PUBLIC-PRIVATE PARTNERSHIP.

PRACTICE IN THE RUSSIAN FEDERATION.

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THE BASIS OF PPP LEGISLATION OF THE RUSSIAN FEDERATION

Federal Law No. 115-FZ "On Concession Agreements" of 21 July 2005;

The Civil Code of the Russian Federation

Regional legislation on PPP

THE BASIS OF PPP LEGISLATION OF THE RUSSIAN FEDERATION

- Federal Law No. 116-FZ "On Special Economic Zones in the Russian Federation" of 22 July 2005;
- Federal Law No. 82-FZ "On the Development Bank" of 17 May 2007;
- Federal laws on public corporations: Russian Corporation of Nanotechnologies, Olympstroj, Russian Technologies, Russian Venture Company, Fund for Development of Housing and Utilities Infrastructure, Federal Highway Agency;
- Resolution of RF Government No. 694 "On the Investment Fund of the Russian Federation" of 23 November 2005

INVESTMENT FUND OF THE RUSSIAN FEDERATION

42 approved projects

12 projects:
$32.4 bln
($8.9 bln – IF funds)

19 federal projects

$433 bln
($12.7 bln – funds of IF)

23 regional projects

MAIN OBSTACLES FOR PPP DEVELOPMENT

- Absence of the state concept of PPP development, and the strategy of the step-by-step introduction and use of PPP models;

- Absence, at legislative level, of clear landmarks for development of industries and areas in which it is admissible for bodies of public power and business structures to conclude contracts and agreements of public nature, does not allow for establishing long-term interrelations;

- Underdeveloped banking system;

- Inconsistence of concession, budgetary, and land legislation;

- Imperfection of legislation regulating separate kinds of PPP;

- Absence of a sound technique for integrated consideration of financial offers of bidders to establish whether they are realistic, and imbalance of technical and financial criteria for selection of competitive bids;

- High transactional costs;

- Absence of experience in implementation and management of such projects, qualified specialists in the field of PPP, and so on.

Development of legislation on PPP

Concession legislation/ amending proposals

- Conversion of Private Public Partnership Agreement into the Concession Agreement risk reduction;
- Increase in opportunities concerning the concession agreements making in the form acceptable to parties;
- Increase in opportunities concerning debt financing in respect of pledge of rights: – in respect of claim assignment/debt transfer;
  – in respect of guarantee and buy-back commitments;
- Adjustment to the world practice of tendering procedures;
- Disputes settlement

Development of legislation on PPP

Regional laws concerning Private Public Partnership

- Currently regional laws concerning Private Public Partnerships (PPP) are adopted in more than 40 Russian regions (amendments to 12 of them are preparing);
- Under the PPP Expert Council in the State Duma of Russia the new version of the model law concerning PPP for the constituent of the Russian Federation has been prepared;
- Under the joint project of Vnesheconombank with United Nations Development Programme (UNDP) the analysis of the regional laws in the pilot Russian region will be made with further modification of the model law and model regulations on the level of the constituent of the Russian Federation required for the implementation of a regional law.

Development of legislation on PPP

Regional laws concerning Private Public Partnership

Why do we need the regional laws concerning PPP?

- Different forms of project structuring including:

BOOT (Build Own Operate Transfer)

BOO (Build Own Operate)

- No restrictions provided by the concession legislation
- Opportunity of investment and operational risks separation

BOLT (Build – Own – Lease – Transfer)

Investor does not bear the risks of operation and commercial risks of fee-based services provision using the object

Determination of a degree and form of possible property and financial participation (appropriations, subsidies, guarantees of a RF constituent entity or a municipality)

Determination of infrastructure facilities for PPP agreements

Regional Model law
"On Participation of a RF Constituent Entity, Municipality in PPP Projects"

Establishment of a standard procedure for management of PPP projects on the part of a RF constituent entity, municipality and a private partner, as well as of their standard rights and obligations in conclusion of the agreements

Introduction of a procedure of organizing and holding the competition for the right to conclude agreements

THANK YOU!

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