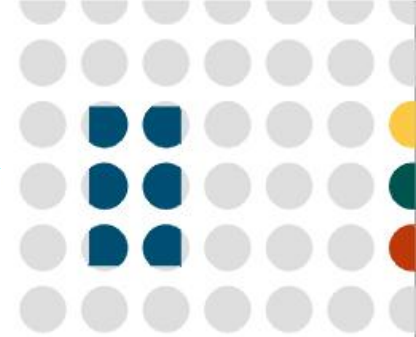


PPP PROCESS DEVELOPMENT IN LITHUANIA

DIANA VAITIEKŪNIENE
MINISTRY OF FINANCE, LITHUANIA

Main Reasons Determining PPP Demand

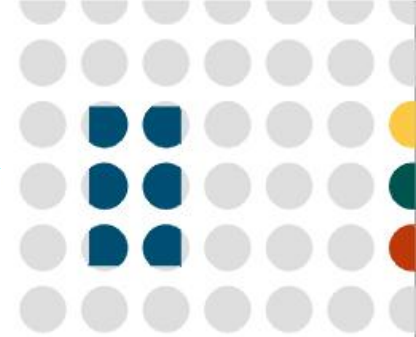
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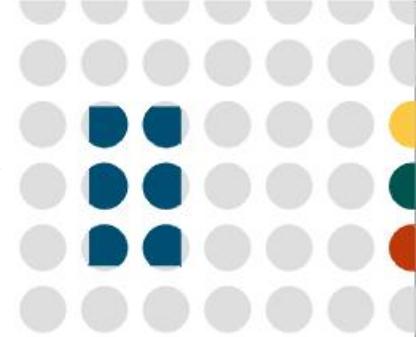
- Need to improve public infrastructure and public services situation, which is necessary for successful country economic growth resulting in needs for additional capital investments;
- Limitations on the main country fiscal indicators set by international treaties (Stability and Growth Pact and Maastricht Treaty) and therefore Government inability to devote appropriate financial resources to meet those needs.
- PPP –option to attract the additional capital investments in order to bridge the existing financing gap.

Main Country Policy Documents

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- Main strategic documents, where PPP demand and usage for country economic development is indicated:
 - ✓ Lithuania Convergence Programme 2007;
 - ✓ National Lisbon Strategy Implementation Programme;
 - ✓ 15-th Government Activities Programme for 2009-2012;
 - ✓ MOF Strategic Activity Plan 2009.

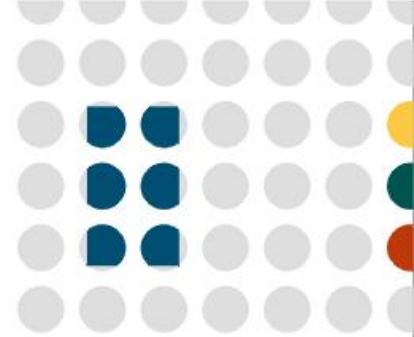


Current PPP Situation

- PPP process mainly spontaneous:
 - ✓ No country long term PPP strategy or Action Plan;
 - ✓ No centralized PPP process development and management and supervision;
 - ✓ No sufficient clearly developed legal system enabling effective different PPP forms application.

Existing PPP Legal Framework

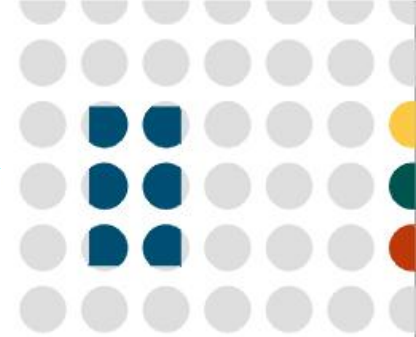
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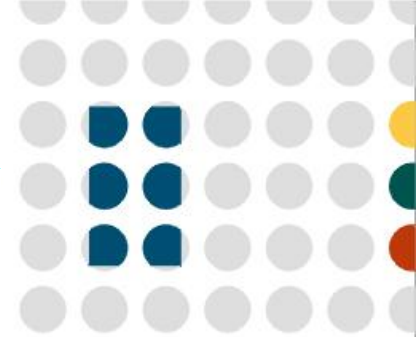
- No PPP law or one legal document covering all possible PPP forms.
- Public and private sectors cooperation possibility is foreseen by:
 - ✓ Concession Law;
 - ✓ Civil Code;
 - ✓ Public Procurement Law;
 - ✓ Law on Management, Usage and Disposal of State and Municipal Property;
 - ✓ other branch laws (partially) and Government Decrees.

Existing PPP Legal Framework (continued)

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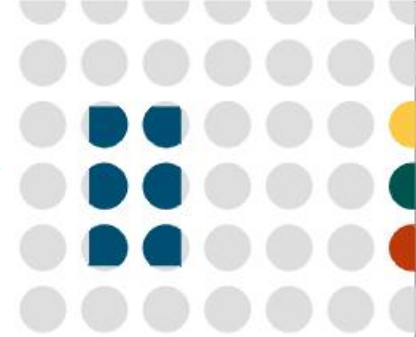


- Currently existing legal basis provides for 2 PPP forms application:
 - ❑ **Concession** (on the grounds of Concession Law provisions);
 - ❑ **Joint Activity** (joint ventures) – **establishing mixed capital enterprises** (on the grounds of Law on Management, Usage and Disposal of State and Municipal Property provisions).



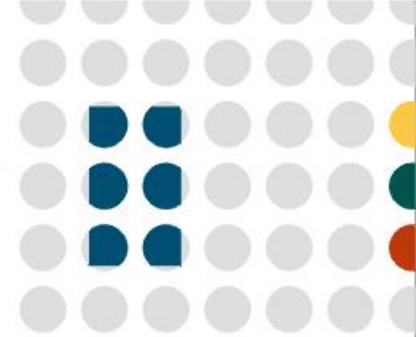
Concession Concept under Concession Law

- **Concession – mostly developed PPP type.**
- Essence of concession (under Lithuania Concession Law)
- government (state or municipal authority) authorization given to the private body to engage in some kind of economic activity, related to public infrastructure or public services development and **get incomes from this activity simultaneously undertaking all or major part of the operating risk** and the relevant rights and duties.
- Government consideration (payment) is also allowed, but only according to the risk assumed by the latter.



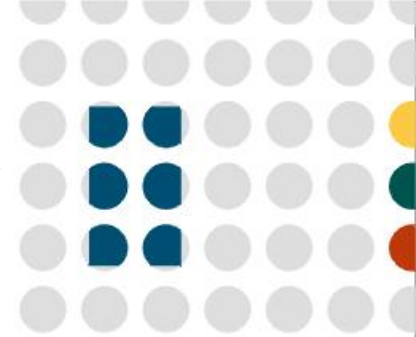
Concession under the Concession Law (continued)

- Under concession contracts major part of **private partner's revenue comes from the direct sale of services to final users under fully commercial conditions**, however possibly with specific government requirements.
- **Conclusion:**
- Concession is not fully available in public sectors with low level or absence of end users generated revenue (health, education, transport, public security etc.).



Public Procurement Law

- Also regulate government and private sector cooperation procedures, however possibilities are limited.
- **Problems:**
 - does not provide for partnerships on the grounds of a complex long-term public procurement contracts;
 - limitation on contract terms- up to 3 years;
 - each project phase (design, construction, operation, etc.) must be carried out under separate contract to be entered into;
 - operating risk in most cases remains with the public sector;
 - step- in right is not allowed.



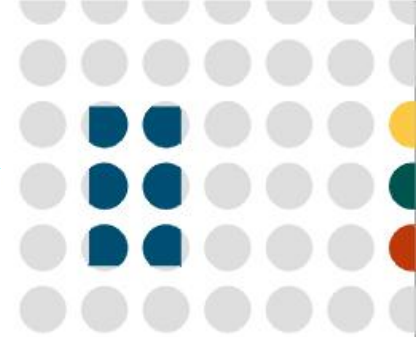
New PPP Type Regulation

➤ Conclusion:

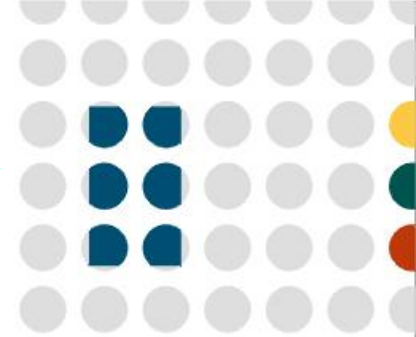
- Existing legal framework does not provide for partnerships on the grounds of long-term complex public procurement contract, where government (state or municipal authority) could have strong involvement through it's payments;
- A strong need for additional legal regulation describing new type of PPP;
- Essence of this PPP form - government is the main purchaser of the services, provided by private partner, and also the main payer to through its regular deferred payments.
- Considered by Eurostat as real Public and Private Partnerships or Services purchased by the Government on the basis of the dedicated assets (UK-PFI; France-Public Contracts).

New PPP Type Regulation (continued)

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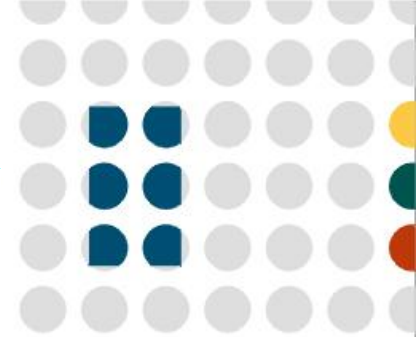


- Denominated as Government and Private sectors partnerships) and described in Investment Law (main conditions, particularity of contracts, definition of Public and Private Partnerships is also included);
- Would be beneficial for public sectors, which activities are mainly secured by state or municipal finances;
- Appropriate changes are made in other related laws (Concession, Land and Public Authorities).
- Amendments made also define MOF role in country PPP process (foreseen as PPP policy making and supervising authority in terms of fiscal planning, budgeting and accounting) ;
- Drafts are presented to Parliament.



PPP Projects in Lithuania

- PPP projects are initiated and carried out mainly by municipalities. State is not active in PPP field.
- PPP practice leader - Vilnius municipality:
 - ✓ in 2002 the first concession type project - long term lease of Vilnius city heating networks, which comprise main principles of concession:
 - ✓ major part of operating risk transferred to the private party;
 - ✓ main part of private sector revenue collected from end-users;
 - ✓ activity management - in private partner hands;
 - ✓ assets ownership and private party's activity control and regulation - in municipality hands;
 - ✓ city budget receives rent payment from concessionaire.
- Similar PPP scheme was applied for Marijampolė City Heating Supply System Modernization project.

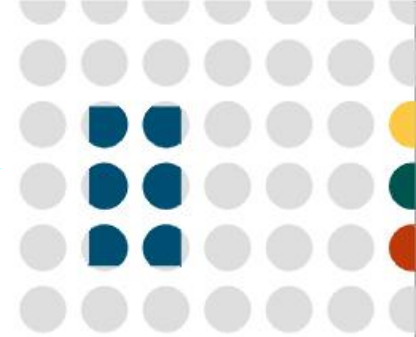


PPP Projects in Lithuania (continued)

- Other Vilnius municipality projects, which are underway:
 - ✓ City Old Market Place Renovation project (started in 2006);
 - ✓ Vilnius Entertainment Park project consisting of 3 stages. Two stages (Recreation Facility- Siemens Arena and Water Entertainment Park projects are already completed), the last one – Ozas Family Entertainment and Shopping Centre project is on the way;
 - ✓ PPP Waist Treatment project;
- Under consideration:
 - ✓ City Educational Institutions Renovation and Long-term Maintenance project;
 - ✓ Modern Tram Line project (feasibility study is completed).

PPP Projects in Lithuania (continued)

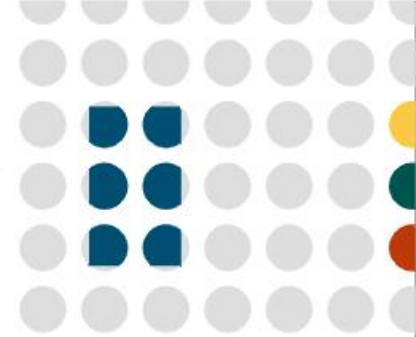
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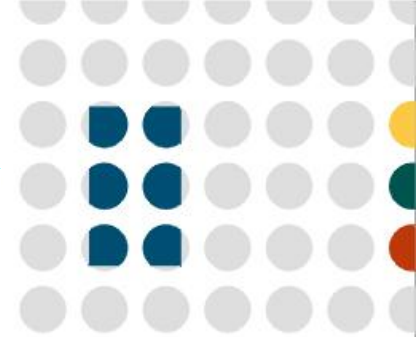
- Last year National Audit Office reported on Country PPP situation.
- following situation was stated:
 - ✓ by September 2007, 45 concession type projects were initiated by 26 municipalities (above 43% out of total amount);
 - ✓ Remaining municipalities also expressed their interest and demand;
 - Considerable demand for PPP exists. Main reason—possibility to attract additional capital investments.

PPP Projects in Lithuania (continued)

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- Main existing problems:
 - ✓ Lack of strong political support to the PPP process;
 - ✓ Insufficient legal framework and lack new PPPs forms, enabling to involve strong government sector payments;
 - ✓ Lack of foreseen PPP projects main risks, their feasibility, desirability, social- economical and environmental impact, possible value for money pre-assessment;
 - ✓ Insufficient municipalities knowledge about PPP process in general, about possible PPPs forms, their particularity and differences;
 - ✓ Lack of public sector knowledge, experience and skills in all PPP projects cycle phases: initiating, designing, implementing, supervising; in PPP contracts awarding and management;

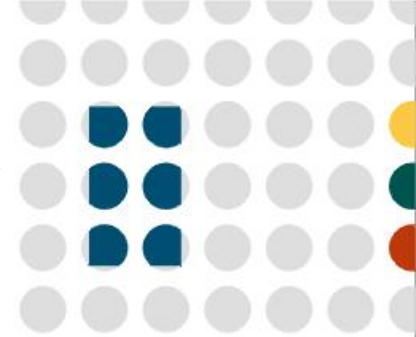


PPP Projects in Lithuania (continued)

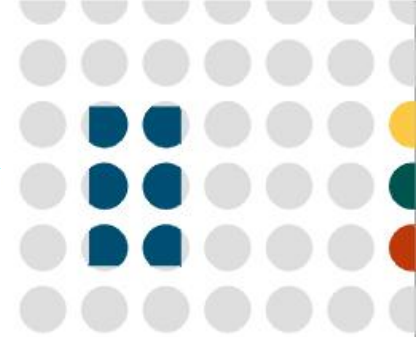
- **Result-** poor and incorrect projects preparation, what in turn result in projects failure and design negative public attitude towards all country PPP process.
- **Demand for:**
 - for appropriate PPP legal system;
 - appropriate projects assessment;
 - qualified consultative –methodological assistance within full projects implementation cycle from the outset until full completion.

MoF Role/Future Developments on PPP

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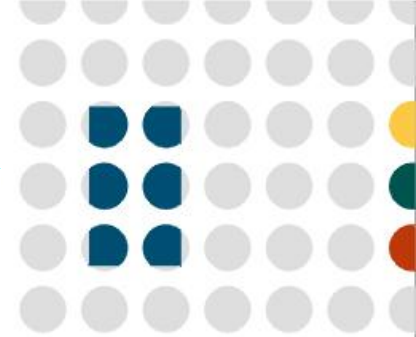


- PPP country process development was started by MOF in the middle of 2005 (PPP Projects Management and Coordination Division within State Treasury Department was established, in late 2007 incorporated into newly established Assets Management Department).
- Department role, objectives and responsibilities:
 - ✓ active participation in development of effective and workable conditions for promotion and activation of country PPP process;
 - ✓ development of PPP institutional framework;
 - ✓ active participation in development of appropriate legal system and PPP process guidance;



MoF Role/Future Developments on PPP (continued)

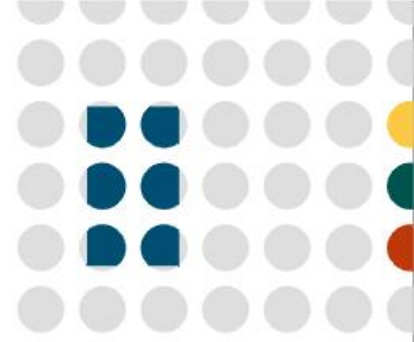
- ✓ active participation in developing due methodologies :
 - risk identification, evaluation and distribution among partners methodology;
 - methodology on PPP projects financial assessment – feasibility, desirability of the projects regarding their financial and fiscal impacts on public finances (MOF approval or opinion for each PPP project financial conditions is foreseen);
- ✓ in establishment of **Central PPP entity – Competence Center** for qualified methodological and consultancy assistance.



Competence Center

- Main objectives and responsibilities:
 - ✓ analysis of public sector areas where PPP projects could be effectively implemented;
 - ✓ identification of possible PPP projects;
 - ✓ providing consultative assistance for public sector in all PPP projects phases;
 - ✓ providing methodological assistance (elaborate guidelines/standard documents) ;
 - ✓ Information collection and delivering;
 - ✓ Strong collaboration with MoF and active participation in all country PPP process development issues.

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THANK YOU