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| TWINNING LIGHT – THE DETAILED PROJECT FICHE |
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1. Basic Information

- 1.1 CRIS Number: **CZ 2004/006-237/09.01.09**
Twinning number: **CZ04/IB/FI/02-TL**
- 1.2 Title: **Assistance with the assessment of Public Private Partnership (PPP) pilot projects**
- 1.3 Sector: Internal Market/Economic Criteria
- 1.4 Location: Czech Republic

2. Objectives2.1. Overall Objective(s):

Existence of functioning market economy, ability to face competitive pressure and market forces within EU

2.2. Project purpose:

To assist the Czech public administration with the assessment of PPP pilot projects and to suggest the corresponding assessment and evaluation criteria

2.3. Justification:

Comprehensive Monitoring Report – the recommendation in the field of economic development stressed the necessity to sustain macroeconomic stability and to consolidate the public finances. Changes in the Czech legislation (Act No. 218/2000 Coll., on budgetary rules; Act No. 250/2000 Coll., on budgetary rules of regional budgets) shall bring a new system of monitoring of future public expenditures and strengthen the transparency in public spending. PPP environment preparation represents a part of public finances reform.

EC legislation / acquis: Directives related to public procurement (Directive 2004/18/EC of the European Parliament and of Council of 31 March 2004 relating to the coordination of procedures for the award of public works, supply and services contracts; Directives 2004/17/EC of the European Parliament and of the Council of 31 March 2004 relating to the coordination of procedures for the award of contracts in the water, energy, transport and postal services sectors, etc.); Green Paper on public-private partnerships and Community law on public contracts and concessions COM/2004/0327 final.

EC requirements on the Czech Republic – the Czech Prime Minister received a letter from the EC invoking the development of the PPP concession schemes and transparency enhancement in public procurement. EC requires the incorporation of the Directive 2004/18/EC and the Directive 2004/17/EC in the Czech legislation.

Official Journal C 121, 29/04/2000.

The Czech Republic legislation: Act on PPP (as per the Government Programme of 22 August 2004) shall amend some related aspects within the legislative framework, incl. Act No. 513/1991 Coll., business law and Act No. 40/1964 Coll., civil code. New Act on public procurement shall be accepted, that will replace the existing Act No. 40/2004 Coll., on public procurement. Act No. 128/2000 Coll., on municipalities; Act No. 248/2000 Coll., on regional development support, Act No. 250/2000 Coll., on budgetary rules of regional budgets; Act No. 77/1997 Coll., on state-owned company shall be amended in parallel.

The Czech Republic other legal acts: Government Resolution No. 7 of 7 January 2004 adopting PPP policy in the Czech Republic; Gov. Resolution No. 791 of 25 August 2004 on legislative changes related to PPP implementation;

3. Description

3.1. Background and justification:

The Czech Republic has amongst its top priorities, as recognised by the Government program, the development of PPP market in order to increase the efficiency of public investments in the infrastructure and public services. This concept aims at transferring respective know how and efficiency of private sector into the public services.

In compliance with the Plan of Legislative Actions of the Czech Government the law on PPP is being prepared and discussed with a wide range of stakeholders. The Plan requires that the Ministry of Regional Development in conjunction with the Ministry of Finance should present the Bill on PPP (concession law) and necessary amendments to other relevant legislative Acts (such as Act No 250, 218 and 219) to the Czech Government. (The respective draft was submitted at the beginning of May 2005.) All these amendments and the Act on PPP should enter into force as of 1st January 2006. Further the Czech Government has approved by its Decision no. 7/2004 of 7th January 2004 policy paper on PPP in the Czech Republic with the aim to introduce the PPP concept as a standardised instrument for ensuring the public services and public infrastructure.

Government Resolution No. 76 of 19th January 2005 assessed the progress in works on PPP pilot projects and approved the 2nd phase of the works. These PPP projects are covering the following sectors: Transport, Defence, Judiciary and Prison services.

The mission of the World Bank (WB) responded to the request of the Czech Government, in particular the Ministry of Finance, to assist and advise in designing the institutional framework for PPPs in the Czech Republic. The WB representatives visited Prague in November 2003 and in the first half of 2004 to review jointly with the Czech authorities the progress and status of preparations. The team had meetings with representatives from Ministry of Finance as the lead ministry for PPP policies, the National Property Fund, and several line ministries preparing specific PPP proposals.

The Czech Ministry of Finance and the World Bank group organised Regional Forum on Governance for Public-Private Partnerships held in Prague on February 27-28, 2004. The participants came from 13 Eastern and Central European countries and from international institutions.

The Czech Government has approved the PPP policy. In order to facilitate the introduction of PPP concept it is necessary to establish a legally coherent framework for PPP activities, amend the appropriate legislation and to develop a manageable number of potential pilot PPP projects.

The Department for Regulation of PPP Projects within the MoF has been established in order to coordinate and facilitate the various PPP approaches pursued by line ministries and municipalities. The PPP Centrum has been established with the aim to advise the MoF on key PPP decisions and to advise on the coordination of preparation and implementation of the PPP projects.

This TWL project is understood as a immediate assistance in the area of PPP which is required for the completion of the PPP pilot projects under consideration and for the comparison and specification of the respective assessment & evaluation criteria before the commencement of the TF 2005 project. .

With regards to the Government Decision No. 791 of 25th August 2004, the following pilot projects were recommended for the assessment:

Ministry of Transport:

- Building, financing, servicing and operating part of highway D3 Tábor – Bošilec.

Ministry of Justice:

- Judicial grounds – Legal facility in Ústí nad Labem and the regional court branch in Karlovy Vary.

A new jail – a type with the capacity of 500 people.

Other pilot projects are under preparation.

The above projects were assessed according to the following criteria:

- Type and strategy suitability;
- Determination and feasibility of the objectives / aims ;
- Transfer of the risks;
- Value/money rate;
- Transparency of the competition process
- Financial accessibility.

The criteria above are corresponding to the experience of the Czech Republic in the field of the PPP pilot projects. It is necessary to evaluate the criteria already used and to develop (set up) further criteria. The assistance is sought with respect to:

1) Need analysis – exact definition of the range of services in the stipulated area of the pilot projects and clear determination of the objectives, which should be achieved in this area. (The objectives should be numerable, measurable and concrete.)

2) The split of the risk and its financial consequences - as the risks are expressed in financial consequences, it is necessary to evaluate, where the risk should be transferred (public sector/private sector) and which side is best capable to successfully manage the risk (as far as costs are concerned). It is necessary to discuss the problem with the expert and use his external experience.

3) Precise the budget of individual pilot projects – this stage should contain the analysis of the management consulting company with the assistance of foreign expert, comparing the costs in case of realization by a state institution or by the private sector.

3.2. Linked activities:

Cooperation with the WB on strengthening the institutional arrangements for successful PPP in the Czech Republic last year – the mission was to continue to assist and advise in designing the institutional framework for PPPs in the Czech Republic and to review the preparations for the World Bank – Czech Republic Regional Forum on Governance for Public – Private Partnership hold in Prague on February 2004.

Cooperation with the EBRD on the preparation of the PPP environment – as a result of existing cooperation with EBRD it is expected to be produced: 1) a set of references to internationally

accepted standards and best practice of PPP implementation including relevant case studies; 2) a commentary on the draft Concessions/PPP law with references to best international standards and practices.

The 5th Annual PPP Global Summit in Prague – held in November 2004. (Exchange of information, contacts among PPP top leaders.)

The project “Implementation of Public Private Partnership (PPP) policy in the Czech Republic” was prepared under the Transition Facility 2005. The project is aimed first of all at the PPP legal, institutional and operational framework and will respect the results of this Twinning light project.

3.3. Results:

1. The selected PPP pilot projects approved by the Czech Government - assessed according to the stipulated criteria. (The Government Resolution approving the selected PPP pilot projects)

2. Recommendations of assessment / evaluation criteria and procedures for PPP projects (English and Czech identical versions) , The upgraded criteria approved by the Minister of Finance. The Central Government Bodies will use the criteria for assessment of submitted pilot projects.

Benchmark: criteria and procedures for the preparation of the selected pilot PPP projects ready

3. Trained professionals in PPP in the sphere of criteria assessment (approx. 2 days, 15 officials, MoF, PPP Centre, other ministries involved in PPP pilot projects);

Benchmark: Training of selected PPP professionals in the criteria assessment implemented

3.4. Activities:

1. Analysis of assessment criteria of selected PPP pilot projects:

Ministry of Transport: - Building, financing, servicing and operating a part of D3 highway Tábor – Bošilec.

Ministry of Justice: –
Judicial grounds – legal facility in Ústí nad Labem and regional court branch in Karlovy Vary.
A new jail – a type with capacity of 500 people.

Fiscal Impact Analysis

Analysis of PPP projects from the following points of view: impact on the public finance, public debt, state assets, tax implications etc.

2. Drafting recommendations – With regards to the evaluation of the pilot projects, the recommendations for the setting up the criterion and evaluation procedures will be drafted and translated into Czech

3. Transfer of know-how

On-the-job training focused on the preparation of the pilot project selected and approved by the Government which are in various phases of elaboration (the Ministry of Finance, the PPP Centre and other ministries involved in the PPP pilot projects). The “Board Committees” meetings held with specialists from line ministries will include discussions on the concrete projects and will be divided into parts (lasting 3-4 hours). As some of these Czech specialists are not fluent in English it will be necessary to use the services of an interpreter (appr. 10 days).

Seminar/workshop on the assessment / Training about criteria assessment (approx. 2 days, 15 officials, MoF, PPP Centre, other ministries involved in PPP).

Requirements for the foreign experts:

Mid – term expert, appr. 120 man-days

key responsibility: manage and coordinate twinning project for 6 months; manage and coach the progress of the pilot projects preparation according to the best practise. Experienced in: concession contracts and PPP structures – evaluating criteria of the projects generally and drafting manuals. (Minimum 8 years of personal experience in the area targeted by the twinning light project).

4 short –term experts, appr. 40 man-days in total

Experienced in PPP, project management, PPP manuals drafting relevant to the specific area (each expert should be specialized in one of these specific areas: Transport, Justice, Prison services) Minimum 3 years of the practical experience with the realization of the PPP projects.

3.5. Lessons learned:

Certain know-how and experience regarding the PPP concept and its implementation has been acquired during the course of consultations with the multilateral institutions, or through the actions jointly organised with the relevant international or national bodies. The transfer of know-how is however of a limited scope and lacks practical experience with the methods and techniques related to the preparation and implementation of the PPP concept based projects.

4. Institutional Framework:

Ministry of Finance (Department of Methodology of PPP) is responsible for approving PPP projects methodology and is also authorised to approve the initiation of preparatory work on concrete PPP projects. MoF established PPP Centre for PPP implementation support. PPP Centre is responsible for standardization of processes of project preparation and realization phases and methodology support of individual procurers.

Successful PPP development should lead to staff enhancement at different ministries or municipalities in PPP field. Expert practice will be supported by professional project managers, who will join PPP Centre soon in connection with the PPP projects development.

The main beneficiary of the project will be the MoF. The involvement and close cooperation with PPP Centre will be ensured. The cooperation with other ministries involved in PPP is foreseen and will be supported.

Ministry of Regional Development, which is responsible for PPP legislation (in compliance with the Decision of the Government No. 2/2004 of 7th January 2004) and other relevant line ministries (such as Ministry of Transport, which has the first pilot project to be assessed by the team) and public bodies will participate in the project. All relevant aspects related to or having

impact on legislative provisions in area of PPP will be consulted with the Ministry of Regional Development.

A Steering Committee (SC) for the project will be established. The SC will be chaired by the Director of the MoF Department for Regulation of PPP projects. The Steering Committee will be composed of: representatives of the MoF incl. a representative of the CFA, the PPP Centre, the Project Leaders, the MTE. Other parties involved in the Project can be also invited to the SC meetings. The SC will meet every 3 months.

5. Detailed Budget (M €)

| Project Component | Transition Facility Support | | | National Cofinancing | Total |
|-------------------|-----------------------------|----------------------|--------------|----------------------|--------------|
| | Investment Support | Institution Building | Total TF | | |
| TWL Contract | 0 | 0,200 | 0,200 | 0 | 0,200 |
| Total | 0 | 0,200 | 0,200 | 0 | 0,200 |

6. Implementation Arrangements

6.1. Implementing Agency:

The Central Finance and Contracts Unit (CFCU) is the Implementing Agency responsible for administrative and financial implementation of the project (tendering, contracting, payments). The contact person is Mr. Jan Slavíček, Phone +420-2-5704-4551, Fax +420-2-5704-4550, e-mail: jan.slavicek@mfcz.cz

CFCU/Administrative Office – contact point Mr. David Stoklasa, Project Manager, Phone +420-2-5704-4552, fax +420-2-5704-4550, e-mail: david.stoklasa@mfcz.cz.

Responsibility for preparation, technical implementation and coordination of the project rests with the Ministry of Finance. The contact person is Ms Jana Stará, Senior Programme Officer (SPO) of the MoF and Finance Sector, Ministry of Finance, Letenská 15, Prague, tel. + 420 - 2 - 857 042 612; fax. +4257049236, e-mail: jana.stara@mfcz.cz

The National Contact Point (NCP) of the Centre for Foreign Assistance (CFA) is Ms. Jana Hendrichová, Phone +420-2-5704-4568, Fax +402-2-5704-4550, e-mail: jana.hendrichova@mfcz.cz. The CFA is fully responsible for overall monitoring and interim evaluation of the project.

6.2. Twinning Light

Twinning Light contract

Medium –term expert placed at the Ministry of Finance – Department for Regulation of PPP Projects for 6 months

4 short term experts (approx. 160 days, 14 air tickets; 750 pages to be translated; 12 days of interpretation in total)

Contact Person:

Name: Kateřina Helikarová

Institution: Ministry of Finance

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7. Implementation Schedule

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| 7.1. | <u>Start of tendering/call for proposals</u> | 3Q/2005 |
| 7.2. | <u>Start of project activity</u> | 4Q/2005 |
| 7.3. | <u>Project Completion</u> | 2Q/2006 |

8. Sustainability

The beneficiary will ensure that sufficient professional staff in the MoF and the PPP Centre and other necessary resources shall be available both for the project implementation and for the sustainability of the project results. It is expected that up to 6 new experts should be employed in the PPP Centre before the end of 2006 to strengthen the support of the MoF.

9. Conditionality and sequencing

The PPP law/concession law is highly required to be passed to enable easier contract drafting for the PPP projects. Ministry of Regional Development (MoRD) is preparing this law, which is expected to come into effect as of 1.1. 2006.

New Act on public procurement is expected to replace the existing Act No. 40/2004 Coll., on Public procurement. Other related legislative provisions will be amended to ensure a coherent legislative framework for the implementation of PPP concept, in particular:

Act No. 219/2000 Coll., on the State property – MoF responsible

Act No. 218/2000 Coll., on State budget law – MoF responsible

Act No. 250/2000 Coll., on Municipal budget law – MoF responsible

All these amendments are expected to be effective from 1.1.2006

ANNEXES TO PROJECT FICHE

1. Logical framework matrix in standard format

LOGFRAME PLANNING MATRIX

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|---|---|---|---|-------------------------------------|
| Project Title : Assistance with the assessment of Public Private Partnership (PPP) pilot projects | | | Programme name and number: TF CZ 2004/006-237/09.01.09 | |
| | | | Total Budget: M€ 0,200 | TF contribution: M€ 0,200 |
| Overall Objective | Objectively verifiable indicators | Sources of verification) | | |
| Existence of functioning market economy, ability to face competitive pressure and market forces within EU | EC recognition | EC Report Reports issued by the IFI | | |
| Project Purpose | Objectively verifiable indicators | Sources of verification | Assumptions | |
| To assist the Czech public administration with the assessment of PPP pilot projects and to suggest the corresponding assessment and evaluation criteria | Centralized functional system of PPP structures and procedures 0,5 – 1 billion Euro of private capital is expected to start being procured into the public procurement in the next 2 years in the Czech Republic (2006-2007) up to 1.6 billion Euro of private capital is expected to start being procured into the public procurement once the municipalities will be involved 10 - 15% of all public procurement is expected to be | Changes in the Czech legislation in compliance with the EU requirements (Directive 2004/18/EC and the Directive 2004/17/EC) | Continuous support and commitment at relevant levels of Public Administration | |

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| | realized by PPP methods when the system is fully functional | | |
| Results | Objectively verifiable indicators | Sources of verification | Assumptions |
| <p>1. The selected pilot projects approved by the Czech Government assessed according to the stipulated criteria.</p> <p>2. Recommendations of assessment / evaluation criteria and procedures for PPP projects (English and Czech identical versions)</p> <p>3. Trained professionals in PPP in the sphere of criteria assessment (approx.2 days, 15 officials, MoF, PPP Centre, other ministries involved in PPP pilot projects);</p> <p>sphere of criteria assessment</p> | <p>The upgraded criteria for assessment of projects ready and approved by the Minister of Finance.</p> <p>Professional staff duly trained in the criteria assessment – staff of the Dpt. for the Regulation of PPP, the PPP Centre and other ministries involved in the PPP</p> | <p>Final report of the project</p> <p>Web pages of the MoF and the PPP Centre</p> | <p>New regulations will enhance the transparency of the state and municipal liabilities records</p> <p>Know-how and expertise about the PPP process will be transferred to the country</p> |
| Activities | Means | | Assumptions |

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| <p>1. Analysis of assessment criteria of selected PPP pilot projects.</p> <p><u>Fiscal Impact Analysis</u></p> <p>Analysis of PPP projects from the following points of view: impact on the public finance, public debt, state assets, tax implications etc.</p> <p>2. Drafting recommendations</p> <p>With regards to the evaluation of the pilot projects, the recommendations for the setting up the criteria and evaluation procedures will be drafted and translated into Czech)</p> <p>3. Transfer of know-how</p> <p>On-the-job training focused on the preparation of the pilot project selected and approved by the Government which are in various phases of elaboration (the Ministry of Finance, the PPP Centre and other ministries involved in the PPP pilot projects). The “Board Committees” meetings held with specialists from line ministries will included discussions on the concrete projects and will be divided into parts (lasting 3-4 hours). As some of these Czech specialists are not fluent in English it will be necessary to use the services of an interpreter (appr. 10 days).</p> <p>Seminar/workshop on the assessment /</p> | <p><u>Twinning Light Contract:</u> 0,200 M €</p> <p>1 medium-term expert – 6 months and 4 short term experts (approx. 160 days, 14 air tickets; 750 pages to be translated; 12 days of interpretation in total)</p> <p><u>On the job training</u> of the relevant staff (see the PF)</p> <p><u>Seminar/workshop</u> on the criteria assessment (see the PF)</p> | | <p>PPP law/concession law is highly required to be passed to enable easier contract drafting for PPP projects. Ministry of Regional Development (MoRD) is preparing this law and its estimated term of taking effect is 1.1. 2006. This legislation change represents an important issue, but the fact that at present there is no valid concession law does not mean an actual obstacle for PPP contract conclusion. Nevertheless a “small amendment” of the Act No. 40/2004 Coll., on Public procurement was passed in May 2004 to strengthen compatibility with EU law.</p> <p>Other legislative amendments, which are necessary to be passed:</p> <p>Act No. 219/2000 Coll., on the State property – MoF responsible</p> <p>Act No. 218/2000 Coll., on State budget law – MoF responsible</p> <p>Act No. 40/2004 Coll, on Public procurement – MoRD responsible</p> <p>All these amendments are expected to be effective from 1.1.2006</p> |
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| <p>Training about criteria assessment (approx. 2 days, 15 officials, the MoF, the PPP Centre, other ministries involved in PPP);</p> | | | <p>At present the absence of these legislative changes does not mean that the preparation of pilot projects and methodology cannot continue.</p> |
| <p>Preconditions</p> <p>N/A</p> | | | |