

Hungarian audit experiences related to projects implemented with the co-operation of the private sector

**Gusztáv Báger director general– Zsigmond Bihary
director general**

Working Group on the Audit of Privatisation

September 12-14, 2005 Brasília

Main subjects:

PPP in Hungary

- State demand – private sector demand
- Legal framework
- Government's role
- Main implementing areas

Specific questions of audit of the PPP

- Audit mandate – objectives – sphere - scope
- Audit types – audit procedures

Some audit experiences

PPP in Hungary

New category (for two years) in administration Model: English, EU directive

State demand:

- Demand for effective state services
- Maastricht criteria for budget deficit and state debt
- Need for alternative financing possibilities: EU funds, private capital – PPP
- Spreading over time the burden of budget
- Different state duties (management of partnership, monitoring)

Private sector demand: profit, stable business

Legal framework

- **Act in the Public Finances:** declares the rules of the approval of the state long term engagements project
- **Code Civil:** regulates the state liability under a contract
- **Government Decree:** contains the obligatory elements of the projects and rules of the documentations of the engagements
- **Act on the concession:** in case of exclusive state/local government property public procurement procedure shall be apply
- **Act on Public Procurement:** 2004 amendment of the Act ensures the of administration of the complex PPP structures (common tendering of the constructing + 20-30 years service)

Government's role

- Expressing intention subsidization

Gov. Decree on the usage of the new forms of the public and private sector development and service partnership

- PPP Inter-departmental Committee

(Ministry of Economy and Transport, Ministry of Finance, Ministry of Justice, Office of the Prime Minister, Central Statistical Office)

- PPP Secretariat in the Ministry of Economy and Transport
- Starting Pilot projects

Tasks of PPP Inter-departmental Committee

- Coordination of the necessary amendment of the regulation
- Expressing opinion on PPP project before decision of Government
- Following and evaluating of project realization
- Coordinating Government communication considering PPP

The main areas of implementation of PPP in Hungary

- road infrastructure
- stadiums, sports facilities
- educational, cultural investments: *schools, dormitories, museums*
- prisons, investments connected to reformatories

Specific questions of audit of the PPP

Determination of audit task:

- Audit authorization – objective, sphere, scope
- Statutory or optional audit tasks

The main question of audit is whether „value for money” and the best utilisation of resources are realised in PPP.

- Key words of audit: economy, efficiency, effectiveness, regularity
- Are the financial stability and the operation of the company in order
- Are there any hidden risks?
- During audit attention must be paid whether boarder objectives of public sector have been achieved.

Audit types

Financial audit:

Regularity of accounts and records

Performance audit: (four pillars)

- clear project objectives?
- competitive procurement?
- best deal chosen?
- maintenance of deal still reasonable

Comprehensive audit:

Audit of public procurement and the evaluation of internal control system

Some experiences of PPP audits

- M5 motorway construction
 - Risk diversification did not work
- Construction of Budapest Sports Hall
 - Risk belonged to the state because of the state guarantee
- Construction of new National Theatre
 - It was also state take-over

M5 motorway construction

Background – I. stage of construction

- great demand on M5 in early 1990s
- contract in 1995 contained state guarantee for income from usage of motorway
- too high toll – less traffic than expected – high compensation demand from private partner
- negotiation about further construction and contract modification stuck between 1998-2002

bad contract, all risks belonged to the state and no step-out right

Solution – II. stage of construction

- government decided to buy 40% of the company and give the right for further construction
- this contract shares the risks between the public and the private partner
- real partnership between the contracting parties

Real PPP but higher cost by I. stage heritage

Main findings of the audit of Construction of Budapest Sports Hall

State interest was not protected sufficiently

Contracting: fix contractual prices without detailed budget did not incite cost-efficient use of private capital

Financing (risk diversification): low private capital application, bank credit with full scope state guarantee

Following technical details and deadlines: investor, main contractor and operator is the entrepreneur in one person; this hindered the enforcement of the state demand

Recommendations of State Audit Office

Government shall ensure the economical usage of public money with preparation of regulation and the determination of decision making rights considering state burdens especially with

- Specification of contractual prices and technical details of investments
- Identification of directives for Ministries concerning the preparation of internal rules dealing with the abovementioned factors

Main statements of the audit of new National Theatre project

- No detailed study plan was prepared about the investement
- The design competition was properly conducted and evaluated but not the winner work was carried out
- In the course of obtaining the building permit the authorities did not require compliance with certain legal provisions
- According to the financial structure of the project the required resources were ensured by the main contractor from bank loan. State guarantee was a pre-condition of loan disbursement
- The part programs of investment was made under constant improvisation

Main statements of the audit of new National Theatre project (Cont.)

Operation:

- established by the state itself and is directly controlled by the Ministry of National Cultural Heritage
- The deed of foundation of the Company was incomplete
- The Company's organisational and operational regulations are out-of-date
- In the opinion of the management of the National Theatre Co. Ltd., the financing of the operation is ensured on the long term with 80% budgetary subsidy
- The value of the project a gross HUF 19,278.8 million the creation of the public park HUF 2,716.0 million

The recommendations of the SAO audit

To the Government

to revise the legal provisions concerning the preparation and implementation of state projects or projects implemented with state subsidy, their compliance with each other and the law and order of the EU, in order to clearly create uniform notions, as well as transparency and responsibility

The recommendations of the SAO audit (Cont.)

To the Minister of National Cultural Heritage, exercising shareholders' rights

- Have the expediency of the form of management of the National Theatre reviewed
- Have the set of terms of state subsidy to be provided for the operation of the National Theatre reviewed
- Make a decision regarding still unsettled disputes:
 - a) a final solution concerning the parking lot of the theatre;
 - b) utilisation of the open-air theatre

Thank you for your attention