent authority shall pay the concessionaire the principal, interest and cost of procurement of the compensation cost fund procured and dispensed in advance by the concessionaire from the compensation cost financial institutions, pursuant to Paragraph 1, and the government shall endeavor to the extent it is able to ensure that the principal and cost of procurement is repaid out accordingly.

Article 158 (Procedures for Pre-input of Compensation Cost) <Newly Established on May 12, 2014. Amended on April 27, 2016>

- ① The concessionaire shall apply to the competent authority by the end of March each year for the principal and procurement costs of the compensation cost funds to be invested in advance in the relevant fiscal year, and the competent authority shall confirm it by the end of April in consultation with the Minister of Economy and Finance. However, if necessary, the competent authority may consult with the Minister of Economy and Finance to add or change the project or the amount of the principal of compensation cost funds and its procurement expenses, which is subject to the pre-input of compensation cost.
- ② In order to input compensation cost in advance, the concessionaire shall conclude a written confirmation under Attached Table 10-1 after consultation with the competent authority. The concessionaire may procure compensation cost funds from compensation cost financial institutions pursuant to the confirmation letter, and may use the guarantee of the Korea Credit Guarantee Fund under Article 30 of the Act for a smooth financing.
- ③ In principle, compensation cost funds to be invested in advance shall be executed after the completion of spending the compensation cost from the budget, but pre-input may be executed simultaneously at the time of budgeting depending on the circumstances of budget implementation. The actual timing of compensation cost loan shall be the day on which compensation cost is paid to such as owners of land.
- ④ The competent authority shall apply to the Minister of Economy and Finance by May for the budget of the following year by estimating the procurement costs for the relevant year of the pre-input compensation cost fund (including the fees for the guarantee of the Korea Credit Guarantee Fund).
- ⑤ Where a concessionaire procures compensation cost funds in lieu of the competent authority, it shall not be regarded as causes of the change in the total project cost of PPP projects, and the conclusion of the confirmation letter shall not be subject to deliberation in the Review Committee. In addition, the increase in external capital arising from the pre-dispensation of compensation cost funds by the concessionaire does not fall within the scope of refinancing under Article 28 (1).
- ⑥ In the case of a project in which the head of a local government is the competent authority, it may be stipulated individually of procedures or details related to pre-input of compensation cost notwithstanding Paragraphs 1 through 5. In such cases, the head of a local government who is to execute the pre-input of compensation cost funds shall immediately notify the Minister of Economy and Finance of such fact. <Newly established on April

Article 159 (Repayment Terms for Procurement Cost of Pre-input of Compensation Cost) <Newly Established on May 12, 2014. Amended on April 27, 2016>

- ① Procurement expenses incurred for pre-input of compensation cost shall be calculated with the following interest rate limits:
 - The value derived by adding 1.1% in additional interest rate and the fee for the guarantee provided by the Korea Credit Guarantee Fund to the yield rate on 5-year sovereign bonds (base rate) as of the date of conclusion of the letter of confirmation between the competent authority and the concessionaire, or 6% per annum, whichever is smaller.
 - Within the limits of procurement costs stipulated based on the base date, the Concessionaire may stipulate the actual base rate and additional interest rate in consideration of the loan period, interest rate fluctuation, financial conditions in consultation with financial institutions.
- ② The date of expiration of a loan agreement for pre-input of compensation cost (if extended, the expiration after extension) shall be stipulated by consultation between the competent authority and the concessionaire within the scope of the scheduled completion date.
- ③ Where the competent authority fails to pay principal or procurement expenses to the concessionaire by the repayment date or interest payment date of a loan agreement for pre-input of compensation cost, etc., the competent authority shall pay the unpaid amount by multiplying the following delay interest rates:
 - In case of arrearage for less than one month: The agreed interest rate prescribed by loan agreement for pre-input compensation cost + 3%.
 - One month to three months: The agreed interest rate prescribed by loan agreement for pre-input compensation cost + 5%.
 - At least three months: The agreed interest rate prescribed by the pre-input compensation cost fund loan agreement, etc. + 7%.
- ④ The concessionaire may choose the interest rates of a loan agreement for pre-input of compensation cost between variable interest rates and fixed interest rates, and, if necessary, may make arrangements of such a loan agreement with financial institutions for a mixed interest rate scheme. In such cases, the variable interest rate shall be re-stipulated on the interest payment date, which is every year from the date on which the compensation cost loan is withdrawn for the first time.
- ⑤ In order to facilitate a smooth payment of the procurement cost, the concessionaire may include the procurement cost in the principal of loans when concluding a loan agreement for pre-input of compensation cost, in which cases the sum of the principal of the loan and the procurement cost shall not exceed the sum of the principal guaranteed by the competent authority pursuant to Paragraph 1 and the procurement cost.

Article 160 (Compensation of Proposal Costs) <Amended on April 27, 2016>

- ① In order to maximize the creativity and efficiency of the private sector by facilitating competitions between project proposals, the competent authority shall compensate unsuccessful proposers as a result of the evaluation of project plans and proposals (hereinafter referred to as “unsuccessful proposers” in this Article) for part of expenses in preparing the project plans or proposals within thirty (30) days from the date on which a concession agreement on the project is executed pursuant to Paragraphs 2 and 3 below. Provided, however, that the foregoing shall not apply to the following cases: <Amended on February 10, 2020>
 1. Where the competent authority presents a basic design document.
 2. Where an unsuccessful proposer receives less than 70/100 of the total points for technical components on the evaluation of the project plan or proposal, or the project plan evaluation team stipulates that the contents of the project plan fall significantly short of the required level of performance. <Amended on February 10, 2020>
 3. <Deleted>
- ② Compensation for proposal costs under Paragraph 1 shall be calculated by applying the following rates to the basic design costs, which is calculated based on the basic design rate under the budget allocation guidelines (hereinafter the “basic design cost”). <Amended on April 20, 2015; February 10, 2020>
 1. Where the first proposer is selected as the concessionaire: 60/100 of the basic design cost to the second-ranked person and 40/100 of the basic design cost to the third-ranked person. <Amended on February 10, 2020>

2. Where the first proposer is not selected as the concessionaire: The same ratio as in Subparagraph 1, and the first proposer shall be granted additional compensation within the range of 10/100 to 30/100 of the basic design cost. <Amended on February 10, 2020>
- ③ Compensation for proposal costs under Paragraphs 1 and 2 shall be paid directly from the budget of the competent authority or reflected in the total project cost in the course of negotiations with the counterparty for negotiation, and the competent authority shall include details such as the scale of compensation for proposal costs, criteria and procedures for payment, in the request for proposals or the request for alternative proposals. <Amended on February 10, 2020>
- ④ Where the competent authority cancels or withdraws a project due to its own circumstances during negotiations (including conversion to a government-financed project), the compensation for the proposal costs shall be calculated within the extent of 70/100 to 90/100 of the basic design cost. <Newly established on July 18, 2022>

Chapter II Mutual Conversion Between Government-Financed Projects and PPP Projects

Article 161 (Conversion of a Government-Financed Project into a PPP Project) <Amended on April 27, 2016>

- ① The competent authority may convert a government-financed project currently in progress into a PPP project if a project is secured for its profitability with respect to financial conditions, urgency, or rate of return in a reasonable level of financial support, and the competent authority shall conduct preliminary VfM test or designation of eligible projects pursuant to Article 8-2 for such conversion, but may omit the preliminary VfM test under Article 65 (2) 1 where a government-financed project already under progress is being converted into a PPP project. <Amended on July 17, 2017>
- ② Where a government-financed project in progress is being converted into a PPP project, the competent authority may increase the construction cost by a reasonable amount based on consideration of the increased construction risk for the concessionaire due to the method of construction cost calculation being changed from a post-construction settlement method to an advance finalization method.
- ③ The competent authority may convert a government-financed project that was completed or is in operation to a rehabilitate (R) project in consideration of financial circumstances and efficiency in operation, etc. In such cases, a feasibility analysis, designation of eligible projects, and other relevant procedures shall be followed pursuant to Article 8-2 of the Act. <Newly established on July 18, 2022>

Article 162 (Conversion of a PPP Project to a Government-Financed Project) <Amended on April 27, 2016>

The competent authority may convert a PPP project into a government-financed project only if it is difficult to implement the project because no project plan is submitted or there is an excessive request for government financial support and thus the designation of the PPP project is revoked.

Chapter III Request for and Submission of Data

Article 163 (Request for and Submission of Data) <Amended on April 27, 2016>

- ① The Minister of Economy and Finance may request the competent authority and a concessionaire to submit relevant Data pertinent to a PPP project in order to ascertain the current status of implementation of the project.
- ② For the efficient and systematic management of PPP projects, the competent authority shall submit, in document format, major details pertaining to each phase of implementation of the relevant project specified in Subparagraphs below, details of the re-examination of demand forecast pursuant to Article 57, materials on whether a re-examination of preliminary VfM test under Article 58 is necessary, and details on whether such re-examination has been carried out. <Amended on March 29, 2018>

1. Stage of publishing a request for proposals or alternate proposals: Overview of the project, terms and conditions for project applications, subject matters of evaluation, and other major details of public notice;
 2. Stage of execution or amendment to a concession agreement: Major details of the concession agreement, including the total project cost, rate of return, usage fees, government subsidies and the agreement itself (including its attachments, attached tables and appendices); <Amended on February 10, 2020>
 3. Stage of approval of an implementation plan or amendment of an implementation plan: Major details of the approval, including work progress plans, land utilization plan, and financing plan;
 4. Stage of construction: Details of construction cost input during construction, details of financial requirements other than investment costs, details of input plan of investment, and other construction results; <Newly established on May 12, 2014>
 5. Stage of commencement of operation: Major details of operation, such as government subsidies, operation period, details of performance evaluation;
 6. Stage of amendment to financing model: Major details of the amendment to the financial model, including refinancing, adjustment of usage fees, adjustment of rate of return and usage fees;
 7. Stage of operation: Operational performance, including details of earnings from supplementary and subsidiary projects, details of payment of government subsidies, performance evaluation results and analysis of difference between demand forecast during project implementation and actual demand, etc. <Amended on July 17, 2017>
- ③ Items specified in Paragraphs 2, Subparagraphs 1 through 6 shall be submitted within fifteen (15) days of the completion of each phase, while the items specified in Subparagraph 7 shall be prepared as of the end of December every year and submitted within fifteen (15) days thereafter. <Amended on July 17, 2017>
 - ④ The head of the PIMAC shall prepare and provide forms to be used when the competent authority submits the required materials for each implementation phase pursuant to Paragraph 2, and shall establish and manage a database for the purpose of comprehensive management of PPP projects by combining the materials submitted by the competent authority using these forms.
 - ⑤ The Minister of Economy and Finance and the competent authority may analyze the details of each phase of the implementation of a PPP project and utilize the results thereof to promote the efficient implementation of PPP projects in the future. <Amended on July 17, 2017>

Article 163-2 (Sanctions for Violations) <Newly Established on July 17, 2017. Amended on March 29, 2018; May 7, 2019>

In the event where the head of the PIMAC or a specialized institution performs their duties in violation of this Basic Plan or significantly undermines the fairness, transparency or reliability of performance of duty, the Minister of Economy and Finance may request the head of the relevant agency or institution to impose sanctions, on the parties involved.

Article 164 (Designation of Management Numbers for Unit Projects) <Amended on April 27, 2016>

Upon receiving major details pertaining to the announcement of a request for proposals or alternate proposals from the competent authority pursuant to Article 143 (2) 1, the Minister of Economy and Finance shall manage by giving an identification number for each unit project in accordance with Attached Table 11 and notify the identification number to the relevant competent authority in order to systematically manage unit projects.

Chapter IV Provisions of Temporary Applicability

Article 165 (Exclusion of Sharing of Profit from Refinancing) <Amended on April 27, 2016>

- ① Notwithstanding Article 28, the competent authority shall not share profits from refinancing in any of the following Subparagraphs.
 1. A project whose anticipated rate of return under the comparative financial model is less than the rate of return under the basic financial model with the same price conditions, and whose usage fees based on ordinary prices at the time of refinancing assuming no government subsidies during operation is 1.2 times or less that of similar government-financed projects.
 2. Where the expected rate of return increases due to a decrease in the minimum equity capital ratio in accordance

with the amendment to the Basic Plan on February 26, 2009.

3. Where the expected rate of return increases due to short-term loans obtained following the offering of special loans by the Korea Development Bank on March 27, 2009.
- ② Paragraph 1, Subparagraph 1 shall only apply to projects whose financing agreement is concluded after October 6, 2009 and is scheduled to be completed by 2010.

Article 166 (Special Cases for Sharing of Interest Rate Risks Associated with BTL Projects) <Amended on April 27, 2016>

- ① In applying Article 34, the competent authority may share interest rate fluctuation risk with a concessionaire by calculating the interest rate differential between the yield of AAA-rated, 5-year bank bonds and 5-year national government bonds, within a range of 60/100 to 80/100 based on a 50-basis point (bp).
- ② Paragraph 1 may be applied selectively in accordance with an agreement between the competent authority and the concessionaire to projects whose construction is set to start or whose financing agreement is set to be concluded between 2009 and 2010.

Article 167 (Preferential Treatment for Early Completion) <Amended on April 27, 2016>

- ① Where a concessionaire completes the relevant facilities early by shortening the construction period and entrusts or operates the facilities for the period between the date of completion and the effective date of the right of management and operation, the competent authority may, for a period not to exceed ½ of the aforesaid period, permit the concessionaire to operate the facilities under its own responsibility as a preferential treatment.
- ② Paragraph 1 shall apply only to projects whose construction began between 2009 and 2014. <Amended on May 10, 2013>

Article 168 (Special Cases Concerning the Calculation of Termination Payments) <Amended on April 27, 2016.>

In relation to Article 37, Attached Table 4, Subparagraph 2 shall apply only to projects whose concession agreement is concluded by 2010 and whose financing agreement has not been concluded by the time of the announcement of amendment to the basic plan as of October 6, 2009, at the discretion of the competent authority. In such cases, deliberation in the Review Committee for amending the concession agreement may be omitted.

Article 168-2 (Special Cases for Advance Payment of Operating Costs for BTL Projects) <Newly established on June 4, 2020>

- ① Notwithstanding the timing of payment of government subsidies under Article 21 and the concession agreement, where deemed necessary to overcome a crisis in the central economy due to natural disaster, economic stagnation, large-scale unemployment under Article 3, Subparagraph 1 of the Framework Act on the Management of Disasters and Safety, the competent authority may agree with the concessionaire to pay up to 70% of the operating expenses of a BTL project in accordance with the budget dispensation guidelines of the Minister of Economy and Finance. Provided, however, that the concessionaire shall give priority to providing support to the operator (including entrusted or commissioned operators), employees, etc. in relation to the spending of such advance payment.
- ② If the parties to a concession agreement agree on an advance payment of operating expenses pursuant to Paragraph 1, the review and deliberation in the PIMAC or a specialized institution for amendment to the concession agreement may be omitted.
- ③ When this special case is applied, measures pertaining to the performance evaluation, etc. under the concession agreement shall be implemented in accordance with the concession agreement, and such performance evaluation measures shall substitute for performance guarantee measures in relation to the advance payment.

Article 168-3 (Special Cases for Sharing of Operation Loss for Ancillary Project of BTL Projects) <Newly established on July 13, 2021>

- ① Where the actual net profit of the ancillary project of BTL project is less than the estimated profit or loss prescribed by the concession agreement due to the closure or restriction of the facility due to the COVID-19 pursuant to Article 49 (1) 2 of the Act on the Prevention and Management of Infectious Diseases or according to

the quarantine measures required by the competent authority, the competent authority and the concessionaire may share the amount of operation loss. In such a case, the amount of operation loss subject to sharing is limited to the amount of loss incurred in the case where the concessionaire has leased the ancillary project to a small business owner or a small and medium enterprise according to the Framework Act on Small Businesses or the Framework Act on Small and Medium Enterprises.

- ② The ratio of sharing according to Paragraph (1) shall be based that associated with non-political force majeure as stipulated in Article 31 (Principles for Mitigation and Allocation of Risk). The parties to the agreement shall consult with each other to determine the ratio of sharing differently, considering the period of closing of the ancillary project or the operation restriction period, changes incurred to estimated profit and loss, etc.
- ③ The concessionaire, when calculating the amount of operation loss of the ancillary project according to Paragraph (1), if the tenant is a small business owner, 66/100 of the rent during the period of closure or operation restriction may be reflected in the rent reduction, 40/100 if the tenant is a small and medium enterprise. Notwithstanding, the amount to be shared between the parties to the agreement on the amount of rental loss arising from the individual lease of the ancillary project shall be limited to not more than KRW 20 million per year.
- ④ The concessionaire shall use the share of operating loss to support the rent of the tenant of the ancillary facility (small business owner or small and medium enterprise) and shall faithfully cooperate with the request for data from the competent authority necessary for verifying the amount of operating loss and the place of its use.
- ⑤ Where the parties to the agreement agree to share the operating loss according to Paragraphs (1) and (2), the review and deliberation of the PIMAC or specialized institutions for the change of the concession agreement may be omitted.
- ⑥ Notwithstanding Paragraph (1), where the operation of an ancillary facility is closed or restricted due to the concessionaire's reasons even if the main facility is under operation, or where an ancillary facility is directly operated by the concessionaire, the operating loss shall not be shared.

Chapter V Regulations on Special Cases Concerning PPP Projects Covered by the Agreement on Government Procurement, etc. **<Newly Inserted on May 10, 2013>**

Article 169 (Scope of Application of the Agreement on Government Procurement, etc. and Application of this Chapter) <Newly Inserted on May 10, 2013, Amended on April 27, 2016>

- ① The scope of PPP projects to which the Agreement on Government Procurement, etc. (hereinafter "GPA") applies shall be the projects organized by competent administrative authorities prescribed by Article 3-2 (2) of the Act, Article 2-3 (2) and Attached Table 1 to the Decree and the total project cost of which is at least the amount determined and publicly announced by the Minister of Economy and Finance in accordance with Article 3-2 (1) of the Act.
- ② Notwithstanding paragraph (1), the competent authorities of the PPP projects to which GPA applies may not apply GPA under the proviso to Article 3-2 (1) of the Act and Article 2-3 (1) of the Decree.
- ③ This chapter contains the regulations on special cases concerning PPP projects covered by GPA, and matters not otherwise provided for in this chapter shall be governed by this Basic Plan.
- ④ The details of this chapter may apply mutatis mutandis where the competent authority decides to initiate PPP projects that are not subject to GPA in accordance with Article 3-2 (4) of the Act and Article 2-3 (3) of the Decree, through an international tender.

Article 170 (Principles for the Application of the Agreement on Government Procurement, etc.) <Newly Inserted on May 10, 2013, Amended on April 27, 2016>

- ① (Deleted) <Amended on March 29, 2018>
- ② The competent authority of the PPP projects to which GPA applies shall comply with the following:
 1. The method of calculating the total project cost prescribed in Article 9 shall not be changed nor shall the project be divided for the purpose of circumventing or avoiding the application of GPA;

2. Where technical specifications concerning quality and/or performance are set forth in the Request for Proposals, the Request for Alternative Proposals, or performance requirements, they should conform to international standards where applicable except in unavoidable circumstances, and shall be prepared in accordance with relevant rules pursuant to domestic legislation or standards in the absence of international standards;
 3. No measures shall be taken to restrict the participation of suppliers of member countries or parties to GPA through means such as designating localization rates, technology transfers and/or counter purchase in the process of evaluating participants' requirements and a project plan, or deciding on the concessionaires.
- ③ Notwithstanding the principles prescribed in paragraph (1) or paragraph (2) 3 the competent authority of the PPP projects may take measures to increase participation from small and medium enterprises in accordance with Article 11 (2), Article 34 (2) and Article 55 of the Act and may give preferential treatment during evaluation in accordance with Article 124 (3) 2 or 3 of this Basic Plan. <Amended on May 12, 2014>

Article 171 (Announcement of the Request for Proposals and the Request for Alternate Proposals) <Newly Inserted on May 10, 2013, Amended on April 27, 2016>

- ① When publicly announcing or publishing the Request for Proposals and the Request for Alternate Proposals, the competent authority of the PPP projects to which GPA applies shall include not only matters prescribed in Article 69 (or Article 121 for BTL projects) and Article 100, but also the following:
1. Submission address and deadline for project plans and other documents;
 2. Language to be used for drafting project plans (if deemed unavoidable, English, French or Spanish may be permitted);
 3. Whether the PPP projects is subject to GPA.
- ② When publicly announcing or publishing a summary of the Request for Proposals and the Request for Alternate Proposals in accordance with Article 70 and 99, the competent authority of the PPP projects to which GPA applies shall at least include a summary containing the following in either English, French or Spanish:
1. A name and scale of the PPP projects;
 2. A submission deadline for project plans;
 3. A name and an address of the competent authority.

Article 172 (Submission of Project Plans or Proposals) <Newly Inserted on May 10, 2013, Amended on April 27, 2016>

- ① The competent authority of the PPP projects to which GPA applies shall not prohibit paper submissions of project plans or proposals (hereinafter "project plans, etc.") by mail.
- ② When project plans, etc. are received by mail pursuant to paragraph (1), the date and time of receipt shall be written along with the seal of the recipient the surface of the envelope containing the project plans, etc. and the envelope shall not be opened until evaluation. Where project plans, etc. are received by the designated department after the submission deadline due to reasons attributable to the competent authority, the applicant in question shall not be penalized.

Article 173 (Designation Announcement and Scope of Information Disclosure) <Newly Inserted on May 10, 2013, Amended on April 27, 2016>

- ① The competent authority of the PPP projects to which GPA applies shall publish the following information on the website of the competent authority or the PIMAC within 72 days from the date of designation;
1. A name and scale of the PPP projects;
 2. A name and an address of the competent authority;
 3. The date of conclusion of a concession agreement;
 4. A name and an address of the concessionaire.
- ② The competent authority of the PPP projects to which GPA applies shall promptly provide the following upon request from applicants, etc.:
1. Procedural matters regarding the designation of a concessionaire of the PPP projects;
 2. Reasons for not being designated as the concessionaire;

3. A name of the designated concessionaire, and the characteristics and strengths of the project plan.
- ③ The competent authority of the PPP projects to which GPA applies may not disclose the information in paragraphs (1) or (2) 3 if the information pertains to any of the following:
 1. Concerns that disclosure of such information may hinder law enforcement or undermine public interest;
 2. Concerns that disclosure of such information may infringe on the legitimate commercial interests of a certain company or undermine fair competition.

Article 174 (Special Cases Regarding the Free Trade Agreement between the Government of the Republic of Korea and the Government of the Republic of Chile) <Newly Inserted on May 10, 2013, Amended on April 27, 2016>

The competent authority of PPP projects subject to the Free Trade Agreement between the Government of the Republic of Korea and the Government of the Republic of Chile shall not determine participation criteria based on the following:

1. Condition that the applicant should have won one or more contracts from a competent authority in Korea;
2. Condition that the applicant should have prior work experience in Korea.

Article 175 (Special Cases Regarding the Free Trade Agreement between the Government of the Republic of Korea and the EU or EU Members) <Newly Inserted on May 10, 2013, Amended on April 27, 2016>

The competent authority of the PPP projects subject to the Free Trade Agreement between the Republic of Korea and the EU shall not determine participation or designation criteria based on the following:

1. Condition that the applicant should have won one or more contracts from a competent authority in Korea;
2. Condition that the supplier should have prior work experience in Korea. Provided, that this shall not apply where the competent authority deems that prior experience in Korea is essential to properly implement the PPP projects.

Article 176 (Special Cases Regarding the Free Trade Agreement between the Government of the Republic of Korea and the Republic of Peru) <Newly Inserted on May 10, 2013, Amended on April 27, 2016>

The competent authority of the PPP projects subject to the Free Trade Agreement between the Government of the Republic of Korea and the Republic of Peru shall not determine participation criteria based on

1. whether the applicant has won one or more contracts from a competent authority in Korea.
2. Provided, that prior experience may be required if deemed essential for the PPP projects.

Article 177 (Special Cases Regarding the Free Trade Agreement between the Government of the Republic of Korea and the United States of America) <Newly Inserted on May 10, 2013, Amended on April 27, 2016>

The competent authority of the PPP projects subject to the Free Trade Agreement between the Government of the Republic of Korea and the United States of America shall not determine participation criteria based whether the applicant has won one or more contracts from a competent authority in Korea nor whether the applicant has prior work experience in Korea.

- Addendum (Publication No. 2021-141 of the Ministry of Economy and Finance, June 25, 2010) -

Article 1 (Date of Enforcement)

This Basic Plan shall be implemented on the day of its announcement.

Article 2 (Applications for Calculating Total Private Investment Cost)

In applying Article 16 (3) 1, this Regulation may apply to projects already in progress after the agreement was concluded as of May 20, 2008. In such cases, although in principle investments in excess of or less than the inflation-adjusted amount should be divided on a 50:50 basis between the competent authority and the concessionaire, the competent authority shall take necessary measures to ensure that the amount settled owing to inflation is attributed to the contractor (including subcontractors).

Article 3 (Special Cases Concerning Reference Rate Adjustments)

Notwithstanding Article 17 (2), the reference rate may be adjusted every five or two years based on an agreement between the competent authority and the concessionaire for projects that conclude a loan agreement or begin construction between 2009 and 2010.

Article 4 (Applications Concerning Reductions to Minimum Equity Ratio)

Article 25 (1) 3 shall apply to projects for which no financial agreement has been concluded as of February 26, 2009. Notwithstanding paragraph (2) 2 of the same Article, even for projects that exceed KRW 10 million as of February 26, 2009 that have been designated a capital adequacy ratio of more than 5/100 by the review board, the competent authority has the discretion to adjust the equity ratio to between 5/100 and 15/100 for projects that have not yet concluded a financial agreement (i.e. projects without a loan agreement as of March 27, 2009).

Article 5 (Applications Concerning Minimum Revenue Guarantee)

The provisions of Article 51 (2) through (4) shall apply to all projects with minimum revenue guarantees as of October 6, 2009, when changes to this Basic Plan is publicly announced.

Article 6 (Applications Concerning Reviews by Specialized Institutions on the Change of the Financial Model for BTL PPP Projects)

Article 59 shall apply to projects for which the financial model is changed on or after the date of this amendment to the Basic Plan.

Article 7 (Applications Concerning Preliminary Feasibility Study of BTL PPP Projects)

Article 106 shall apply to projects for which the limit is to be approved as BTL PPP projects in 2011.

Article 8 (Application Concerning the Review on Results of Feasibility Study of BTL PPP Projects, Drafts Request for Proposals, and Drafts Concession Agreements)

Articles 107 (4), 119 (1) and (2), 129 (1) and (2) shall apply to projects that request review after the revision date of this Basic Plan.

Article 9 (Applications Concerning Implementation of Complex Projects)

Article 110 shall apply to complex projects initiated after January 1, 2011.

Article 10 (Applications Concerning Investment Ceiling)

Article 116 shall apply to businesses that change the investment ceiling after the revision date of this Basic Plan.

Article 11 (Applications Concerning Document Submission)

Article 143 (2) shall apply to publications of the Request for Proposals, conclusion of concession agreements, approval of implementation plans, and projects that begin operation or change their financial models after the revision date of this Basic Plan and projects underway as of the date of this announcement.

Article 12 (Applications Concerning Designation of Identification Numbers for Each Project Unit)

Article 144 shall be applied retrospectively on a collective basis to projects for which a request for proposals (or a request for alternate proposals in cases of an unsolicited project) has been published as of the revision date of this Basic Plan.

**- Addendum (Publication No. 2010-250 of the Ministry of Economy and Finance,
December 23, 2010) –**

Article 1 (Date of Enforcement)

This Basic Plan shall be implemented on the day of its announcement.

Article 2 (Applications Concerning Relaxation of Equity Financing)

The amended provisions of Article 25 shall apply to projects that conclude new concession agreements after this Basic Plan is implemented or enter into financing agreements for projects that are already in progress. In such cases, the review process by the Review Committee for amending the concession agreements may be omitted.

Article 3 (Applications Concerning Termination Payment Calculations)

- ① The amended provisions of Attached Table 4 related to Article 37 shall apply to projects that conclude new concession agreements after this Basic Plan is implemented or enter into financing agreements while projects already agreed upon are in progress. Provided, that this is not the case when the concessionaire intends to calculate the termination payment in accordance with Attached Table 4, Item 1 (BTO) of Publication No. 2010-141 of the Ministry of Economy and Finance (June 25, 2010) in concluding a new concession agreement after this Basic Plan is implemented or entering into a financing agreement while a project that is already in progress.
- ② In the case of paragraph (1), the review process by the Review Committee for amending the concession agreements may be omitted.

Article 4 (Applications Concerning Refinancing)

The provisions of Article 28 shall apply to refinancing after this Master Plan is implemented. In such cases, the review process by the Review Committee for amending the concession agreements may be omitted.

**- Addendum (Publication No. 2012-44 of the Ministry of Economy and Finance,
February 15, 2012) –**

Article 1 (Date of Enforcement)

This Basic Plan shall be implemented on the day of its announcement.

Article 2 (Applications Concerning Preliminary Feasibility Studies and Feasibility Analysis for Solicited PPP Projects)

The amended provisions of Articles 63, 65, 106 and 107 shall apply to projects for which preliminary feasibility studies and feasibility analyses are conducted after the implementation of this Basic Plan.

Article 3 (Applications Concerning Investment Risk Sharing System)

The amended provisions of Article 32 (1) shall apply to projects for which feasibility analyses are newly conducted after the implementation of this Basic Plan.

Article 4 (Applications of Key Interest Rates for Interests During Construction for BTL PPP Projects)

The amended provisions of Article 16 (3) 2 (a) shall apply to projects that conclude a new concession agreement after the implementation of this Master Plan.

Article 5 (Applications Concerning Sharing of Refinancing Gains)

The amended provisions of Article 28 (3) shall apply to projects refinanced after the implementation of this Basic Plan. In such cases, the review process by the Review Committee for amending the concession agreements may be omitted.

Article 6 (Applications Concerning Termination Payment Calculations)

The amended provisions of Attached Table 4 under Article 37 shall apply only to projects for which financing agreements are newly concluded between the implementation date of this Basic Plan and December 31, 2012. In such cases, the review process by the Review Committee for amending the concession agreements may be omitted.

Article 7 (Applications for Handling Projects Expiring Rights of Management and Operation)

The amended provisions of Article 54 shall apply to projects for which the concession period or establishment period for management and operation rights have expired after the implementation of this Basic Plan.

Article 8 (Applications Concerning Reports to the National Assembly About Eligible Projects)

The provisions of Article 66 (3) shall apply to newly designated projects as eligible PPP projects after November 5, 2011.

Article 9 (Applications Concerning Assessments of Contributions to Alleviating the Government's Financial Burden)

The provisions of Articles 80 (3) and (5) shall apply to projects that publish the Request for Proposals or Request for Alternate Proposals after the implementation of this Basic Plan.

Article 10 (Applications Concerning Construction Grants)

The provisions of Article 136 (5) and (6) shall apply to projects that conclude or amend concession agreements after the implementation of this Basic Plan.

- Addendum (Publication No. 2013-91 of the Ministry of Economy and Finance, May 10, 2013) -

Article 1 (Date of Enforcement)

This Basic Plan shall be implemented on the day of its announcement.

Article 2 (Applications Concerning Feasibility Analysis)

The amended provisions of Article 65 (3) shall apply to projects for which feasibility analyses are newly conducted after the implementation of this Basic Plan.

Article 3 (Applications Concerning Usage Fee Ceiling Criteria)

The amended provisions of Attached Table 7 under Article 69 (5) shall apply to projects that publish infrastructure project master plans or third-party request for proposals after the implementation of this Basic Plan.

Article 4 (Applications Concerning Amendment Procedures, etc. for Concession Agreements)

The amended provisions of Article 38 (1) 6, Article 60, (3), (5) and (6) shall apply to projects where reasons for amending the total cost of the project arise after the implementation of this Basic Plan. Provided, that the amended provisions of Article 60 (1) shall also apply where grounds for revising the total cost of the project arise before the implementation of this Basic Plan.

- Addendum (Publication No. 2014-87 of the Ministry of Economy and Finance, May 12, 2014) -

Article 1 (Date of Enforcement)

This Basic Plan shall be implemented on the day of its announcement.

Article 2 (Applications Concerning New Expenditure Items)

The amended provisions of Article 10 (4) 4 shall apply to projects for which no decision has been made on the treatment of new expenditure items as of the implementation date of this Basic Plan.

Article 3 (Applications Concerning the Point of Usage of Sharing of Refinancing Gains)

The amended provisions of Article 27 (4) 1 shall apply only to projects for which financing agreements have been concluded by December 31, 2013.

Article 4 (Applications Concerning Re-examinations of Demand Forecast)

The amended provisions of Articles 57 and 58 shall apply to projects for which demand forecast surveys and preliminary Value-for-Money (VfM) tests of PPP are being conducted again as of the implementation date of this Basic Plan.

Article 5 (Applications Concerning Requests for Reviewing the Proposals)

Notwithstanding the amended provisions of Article 95 (1), where a proposal has already been submitted as of the implementation date of this Basic Plan, an exemption from preliminary feasibility study under Article 94 (3) shall be requested.

Article 6 (Application Concerning Pre-payment)

- ① The provisions of Articles 139-2 through 139-4 and Article 43 may also apply to projects for which contracts have already been concluded as of the implementation date of this Basic Plan.
- ② The provisions of Articles 139-2 through 139-4 and Article 43 shall apply only to projects to which the ownership of such facilities belongs to the State.

Article 7 (Pre-payment Procedures)

For 2014, according to the provisions of Article 139-3 (1), the competent authority may consult the Ministry of Economy and Finance to set up a separate timeline.

- Addendum (Publication No. 2015-82 of the Ministry of Economy and Finance, April 20, 2015) -**Article 1 (Date of Enforcement)**

This Basic Plan shall be implemented on the day of its announcement.

Article 2 (Applications Concerning Concessionaire Capital Funding)

The amended provisions of Article 25 (1) 1 shall apply to projects that conclude new concession agreements after this Basic Plan is implemented or enter into financing agreements for projects that are already in progress. In such cases, the review board review process for amending the concession agreements may be omitted and are deemed to not require refinancing.

Article 3 (Applications Concerning Investment Risk Sharing for BTOs)

The amended provisions of Articles 32 through 33-2 shall apply to projects designated as eligible projects after the implementation date of this Basic Plan or proposals submitted by the private sector. Provided, that even if a proposal was submitted by the private sector before the implementation date of this Basic Plan, the provisions of Articles 32 through 33-2 may apply for projects that the competent authority has postponed but conducts a re-evaluation on eligibility (proposal review) in accordance with the details of investment risk sharing for BTOs.

Article 4 (Applications for Projects with Expiring Rights of Management and Operation)

- ① The amended provisions of Article 54 shall apply to projects with at least four years left until the establishment period for management and operation rights expires as of the implementation date of this Basic Plan.
- ② The amended provisions of Article 54-2 shall apply to projects with at least three years left until the establishment period for management and operation rights expires as of the implementation date of this Basic Plan.
- ③ Notwithstanding paragraph (2), the amended provisions of Article 54-2 (3) shall also apply to projects with less than three years left until the establishment period for management and operation rights expires as of the implementation date of this Basic Plan.

Article 5 (Applications Concerning Competitive Consultation Procedures)

The amended provisions of Articles 135-2 through 135-7 shall apply to projects for which the Request for Proposals is published after the implementation date of this Basic Plan.

Article 7 (Application Concerning Pre-financing)

- ① The provisions of Article 6 (2) of the Addendum (Publication No. 2014-87 of the Ministry of Economy and Finance, May 12, 2014) shall be deleted.
- ② The provisions of Article 139-3 (6) shall apply to projects newly initiated after the implementation of this Basic Plan.

- Addendum (Publication No. 2016-82 of the Ministry of Economy and Finance, April 27, 2016) -

Article 1 (Date of Enforcement)

This Basic Plan shall be implemented on the day of its announcement.

- Addendum (Publication No. 2016-158 of the Ministry of Economy and Finance, October 7, 2016) -

Article 1 (Date of Enforcement)

This Basic Plan shall be implemented on the day of its announcement.

- Addendum (Publication No. 2017-99 of the Ministry of Economy and Finance, July 17, 2017) -

Article 1 (Date of Enforcement)

This Basic Plan shall be implemented on the day of its announcement.

- Addendum (Publication No. 2018-62 of the Ministry of Economy and Finance, March 29, 2018) -

Article 1 (Date of Enforcement)

This Basic Plan shall be implemented on the day of its announcement.

- Addendum (Publication No. 2019-93 of the Ministry of Economy and Finance, May 7, 2019) -

Article 1 (Date of Enforcement)

This Basic Plan shall be implemented on the day of its announcement.

**- Addendum (Publication No. 2019-175 of the Ministry of Economy and Finance,
August 19, 2019) -**

Article 1 (Date of Enforcement)

This Basic Plan shall be implemented on the day of its announcement.

Article 2 (Applications Concerning Investment Risk Sharing for BTO-rs)

The amended provisions of Article 33 (5) shall apply to the projects designated as eligible PPP projects or the proposals submitted by the private sectors, after the implementation date of this Basic Plan. Provided, that even if a proposal was submitted by the private sector before the implementation date of this Basic Plan, but the Request for Alternate Proposals is yet to be conducted, the competent authority may apply the amended provisions of Article 33 (5) taking into consideration the nature and financial capacity of the project.

**- Addendum (Publication No. 2020-26 of the Ministry of Economy and Finance,
February 10, 2020) -**

Article 1 (Date of Enforcement)

This Basic Plan shall be implemented on the day of its announcement.

Article 2 (Application Concerning Compensation for Proposal Preparation Expense)

The amended provisions of Article 160 shall apply to projects for which the Request for Proposals is published after the implementation date of this Basic Plan.

**- Addendum (Publication No. 2020-83 of the Ministry of Economy and Finance, June 4,
2020) -**

Article 1 (Date of Enforcement)

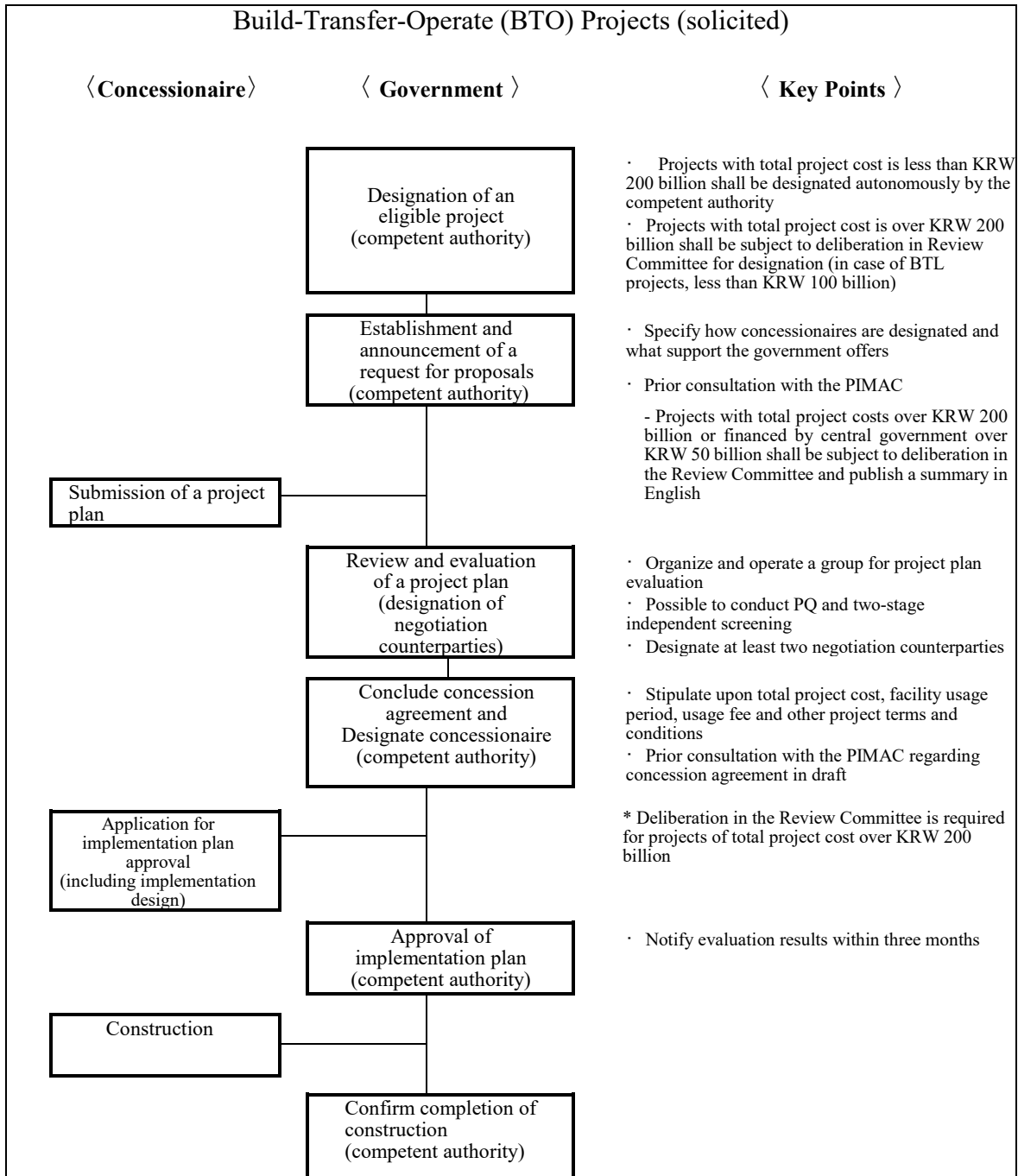
This Basic Plan shall be implemented on the day of its announcement. Provided, that the implementation of special cases under Article 168-2 of this Basic Plan shall be determined separately.

Article 2 (Applications Concerning Special Cases for Pre-payment of BTL Operating Costs)

Article 168-2 shall apply to operating expenses during the third and fourth quarters covered by government payments in 2020.

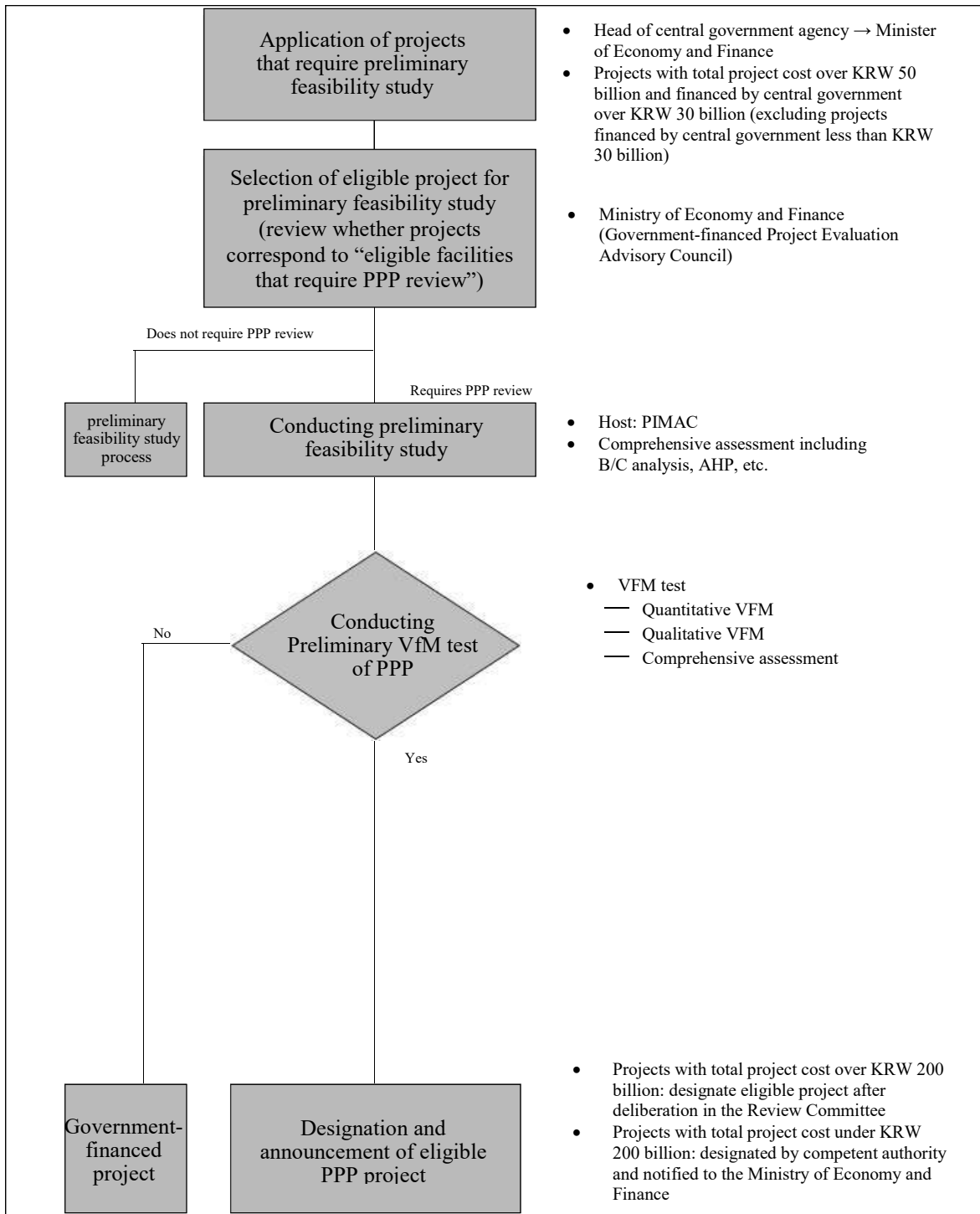
[Attached Table 1] Procedures for Implementation of PPP Projects (related to Article 3 (3))

1. Build-Transfer-Operate (BTO) Projects (solicited)

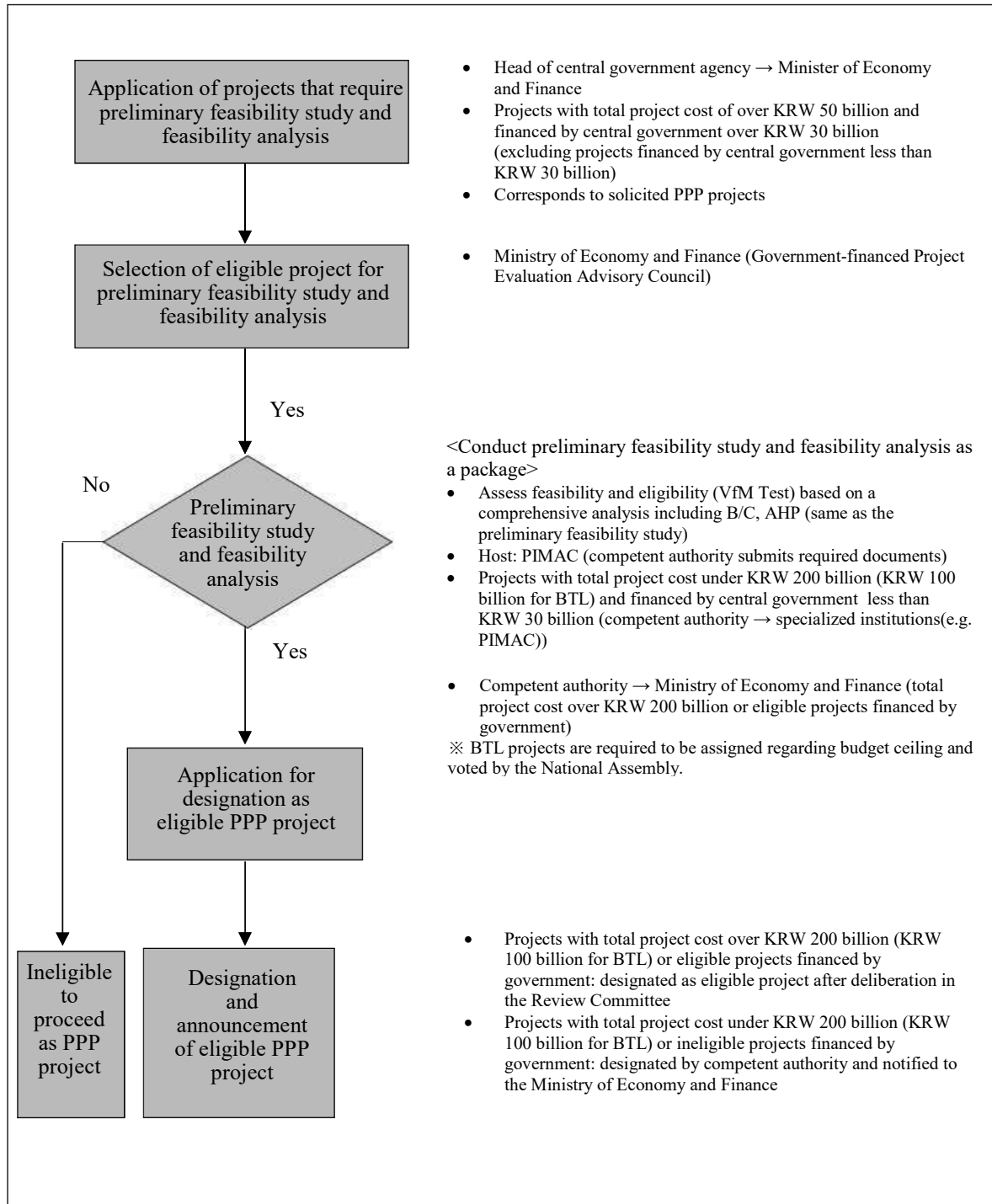


1-1. Procedure for Designating Eligible Solicited Projects <Amended on July 17, 2017,

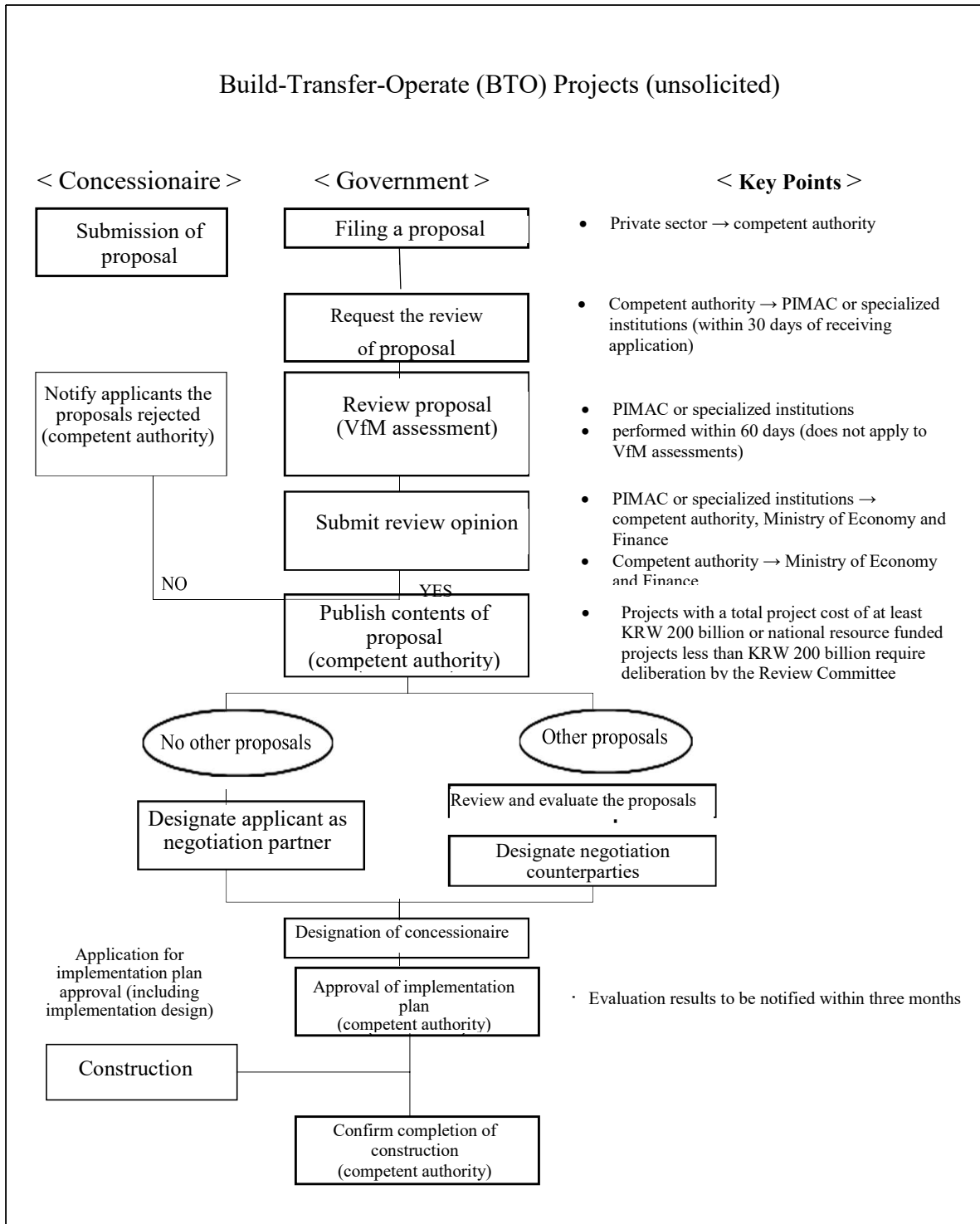
Amended on May 7, 2019> (In case preliminary feasibility study is applied as government-financed projects)



1-2. Procedure for Designating Eligible Solicited Projects <Amended on July 17, 2017, Amended on May 7, 2019> (In case preliminary feasibility study and feasibility analysis are applied as solicited projects)

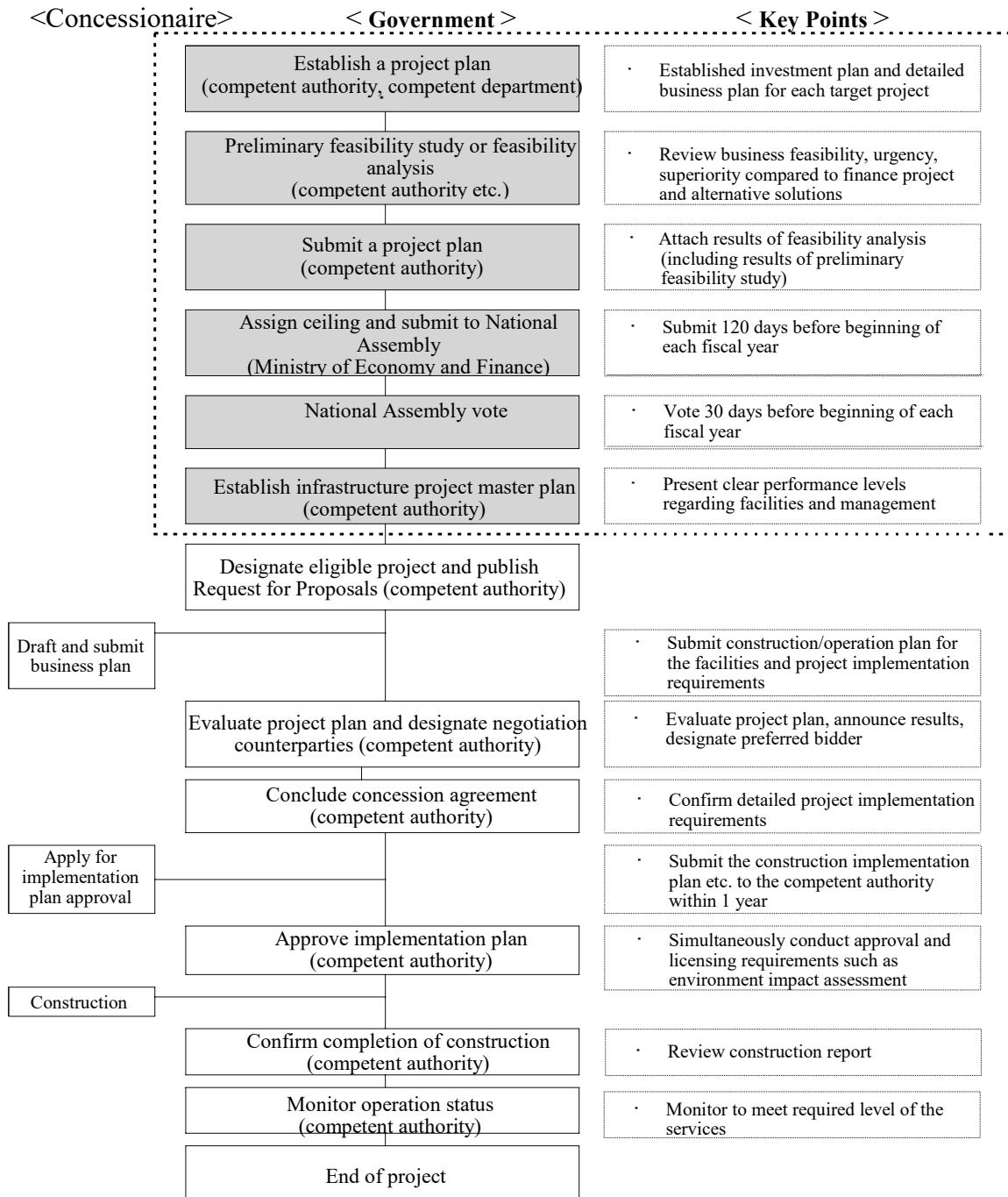


2. Build-Transfer-Operate (BTO) Projects (unsolicited) <Amended on May 7, 2019>

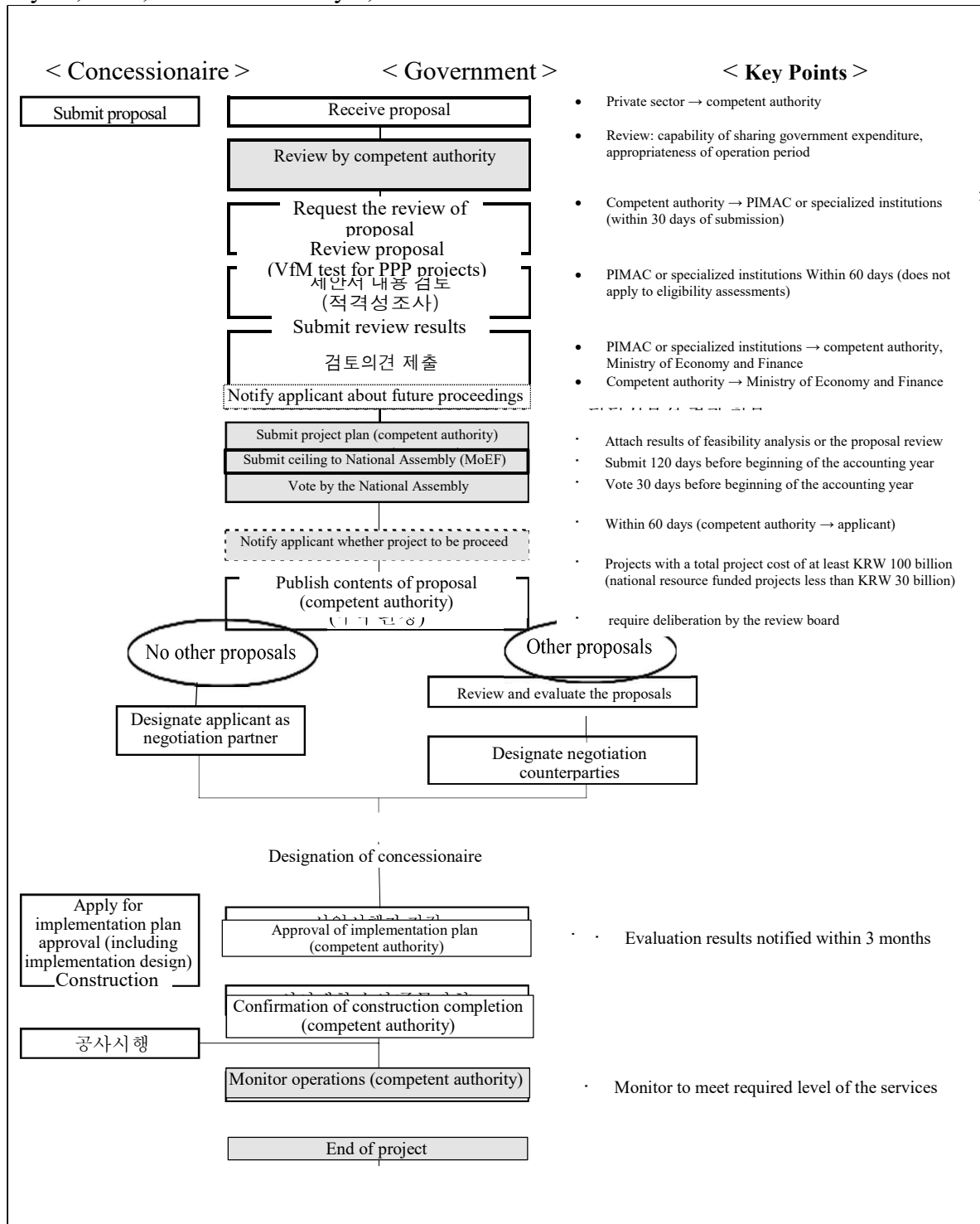


3. Build-Transfer-Lease (BTL) Projects (solicited) <Amended on April 13, 2023>

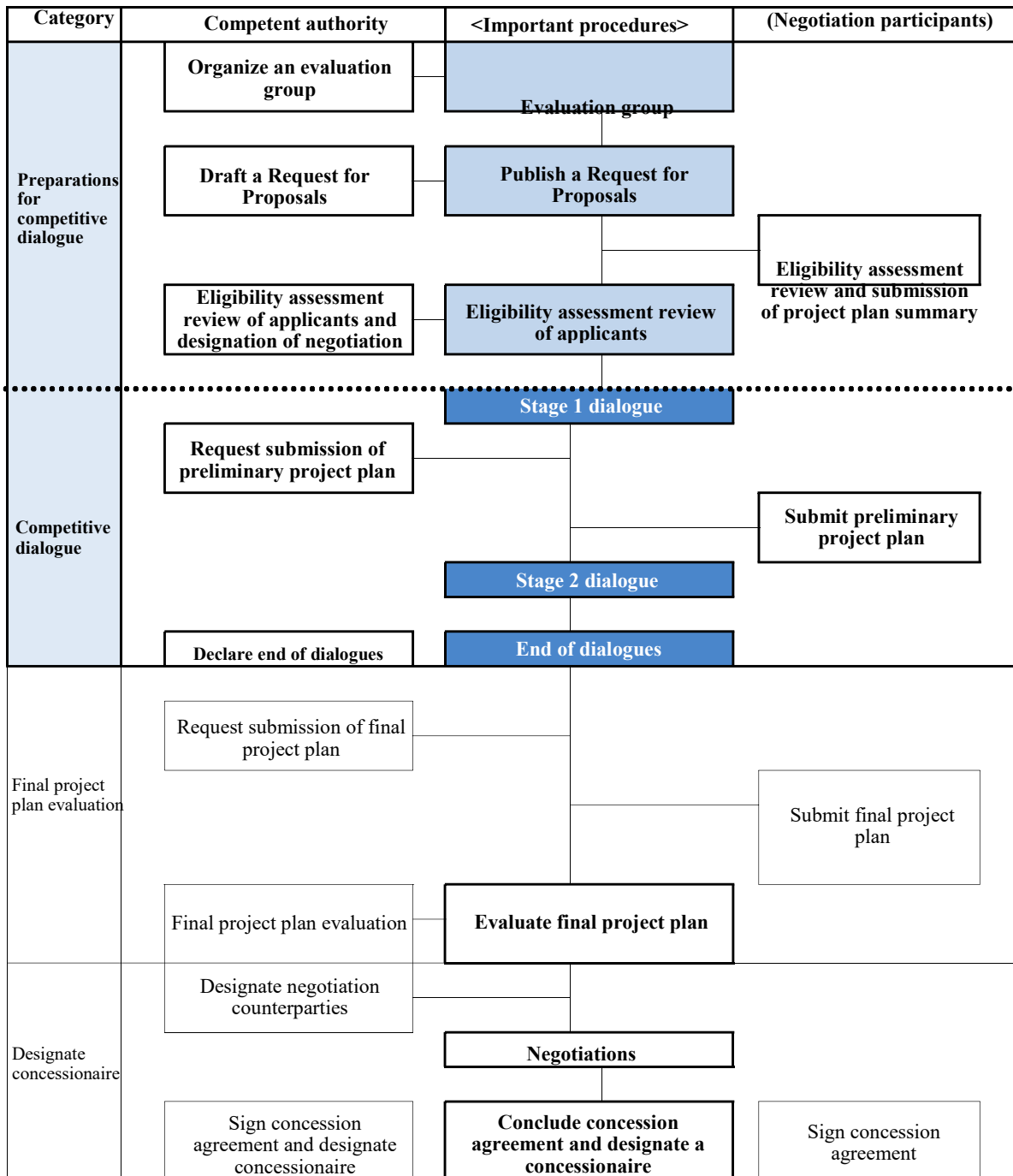
Build-Transfer Lease (BTL) Projects



4. Build-Transfer-Lease (BTL) Projects (unsolicited) <Newly April 27, 2016, Amended on July 17, 2017, Amended on May 7, 2019>



5. Competitive Dialogue (Solicited BTO Projects) <Newly Inserted on April 20, 2015>



[Attached Table 2] Method of Determining Government Payments (concerning Article 15)

Example of Estimation of Government Payments						
Assumptions						
◦	Period of lease	20 years				
◦	Method of paying Annual rent	Same amount paid every year (equal installments of principal and interest)				
◦	Inflation rate	4%				
◦	IRR before taxes	5.5%				
◦	Total private project cost	KRW 10 billion				
◦	Net income from supplementary projects	KRW 200 million/year (Constant price, January 1, 2005)				
◦	Net income from ancillary projects	N/A				
◦	Operating cost	KRW 300 million/year (Constant price, January 1, 2005)				
<p>Government payments = (Rent for facilities – Net income for supplementary projects) + operating cost</p> <p style="text-align: right;">(Unit: KRW in 100 millions)</p>						
Items	Construction period		Operation period		Total payment	
					Current	(Constant)
	'05~'07	'08	...	'27		
▪ Total private project cost	100					
▪ Facility rental fee (A)		8.37	...	8.37	167.36	-
▪ Net income from supplementary projects (B)		2.34	...	4.93	69.67	(40)
▪ Operating cost(C)		3.51	...	7.39	104.51	(60)
▪ Government payment(A-B+C)		9.54	...	10.83	202.19	-
<p>* Example using EXCEL for determining rent for facilities on the assumption of 5.5%, 20 years, KRW 10 billion → enter '=pmt(5.5%,20,100)' in cell</p> <p>* This example is model not including VAT. As such, VATs should be calculated when making the actual payments</p>						

[Attached Table 2-1] Formula for Calculating Usage Fees and IRR (concerning Article 33 (2) and 33-2 (2)) <Newly Inserted on April 20, 2015, Amended on April 27, 2016>

▪ Formula for calculating IRR

$$\sum_{i=0}^n \frac{CC_i}{(1+r)^i} = \sum_{i=n+1}^N \frac{OR_i - OC_i + (GP_i - GR_i)}{(1+r)^i}$$

n : Completion of construction

N : Expiration of concession period or establishment period for management and operation rights

CC_i : Constant project cost invested every year to complete construction (excluding grants from the competent authority during the construction period)

OR_i : Constant operating revenue for year i

OC_i : Constant operating cost for year i

GR_i : Redemption from concessionaire (constant) for year i

GP_i : Government support to concessionaire (constant) for year i

r : Constant IRR before tax

<Formula for calculating target IRR for BTO-rs>

$$r = r_1 \times p_1 + r_2 \times p_2,$$

$$r_2 = \frac{(1+r'_2)}{(1+Inflation)} - 1 \quad r'_2 = r_f + \lambda$$

r_1 : Constant IRR before tax of investment of which the concessionaire bears risk

r_2 : Constant IRR before tax of investment of which the competent authority bears the risk

r'_2 : Current IRR before tax of investment of which the competent authority bears the risk

p_1 : Share of total private investment of which the concessionaire bears risk

p_2 : Share of total private investment of which the competent authority bears risk

r_f : Yield for 5-year treasury bonds

λ : Markup (risk compensation rate)

1. The competent authority shall specify the base year for calculating the constant price, such as total project cost (CC_i), operating revenue (OR_i), and operating cost (OC_i), in the request for proposal or request for alternative proposal, but a separate base year may be selected in the concession agreement.
2. The competent authority shall present the construction period (n) and the concession period or the establishment period for management and operation rights (N-n) in the request for proposal or request for alternative proposal, but the establishment period for management and operation rights for revertible facilities shall not exceed 50 years.
3. Operating cost shall be the sum of all costs incurred in operating the facilities and providing operational services in terms of maintenance, repair, improvement, project management expenses and other expenses incurred during the operation period after the facilities are completed.
4. Notwithstanding subparagraph 3, because interest expenses are reflected in the IRR (r) and depreciation costs (including start-up costs, opening expenses, goodwill, etc.) are recovered through coverage of total project cost during the period of management and operation rights, they are not separately accounted for in the operating cost category.
5. IRR is calculated based on the margin before corporate tax.
6. The estimated cash flows for the investment risk-sharing method are initially calculated at the current price and then converted into the estimated cash flows based on constant price to recalculate the constant IRR before tax.
7. The constant IRR before tax for investment risk-sharing methods is calculated so that it becomes the same value as the target IRR.

**[Attached Table 2-2] Formula for Calculating Government Subsidy and Recovery –
BTO-rs (concerning Article 33 (3))**
<Newly Inserted on April 20, 2015, Amended on April 27, 2016>

- Reference amount for investment risk sharing

$$GC'_i = CC'_g \times \frac{r'_2}{1 - (1 + r'_2)^{-(\text{Operating Period})}} + OC'_{gi}$$

- Government subsidy and recovery for competent authority for BTO-rs

① If $OR'_{gi} < GC'_i$

competent authority's government subsidy for year i is $GP'_i = GC'_i - OR'_{gi}$

② If $OR'_{gi} > GC'_i$

competent authority's recovery for year i is $GR'_i = OR'_{gi} - GC'_i$

r'_2 : Current IRR before tax of investment of which the competent authority bears the risk

p_2 : Share of total private investment of which the competent authority bears risk

CC'_i : Private investment cost incurred annually to complete construction of the facilities
(calculated by reflecting inflation and adding interest during the construction period to constant project cost)

CC'_g : Private investment cost of which the competent authority bears risk $(\sum_{i=0}^n CC'_i \times p_2)$

GC'_i : Current reference amount for investment risk sharing for year i

OR'_i : Current operating revenue for year i

OR'_{gi} : Current operating revenue belonging to competent authority for year $i = OR'_i \times \psi$

OC'_i : Current operating cost for year i

OC'_{gi} : Current operating cost belonging to competent authority for year $i = OC'_i \times \psi$

GP'_i : Government subsidy by competent authority based on current prices for year i

GR'_i : Recovery for competent authority based on current prices for year i

ψ : Ratio of operating revenue and operating cost belonging to competent authority

* ψ May be decided by the competent authority based on an analysis of the applicant's proposal, taking into consideration the constant IRR before taxes and risk-sharing ratio (for solicited projects, the competent authority publishes this information in the infrastructure project master plan request for proposal)

[Attached Table 2-3] Formula for Calculating Government Subsidy and Recovery – BTO-a(concerning Article 33-2 (4)) <Newly Inserted on April 20, 2015, Amended on April 27, 2016>

- Reference amount for investment risk sharing

$$GC'_i = OC'_{fi} + TC_{spi} + TC_{up(i-1)} \times r_f$$

$$TC_{spi} = TC_{sp} \times \frac{r_d}{1 - (1 + r_d)^{-\text{Operating Period}}}$$

- Reference for recovery

$$GC'_i + NPTC_{upi}$$

- Government subsidy and recovery for competent authority for BTO-a

① If $OR'_i - OC'_{vi} < GC'_i$

competent authority's Government subsidy for year i is $GP'_i = GC'_i - (OR'_i - OC'_{vi})$

② If $OR'_i - OC'_{vi} > GC'_i + NPTC_{upi}$

competent authority's recovery for year i is $GR'_i = (OR'_i - OC'_{vi} - GC'_i - NPTC_{upi}) \times \phi_i$

n : Completion of construction

N : Expiration of concession period or establishment period for management and operation rights

OR'_i : Operating revenue based on current price of every year

OC'_{vi} : Base variable operating cost based on current price after accounting for actual demand every year

OC'_{fi} : Base fixed operating cost based on ~~fixed~~ current price every year (operating cost not directly affected by demand)

GC'_i : Reference amount for investment risk sharing based on current prices for year i

GP'_i : Government subsidy by competent authority based on current prices for year i

GR'_i : Recovery for competent authority based on current prices for year i

TC_p : Total private investments (= $TC_{sp} + TC_{up}$)

TC_{sp} : Private investments eligible for reimbursement (lesser of the unsubordinated loans and amount prescribed in the agreement)

TC_{spi} : ?
 : Repayment of principal and interest of private investments eligible for reimbursement in year

TC_{up} : Private investment not eligible for reimbursement (total private investments minus private

$TC_{up(i-1)}$: eligible for reimbursement)

: Balance of private investments not eligible for reimbursement as of year-end of (i-1)

$NPTC_{upi}$: Amount of private investments not eligible for reimbursement not recovered as of the year-end of i
$$= \frac{TC_{up}}{N-n} \times (i-n) - APTC_{up(i-1)}^*$$

* $APT C_{up(i-1)}$: Accumulated amount of private investments not eligible for reimbursements that has already been recovered as of the year-end of $(i-1)$

r_f : 5-year treasury bond yields (the average value for five business days right before the establishment date of management and operation rights shall be applied, but shall be recalculated every five years)

r_d : interest rate on loans to be applied to private investments eligible for reimbursement as per the agreement ($=r_f +$ risk compensation rate)

ϕ_i : Recovery ratio of the competent authority as of year i

[Attached Table 3] Risk-sharing Methods and Settlement of Shared Risk Based on Interest Rate Brackets (concerning Article 32 (2))

Risk-sharing methods based on interest rate brackets

The risk-sharing methods for each interest fluctuation value (γ = difference in interest rate - 50bp) is as follows.

- $|\gamma| \leq 50\text{bp}$: 60% Support or redeem
- $50\text{bp} < |\gamma| \leq 100\text{bp}$: 70% Support or redeem
- $100\text{bp} < |\gamma|$: 80% Support or redeem

Settlement of shared risk based on interest rate fluctuations

The method used to settle shared risk upon interest rate changes is as follows.

- Settled every two years after the management and operation rights are established.
- Calculated by applying the average interest rate for the period in question.
- When collecting to settle, the amount already funded will act as the ceiling.
- When paying to settle, the payment amount should be reduced by the amount that has not been collected.
- The detailed settlement methods may be determined between the competent authority and the concessionaire.

<Examples of risk-sharing based on interest rate changes>

□ Assumption

Average interest rate for the current year: treasury bonds 4.20%, bank bonds 5.90%

□ Settlement of shared risk

- Difference in interest rate = $5.90\% - 4.20\% = 170\text{bp}$
- Interest rate fluctuation value(γ)= $170\text{bp}-50\text{bp}= 120\text{bp}$
- Risk shared for each bracket
$$120\text{bp} : 50\text{bp}(\times 60\%) + 50\text{bp}(\times 70\%) + 20\text{bp}(\times 80\%) \Rightarrow 81\text{bp}$$
- Settlement should be made by adding the shared risk to the IRR (treasury bond+ α) for the current period

[Attached Table 4] Calculating Termination Payment (concerning Article 37 (2) and (3), Article 168) <Amended on July 17, 2017, February 10, 2020>

1. Calculating Termination Payment

Calculating Termination Payment		
BTO		
<ul style="list-style-type: none"> · During the construction period, although the private investment already used should serve as the basis, the scope of compensation for opportunity costs shall differ based on the attributable reasons. · During the operation period, although the amortized amount of the private investment already used and the present value of the expected future returns should serve as the basis, payments shall differ based on the attributable reasons. 		
Category	Construction period	Operation period
Attributable to concessionaire	Private investments ^{1]}	The amortized balance using straight line method of the investments described left ^{4]}
Non-political force majeure	Private investments × (1+standard borrowing interest rate ^{2]} (A))	Weighted average ^{6]} of the present value of the expected future cash flows ^{5]} based on the performance and the amortized balance using straight line method as above
Political force majeure	Private investments × [1+(A+B)/2]	
Attributable to the government	Private investments × (1+nominal rate of return ^{3]} (B))	
<p>1] Deduct interest during construction from total private investment costs</p> <p>2] Add 2% of premium to the interest rate calculated by applying a weighted average to the average current yield of treasury bonds (maturing in five years) per year during the construction period according to the ratio of the accumulated amount of the private investments used as of the end of each year.</p> <p>3] Reflect the historical consumer price inflation rate during the construction period in the real project rate of return for the calculation.</p> <p>4] Although the private investments shall be the amortized balance using the straight line method prescribed in the implementation agreement, for amounts attributable to the concessionaire, if this amount exceeds the senior loan balance forecasted in concession agreement and used as subordinated payments (including accrued interest) or equity capital redemption, the amount in excess is excluded (clarify meaning) <Amended on May 10, 2013, April 27, 2016> * The amount attributable to inflation is not reflected from the date of completion to the date of termination</p> <p>5] The present value of the expected future cash flow based on actual performance at the time of termination discounted by the real rate of return, and differential application as prescribed in the concession agreement for each reason for termination</p> <p>6] [amortized balance×(1-percentage of remaining concession period)]+[present value of expected future returns×(percentage of remaining concession period)]</p> <p>7] If at the time of termination the concessionaire has cash equivalent assets owing to borrowed capital or other reasons, this amount shall be deducted from the termination payment</p> <p>8] During the operation period, the termination payment attributable to the-concessionaire will apply if the termination payment attributable to reasons other than those attributable to the concessionaire is smaller than the termination payment attributable to the concessionaire.</p> <ul style="list-style-type: none"> · Notwithstanding the above formula, where the projects for which constructions have already begun in government financed method are switched to Public-Private Partnerships, the public sector that have expertise in construction or operation and public pension funds have jointly invested at least 40% of equity capital may stipulate other methods of calculation in their concession agreement. 		

BTL

- During the construction period, although the private investment already made (private investments-construction interest) should serve as the basis, compensation for opportunity costs shall differ based on the attributable reasons.
- During the operation period, although the present value of the facility rental fee for the remaining period should serve as the basis, compensation is determined based on the attributable reasons

Category	Construction period	Operation period
Attributable to concessionaire	(Private investments at time of termination) - (paid-in capital used at time of termination)	(present value discounted by the rate of return ^{3J} applied when terminating of the facility rental fees for the remaining period) - (paid-in capital) = C
Non-political force majeure	[Private investments] × [1 + A ^{1J}]	C + (D-C)×1/3
Political force majeure	[Private investments] × [1+(A+B)/2]	C + (D-C)×2/3
Attributable to the government	[Private investments] × [1 + B ^{2J}]	Present value discounted by the rate of return ^{4J} applied when terminating of the facility rental fees for the remaining period = D

1J [Treasury yield] prescribed in the concession agreement

2J [Treasury yield+premium] prescribed in the concession agreement

3J ,4J [Treasury yield+premium] used to calculate facility rental fees at the time of termination

Hybrid model (BTO+ BTL)

- Termination payments for hybrid models are calculated by adding termination payments for both BTL and BTO.
- BTO termination payments are calculated in accordance with BTO methods, and BTL termination payments are calculated in accordance with BTL methods.

2. Special cases for calculating termination payments for BTO during the operation period (deleted December 23, 2010)

[Attached Table 5] Types of Infrastructure Credit Guarantee and Guarantee Rate (concerning Article 44) <Amended on May 12, 2014, May 7, 2019, March 24, 2021, April 13, 2023>

Types of infrastructure credit guarantee and guarantee rate			
Types of guarantee		Contents	Guarantee rate
Infrastructure credit guarantee		Guarantee of financing for the payment of principal and interest on infrastructure bonds issued pursuant to Article 58 of the Act	0.15~1.5% ¹
Infrastructure loan guarantee	Construction fund guarantee	Guarantee for funds required during the construction period (not including guarantees for BTL)	0.1~1.5% ¹
		Guarantee for funds required during the construction period of BTL projects	0.05~1.5% ¹
	Operation fund guarantee	Guarantee for funds required during the operation period	0.15~1.5% ¹
	Financial support guarantee	Guarantee for temporary financing before acquiring financial support from the competent authority (not applicable where there are explicit payment commitments from the competent authority)	0.2%
		Guarantee for temporary financing before acquiring financial support from the competent authority, where there are explicit payment commitments from the competent authority	0.1%
	Refinancing guarantee	Guarantee for refinancing	0.1~1.5% ¹
	Bridge financing guarantee	Guarantee for temporary financing before acquiring financial support required during the construction period from the competent authority (not including guarantee for pre-financing site acquisition costs)	0.15~1.5% ¹
		Guarantee for temporary financing for pre-financing site acquisition costs before acquiring financial support from the competent authority	0.1%
ABS guarantee		Guarantee of financing for the payment of principal and interest on infrastructure ABS(Asset Backed Securities) issued by SPCs pursuant to Article 58 of the Act	0.15~0.2% ¹
Private pre-financing loan guarantee		Guarantee for private pre-financing project funds ²	0.2% ³
<p>note) 1. Differentiated application of the guarantee rate depending on the project risk, corporate credit rating, purpose of funds</p> <p>2. Those whom the Minister of Economy and Finance recognizes the need for among those who exceed construction for government contracts</p> <p>3. Provided, however, that 0.1%p is deducted for an industry-based securitization companies' guarantee to support New Deal PPP projects (PPP projects that have been finally confirmed by the New Deal Infrastructure Deliberation Committee)</p>			

[Attached Table 6] Standards for managing profits from Supplementary and Ancillary Project (Article 62-2 (8)) <Amended on July 17, 2017, February 10, 2020>

Standards for Managing profits from Supplementary and Ancillary Project			
Category		Ancillary Project	Supplementary Project
Facilities and operation		<ul style="list-style-type: none"> Use infrastructure facility(main facility + ancillary facility) Concessionaire responsible for operation 	<ul style="list-style-type: none"> Use other facilities Concessionaire responsible for operation
Managing profits in concession agreement	BTO and Hybrid model	<ul style="list-style-type: none"> Appropriate the estimated net income (operating income-operating expense) before taxes in the concession agreement Use to reduce usage fee, financial support, etc. 	<ul style="list-style-type: none"> Appropriate the amount corresponding to the competent authority's share out of the net income (income-expense) before taxes every year generated from supplementary project in the concession agreement Use to reduce usage fee, financial support, etc.
	BTL	<ul style="list-style-type: none"> Appropriate the estimated net income (operating income-operating expense) before taxes in the agreement Net income deducted beforehand from government payments 	<ul style="list-style-type: none"> Convert the amount corresponding to the competent authority's share out of the net income estimate (operating income-facility expense-operating expense) to present value When calculating the government payments, deduct beforehand the entirety of the present value of the amount corresponding to the competent authority's share from total private investments

[Attached Table 6-1] Facilities subject to mandatory consideration for PPP (concerning Article 64 (1)) <Newly Inserted on April 20, 2015, Amended on July 17, 2017>

- Infrastructure prescribed in subparagraph 1 of Article 2 of the Act on Public-Private Partnerships in Infrastructure that falls under the following, or other facilities that can collect fees from users in order to get return on investments

<Types of facilities that require mandatory consideration for PPP >	
Sector	Infrastructure Facility
Roads	Toll roads, toll tunnels, toll bridges, off-street parking areas
Railroads	Railroads, urban railways, railway facilities
Ports and airports	Port facilities, airport facilities
Water resource	Waterworks and gray water systems
Environment	Sewerage, public sewage treatment plants, waste treatment plants, treated sewage and wastewater reuse facility, waste treatment facilities, final sewage treatment facilities, recycling facilities

[Attached Table 7] Criteria for Establishing Usage Fee Limits (concerning Article 69 (5))

<Amended on May 10, 2013>

Criteria for establishing usage fee limits (example)

<Roads>

- Present at not more than twice the toll of government-finance projects on the premise of 30/100 of construction grants
- Exceptions allowed for special bridges

<Railroads>

- (Urban railroads) Present at not more than 1.8 times the urban railway fee (line No.1) on the premise of 50/100 of construction grants
- (Metropolitan railroads) Present at not more than 2.0 times the urban railway fee (line No.1) on the premise of 50/100 of construction grants
- Exceptions allowed if differentiated services such as high scheduled speed* are offered

* Average speed taking into consideration stoppage time

[Attached Table 8] Payment Method of Central Government Subsidies for Integrated Projects (concerning Article 109 (3)) <Amended on May 10, 2013>

Payment method of central government subsidies for integrated projects

□ Scope of Application

Where a local government implements a BTL project as a bundle project by integrating two or more facilities, among eligible facilities specified in the Act on Public-Private Partnership in Infrastructure as entitled to central government subsidies and where a local government implements a school complex project

□ Calculation of Central Government Subsidies <Amended on May 10, 2013>

- The total investment cost of integrated facilities shall be divided by a reasonable ratio (for example, the ratio of area occupied by a facility in a building) to determine the total investment cost of the facility.
 - The required subsidies shall be calculated by applying the central government subsidization rate plus 10%p (20%p for school complex facilities) to the total investment cost of each facility.
 - As to a project with fixed-rate subsidies, the subsidization rate calculated by adding 10%p (20%p for school complex facilities) to the current central government subsidization rate shall be applied.
 - As to a project with a fixed amount of subsidy, 10%p (20%p for school complex facilities) of the total investment cost of each facility shall be added to the current fixed amount of subsidy.
- * Total investment cost = total private investment cost + construction subsidy

<Examples of calculation of central government subsidies>

(Example 1) Integrated facility project (total investment cost KRW 30 billion) = art center (KRW 20 billion) + welfare center (KRW 10 billion)

→ Art center: fixed amount subsidy KRW 2 billion + increase KRW 2 billion (200×10%) = KRW 4 billion

→ Welfare center: KRW 10 billion × subsidization rate 60% (ordinary 50% + increase 10%) = KRW 6 billion

(Example 2) School complex project (total investment cost KRW 5 billion) = gym (KRW 4 billion) + welfare center (KRW 1 billion)

→ Gym: KRW 4 billion × subsidization rate 50% (base 30% + increase 20%) = KRW 2 billion

→ Welfare center: KRW 1 billion × subsidization rate 70% (ordinary 50% + increase 20%) = KRW 0.7 billion

* If a fixed amount subsidy project worth KRW 10 billion is constructed as a school complex project: fixed amount subsidy KRW 1 billion + increase KRW 2 billion (200×20%) = KRW 3 billion

[Attached Table 9] Exemption from Charges and Taxes (concerning Article 154) <Amended on July 17, 2017; July 18, 2022>

Exemption from Charges and Taxes		
<p>The central and local governments may reduce contribution and taxes as follows in accordance with Article 56 and 57 of the Act and the Farmland Act, Mountainous Districts Management Act, Restriction of Special Taxation Act, Local Tax Act, Corporate Tax Act, and other relevant legislations.</p>		
Relevant Regulations	Details about Reduction	Note
<p>Article 52 of the Enforcement Decree of the Farmland Act</p> <p>Article 23 (1) of the Enforcement Decree of the Mountainous Districts Management Act</p>	<p>Fees for preserving farmland and creating alternative forest resources for certain facilities established for PPP projects may be fully exempt or reduced by 50/100 for each facility</p>	-
<p>Article 29 of the Act on Restriction of Special Taxation</p>	<p>The concessionaire shall be permitted to issue infrastructure bonds for PPP projects, and a separate tax rate of 14/100 shall apply to interest income from bonds for at least 7 years</p>	<p>Applies until December 31, 2014</p>
<p>Article 105 (1) 3-2 of the Act on Restriction of Special Taxation</p>	<p>Zero tax rate applies for VAT for infrastructure or construction services provided to central or local governments in accordance with subparagraphs 1 to 3 of Article 4 of the Act by concessionaires pursuant to subparagraph 8 of Article 2 of the Act for the purpose of carrying out projects subject to VAT</p>	<p>Applies until December 31, 2023</p>
<p>Article 105 (1) 3 of the Act on Restriction of Special Taxation</p>	<p>Zero tax rate applies for VAT for railroad construction services provided to concessionaires in accordance to subparagraph 8 of Article 2 of the Act</p>	<p>Applies until December 31, 2023</p>
<p>Article 106 (1) 7-2 of the Act on Restriction of Special Taxation</p>	<p>VAT exemption applies for infrastructure or infrastructure construction services supplied by concessionaires under Subparagraph 8 of Article 2 of the Act for the implementation of VAT-exempted projects.</p>	-
<p>Article 121-2 (1) 3 of the Act on Restriction of Special Taxation,</p> <p>Article 116-2 (3) 3e Enforcement Decree of the Act on Restriction of Special Taxation</p>	<p>Corporate tax, income tax, acquisition tax, and property tax each reduced for PPP projects (projects that build facilities that fall under subparagraph 3 of Article 2 of the Act on Public-Private Partnerships in Infrastructure in accordance with provisions of subparagraph 5 of Article 2 of the same Act) newly established with more than USD 10 million in foreign investments in foreign investment regions</p>	-

<p>Article 35 (1) of the Corporate Tax Act</p> <p>.</p> <p>Article 63 (1) 3 and 63 (2) of the Enforcement Decree of the Corporate Tax Act</p>	<p>Recognize taxable deductions for indemnity bond amortization allowances on infrastructure credit guarantee funds under the Act on Public-Private Partnerships in Infrastructure</p>	<p>-</p>
<p>Article 36 (1) of the Corporate Tax Act</p> <p>.</p> <p>Article 64 (6) 3 of the Enforcement Decree of the Corporate Tax Act</p>	<p>Where a Korean company receives grants and other assets for PPP projects and used the assets to acquire or improve business assets, the corresponding amount is tax deductible when calculating the business income for the current business year</p>	<p>-</p>
<p>Article 55-2 (2) 3 and 55-2 (2) 4 (c) of the Corporate Tax Act</p> <p>Article 92-8 (1) 3 of the Enforcement Decree of the Corporate Tax Act</p>	<p>Exempt from corporate capital gains tax and additional taxes levied on land developed for PPP projects</p>	<p>-</p>
<p>Article 13 (2) of the Local Tax Act</p> <p>.</p> <p>Article 26 (1) 1 of the Enforcement Decree of the Local Tax Act</p>	<p>Exemption from heavy acquisition taxes recognized for properties acquired in overpopulated constraint districts for infrastructure projects (including ancillary projects) in accordance with the Act on Public-Private Partnerships in Infrastructure</p>	<p>-</p>
<p>Article 9 (2) of the Local Tax Act</p>	<p>Exemption from acquisition tax on properties acquired under the condition of attribution or donation to the central or local governments (in accordance with subparagraph 3 of Article 4 of the Act on Public-Private Partnerships in Infrastructure) and infrastructure as prescribed in the subparagraph 1 of Article 2 of the Act on Public-Private Partnerships in Infrastructure</p>	<p>Applies until December 31, 2020</p>

[Attached Table 10] Relaxation of Finance-Related Regulation, etc. (concerning Article 155)
 <Amended on July 17, 2017; July 18, 2022>

Relaxation of Finance-Related Regulation, etc.		
<p>The central and local governments or relevant supervisory agencies may recognize exceptions to applications of financial regulations in accordance with the Monopoly Regulation and Fair Trade Act, Insurance Business Act, Financial Investment Services and Capital Markets Act, Banking Act, Act on the Structural Improvement of the Financial Industry, and Financial Holding Companies Act.</p>		
Relevant regulations	Details about reduction	Note
<p>Article 2 of the Monopoly Regulation and Fair Trade Act</p> <p>.</p> <p>Article 5 (2) 1 of the Enforcement Decree of the Monopoly Regulation and Fair Trade Act</p>	<p>Public-Private Partnership enterprises invested in by the central and local governments, public enterprises, public corporations and entities established under special legislations in accordance with Article 5 of the Act on the Management of Public Institutions by at least 20/100 and with no mutual investments with other companies and no debt guarantees from those other than the investors may be excluded from the scope of enterprise group controlled by the same person</p>	-
<p>Article 2 of the Monopoly Regulation and Fair Trade Act</p> <p>.</p> <p>Article 5 (2) 2 of the Enforcement Decree of the Monopoly Regulation and Fair Trade Act</p>	<p>Companies that organize PPP projects for infrastructure in accordance with subparagraphs 1 through 4 of Article 4 of the Act on Public-Private Partnerships in Infrastructure with two or more investors deemed to have no dominant influence shall be excluded from the scope of the enterprise group controlled by the same person</p>	-
<p>Article 24 (1) of the Monopoly Regulation and Fair Trade Act</p> <p>.</p> <p>Article 31 (2) 7 of the Enforcement Decree of the Monopoly Regulation and Fair Trade Act</p>	<p>Where an investment has been made to an affiliate that operates PPP projects in a manner prescribed in subparagraphs 1 through 4 of Article 4 of the Act on Public-Private Partnerships in Infrastructure, Korean financial institutions' guarantee for loans to such affiliates shall be permitted</p>	-

Article 115 (3) of the Insurance Business Act and Article 59 (4) 3 of the Enforcement Decree of the same Act	Where an insurance company owns a company that initiates infrastructure projects or finances infrastructure projects in accordance with the Act on Public-Private Partnerships in Infrastructure, a report may be filed with the Financial Services Commission	-
Article 362 (8) 8 of the Enforcement Decree of the Financial Investment Services and Capital Markets Act	Infrastructure bonds guaranteed by infrastructure credit guarantee funds shall be recognized as guaranteed bonds under Article 362 of the Enforcement Decree of the Financial Investment Services and Capital Markets Act	-
<u>Article 20-5 (1) 3</u> of the Enforcement Decree of the Banking Act	Where recognized by the Financial Services Commission for building infrastructure, loans from financial institutions may exceed 25/100 of its equity capital	-
Article 6 (1) of the Enforcement Decree of the Act on the Structural Improvement of the Financial Industry Article 49 of the Regulation on Supervision of Banking Projects	Where a financial institution invests in PPP projects (limited to companies prescribed in Article 51-2 (1) 9 of the Corporate Tax Act), the investment limit regulation is eased	-
Article 2 (3) 4 of the Enforcement Decree of the Financial Holding Companies Act	Permits a holding company to own Public-Private Partnerships concessionaires (limited to companies prescribed in Article 51-2 (1) 9 of the Corporate Tax Act) as second-tier subsidiaries	-
Financial Supervisory Service guidelines	Risk weight of up to 0/100 may be applied to loan assets from financial institutions for PPP projects, risk weight applied based on the standard method on investments for BTL concessionaires	Regarding risk weight applications on infrastructure loans, etc. (February 13, 2009)

Confirmation letter for pre-financing

The competent authority and the concessionaire have concluded a concession agreement to implement the PPP projects (hereinafter “the Project”) [*] regarding [*].[*].[*].

The competent authority hereby confirms and agrees that the concessionaire will pre-finance the expenses related to the expropriation and usage of land for the purpose of the Project, including land purchase, compensation for losses, and relocation plans (hereinafter “pre-financing”, the loan commitment or infrastructure credit issuance contract for pre-financing shall be hereinafter called “loan commitments, etc.”, and the financial institution with whom the loan commitment is concluded with or the underwriter of infrastructure bonds shall be hereinafter called “financial institutions, etc.”) to be compensated by the competent authority by taking out a loan from financial institutions or issuing infrastructure bonds, and agrees make payments to the concessionaire for to compensate for the principal and procurement costs for the concessionaire’s pre-financing acquired through loan commitments, etc.

- 1) Project overview
- 2) Terms and conditions for the competent authority
 - a Principal of pre-financing
 - b Financial institutions, etc. providing the funds for pre-financing
 - c Procurement costs including interest expense and infrastructure credit guarantees
 - d Maturity of pre-financed principal and procurement costs (expected date)
- 3) Other terms and conditions
 - a The competent authority shall not fully nor partially indemnify or alter their obligation to compensate for the pre-financed principal and procurement costs on the grounds that the project terms and conditions have changed, and shall not deduct and pay for any debentures to compensate for the principal and procurement costs of the concessionaire to be compensated by the competent authority.
 - b If the Project is terminated or suspended for any reason before the concessionaire’s pre-financing is compensated for by the competent authority

or the concessionaire defaults on their loan commitment etc. for the pre-financing for more than six months owing to reasons attributable to the competent authority, the competent authority shall reimburse the concessionaire for their debt owed to the financial institutions, etc.

c The concessionaire may use their rights prescribed in this confirmation letter to financial institutions, etc. in order to secure the amount needed for pre-financing, and the competent authority shall cooperate by providing the necessary documents such as the written consent in accordance with the attached form.

d Depending on the circumstances, the competent authority may make payments for the principal and procurement costs for pre-financing project implementation earlier than the maturity date of the loan commitment etc. concluded for the pre-financing.

e This confirmation letter is signed for financing, but after this confirmation is concluded, the competent authority shall be responsible for land compensation in accordance with the concession agreement, and despite the pre-financing loan commitment signed by the concessionaire, the actual compensation and commitment in accordance with the loan commitment for pre-financing will be carried out by an organization entrusted with compensation by the compensation authority on behalf of the concessionaire.

f If the competent authority fails to make payments to the concessionaire for the pre-financed principal and procurement costs by the maturity date, the competent authority shall pay the concessionaire by multiplying the unpaid amount by the following late payment interest rate.

- Overdue for less than one month: interest rate prescribed by the pre-financing loan commitment + 3%
- One month to less than three months: interest rate prescribed by the pre-financing loan commitment + 5%
- Three months or more: interest rate prescribed by the pre-financing loan commitment + 7%

g If the competent authority fails to make payments to the concessionaire for the pre-financed principal and procurement costs by the maturity date and the infrastructure credit guarantee fund claims the guaranteed obligation, the competent authority shall pay the concessionaire for the guarantee obligation enforced by the infrastructure credit fund and other damages prescribed by the loan guarantee commitment signed between the concessionaire and the infrastructure credit guarantee fund.

h The concessionaire may use their rights prescribed in this confirmation letter to financial institutions, etc. in order to secure the amount needed for pre-financing, and the competent authority hereby consents to the provision of such

shall cooperate by providing the necessary documents such as the written consent in accordance with the attached form.

i Other matters not prescribed in this confirmation letter shall be governed by the infrastructure project master plan.

[Date of Enforcement] / [Signature or Sign and Seal]

[Attached Table 11] Designation of Identification Numbers for Each Project Unit (concerning Article 164) <Amended on July 17, 2017, March 24, 2021>

Designation of Identification Numbers for Each Project Unit

- Designation format: a project year – a project type - a project model – a project agent - a competent department – a competent authority – a facility type - a serial number
- Project year
 - BTO, etc.: Based on the year of notification (for unsolicited projects, the year of a request for alternative proposals)
 - BTL, etc.: Based on the year of notification
- Project type
 - Solicited: 1
 - Unsolicited: 2
- Project model
 - BTO : 1
 - BTL : 2
 - BOT : 3
 - BOO : 4
 - Others: 9
- Project agent
 - State: 1
 - Local government: 2
 - Others: 3
- A competent department: Serial number designated in accordance with the jurisdiction code table provided by the budget allocation guidelines (attachment 1)
- A competent authority: Serial number designated for each organization (Attachment 1)
 - Central administrative agencies (use code numbers for relevant departments) and metropolitan municipalities, city and provincial offices of education
 - Local governments, local offices of education
- A facility type: Code numbers designated for 49 facility types prescribed by the Act on Public-Private Partnerships in Infrastructure (Attachment 2)
- A serial number: Batch designation by the Ministry of Strategy and Finance regardless of BTO, BTL, etc.
 - Serial numbers designated without distinguishing between existing projects and new projects (e.g. 01-560)

[Attached Table 12] Status of Professional Organization Designation (concerning Article 2) <Newly Inserted on march 29, 2018, Amended on July 4, 2019, May 20, 2024>

Status of professional organization designation		
Category	Competent authority	Professional organization
Public institution (9)	Ministry of Land, Infrastructure, and Transport	Korea Research Institute for Human Settlements
	Ministry of Environment	Sudokwon Landfill Site Management Corporation
	Ministry of Land, Infrastructure, and Transport	Korea National Railway
	Ministry of Education/Ministry of Employment and Labor	Korean Educational Development Institute
	Ministry of Land, Infrastructure, and Transport	The Korea Transport Institute
	Ministry of Culture, Sports and Tourism	Korea Culture and Tourism Institute
	Ministry of Health and Welfare	Korea Health Industry Development Institute
	Ministry of Environment	Korea Environment Corporation
	Ministry of Oceans and Fisheries	Korea Maritime Institute
Local research institutes (6)	Gyeonggi-do	Gyeonggi Research Institute (Public Investment Management Center)
	Gyeongsangnam-do	Gyeongnam Development Institute (Public Investment Development and Management Center)
	Busan Metropolitan City	Busan Development Institute (Busan Public Investment Management Center)
	Seoul	Seoul Institute (Seoul Public Investment Management Center)
	Ulsan Metropolitan City	Ulsan Development Institute (Ulsan Public Investment Center)
	Ministry of the Interior and Safety	Korea Research Institute for Local Administration

[Attached Table 13] Infrastructure Types (concerning subparagraph 1 of Article 38)
<Newly Inserted on June 4, 2020; March 24, 2021; July 18, 2022>

1. Roads and road appurtenance in accordance with subparagraphs 1 and 2 of Article 2 of the Road Act
2. Railroads in accordance with subparagraph 1 of Article 2 of the Railroad Service Act
3. Urban railroads in accordance with subparagraph 2 of Article 2 of the Urban Railroad Act
4. Harbor facilities in accordance with subparagraph 5 of Article 2 of the Harbor Act
5. Airport facilities in accordance with subparagraph 7 of Article 2 of the Airport Facilities Act
6. Multipurpose dams in accordance with subparagraph 2 of Article 2 of the Act on Construction of Dams and Assistance, etc. to their Environs
7. Waterworks in accordance with subparagraph 5 of Article 3 of the Water Supply and Waterworks Installation Act, and gray water works in accordance with subparagraph 4 of Article 2 of the Act on Promotion and Support of Water Reuse
8. Sewerage systems in subparagraph 3, public sewage treatment plants in subparagraph 9, and waste treatment plants in subparagraph 10 of Article 2 of the Sewerage Act, and treated sewage and wastewater reuse facilities in accordance with subparagraph 7 of Article 2 of the Act on Promotion and Support of Water Reuse
9. River facilities in accordance with subparagraph 3 of Article 2 of the River Act
10. Fishery harbor facilities in accordance with subparagraph 5 of Article 2 of the Fishing Villages and Fishery Harbors Act
11. Waste treatment facilities in accordance with subparagraph 8 of Article 2 of the Waste Controls Act
12. Telecommunications facilities and equipment in accordance with subparagraph 2 of Article 2 of Framework Act on Telecommunication
13. Electric power resource facilities in accordance with subparagraph 1 of Article 2 of the Electric Power Source Development Promotion Act
14. Gas supply facilities in accordance with subparagraph 5 of Article 2 of the Urban Gas Business Act
15. Integrated energy facilities in accordance with subparagraph 5 of Article 2 of the Integrated Energy Supply Act
16. Information and communications network in accordance with Article 2 (1) 1 of the Act on Promotion of Information And Communications Network Utilization and Information Protection, etc.
17. Logistics terminals and logistics complexes in accordance with subparagraphs 2 and 6 of Article 2 of the Act on The Development and Management of Logistics Facilities
18. Bus terminals in accordance with subparagraph 5 of Article 2 of the Passenger Transport Service Act
19. Tourist destinations and tourism complexes in accordance with subparagraphs 6 and 7 of Article 2 of the Tourism Promotion Act
20. Off-road parking lots in accordance with subparagraph 1 (b) of Article 2 of the Parking Lot Act
21. Urban parks in accordance with Subparagraph 3 (a) of Article 2 of the Act on Urban Parks, Green Areas, etc., and cableways in accordance with Subparagraph 5 of Article 2 of the Tramway Transportation Act among park facilities in accordance with Subparagraph 4 of Article 2 of the Act on Urban Parks, Green Areas, etc.

22. Wastewater pipeline in accordance with subparagraph 4-2 of Article 2, public wastewater treatment facilities in subparagraph 17 of the same Article, and buffer storage facilities in Article 21-4 (1) of the Water Environment Conservation Act
23. Public disposal facilities in accordance with subparagraph 9 of Article 2 of the Act on The Management and Use of Livestock Excreta
24. Recycling facilities in accordance with subparagraph 10 of Article 2 of the Act on the Promotion of Saving and Recycling of Resources
25. Specialized sports facilities in accordance with Article 5 and lifetime sports facilities in accordance with Article 6 of the Installation and Utilization of Sports Facilities Act
26. Youth training facilities in accordance with subparagraph 1 of Article 10 of the Youth Activity Promotion Act
27. Libraries in accordance with subparagraph 1 of Article 2 of the Libraries Act
28. Museums and art galleries in accordance with subparagraphs 1 and 2 of Article 2 of the Museum and Art Gallery Support Act
29. International conference facilities in accordance with subparagraph 3 of Article 2 of the International Conference Industry Promotion Act
30. Intermodal transfer centers and intermodal transfer center in accordance with subparagraph 15 and 16 of Article 2 of the National Transport System Efficiency Act
31. Spatial data systems in accordance with subparagraph 3 of Article 2 of the Framework Act on National Spatial Data Infrastructure
32. Hyper speed networks in accordance with subparagraph 13 of Article 3 of the Framework Act on National Informatization
33. Science museums in accordance with subparagraph 1 of Article 2 of the Act on Establishment, Operation and Promotion of Science Museums
34. Railroads in accordance with subparagraph 2 of Article 3 of the Railroad Service Act
35. Kindergartens and schools in accordance with subparagraph 2 of Article 2 of the Early Childhood Education Act, Article 2 of the Elementary and Secondary Education Act, and subparagraphs 1 through 5 of Article 2 of the Higher Education Act
36. National defense and military installations necessary for military operations, combat readiness, education and training, barrack life and other facilities attached to a military camp and necessary for the residence, welfare, physical training or recreation in accordance with paragraphs 1 (1) and (7) of Article 2 of Act on National Defense and Military Installations Projects
37. Public housing in accordance with subparagraph 1 (a) of Article 2 of the Special Act on Public Housing
38. Child care centers in accordance with subparagraph 3 of Article 2 of the Child Care Act
39. Residential welfare institutions for senior citizens, medical and welfare institutions for senior citizens, and commuting-system welfare facilities for senior citizens in accordance with Articles 32, 34 and 38 of the Welfare of Senior Citizens Act
40. Public health and medical institutions in accordance with subparagraph 3 of Article 2 of the Public Health and Mental Services Act
41. Facilities that fall under new port construction projects in accordance with subparagraphs 2 (b) and (c) of Article 2 of the New Port Construction Promotion Act
42. Cultural facilities in accordance with Article 2 (1) 3 of the Culture and Arts Promotion Act

43. Natural recreation forest in accordance with subparagraph 2 of Article 2 of the Forestry Culture and Recreation Act
44. Arboretums in accordance with subparagraph 1 of Article 2 of the Act on the Creation and Furtherance of Arboretums and Gardens
45. Smart city infrastructure in accordance with subparagraph 3 of Article 2 of the Act on the Promotion of Smart City Development and Industry
46. Welfare facilities with persons with disabilities in accordance with Article 58 of the Act on Welfare of Persons with Disabilities
47. New energy and renewable energy facilities in accordance with subparagraph 3 of Article 2 of the Act on the Promotion of the Development, Use and Diffusion of New and Renewable Energy
48. Facilities for bicycle riding in accordance with subparagraph 2 of Article 2 of the Promotion of the Use of Bicycles Act
49. Industrial cluster infrastructure for bicycle riding in accordance with subparagraph 9 of Article 2 of the Industrial Cluster Development and Factory Establishment Act
50. Public office buildings that belong to central administrative agencies in accordance with subparagraph 6 (d) of Article 2 of the Promotion of the National Land Planning and Utilization Act
51. Crematorial facilities in accordance with subparagraph 8 of Article 2 of the Promotion of the Act on Funeral Services, etc.
52. Child welfare facilities in accordance with subparagraph 10 of Article 3 of the Child Welfare Act
53. Public taxi garage in accordance with subparagraph 5 of Article 2 of the Act on the Development of Taxi Transportation Business
54. Agricultural and fishery products wholesale market in accordance with subparagraph 2 of Article 2 of the Act on Distribution and Price Stabilization of Agricultural and Fishery Products

[Attached Table 14] Adjustment of operation costs for the payment of minimum wage in BTL projects (example) (concerning Article 19 (5)) <Newly inserted on March 24, 2021>

Designation of Identification Numbers for Each Project Unit

□ (Purpose) BTL projects reflect annual increases in the consumer price on the constant labor costs calculated at the time of the conclusion of the initial agreement; hence, the contract unit cost falls short of the minimum wage over time. This is to address the issue.

1. The concessionaire requests adjustments of the operation cost.
2. Current labor cost (A) subject to the minimum wage is calculated.

$$A = a \times b \times c$$

- a = Total labor cost in the current operation cost to be paid in the year.
- b = Proportion of the total labor cost of workers subject to the minimum wage in the total labor cost.

*Calculated based on the constant operation cost.

- c = Proportion of the labor cost subject to the minimum cost in the total labor cost of workers subject to the minimum wage.

*Calculated based on the constant operation cost.

*Pursuant to the contract regulations, the labor cost subject to the minimum wage includes the reference price of the labor cost (base payment, allowances, bonuses, retirement allowance) and statutory costs and is calculated based on the contract unit cost in the concession agreement. Where it is unviable to apply the contract unit cost in the concession agreement, it shall be determined by mutual agreement based on the current cost paid by the competent authority.

3. Changes in the concession agreement if needed

Article 43 (Changes in Operation Cost)

5. For service by simple labor as provided in Article 23-3 of the Enforcement Rules of the Act on Contracts to Which the State Is a Party, if the amount of the minimum wage under the Minimum Wage Act has been changed, resulting in the contract unit cost falling short of the minimum wage.

② If intending to make an adjustment outside the extent of the operation cost adjustment under Paragraph 1, such an adjustment shall be made by an amendment to this agreement.

③ The concessionaire shall pay the workers providing the corresponding service the operation cost paid under the amendment to the operation cost in Article 43 (5) through changes in the working conditions, etc. It shall accede to requests from the competent authority and/or its entrusted party for the submission of documentation to verify such a payment.

[Attached Table 15] Evaluation criteria for the appropriateness of eligible facilities subject to public-private partnerships <newly established on April 13, 2023>

< Evaluation criteria for the appropriateness of eligible facilities subject to public-private partnerships >
1. Legal conformity
<ul style="list-style-type: none"> ❶ Statutory provisions that require, directly or indirectly, the state and/or local governments to install and/or operate the facility ❷ Subparagraphs of Article 2, Paragraph 1 of the Act on Public-Private Partnership in Infrastructure ❸ A facility under any of Subparagraphs of Article 2, Paragraph 2 of the Act on Public-Private Partnership in Infrastructure that is free from significant harm to public interest
2. Enhancement of public interest
<ul style="list-style-type: none"> ❹ Necessary for operations of the state and/or a local government, if a public facility - Provided, review for whether supplementary considerations for a plan to open the facility to the general public during idle times ❺ Guarantee of free access of citizens to provide benefits for citizens' lives, if a public facility
3. Appropriateness of project operations
<ul style="list-style-type: none"> ❻ Excessively short life span ❼ Excessively small project scale ❽ Pre-confirmation of project conditions, e.g., project costs, operation costs, profitability, and usage fees ❾ (If subject to contributed acceptance as a prerequisite) Whether the facility can be vested as an administrative property
4. Potential to make use of the creativity and efficiency of the private sector
<ul style="list-style-type: none"> ❿ Considerations for potential to make use of the creativity and efficiency of the private sector in each stage of the project in comparison to other project operation methods (public procurement, private sector commissioning, etc.)