

# ***PPP: the French experience***



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# A longstanding experience

- **XVI<sup>th</sup>-XVII<sup>th</sup> C.** Construction of River Canals
- **XIX<sup>th</sup> C.** Railways, Water, Electricity, Eiffel Tower,...
- **XX<sup>th</sup> C.** Motorways, Waste management, District Heating,...
- **Last decade:** Stadiums, Museums, Hospitals, Prisons, Courts,...

## More than 20.000 contracts currently in force with private operators

- **Water & Wastewater:** 12.000 contracts (2/3 of population served by private operators)
- **Motorways:** 75% of the 10.000 km network built as concessions

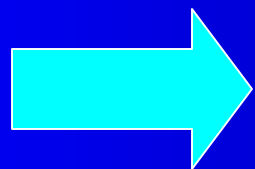
## Traditional PPPs in France (concessions) : a few figures

Sector	Size	% private
Water	11.4 G€	71%
Urban waste	5.7 G€	73%
District heating	0.9 G€	93%
Urban transport	8.6 G€	16%
Toll motorways	6.0 G€	~100%
Car parking	0.8 G€	59%

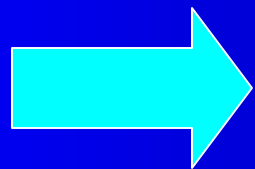
# PPPs in France: a need of rejuvenation

Public sector is no longer able to handle ever-increasing demands by citizens and users, quantitatively and qualitatively

Economic, budgetary and financial constraints limit the growth of resources available for the sustainable development of public assets (over last 25 years, share of investment declined from 10% to 7.5% of total public administrations budget)



Deterioration of infrastructures, delayed investments in health, education or transportation networks



Need to extend PPPs to services non financeable by end-users

## Partnership contracts: recent developments

- In 2003, specific sectoral legislation for justice, police, health, defence projects
- In June 2004, general legislation on “partnership contracts”
- In 2005, creation of the MoF PPP taskforce (MAPPP)
- +Dedicated procurement units (health, justice, defence)

# A comparative analysis

<b>Procurement contract/Public Tender</b>	<b>Partnership contracts</b>	<b>Concessions/BOT</b>
Short term One object	Long term Multiple object	Long term Multiple object
No financing Successive tenders Service provided to administration Payment by administration	Pre-financing Design/build/operate-maintain Service provided by administration Payment mostly by administration	Financing Design/build/operate-maintain Service provided to users Payment by users
Construction risk	Construction risk Performance risk	Construction risk Performance risk Demand/traffic risk

# A comprehensive legal framework

- A full range of contract types: O&M, Lease, DBFO, BOT, Concessions,...
- Updated in 2004 through Partnership Contracts / compliant with EU Public Procurement Directives (2004/17/EC and 2004/18/EC)
- Civil law system / administrative law

# What is a Partnership contract ?

A long term contract (typically 10 to 35+ years), whereby a public entity awards to a commercial firm the design, building, financing and operation / maintenance (DBFO) of a public asset.

Public payment is spread over the life of the contract and linked to performance objectives ; it provides for the coverage of operating costs, reimbursement of debt incurred to finance the equipment and for profit on equity linked to the risk-taking by the private partner.

# Prerequisites

- All public projects are not eligible to a partnership contract. There is a validation procedure consisting in:
  - legal requirement: based on urgency (=>restricted tender procedure) or complexity (=>competitive dialogue)
  - value for money test

# Latest developments

## State projects

Government initiative on pilot projects in October 2005 : 35 pilot projects to be tendered out in 2006/7 for a total initial Capex of 7 G€:

- ❖ 5 G€ for transport projects: 8 projects of which 3 rail, 4 road and 1 waterway projects
- ❖ 2 G€ for other projects: 27 projects of which 5 culture and leisure, 4 defence, 9 university and research centres, 7 police and justice and 2 health projects

# Latest developments

## Local authorities projects

More than 60 projects identified so far

Great diversity of projects : street lighting, traffic management system, public buildings, schools, stadiums, urban waste treatment plant, ADSL network, local roads, light train, congress centre, e-government platforms...

Small to medium size projects

Most Local Authorities ask for PPP taskforce expertise

# Lessons learnt

## Fulfilling prerequisites

### \*Legal conditions

In most of the cases, complexity is retained as eligibility criterion; an explanatory note is available online on our web site

### \*Value for money test

The comparison is usually limited to one alternative

There is no significant difference between PC and Public Procurement in terms of financial NPV; risk assessment and qualitative criteria make the difference

## competitive dialogue: first feed-back

- Study by Min Health (2006-7) on sample of 10 hospitals:
  - ✓ Functional program/Expression of needs not stabilised
  - ✓ Average duration :12 months, longer for bigger projects (up to 22 months )
  - ✓ But still shorter than for traditional Tenders (from ITT to signing/FC)
  - ✓ High level of competition:
    - 6 to 8 candidates for smaller projects (now 3 to 4)
    - 4 to 5 for bigger (now 5 to 6 with arrival of FM/RE developers)

# Bidding costs

- High costs for developing proposals by bidders (total expenses until selection of winner)
  - ✓ Average 1.2% of Capex (excl IDC)
  - ✓ Relevant parameters: size of project, nb of stages and length of procedure.
  - ✓ Cost of up to 1.8% for longer procedures or smaller projects
  - ✓ Both internal costs and external (technical assistance, engineering, lawyers, financial, & tax consultants, insurance auditors....)

## Bidding costs: mitigation steps?

- Need for indemnification to maintain current level of competition (at least for most external costs for those candidates reaching last stage of DC) and attract SMEs
- Public contracting authority to try and capitalize experience in case of repeat business
- PPP Task force to provide framework and guidance (but no standardized docs)
- On public side, respect governance and rules announced + no over-extending of procedure (Cf Charter for Comp Dialogue)

# CHARTER Principles

- **1. Conduct a traceable and transparent procedure respecting tenderers' equal treatment.**
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- **2. Ensure that steering and quick-decision capacities are well organised to enable responsible and fruitful dialogue without excessive delays.**
- **3. Specify the rules for conducting Competitive Dialogue, thereby enabling tenderers to master the stakes of their dialogue participation with sufficient clarity**

# CHARTER Principles

- 4. Specify, on the basis of operating specifications and/or project items and via Competitive Dialogue, the principal issues on which the public contractor expects contributions from tenderers.
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- 5. Draw up, during the Competitive Dialogue, the operational programme in terms of results to be achieved and requirements to be complied with, specifying the items which may or may not be modified.
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# The Partnership Contract : a new toolbox...

- The Partnership Contract is first and foremost a new tool of public procurement and management, not a financing instrument
- Introducing new concepts in the Government sphere, such as accountability, systematic assessment and benchmarking over a long term period

## ... and a leverage to reform the State

- Cultural revolution at stake : the State cannot do everything ; it needs to concentrate on its core business, where it is irreplaceable
- Public sector has to adapt to a better division of work : outsourcing support functions and focusing on what it does best
- The Partnership Contract has the potential to transform old habits & mental schemes in the public management sphere

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