



EuroPris Real Estate and Logistics
Expert Group

PUBLIC-PRIVATE PARTNERSHIP

By:
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About EuroPris

The European Organisation of Prison and Correctional Services (EuroPris) is a non-political, non-governmental organisation that was founded at the end of 2011 and officially registered in the Netherlands.

EuroPris speaks for the views of prison practitioners in Europe. Membership is open to public institutions or organisations in the Council of Europe region, which provide prison or correctional services on a legal or statutory basis.

EuroPris brings together practitioners in the prisoners' arena with the specific intention of promoting ethical and rights-based imprisonment, exchanging information and providing expert assistance to support this agenda. The organisation exists to improve co-operation among European Prison and Correctional Services, with the aim of improving the lives of prisoners and their families, enhancing public safety and security; reducing re-offending; and advancing professionalism in the corrections' field.

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FOREWORD

EuroPris was founded in 2011 as a non-political organisation to represent prison practitioners within Europe. Our membership has steadily increased from 18 in 2012 to 30 national prison agencies in 2016.

EuroPris has been established to facilitate the exchange of European prison practitioners, to increase their sharing on knowledge and promising practices. This is amongst others achieved through the organisation of conferences, workshops and convening of small expert groups on subject matter that are of common interest and importance to EuroPris Members.

In April 2015, the Netherlands and Belgium took the joint initiative to start an expert group on Real Estate and Logistics. The EuroPris AGM approved the establishment of the expert group in June 2015.

Although one might not think of the relevance in the first place, but Real Estate can actually contribute a lot and provide opportunities for normalization and reintegration of inmates. The prison design is an important factor in providing for a human climate of incarceration. The goal is to create an expert group on Real estate and logistics within EuroPris for the exchange of best practices and experiences and to provide a platform that can be a basis for members to elaborate, advise on and maintain infrastructural and logistic projects.

The first (kick-off) meeting has been held in Lisbon on 4-6 November 2015. 11 countries are participating in this expert group: Belgium, The Netherlands, Czech Republic, Turkey, Portugal, Catalonia, Slovenia, Lithuania, Finland, NOMS and Northern Ireland. After the kick-off meeting, it was clear that there was a common interest by the participants to further investigate several subjects and it was decided to create two subgroups:

1. Private public partnership
2. Prison design

The subgroup on private public partnership met in Amsterdam from 20-22 April 2016 and was co-hosted by the Dutch Custodial Institutions Agency.

It is my pleasure to present this report which consolidates the discussions, actions and recommendations agreed at the Amsterdam meeting. The report was prepared by Els Van Herck (chair of the Expert group).

We will host future expert groups on this subject matter and I look forward to strengthening the ties and providing assistance.

Yours sincerely,
Hans Meurisse
President of EuroPris

When is PPP worthwhile?

WHAT IS PUBLIC PRIVATE PARTNERSHIP?

PPP is a collective term for different types of cooperation between the private sector (market) and the government (public sector). When major new government building and infrastructure projects are being planned, consideration is first given to whether public-private partnership (PPP) would produce better results than traditional procurement.

As you can notice in the grid below PPP takes many forms.

Menu for integrated contracts

| | | Development | | | Operation | | |
|--------------|--------------------------------------------|-----------------------------------|----------------------------------------------------|--------------------------|-----------------------------------------------|-------------------------------------|----------------------------|
| | | Initiative to definition (LoR) | Design (D) | Build (B) | Maintenance building and installations (M) | Facility Services (O) | Monitoring and supervision |
| B | "Traditional" | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| DB | Design & Build | <input type="checkbox"/> | <input checked="" type="checkbox"/> DB contract | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| DBF | Design, Build & Finance | <input type="checkbox"/> | <input checked="" type="checkbox"/> DBF contract | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| DBM | Design, Build & Maintain | <input type="checkbox"/> | <input checked="" type="checkbox"/> DBM contract | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| DBFM | Design, Build, Finance & Maintain | <input type="checkbox"/> | <input checked="" type="checkbox"/> DBFM contract | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| DBFMO | Design, Build, Finance, Maintain & Operate | <input type="checkbox"/> | <input checked="" type="checkbox"/> DBFMO contract | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

Separate contracts or in-house organisation
 Integrated contract

DBFM and DBFMO are the most common types of contract for PPP projects in prisons used in the Netherlands, Belgium and the UK:

- Design;
- Build;
- Finance;
- Maintain;
- Operate (this occurs only with DBFMO projects).

DBFM is used for infrastructure projects. DBFMO is most commonly used for government building projects. A DBFMO contract is combining several activities in sequential phases of accommodation project in one contract with one private party including project finance. Based on functional requirements, introducing an output related payment mechanism and the allocation of risks with the party best suited to manage them.

On the operations in the DBFMO projects for prisons, the O can stand for different options: only facility services (Belgium and the Netherlands) or to also include the prison guards and/or other staff. (UK)

The main goals relating to integrated contracts is to answer the client's need for facilitated accommodation – the client satisfaction as driver for innovation. Using core competences of market and public sector by developing

and implementing new types of contracts. Hereby stimulating process innovation and a life cycle approach in the construction industry and optimising risk allocation between government and private sector.

The main market goals of integrated contracts are that it creates innovation through a focus on the end-user; creating space for the development of new ideas; a focus on performance instead of prescribed solutions. It stimulates competition on quality rather than price and creates transparency in price setting and on security for the long term.

WHEN/WHY USING PPP?

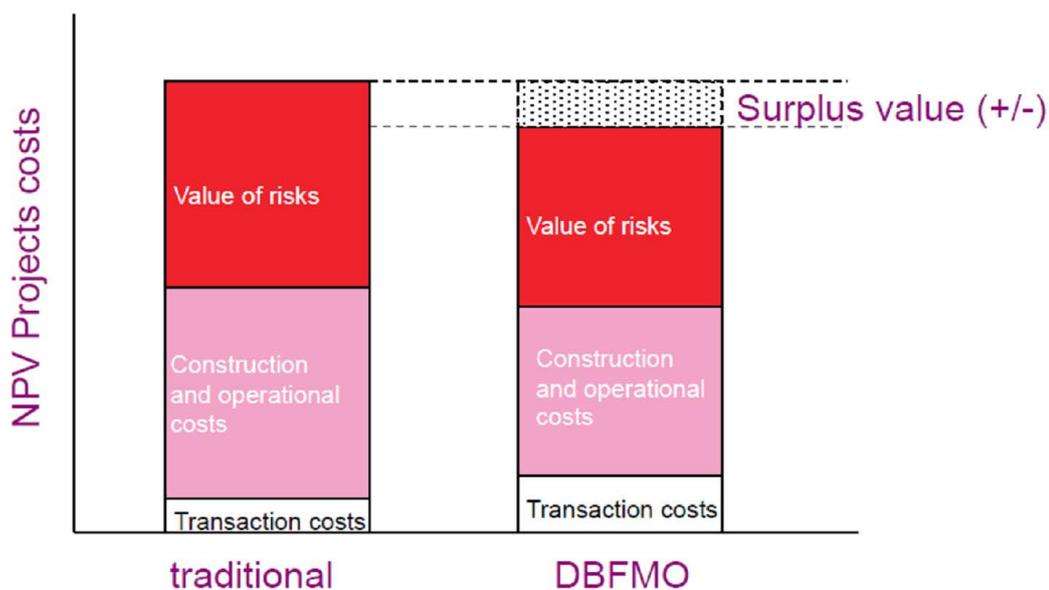
The choice of applying PPP can be decided for several reasons. Belgium choose for PPP because of Budget Reasons (Off balance sheet), the need for modernization and innovation by cooperating with the market and because of the construction of a lot of capacity was needed within a short period. The cooperation with the Private sector offered the possibility to achieve these goals.

The Netherlands choose for the economical approach. Data from the Dutch Projects reveal that projects are only eligible for PPP (DBFM (O)) when the expected investment exceeds a certain sum. In the case of government building projects, PPP is used for projects likely to cost more than €25 million. In the case of infrastructure projects, the threshold is €60 million.

For such projects, a Public-Private Comparator (PPC) and a Public Sector Comparator (PSC) are drawn up to compare the costs of implementing the project via PPP and via a traditional procurement procedure. This shows whether PPP would be more effective and result in a better price-quality ratio. When PPC shows financial or satisfaction benefits (surplus value) then DBFMO is the likely choice.

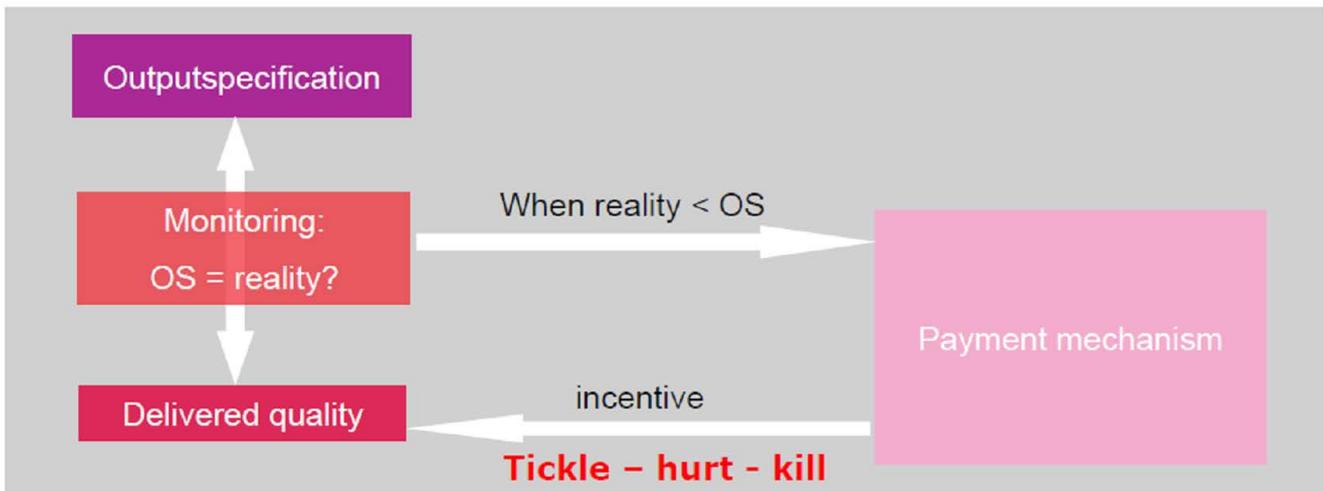
In general it can be said that for a project over €25 million DBFMO has higher transaction cost in the preparation stage, but have lower construction and operational costs and on top of that it optimizes risk allocation. For buildings the services, such as technical maintenance, are included and the process (the construction and maintenance after construction are aligned; for example expensive materials can be used in construction when it lowers the cost of the maintenance) is consequently more integrated as is the case with traditional procurements

Surplus value



How does the payment mechanism work?

- Output specification sets performance level for services and space
- Payment mechanism tickles to comply to requirements
- Monitoring system monitors whether performance is met
- Payment mechanism fines under-performance



THE ROLE OF THE CENTRAL GOVERNMENT

According to a research on indexing countries' readiness for taking up PPP, governments should - in order to take advantage of the potential for good quality and sustainable, well- structured PPP projects - provide support for PPPs along three dimensions: by drafting policies and expressing political commitment, by articulating the legal and regulative framework and by creating supporting institutions.

Based on this index researchers developed an index and labeled different European countries on PPP Governmental Support Index.

| No | Countries | | PPP Gov. Support Index | Label |
|----|-----------|----------------|------------------------|------------|
| 1 | AT | Austria | 2 | Emerging |
| 2 | BE | Belgium | 3 | Developed |
| 3 | CZ | Czech Republic | 2 | Intialized |
| 4 | DK | Denmark | 2 | Emerging |
| 5 | FR | France | 3 | Developed |
| 6 | GR | Greece | 3 | Developed |
| 7 | IT | Italy | 3 | Developed |
| 8 | NL | Netherlands | 4 | Mature |
| 9 | PT | Portugal | 3 | Developed |
| 10 | SE | Sweden | 1 | Intialized |
| 11 | UK | United Kingdom | 4 | Mature |

In the Netherlands, the Ministry of Finance is responsible for general DBFM(O) policy. It ensures that the model is applied correctly by closely monitoring PPP projects. The Government Buildings Agency (RGD) applies the policy in projects for which they are responsible.

In Belgium, the Ministry of Internal Affairs is responsible for the Building Agency that has the responsibility for infrastructure projects of the Belgian Government.

WHY USING PPP FOR THE CONSTRUCTION AND OPERATION OF PRISONS?

During the discussions it became clear that the main reasons for choosing the PPP vary from country to country and depend on what the country involved considers the most important issue.

One of the main reason the UK choose for PPP is because of financial reasons. In PPP the payments are spread over a long period and the government does not have to provide the full budget at once.

All PPP prisons in the UK have been delivered under Design, Construct, Manage and Finance arrangements (DCMF=DBFMO).

They chose for the complete privatization of the prisons. This means that also the prison staff is provided by the private partner. The prisons act completely independent. For the government this gives the opportunity to benchmark with government managed prisons. The goals that the private partners have to achieve are the same as those for government operated prisons. The benefits of the DCMF approach include:

- Cost certainty for the Prison Authority during the operation of the prison. The pricing structure is based upon a price per available prisoner place per day. The full cost of operation is developed at contract stage and is known for the entire concession period albeit the cost is subject to ongoing indexation.
- Transfer of significant levels of risk to the operator, during the operation and availability of the facility.
- The full 'turnkey' solution produces synergies between design and operation as the design is 'operator led' which will see elements incorporated at the design stage that deliver efficiencies throughout the operational phase.

Generally the custodial market in the UK is very mature. Operational performance within privately operated prisons is generally comparable with those operated by HM Prison Service.

In Belgium PPP was chosen because of the possibility of Off Balance Sheet procedures and also because of the construction of a lot of capacity at one time, which made an appeal to the market important.

PPP also gives the opportunity for innovation and creativity.

For the Penitentiary Sector PPP offers a certain comfort for the users, allowing them to focus on their 'core business'. During the period of the contract (25 years) the Prison Service has the guarantee that the state of the infrastructure is maintained as described in the contract.

HOW TO START A PPP?

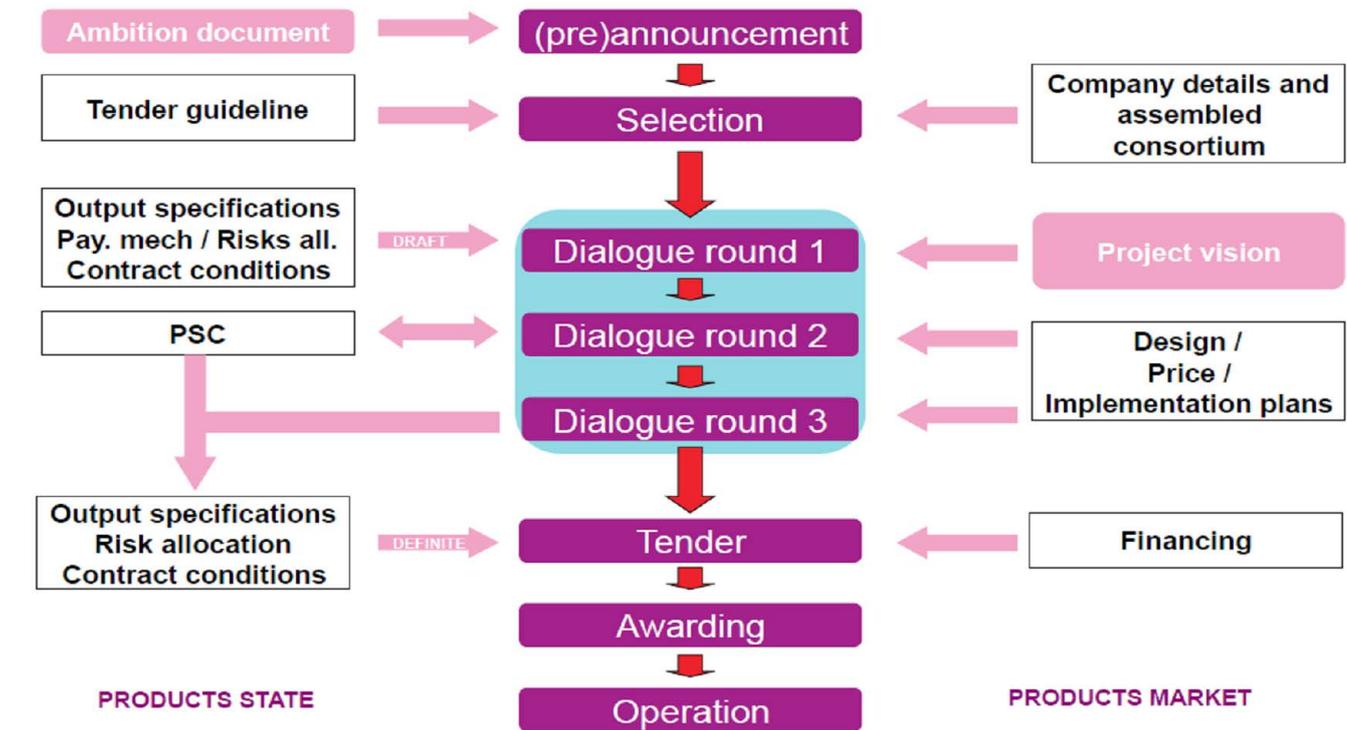
FROM PROBLEM TO PPP PROJECT

The basis for starting a PPP is a very detailed description of your needs and requirements. Establishing this basis can have several forms.

In Belgium the prison service provides a Program of Needs to the Building Agency, who translates this into output specifications that can be published in the Performance Specifications. The big difference with traditional Projects is that the Service has to describe the output that they want to achieve (requirements).

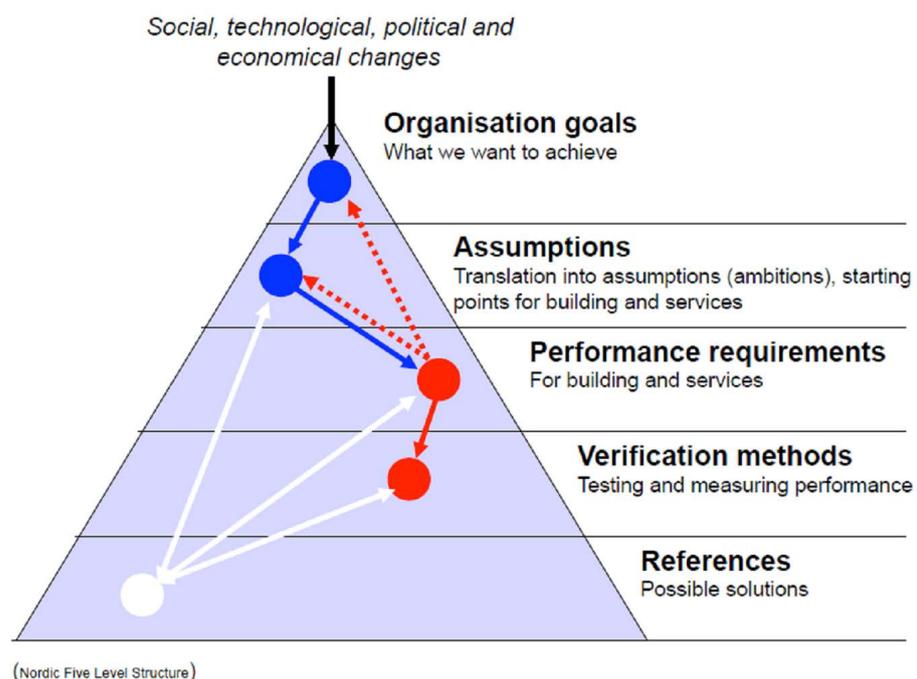
The Netherlands collaborate already from the beginning with the market to specify their 'needs' and 'requirements'. They use from the beginning the 'competitive dialogue' that is recommended by the European Commission.

The potential contracting out of PPP projects starts with the 'competitive dialogue', designed to devise a response to a problem for which no long-term solution is currently available. For example, how can inconvenience to motorists be minimized during road-building projects?

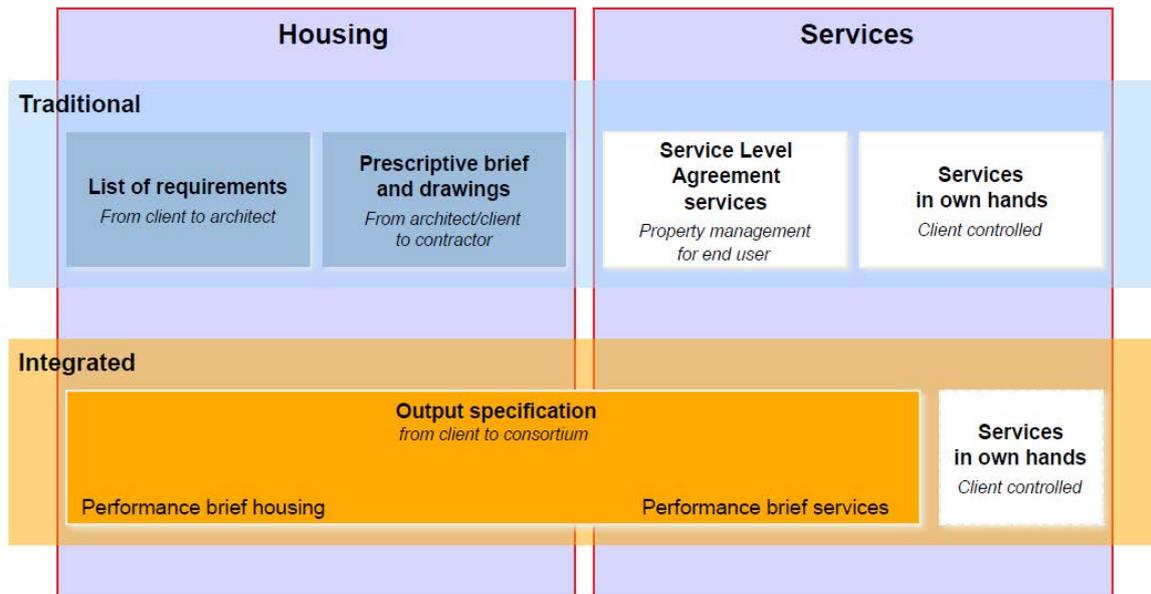


The government and market participants eventually decide on one of the solutions proposed by the private sector. A good dialogue leads to an efficient solution to the problem at a reasonable price. For the company, such a project is an attractive prospect that supplies work and income in the long term (20 to 30 years). Once the dialogue is complete, a number of parties are asked to submit a tender. Then it is decided who is to be awarded the contract, based on predetermined criteria. The firm that implements the DBFM(O) project is responsible for the design, implementation and pre-financing of the project.

Performance based Brief



Integrated Brief



Courtesy KPMG/GBA

The “core” of PPP-projects is the Output Specification (OS). This gives an adequate description of the required/ desired needs of a Client. This should be done in such a way that it is possible for a number of consortia to offer their own solutions/proposals that fulfil the requirements. In theory this looks relatively simple but in practice this can lead to misunderstandings, misinterpretations, mistakes and other undesirable situations. In the entire process of writing an OS until the realisation of the project all parties should be focussed on “getting the right translation from dreams to reality”.

To prevent the dream of being a ‘Royal Albert bone china cup’ to becoming a ‘simple Ikea mug’ after project realisation a whole process has to be observed: from the dream has to be described in the OS, to a best and final offer (BAFO) until realisation.



This “story” should not be the outcome of the long and intensive dialogue period in PPP-projects. But like with all other projects also PPP-projects are dependent on the quality of the involved people and the way they work together. The above picture gives an example of what could happen in the period of time involved to realise a PPP-project. At the end the question remains: is the Client satisfied or dissatisfied? This could be both, but the latter seems the most likely.

These situations should be avoided at all times and with the current experience on both sides this is possible. Taking into consideration that an OS should not be heavily over specified and too extensive and proposed solutions should be checked during the period of dialogue and promised solutions should not be altered during realisation, a PPP-project becomes a success for all parties involved.

THE PHASES

This chapter is about the maturity and readiness of the environment to take up PPP. It relates to the maturity within the governmental organization and how this can be assessed. We distinguish four phases of maturity.

- The unaware organization: Don't know what they don't know

Not surprisingly, unaware organizations are just that...unaware. Meaning, they are not really up to speed on what is happening around PPP and the future of working together between public and private; they just don't know what they don't know. Manager resistance is going to be strongest at this stage as value and business cases have not yet been established. There is also a high degree of uncertainty and fear as the organization tries to understand how emergent (or social) collaboration within the framework of PPP applies to the way it works. The opportunity and the upside for emergent collaboration here are great.

- The exploratory organization: Researching: How to get data

At this stage organizations are spending more time researching and understanding what emergent collaboration is and how it can affect the business. In fact, organizations here may start defining what this means and what it can look like. Typically, organizations here start to see the possibilities of PPP and what can be done and begin to understand how emergent collaboration can solve business problems. We also start to see the formations of teams that are going to help drive this initiative within the organization. The organization clearly sees where collaboration can benefit the enterprise. The strategic value gap begins closing as the capabilities for emergent collaboration start to increase. Teams begin forming that will be tackling this evolution of the organization.

- The defined organization: Getting the output specification

Here the organization needs to have a clearly defined strategy and direction for the emergent collaboration efforts. At this stage, the organization is getting ready to communicate and share the direction and vision and teams and roles are clearly defined. The organization is one step closer to realizing the business value of emergent collaboration. The strategic framework to make this happen is complete, and the organization is ready to begin implementing.

- The adoptive organization: Implementation

Partners share anecdotal and data-driven information about the benefits of emergent collaboration. Information starts to be easier to find and share. Teams are more easily formed, and partners start to open up and trust one another. The PPP morale begins to improve as partners begin to understand their roles and the roles of their colleagues better. Senior-level leaders gain much greater insight into the way the organization operates. The organization now sees opportunities to engage and inspire each other.

- The adaptive organization: From contractor to service supplier

This adaptive stage isn't an end state; it's a continuous cycle of improvement and evolution. The adaptive organization has a very solid understanding of what works and what doesn't and is capable of making the right decisions. Organizations can easily regress into previous stages if, for example, they stop listening to and incorporating the partners' feedback into their efforts, which in turn can cause damage to the dialogue process between the partners. If partners don't work together and feel supported and listened to, then chances are that adoption rates will never rise. The important thing here is that there are always going to be improvements, updates, changes to technologies, new best practices, new team members, new leaders, and evolved strategies. An adaptive organization is one that learns what works and what doesn't and is able to improve.

RECOMMENDATIONS/LESSONS LEARNED

FROM CONTRACTOR TO SERVICE SUPPLIER

A contractor become service supplier does not necessarily need to happen in PPP-projects. A lasting partnership should be the goal that parties strive for or aim at. This means a lot for both parties and a frame breaking change on attitude and behavior is needed for that. From personal experience and perspective a focus on below elements is advised.

1. Lasting partnership:

a. permanent, long-term, durable, solid, enduring (it is in the interest of both parties to create a stable relationship because the cooperation will last 25 years)

b. cooperation, organization, relation

Both parties should have the intention to not only share the good times, but also the bad times. This means to readdress risks and to agree on how to handle them. Also from a contractual point of view a number of things have to be changed.

2. Differences in the organisations:

a. Client organisations are more process oriented than consortia that are more result oriented

b. Client organisations demand complete responsibility from consortia

Both parties should have the intention to accept their differences and organize their processes based on these differences. Clients also have responsibilities and cannot walk away from them.

Therefore, it is useful to design the processes from the beginning of the project in such a way, that the connection points are really important. If there is staff from both, the private partner and the public partner (prison service) working together in the PPP it is very important to clearly describe where the responsibility of one party ends and of the other party starts (so called connection points).

3. Attitude and behavior

a. "Loose" ancient contractor/technical attitude and really step in the shoes of the Client

b. Do not assume things but ask/verify and then say what you do and do what you say

c. Organize enough time in the process for image-forming, discussion and decision making

d. Make the right personal matches in the project and involve more women in consortia

e. Use lessons learned from former projects and train project teams accordingly

f. Be open and transparent about costs

g. Ask feedback from Client and try to improve accordingly

LESSONS LEARNED

The cost of delivering the PPP project is much higher than using non PPP routes. Due to the high resources required in order to extensively describe everything in all details.

- Internally: the justice department has to monitor whether the asked solution is provided
- Externally: legal, financial and technical advisors.

Disadvantages of PPP have included:

- The contracts are not always flexible. Changing the contract, even though the contracts include change processes, can be cumbersome, time consuming and costly. Due to the numbers of interested parties in the contract such as funders and sub-contractors.
- The experiences of the UK showed that PPP options should be considered as an alternative approach only when direct capital funding is not available. Debt financing can increase the cost per place for prisoners by approximately 100% in some instances when costs are benchmarked with costs per prisoner place in non PPP prisons.

Therefore Belgium IS studying the possibility to take out the F from the DBFM-contracts and finance the projects from the government budget.

- For the following up and monitoring of the contract specialists are needed.

CONCLUSIONS

Although there are disadvantages in applying PPP (it is not a miracle solution) the experiences of Belgium, the Netherlands and the UK are rather 'satisfying' because of the possibilities it offers to innovation, to rethinking the processes, to catching up with the evolving society. It is really important to determine very good the output and requirements one want to obtain with the project. For the duration of the contract, it is important that both parties (market and government) invest in building a 'relationship'. The contract is the written basis but the focus has to be on a 'long-term cooperation'. A lot can be learned from the experiences of the other members of the Expert group. With this paper we wanted to give an introduction on PPP in prisons and to create a platform for sharing experiences and advice. For any questions or comments do not hesitate to contact EuroPris Secretariat.



Promoting Professional Prison Practice

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