



REPUBLIC OF ALBANIA
MINISTRY OF INFRASTRUCTURE AND ENERGY
CONCESSION COMMITTEE/PUBLIC-PRIVATE PARTNERSHIP

Protocol No. _____

Tirana, on ____ . ____ .2020

CLARIFICATIONS ON COMPETITION DOCUMENTS

The Contracting Authority, i.e. the Ministry of Infrastructure and Energy, following the request with subject “Grant of Concession/PPP on Vlora Airport design, construction, operation, maintenance and transfer” with Reference No. REF-46571-12-19-2019, published on the Electronic Procurement System, submitted by several economic operators requesting thereby clarifications in relation to concession procedure/public-private partnership documents, provides herein, pursuant to Law No. 125/2013 “On Concessions and Public-Private Partnership” as amended, Law No. 9643, dated 20.11.2006 “On Public Procurement” as amended, the relevant clarifications to economic operators in relation to their requirements without identifying the source of request and forwards them to all other interested economic operators.

The Ministry of Infrastructure and Energy encourages all interested national and international economic operators to submit any request for clarification in relation to the technical aspects of the concession procedure falling under its scope of competency, including those not related to the overall legal framework and/or cases that are clearly and unequivocally mirrored in the concession documents.

QUESTION

During the detailed review process, we identified certain issues related to the ownership of lands in the area in question, which have been object of lawsuits currently in process, filed against immovable property registration office employees during this time.

We found that:

There are uncertainties as regards the owner of the land referred to by the state in the existing airport blueprint. There are also uncertainties regarding lands situated beyond the airport blueprint, which may be directly affected by future airport expansion. Albania is a member state of the European Council and the European Court of Human Rights, which have issued a series of decisions in favor of land owners, particularly in favor of those whose properties were seized during the previous regime. Those decisions have executive power and Albania is required to enforce them. Potential lawsuits concerning this issue may require a long time and pose high risk for the investment of the Concessionaire with regards to project funding and continuity.

We hereby would like to ask you two questions.

1. How does the Government of Albania intend to mitigate said risk and ensure us, the investors, that there will be no issues as regards expropriations, lawsuits, conflict resolution, etc., related to this project?
2. If lawsuits brought to court are settled in favor of land owners, how does the Government of Albania intend to address the investment made by the Concessionaire until then? These possibilities pose a high risk for us, since court procedures may require up to 10, 15 or even 25 years to be finalized.

ANSWER

The land is owned by the state, as approved by Decision of the Council of Ministers No. 813, dated 16.12.2019, “On transferring the administration responsibility from the Ministry of Defence to MoIE for Property No. 914, named “Aerodrom Fushor”, located in Vlora, and amending DCM No. 515, dated 18.7.2003, “On approving the inventory of state immovable properties transferred under the administrative responsibility of the Ministry of Defense”, as amended, and as such no expropriation may apply.

The Contracting Authority hereby clarifies that improvements to the existing Master Plan on the construction blueprint proposed in accordance with the above-mentioned Decision of the Council of Ministers, a blueprint also reflected in the map published in the “*Survey Plan*” document on the Electronic Procurement System, will be accepted at all times.

All explanations herein are based on Law No. 125/2013 “On Concessions and Public Private Partnership”, as amended, its bylaws and the Competitive Procedure Documents.

CONCESSION GRANTING COMMITTEE/ PUBLIC-PRIVATE PARTNERSHIP