



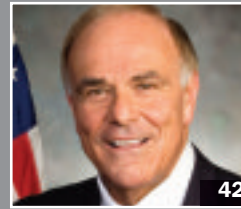
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DELIVERY THROUGH PARTNERSHIPS

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Faces of the future?

The key figures shaping the
direction of partnerships



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A Russian revolution

PPP projects are proving increasingly popular in Russia despite the complexities involved in the process, writes Salans Partner Karina Chichkanova...

Public Private Partnerships (PPPs) have been on the rise in Russia in the last three or four years. They have become one of the most commonly used forms of cooperation between businesses and the government, and the country is gradually gaining more experience in preparing and implementing PPP projects across a wide range of sectors.

The PPP structure is widely used at both a federal and regional level in Russia. The former usually involves large-scale and technically complex infrastructure projects that require major investment mainly from federal budget funds, whilst the latter tends to concern smaller and socially significant projects, which can be funded by local budgets. There are currently more than 80 different PPP projects under way in Russia,¹ a number expected to increase significantly in the coming years.

Current practice shows that Russian authorities have a strong interest in PPP projects as they can significantly increase long-term investment in infrastructures during a budget deficit, with private companies both sharing the

financial burden and introducing the modern technologies Russia needs. It is clear that developing a PPP framework is an important priority.

Legal challenges

While the PPP structure is growing in popularity, Russia faces a number of legal, political and financial challenges in this area. There is no clear definition of PPP in federal or regional Russian legislation, nor is there a unified understanding of the legal grounds and working principles of the respective mechanisms.

An analysis from the Audit Chamber of the Russian Federation says: 'The concept of PPP has not been legally defined, even though [it] is widely used. In its most general meaning, PPP means any form of cooperation between the state and private business...a complex phenomenon of an economic, social, and, to a significant extent, political nature.'

There is also no unified international concept of PPP and definitions can vary according to a country's level of development and experience with joint state and private

projects. In general, a PPP project tends to provide services that are related to the responsibilities of public authorities and the private sector with respect to consumers, and the distribution of risk between the state and the private participants in the project.

Federal vs regional

In Europe, the PPP model can be split into two types: projects where its entire implementation is the investor's responsibility, and projects that limit an investor's functions to operating existing facilities.

However, in Russia, the PPP model is de facto determined by the level of ownership. Federal law sets the 'concession' model, which provides the state with the title to a facility under construction.² All other models, including those in which the investor owns the property under construction, are implemented on the basis of regional legislation.

A number of regions in Russia have therefore adopted specific PPP legislation to provide a legal framework for public authorities and private investors implementing PPP projects. By 1st November 2011, 37 of Russia's 83 regions had already adopted a regional PPP law. This sets the minimum necessary legal framework for developing and implementing all possible forms of PPP projects for socioeconomic development.³

However, as professional legal structuring of a regional PPP programme is key to attracting investors and financing organisations, the success of any project will depend on how the regional PPP laws comply with federal legislation. Contradictions in, for example, constitutional, civil, budgetary, procurement, land or anti-monopoly legislation may result in the project being deemed invalid or void.

Current market

In the current market, many of Russia's large-scale and strategically significant transportation projects are being implemented at a federal level on a 'concession' basis. Many of them are financed by the Investment Fund of Russia, which is able to raise significant amounts of required capital.

For example, one of the major PPP projects taking place in Russia at the moment is the construction of a new highway from Moscow to St Petersburg. The highway, which is set to complete by 2018, has received more than 36.5bn roubles of private investment and 29.5bn roubles from the Investment Fund of Russia.

The PPP structure is also proving to be successful on a regional level. St Petersburg is one of the first regional governments to adopt regional PPP legislation and today the World Bank estimates it is implementing one of the largest PPP programmes in the world. Some of its achievements include the construction of a €30bn toll road known as the Western High Speed Diameter, the €1.2bn reconstruction of the Pulkovo Airport and the construction of a Palace of Arts with CAPEX for €250m.

Foreign investors

Many of the PPP projects are initially financed by the private partner, who receives compensation at a later stage of the project using a specific mechanism depending



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PPP enables the Russian authorities to significantly invest in infrastructure during a budget deficit

on the project's structure. These could be user tariffs or subsidies from the city budget. Tenders for PPP projects have a high level of transparency and public officials openly encourage cooperation with private investors.

The PPP approach is also supported on the federal level. The state corporation Vneshekonombank has established a special structure called the Centre for Public Private Partnership, which supports regional and municipal authorities with structuring PPP projects, preparing tender documents, and sourcing financial support. With Vneshekonombank's participation, a PPP department has been created in the Russian Federation Government's Financial University in order to train experts in the field.

The Russian authorities are welcoming contributions from international financial organisations and major foreign and Russian banks to PPP projects. As a rule, they are willing to provide 30-70% of the financing for a term of 10-15 years, although recently it has become mostly local financial institutions that would consider equity participation and partake in the bid as part of a consortium comprising suppliers, contractors and/or operators.

There are a number of opportunities for international investors in Russia. Whilst PPP projects in Russia are legally complex, there is great potential for investors.

¹ www.PPP-Russia.ru

² Federal Law No. 115-FZ 'On concession agreements', dated 21st July 2005 (as amended); this model corresponds to the European acronyms BFOT or DBFOT (Design/Build, Finance, Operate, Transfer). It should be noted that there are amendments planned for Federal Law No. 115-FZ (not yet adopted), which, among other things, should 'legalise' at the federal level PPP projects for operation of facilities for a fee from the public budget (the European LCC (life-cycle contract) model)

³ It should be noted, however, that the respective legal acts of Russian Federation constituent subjects that regulate legal relations in the PPP sphere are not unified in their structure and content, and the conditions of a local government's participation in a PPP vary significantly from region to region



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