Public - Private Partnership in Poland.

Istanbul, 2-4 November 2015
Agenda

- Investment needs & opportunities infrastructure potentials of Poland
- Overview: Institutional and legal framework of PPP
- PPP market in Poland
- Current/ongoing PPP projects
- Completed PPP projects
Investment needs & opportunities infrastructure potentials of Poland

- Infrastructure investment needs - roads, railways, aviation and teleinformatics estimated at up to 95 billion EUR until 2020/2030
  Source: Report on Poland 2030, the Chancellery of the Prime Minister

- Energy sector - 27 billion EUR of investments required in renewable energy sector until 2020
  Source: Institute for Renewable Energy

- Excellent PPP opportunities in other sectors: health, waste management, public buildings, revitalization, public housing
The Act of 28 July 2005 on public-private partnership was the first Polish piece of legislation fully dedicated to the PPP but no PPP agreement was concluded under provisions thereof.

- **Act of 19 December 2008 on public-private partnership** (Journal of Laws of 2009 No 19 item 100); „The PPP Act”
- **Act of 9 January 2009 on Concession for Works or Services** (Journal of Laws of 2009 No 19 item 101); „The Concession Act”
- **Act on of 29 January 2004 - Public Procurement Law** (Journal of Laws of 2010 No 113 item 759); „The Public Procurement Act”
Legal framework

The PPP Act

Art. 1

1. The Act defines the principles of collaboration between the public entity and the private partner within the framework of the public-private partnership.

2. The subject of public-private partnership is joint implementation of project based on division of tasks and risks between the public entity and the private partner.
Legal framework

→ The PPP Act

Chapter 2
Selection of the private partner

Art. 4

1. If the remuneration of the private partner consists in the right to collect proceeds from the subject of the public-private partnership, or mainly such a right with payment of an amount of money, the selection of the private partner and the agreement on public-private partnership shall be subject to the provisions of the Act (…) on concessions for construction works or services (…).

2. In cases other than specified in Paragraph 1, the selection of the private partner and the agreement on public-private partnership shall be subject to the provisions of the (…) Public Procurement Law.
Legal framework

→ PPP Law

PPP and/or concession?

PPP
The PPP Act

Concession
The concession Act

PPP/public contract
art. 4.2

PPP/concession
art. 4.1
Legal framework
→ The PPP Act

Art. 7

1. By the public-private partnership agreement, the private partner commits to implement the project at a remuneration and to cover in whole or in part the expenditure for project implementation or to have covered by a third party, while the public entity commits to collaborate with the aim of achieving the project objective, in particular by making its own contribution.

2. The remuneration of the private partner shall primarily depend on the actual use or actual availability of the subject of public-private partnership.
Legal framework

The PPP Act

Usefull terms:

Art. 2

... 2) private partner – entrepreneur or foreign entrepreneur

... 4) project:

a) construction or refurbishment of a building or structure, or

b) provision of services, or

c) performance of a work, in particular equipping an asset with devices increasing its value and use, or

d) other consideration (service)

- combined with maintenance or management of the asset that is used for implementation of public-private partnership project or related to it;
Legal framework

→ The PPP Act

Art. 18 a

1. The obligation resulting from public-private partnership agreements do not affect the level of state debt or the public finance deficit in a situation where the private partner bears the most of the risk of building and the most of the availability or demand risk, taking into account the influence of factors such as guarantees or financing by the public partner and allocation of assets when the agreement expires on the above risks.

2. In agreement with the minister competent for public finance and having solicited an opinion of the President of the Central Statistical Office, the minister competent for the economy may define, by way of a regulation, the extent of particular risk types and the factors to be taken into account in their appraisal, with view to ensuring the transparency of individual risk types.

The Regulation of the Minister of Economy of 11th February 2015 on the extent of particular risk types and factors to be taken into account in their appraisal.
Institutional aspects

While there is no central PPP Unit, two entities within government play key roles in the institutional framework:

- the Ministry of Economy (MoE) is responsible for establishing the legal framework for PPPs in Poland and for any subsequent legislative changes to it. MoE is also responsible for a number of other activities prescribed in the PPP Act, including the promotion and evaluation of PPPs, development of standard contracts, provision of training and sharing of best practices. Accordingly, a PPP Unit was established within MoE in 2013. MoE has also developed a PPP project database and runs an Inter-ministerial PPP Council (as an advisory body to the Minister of Economy) which includes representatives of different ministries, social partners and the private sector;

- the Ministry of Infrastructure and Development (MID) is responsible for establishing the legal framework for concessions in Poland and for regional development policy which includes development of guidance on PPP issues – mainly on hybrid PPPs that blend EU funds and private financing. MID also has a department dedicated for PPPs (Department of PPP Projects Support) which supports public authorities across sectors but does not have formal project decision-making powers. MID also supports pilot projects to prepare template documentation, runs a hybrid PPPs database and guide to Polish PPP guidelines. It coordinates a PPP platform, established in 2011, that brings together a wide range of players across different levels of government including local procuring authorities and national level ministries; and

- other relevant players include the Ministry of Finance which issues the consent for financing projects over a defined size from the state budget and the Public Procurement Office (for general public procurement rules) and Central Statistical Office (for general statistical treatment of PPPs).
Institutional aspects
→ Ministry of Economy: main activities in PPP

- Responsibility for the PPP Act

- Responsibility for planning of any PPPs in fuel and energy sector at the state level

- Distribution of information on PPP issues to the domestic and foreign investors

Art. 3 of the PPP Act: „The tasks of the minister competent for the economy in the area covered by the Act shall include, in particular, to foster and promote public-private partnership, to perform analyses and evaluations of the functioning of public-private partnership, including the status and prospects for financial involvement of the private sector“.
Institutional aspects

Where to find information about potential PPPs in Poland?

- Website of the Ministry of Economy: www.mg.gov.pl/PPP
- PPPs Database (website available in English, German, and Chinese): www.bazappp.gov.pl
- Information in Bulletin of Public Procurement or in Official Journal of European Union or in Bulletin of Public Information
- The PPP Center, The PPP Institute
- Direct information from a public partner or from its website
- Roadshows, seminars or conferences on Polish PPPs
- Information from media or institutions involved in PPPs (governmental or non-governmental organisations, commercial advisors)
http://www.mg.gov.pl/Wspieranie+przedsiebiorczosci/
Partnerstwo+publiczno+prywatne

Partnerstwo publiczno-prywatne (PPP) jest od wielu lat powszechnie stosowaną na świecie metodą współpracy administracji publicznej, zarówno centralnej, jak i samorządowej, z partnerami prywatnymi. Polega ono na przekazaniu podmiotowi prywatnemu realizacji zadania o charakterze publicznym.
PPP market in Poland in 2009-2014

1. The number of tender notices – 342
2. Number of signed contracts – 82
3. The most popular sector - sports and recreation (77 tender notices and 11 signed contracts)
4. The most popular model - concession for services (34 signed contracts)
5. Mainly used by local authorities
6. Most of the projects – less than 1 mln. EUR
7. Average transactions size stood at 8 mln. EUR
Project Database
Public – Private Partnerships

www.bazappp.gov.pl
Project Database Public – Private Partnerships

• Database provides information on:
  - Completed PPPs in Poland
  - PPPs under implementation
  - Projects planned (ideas) to be implemented as PPPs in the near future

• Public entities submit PPP information on a voluntary basis

• Database provides details of the project and contact data to the entity responsible for the project
The Public Private Partnership (PPP) Projects Database was created as part of the Minister of Economy’s statutory obligation to monitor and promote public-private partnerships.

The PPP Projects Database is to accumulate information concerning PPP and make it accessible to the public, at the same time popularizing partnerships between the private and public sectors.

The PPP Projects Database contains information concerning planned, ongoing, and completed projects. The PPP Projects Database contains also publications outlining the functioning of PPP in Poland and abroad, as well as information about training courses, conferences and other relevant events.

We invite both public and private entities to participate in the development of the PPP Projects Database.

Companies and institutions can submit not only project presentations, but also vacancy notices, asking for potential partners to implement the project.
<table>
<thead>
<tr>
<th>Identification</th>
<th>Name</th>
<th>Public entity</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>67</td>
<td>Procurement and administration of residential buildings located on municipal lots</td>
<td>Warsaw City Hall</td>
<td>Idea</td>
</tr>
<tr>
<td>68</td>
<td>Underground parking lots in Warsaw</td>
<td>Warsaw City Hall</td>
<td>Project</td>
</tr>
<tr>
<td>69</td>
<td>City Communication bus stop in Warsaw</td>
<td>Warsaw City Hall</td>
<td>Realisation</td>
</tr>
<tr>
<td>70</td>
<td>Modernization and expansion of the Solid Communal Waste Utilization Plant in Warsaw</td>
<td>Warsaw City Hall</td>
<td>Idea</td>
</tr>
<tr>
<td>79</td>
<td>Sports and Recreational Swimming Pools complex with combat sports gymnasium</td>
<td>Plock Municipality</td>
<td>Idea</td>
</tr>
<tr>
<td>81</td>
<td>Sports and Recreation Park - Ski Slope</td>
<td>Plock Municipality</td>
<td>Idea</td>
</tr>
<tr>
<td>83</td>
<td>Hotel / dormitory by the sports and entertainment center</td>
<td>Plock Municipality</td>
<td>Idea</td>
</tr>
<tr>
<td>84</td>
<td>Vistula waterfront utilization</td>
<td>Plock Municipality</td>
<td>Idea</td>
</tr>
<tr>
<td>88</td>
<td>Waś Plock Stadium</td>
<td>Plock Municipality</td>
<td>Idea</td>
</tr>
<tr>
<td>558</td>
<td>Construction of new ward for the Drewnica Provincial Mental Health Hospital, Ząbki near Warsaw, 1 Rycichliskiego Street</td>
<td>Mazowieckie Province</td>
<td>Idea</td>
</tr>
<tr>
<td>587</td>
<td>Sports area construction by Struga Street in Radom</td>
<td>City Hall in Radom</td>
<td>Project</td>
</tr>
<tr>
<td>1454</td>
<td>Construction of an integrated train and bus station in Miława along with accompanying infrastructure</td>
<td>The City of Miława</td>
<td>Idea</td>
</tr>
<tr>
<td>2592</td>
<td>Comprehensive thermomodernisation of public utility buildings of the Karczew Gmina in the form of PPP</td>
<td>None</td>
<td>Realisation</td>
</tr>
<tr>
<td>2699</td>
<td>Internet for Mazovia</td>
<td>None</td>
<td>Realisation</td>
</tr>
<tr>
<td>2721</td>
<td>Typing, printing, distribution of paper version and preparation of online version, sale and subscription of paper version and online version of Buletyn Skarbowy [Treasury Bulletin] of the Ministry of Finance</td>
<td>None</td>
<td>Realisation</td>
</tr>
<tr>
<td>2792</td>
<td>Expansion, modernisation and restructuring of Independent Public Health Care Centre in Mielnik Mazowiecki, based on the public-private partnership formula</td>
<td>None</td>
<td>Idea</td>
</tr>
<tr>
<td>2794</td>
<td>Thermomodernisation of public utility buildings in Gmina Deja Wielkie</td>
<td>None</td>
<td>Idea</td>
</tr>
<tr>
<td>3029</td>
<td>Selecting a private Partner to deliver a service consisting in the treatment of municipal waste in the Gmina of Konstanin-Jeziora</td>
<td>None</td>
<td>Idea</td>
</tr>
<tr>
<td>3036</td>
<td>Design and construction of the facility called: Central Park of Recreation, Tourism and Relaxation “Termy Gostynińskie” [thermal springs in Gostynin]</td>
<td>None</td>
<td>Realisation</td>
</tr>
<tr>
<td>3038</td>
<td>Provision of services related to the organisation of the Euroanalysis XVII Conference</td>
<td>None</td>
<td>Realisation</td>
</tr>
<tr>
<td>3110</td>
<td>Construction and operation of a football pitch with a pneumatic roof structure</td>
<td>None</td>
<td>Realisation</td>
</tr>
<tr>
<td>3118</td>
<td>Management, administration, ongoing maintenance and operation of municipal sewerage network in terms of collective wastewater disposal within the area of Siedlce, Brudzewi Duży municipality</td>
<td>None</td>
<td>Realisation</td>
</tr>
<tr>
<td>3124</td>
<td>Selection of a private partner for the creation of a Radiotherapy Centre</td>
<td>None</td>
<td>Realisation</td>
</tr>
<tr>
<td>3158</td>
<td>Restoration of the railway station building in Łochów together with the surrounds as a form of creating the new city centre</td>
<td>None</td>
<td>Idea</td>
</tr>
<tr>
<td>3164</td>
<td>Restoration of heritage facilities and public space in Szdyłowice, improvement of the functionality and availability of cultural and tourist infrastructure to the inhabitants of Mazovia</td>
<td>None</td>
<td>Realisation</td>
</tr>
<tr>
<td>3414</td>
<td>Inland waterway passenger transport by the Lubecki paddle vessel</td>
<td>None</td>
<td>Realisation</td>
</tr>
<tr>
<td>3872</td>
<td>PARP Academy</td>
<td>None</td>
<td>Idea</td>
</tr>
<tr>
<td>3948</td>
<td>Modernizacja oświetlenia ulicznego w Kobylce</td>
<td>None</td>
<td>Realisation</td>
</tr>
</tbody>
</table>

|http://bazapp.gov.pl/project_base/39#project-list|
Important current/ongoing PPP projects

Waste-to-Energy Project in Poznań
Important current/ongoing PPP projects

Waste-to-Energy Project in Poznań

• 25-year availability-based contract
• Public counterpart: Poznań Municipality
• Private counterpart: Sita Zielona Energia Ltd.
• Project value: 247 mln EUR
• Grant amount: 85 mln EUR
• Public budget: 12 mln EUR
• Private counterpart: 160 mln EUR
Important current/ongoing PPP projects

First PPP project at state level
Construction of the Building of the District Court in Nowy Sącz
Important current/ongoing PPP projects

District Court in Nowy Sącz

- 24-year availability-based contract
- Public counterpart: District Court in Nowy Sącz
- Private counterpart: Warbud- Infrastruktura Sp. z o.o.
- Project value: 28 mln EUR
Completed PPP Projects

1. Concession for collective water supply and collective sewage disposal in Kiszkowo – concession for services (to be continued)

2. Maintenance and management of the Neptun indoor swimming pool in Gliwice – concession for services

3. Regular transport line in Ustka – concession for services

4. Provision of the services consisting in management, maintenance and operation of collective water supply and collective sewage disposal in Smołdzino – concession for services (to be continued)
Thank you for your attention

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