



Pinsent Masons

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What does it take for PPP Water Supply, Sanitation & Solid Waste Projects?

The Cartagena Water Supply & Sanitation Project Cornwall Energy from Waste PFI Project



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Cartagena: Background



- The first PPP in the provision of public sector services in Colombia
- Aim of the project: To improve the existing water supply and sanitation services for the 850,000 residents in Cartagena, Colombia
- A joint venture; Aguas de Cartagena (AGUACAR) was formed by the Municipality of Cartagena and a Spanish private water utility, Aguas de Barcelona (AGBAR) in 1995
- 26-year concession

Political commitment and regulatory arrangements



Demand for water & sanitation improvements

- 30% households not connected to water supply network
- Irregular water supply
- Poor maintenance, network and low water quality
- Illegal connections and private resale of water
- Fast growing population
- Financial deficit in water and sanitation sector

Political commitment and regulatory arrangements



Political situation

- In the past, Colombia was governed predominantly by central administration. This led to many problems:
 - Controlled distribution of financial resources to the local government
 - Weakened accountability of the local government to the local community
 - Lack of long-term planning for basic services provision
 - Limited development of citizen participation in politics
 - Unattractive region for international investment

Political commitment and regulatory arrangements



Political situation (continued)

- In 1985, political reform was carried out. The aim was to ensure:
 - Decentralisation, citizen participation and fiscal strengthening of the local government
 - Devolution of responsibilities for basic services such as water supply and sanitation to the local government
- Legal reform
 - In 1994, a new legal framework for promoting private participation was established
 - Prior to this, it was illegal for the private sector to participate in water supply

Political commitment and regulatory arrangements



Regulatory arrangements

- In 1994, a regulatory body was set up to:
 - Promote competition, encourage investment and prevent abuse of monopoly power
 - Ensure reasonable tariffs, high quality and extensive coverage in the services area
- A public service watchdog was also created to monitor the operation of the private sector in their delivery of public services

Managing the PPP process



Appropriate PPP model

- Procurement
 - AGBAR was the only bidder
 - The project was politically sensitive and lacked support from major political figures
 - The structure of the JV partnership changed following the award of the contract to AGBAR:
 - Immediately after the award of the contract, the mayor of the municipality stepped down
 - His successor was unhappy with the municipality's minority shareholding and threatened to pull out of the partnership
 - The World Bank insisted that the project remain a partnership between the private and public sectors and as a result, the contract was renegotiated to give the municipality a majority shareholding in the JV

Managing the PPP process



Appropriate PPP model

- Project structure
 - AGUACAR's role:
 - To improve, operate and maintain the existing water and sanitation system, including billing and collection
 - To obtain finance
 - To determine the consumer tariff (subject to legislation)
 - No transfer of ownership to the private sector
 - Local government owner and operator at the same time
 - No formal concession agreement was signed

Managing the PPP process



Risk and comfort to investors

- The involvement of AGBAR (a Spanish private water utility) gave comfort to the World Bank:
 - Sector experience – AGBAR should have the expertise to manage the project
 - Private financing experience – AGBAR should know how to manage and spend monies allocated to it
 - Removed from Colombia's political problems
- The municipality's majority shareholding allowed the public sector to monitor the day-to-day operations of its partner
- Substantial project risk – payment of water bills by customers
 - Water & sanitation would be supplied to poor areas who would find it difficult to pay
 - Importance of setting a tariff that was fair for all

Managing the PPP process



Success of project

- Reliability of water supply increased to 99%
- Water quality improved
- Connections to poorer areas improved

Legal and governance issues



Legal

- **Accountability**
 - With most PPPs, the public sector is the service provider and the private sector is the operator. The structure of the Cartagena JV blurs these lines and the parties' responsibilities, thus reducing accountability and transparency for project decisions
- **Legal understanding**
 - The municipality had limited understanding of the procedures and legal framework associated with PPPs
 - There was little transparency in the procurement process
 - Limited advertising
 - Secrecy
 - Lack of formal procedures

Legal and governance issues



Governance

- Structure of partnership
 - Ownership of AGUACAR: local government (50%), AGBAR (46%) and private investors (4%)
 - Board of directors : 2 appointed by the local government, 2 by AGBAR and 1 by local private shareholders
 - AGBAR signed a fee-based management contract with AGUACAR to regulate the day-to-day running of the company
- Balance of partnership
 - An imbalance in the partnership was created from:
 - The municipality's lack of PPP experience
 - The municipality's frequent change in staff and persons appointed to the project

Summary



Lessons learnt and areas for improvement

- Public bodies should:
 - Have distinct roles with clear responsibilities
 - Be stable and prepared for long term commitment
 - Have policies in place for dealing with corruption
 - Implement mechanisms for citizen participation to ensure citizen consultation, transparency and community representation on key decisions
- Public sector training is needed in inexperienced PPP jurisdictions to improve:
 - technical knowledge
 - management skills
- Where there are a number of regulatory bodies, these should be coordinated to eliminate conflict of interests and overlapping functions

Cornwall Waste-to-Energy PFI



Cornwall Waste-to-Energy PFI



Background

- A US\$302 PFI project to process 240,000 tonnes of waste into 124,000MWh per year
- 30 year concessionary agreement between Cornwall County Council (CCC) and SITA Cornwall consortium
- Involves the construction of a new energy from waste plant and the acquisition of an environmental services business from CCC

Cornwall Waste-to-Energy PFI



Political Commitment and Regulatory Arrangements

- Demand for power
 - Although there is not a demand for power as such, the project is driven by EU legislation which requires local authorities to increase the amount of waste diverted from landfill sites
 - Waste that would have been deposited in landfill sites is being converted into energy and heat
- Market for power
 - Electricity will be imported into the national grid
 - Surplus heat will be sold to local industry

Cornwall Waste-to-Energy PFI



Political Commitment and Regulatory Arrangements

- Environmental issues
 - Approval and licence to operate required from the Environment Agency
 - Environmental benefits: majority of waste will be diverted away from landfill sites

Cornwall Waste-to-Energy PFI



Managing the PPP Process

- Risk
 - Volume uncertainty
 - Application for planning permission: shared risk
- Appropriate PPP model
 - PFI

Cornwall Waste-to-Energy PFI



Legal and Governance Issues

- Long term commitment
 - Stable legal and regulatory environment
 - Confirmed customer support (take or pay?)
 - Certainty of revenue versus realistic incentives
- Governance
 - Role of government
 - Can government learn to act as shareholder? (political versus commercial agenda)



Thank You

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