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Controlling the Implementation of the Public-private Partnership (PPP) Projects in the System of Local Strategic Management

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Abstract

Due to the involvement of the private capital and the management performed by the private sector, the public-private partnerships (PPP) will be able to weaken the financial constraints and to promote the efficient development of the public infrastructure as well as the provision of the public services. In order to increase the efficiency and the effectiveness of the implementation of the PPP agreements the local authorities are required to control their execution.

The types and the forms of control, exercised by the akimats in the course of implementation of the PPP projects are described in this article, the stages of development of the PPP legal framework in the Republic of Kazakhstan are studied herein. The results of the study of the implementation of the investment projects are presented by the author; the factors, reducing the efficiency of use of the budgetary funds in the framework of the PPP projects, are defined. In the article, the basic directions of formation and development of the PPP projects implementation controlling system, including the establishment of the unified PPP information system, the introduction of the modern approaches to the effective planning and budgeting in the local authorities of the Republic of Kazakhstan, the conduct of the regular training programs for the experts of the control bodies in the field of PPP are defined.

Keywords: Public-Private Partnership (PPP); Controlling; Monitoring Activities; Infrastructure Project; Infrastructure Investments; Fiscal Effect; Monitoring; PPP Information System

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INTRODUCTION

The recent global crisis and the subsequent long-term stagnation have led to the adjustment or the substantial revision of the main directions of the state policy in the Republic of Kazakhstan. The increase in the negative trends in the economy underlines the need for strategic thinking at the state level in general as well as at the level of the local administrations, where a significant part of the economic activity is performed [1].

One of the urgent tasks of the strategic management of the government authorities is to create the modern transport, energy and social infrastructure, required for the economic growth of the territories. However, the growing regional budget deficit becomes a barrier to the implementation of the state investment projects.

To eliminate the existing gap between the available budget resources and the cost of the required infrastructure and services, the government authorities apply the public-private partnership mechanisms [2].

Currently, the internationally accepted definition of the term “public-private partnership” is absent. Sometimes it is used to refer to the cooperation between the public and the private sectors aimed at the achievement of the social and political goals. The World Bank Group defines the PPP as a formal contractual relationship: “a long-term contractual agreement between a public entity or a private person aimed at provision of a public asset or a service, where a private party bears the significant risk and performs the responsible management” [3].

In the current economic and political conditions, the PPP can be seen, on the one hand, as a mechanism to attract the additional resources to the public infrastructure, on the other hand, as a tool to stimulate the economic activity.

The PPP can bring the immense benefit through the use of the management capacity, the innovations and the knowledge of the private sector. Given the creation of the balanced regulatory environment, the PPP can provide the efficiency and the sustainability of the public services in the field of water, energy, transport, telecommunications, health and education [4]. The PPP will improve the risk distribution between the public and the private entities, taking into account their capacity to manage the said risks [5].

In contrast to the private projects, where the prices are generally determined on a competitive basis and the public resources are not involved, the PPP infrastructure projects typically involve the transfer of the state assets, the delegation of the state powers to collect the payments from the users, the non-state control over the monopolistic services, the distribution of the risks [6].

The protection of the interests of the users and the need to ensure the effectiveness of the public finances, as such, require the careful management and monitoring of such projects.

The implementation of the projects controlling is the important function of the PPP management body and should be carried out at all stages of its realization: beginning from the preparation of the conditions for the development of the agreement till the transfer of the assets upon the completion of the project.

The implementation of public-private partnership projects controlling must be interpreted as the integrated management system, aimed at the coordination of the interaction of the project participants, the monitoring of their performance and more efficient use of the budgetary funds.

It should be noted that, in spite of their potential, the PPP projects are implemented insufficiently actively in the Republic of Kazakhstan. Due to the weakness of the project implementation controlling system, the risks related to the inefficient use of the budgetary funds remain. The timely detection of the violations of the PPP agreements and the planned project indicators will enable the authorities to form and to implement the measures on mitigation of the negative effects of the PPP project [7].

METHODS

This article is aimed at the development of the methods on the effective controlling of the implementation of the projects based on the public-private partnership in the Republic of Kazakhstan.

To achieve this goal the author is required to solve a number of problems:

- To describe the types and forms of control, exercised by the akimats in the course of implementation of the public-private partnership projects;
- To study the experience in the PPP projects implementation in the Republic of Kazakhstan and to outline the growth points of the PPP area.
- To develop the proposals on creation of the PPP projects implementation controlling system at the local level.

The experience in the infrastructure investments in the Republic of Kazakhstan, the international practice, the accumulated statistic and analytical information on the issue of the public-private partnership development are studied in this article.

The information base for the analysis is the legal, accounting documentation relating to the activities in the framework of the public-private partnerships, as well as the financial statements of the private partner.

Types and forms of the PPP projects implementation control

The implementation of any PPP project is aimed at the achievement of the objectives of the social and economic development of the territory subject to more efficient use of the state property and the budget funds. The constant monitoring over the implementation of the planned activities at all project stages is required to achieve these goals. One of the major PPP project management tool is the system of monitoring over their implementation.

The several types and forms of control over the PPP project implementation are carried out by the local authorities:

1. The control over the financial viability of the private partner;
2. The monitoring of the project risks;

3. The control over the deviations of the actual values from the planned targets of the project;
4. The control over the execution of the terms of the public-private partnership agreement;
5. The quality control of the infrastructure facility services;
6. The control over the proper use of the budget funds;
7. The control over the pricing in the regulated markets, including the monitoring of the volume and quality of the products, works and services under the PPP project.

The private partner should have the necessary financial and material resources to execute the obligations under the PPP agreement. The monitoring of the private partner's financial condition is performed by the authorized authority on a quarterly basis. The original financial statements (consolidated with the parent company and separately for the branch), provided by the private partner, are used as the information base for this analysis. The financial statements, including the balance sheets, the income and expenditure account, the cash flows, the changes in the proprietary capital, the explanatory note and the auditor's report are provided as of the previous and current reporting date.

During the term of the PPP projects implementation, the monitoring of the risks inherent in a particular project is carried out. Each PPP project is different and has its own characteristics. Therefore, there is no list of risks, exhaustively matching each PPP project. The classification of the risks in the PPP projects should be performed based on the industry sector, i.e. the sphere of relations where these risks can emerge (the sectoral criterion), and the phase, the stage of the PPP project (the PPP project life cycle criterion) [8].

One of the effective tools for risk management in the PPP projects is the PPP project risk matrix, which is a list of potential risks complete with the definition of their impact and the probability of occurrence, the quantitative risk analysis.

The rationale for the PPP project results is carried out using the plan-factor analysis, including a periodic comparison of the planned project targets against the actually achieved values. In the course of control of type, the authorized body assesses the deviations, including their compliance with the allowable deviation range.

The control over the execution of the terms of the public-private partnership agreement in terms of compliance with the terms of creation/reconstruction of the object is carried out with the use of the on-site monitoring, as well as on the basis of the documents on the implementation of the project, provided by the private partner in accordance with the PPP agreement. The state authorities can engage the expert organizations in the implementation of this type of control. The control over the execution of the terms of the agreement is performed on the basis of the plan, specifying the name of the private partner, in respect of which the monitoring activities are performed, the place, the subject, the period and the date of performance of the monitoring activities.

In the event of violation of the PPP agreement terms by the private partner the supervisory authority sends the said partner a notice with the requirement to eliminate the violations, stipulating the deadlines. After the expiration of the specified deadline, the re-examination of the violations eliminated by the private partner is conducted. In case the private partner fails to eliminate the previously revealed violations by the deadline, decision on early termination of the agreement may be taken by the authorities.

The service quality control should be performed at least once a year by the representative polls on the satisfaction of the population with the quality of the services. The polls are carried out using the specially designed questionnaire with the predominantly evaluative questions, which should be formulated in accordance with the goals and objectives of the study.

One of the principles of the public-private partnership is the proper use of the budgetary and extra-budgetary funds allocated for the implementation of the PPP projects. In the course of the monitoring activity, the work is performed in accordance with the approved program.

The payments for the works performed are carried out within a firm contract price and on the basis of the design documentation. The monitoring of the project construction volumes and other works completed is performed in the presence of the approved design and estimate documentation. The documents confirming the completion of the works are the work performed acceptance reports and the accumulation cost report.

In the framework of the PPP projects implementation, the authorized body also carries out the controlling of the pricing order in the regulated markets and examines the prices in accordance with the Regulation [9]. This examination is carried out using the comparative analysis approach:

- the planned project prices with the prices of the similar services/goods, effective in other regions in the same or comparable product market;
- the applied resource consumption rates per unit of goods with the established industry standards;
- the labor costs with the similar costs of other market participants operating in the comparable regulated markets.
- Thus, the several types of control are performed by the authorities in the framework of the PPP projects implementation.

The development of the PPP legal framework in the Republic of Kazakhstan

The economy of the Republic of Kazakhstan, being the largest in Central Asia, since 1991, has been developed on the basis of the outdated infrastructure inherited from the

Soviet Union. As a result, almost every part of the public infrastructure in Kazakhstan (the roads, the preschool facilities, the sewer networks) requires upgrade and/or reconstruction [10]. Currently, it is understood that it is impossible to make necessary investments in the public infrastructure only at the expense of the state budget. The main source of funding for the infrastructure projects may become the private business. In the face of declining in the budget revenues from the commodity sector, caused by the decline in oil and gas prices in the world market, the need for private investments is particularly important.

Currently, the authorities of the Republic of Kazakhstan exercise the active policy towards the involvement of the private investments, primarily through the introduction of the tax benefits and the improvement of the legal framework, including the PPP legal framework.

Although the first projects based on the PPP have been started in Kazakhstan before the adoption of the Law "On concessions", it became clear that the successful implementation of such projects requires the development of a legal and regulatory framework.

Concession, the official formation of which began in 2006 with the adoption of the Law "On concessions", is one of the most popular forms of the PPP in Kazakhstan [11]. The first Law "On concessions", adopted in 1991, was aimed at the regulation of the administrative, economic and legal aspects of the concession contracts in Kazakhstan only for the foreign investors. In 1993, this Law was repealed, and until 2006 a law on concessions was absent in the Republic of Kazakhstan. At the same time, 2 concession projects were realized based on the general provisions of the Civil Code of the Republic of Kazakhstan during the given period of time.

On July 7, 2006, the Law of the Republic of Kazakhstan "On Concessions", allowing the conclusion of the concession contracts on such projects as "The passenger terminal of Aktau international airport", "Eralievo-Kuryk railway station ", "The electrification of Makat-Kandyagash railway section", was adopted.

A new leaf in the PPP development in Kazakhstan was turned by the Law "On the Public-Private Partnership", signed by the Head of the State on November 11, 2015. Now the PPP in Kazakhstan is regulated by two laws: the Law "On Concessions", covering the major infrastructure projects, and the new law on the PPP, covering all sectors of the economy. The new law on PPP [12]:

- removes the restrictions on the PPP areas of application (all sectors of the economy);
- introduces the contracts of new types (the service contracts, the life cycle contracts, the contracts for the implementation of the innovations);
- expands the circle of the PPP participants (the national companies and holdings, the state-owned enterprises and the financial institutions are included). That

opens the way for the funding companies, the quasi-state structures. In case the share of the State in the legal entity amounts to 50% or more, the company shall play on the side of the public partner, and if the share of less than 50%, such quasi-state entity can participate in the project on the side of the private sector.

The law extends the powers of local executive bodies (LEB). Thus, the preparation of the local PPP project is fully implemented at the local level. The functions on the preparation of the expert opinion and monitoring of the PPP projects implementation are entrusted to the National Chamber of Entrepreneurs.

The full service and institutional support of all PPP participants is carried out by the Kazakhstan Center for Public-Private Partnerships, including the research and development of the PPP guidelines, the training of the specialists in the field of PPP.

The current legislative and methodological base allows to start not only the large infrastructure projects, but also the low-capacity projects in small towns and settlements. The simplified tender procedures without additional examinations are introduced for the regional model projects (costing up to 4 million MCI equal to 8.4 billion tenge).

Results of the PPP projects implementation in the Republic of Kazakhstan

In 2014, the total number of the republican budget investment projects amounted to 247, 68 of which have been actually completed against the planned 81. 866 projects out of 983 planned have been actually completed in the regions [13].

About 53% investment projects financed by the republican budget in 2014 were focused on the development of the transport and communications systems, 21.3% were focused on the insurance of the defense and public order and safety, 8% were focused on the agriculture, 3.8% were focused on the education, 2.9% were focused on the health care and general public services.

9.6 bln. tenge or 3% were allocated for the realization of the investment projects in the areas of social security, housing and communal services, culture and sports and energy.

The initial cost of the investment projects has been increased by 30.1 bln. tenge due to the inclusion of the additional volumes of work and the list of equipment, previously left out of consideration in the approved documentation, the changes in design decisions, the coordination of construction sites, etc.

36 projects with a total investment volume equal to 12,018 mln. USD were implemented in the framework of PPP in Republic of Kazakhstan during the period of 1990-2014 [14] (Table 1).

Table 1: Top 10 large PPP projects implemented in the Republic of Kazakhstan.

Project	Investments (mln. USD)	Sector
"Kazakhtelecom"	4,782	Telecommunications
GSM Kazakhstan	2,162	Telecommunications
"VimpelCom" Kazakhstan	2,068	Telecommunications
Almaty Pauer consolidated	922	Energy
Kazakhstan natural gas transmission system	600	Gas supply
Tele2 Kazakhstan	517	Telecommunications
Ekibastuz RHEPP-1	502	Energy
Ekibastuz RHEPP-2	300	Energy
Yermovskaya	263	Energy
Railway line Shar-Ust-Kamenogorsk	23	Transport
Total	12,139	-

As of the beginning of 2016, in Kazakhstan 102 public-private partnership projects are at the various stages of implementation, 8 projects of which are of national importance. At the local level, about 94 projects worth 873 billion tenge are being implemented. At the beginning of 2016, the Government of Kazakhstan ordered each region to implement at least five PPP projects.

At the same time, the small amount of the PPP projects implementing, which does not correspond to the scale of the country, should be noted. The experience of other developing countries, and, in particular, the Russian Federation, shows that the implementation of the PPP projects in terms of budgetary constraints has a positive fiscal effect since the works performed in the current year are paid in the next fiscal year.

However, the lack of proper monitoring and control on the part of the budgetary programs managers over the use of funds, allocated to the local executive bodies and the quasi-state sector entities, results in the fact that they remain undisbursed, as well as in their unreasonable and inefficient use. The existing scheme for the PPP projects implementation restricts the competition in the separate sectors and reduces the efficiency of the use of the budget funds due to the following factors:

- the information imbalance in the regions in relation to the projects to be implemented with the application of the PPP mechanisms;
- the violation of the work completion terms and commissioning terms on the most objects. However, the local authorities do not exercise their right to apply the property responsibility measures, provided by the PPP agreement, to the private

partner. Moreover, the cases are known, when upon conclusion of the agreement on the extension of the work completion term, the local authorities release the private partner from the liability for the violation of the completion terms;

- the individual accountancy of the credit funds, attracted by the private partners for the execution of the PPP agreement, is not provided, which creates the possibility of abusive presentation of the expenses (the interest on loans), not related to the execution of the PPP agreements by the private partner. The use of the credit funds, the interest payments on which have been paid from the local budget, for the purposes not related to the implementation of the PPP projects (payment of VAT, payment of local enforcement of contracts) is allowed.
- The commissioning of the individual socially important facilities in the absence of technical documents or positive expert opinions of the authorized bodies is allowed;
- In the absence of competition, the agreement with the tender winner is concluded for the initial (maximum) price, without saving of the budgetary funds;
- The implementation of the PPP agreements in the form of a contractor agreement allows the customers and the private partners freely change in the execution of the agreement the types and scope of work, the design decisions, the timing of the projects, to determine randomly the size of fines, to apply the construction value appreciation factors without any justification.

However, the final project results are not obvious due to the lack of a systematic approach to the project controlling. The effectiveness assessment criteria for the use of the PPP mechanisms are not provided by the normative legal acts of the Republic of Kazakhstan, which do not allow the objective assessment of this mechanism effectiveness.

The directions of development of the PPP projects controlling system at the local level. Currently, there are four key directions of development of the PPP projects controlling, within which the points of growth can be highlighted, the focus on which will allow to achieve the desired results upon the completion of the foundation of the Kazakhstan PPP projects market:

- The system planning of the infrastructure development and the incitement of the market for the use of the PPP mechanisms;
- The improvement of the quality and the effectiveness of the PPP projects implementation;
- The development of the legislation in the field of the PPP and the law enforcement practice of the PPP projects implementation;
- The creation of the effective PPP projects implementation controlling system.

The following can be identified as the main directions for the development of the PPP projects implementation controlling system at the local level and in general in the Republic of Kazakhstan.

The creation of the unified public-private partnership information system: This information system should include the unified database on the ongoing projects, the actual base of the legal acts of the federal and regional level, the news about the main trends in the development and implementation of the projects in the Republic of Kazakhstan, the advertisements and planned tenders on the preparation and implementation of the PPP projects, as well as the library of the analytic materials and statistical database related especially to the course of implementation of the projects, including the concessions, the published accounting documents on the assessment of the quality and the efficiency of the PPP projects according to the results of the monitoring activities performed by the authorities.

The implementation of the approaches for the effective planning and budgeting in the activities of the local authorities: In order to establish the control over the implementation of the PPP projects at the local level it is necessary to establish and monitor the key performance indicators of the ongoing projects. This will ensure the effective work on the project break even, and the timely respond to the changes affecting the progress of the project.

It is important to determine the sequence of actions in the course of planning of the monitoring activities related to the implementation of the PPP projects. It is important to establish a close cooperation of the local authorities with the Kazakhstan Center for the public-private partnership, as well as with the institutions of funding, investment and export support for the major projects, such as "Development Bank of Kazakhstan" JSC, "Kazyna Capital Management" JSC, "Investment Fund of Kazakhstan" JSC, "IC "KazExportGarant" JSC and "The Center for Support of the Public-Private Partnership Projects" LLP.

The fulfillment of the contractual obligations of the private investor and the relevant akimat departments is controlled according to the work schedule, according to which the parties are interviewed concerning the mutual fulfillment of the obligations. In case of any problem, the negotiation process should be organized, according to the results of which the events should be planned, the issues on adjustment of the contract and regulatory documents on the PPP project should be identified. The monitoring results and the proposals addressing the problems of the project are reported to the National Center for PPP.

The presented approach will allow to perform the institutional reforms in the region and to create the opportunity for the qualitative implementation of the regional investment projects in PPP terms within a fairly short period of time.

To organize regularly the training programs for the specialists in the field of the PPP management: At the level of the akimats on a systematic basis the training for the specialists in the field of the PPP projects management and control should be established, including the re-training and skills development. In the absence of the unified professional standard for the experts in the field of the public-private partnership,

as well as the educational standard for this specialization, the proficiency evidence may be the certificate of the non-state sample proving the completion of the basic educational program in the field of the PPP.

The basic educational program may be organized by the commercial companies having the license to conduct the educational activities. The organizers of the training programs can be the schools with the methodological and organizational support of the Center for PPP, as well as the invited experts and specialists.

The basic skills development training program should include a number of modules, the content of which should be aimed at the various participants of the PPP management. The authorized body, together with the regional offices of the Center for PPP and the Chamber of Entrepreneurs, are required to provide the informational and organizational support for the training programs, intended for the leaders and the experts of the regional and municipal executive authorities, development institutions, government and public institutions.

CONCLUSION

A high demand for improvement (modernization) and infrastructure development of the country requires high expenses, which can be met by expanding the use of the PPP mechanisms; therefore, the legislation in the field of PPP was amended in terms of expansion of PPP mechanisms (the contractual PPP).

The active development of the public-private partnership has been observed for the last two decades and is currently used in 134 developing countries, including the Republic of Kazakhstan. The share of the PPP projects in developing countries accounts to about 15-20% of the total investments in the infrastructure. The development of PPP in the Republic of Kazakhstan is at the early stage of development and has a significant potential for the implementation of the infrastructure projects.

A special role in the process of the PPP project management is assigned to the project controlling system. A more detailed study of the directions of development of the PPP projects implementation controlling system, presented in this article, will improve the efficiency of budget spending and the infrastructure quality in the Republic of Kazakhstan.

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