Japanese Policy and Implementation on PFI

The 3rd Annual Meeting for PPP/PFI Promotion between Japan and Korea

October 9th, 2008
## History Chart

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jul. 1999</td>
<td>Enactment of “PFI Law”</td>
</tr>
<tr>
<td>Oct. 1999</td>
<td>Creation of “The Committee for Promotion of PFI” in the Prime Minister’s Office</td>
</tr>
<tr>
<td>Mar. 2000</td>
<td>Drawing up “Policy Framework”</td>
</tr>
<tr>
<td>Jul. 2001</td>
<td>Release of “VFM Guideline”</td>
</tr>
<tr>
<td>Dec. 2001</td>
<td>Revision of “PFI Law”</td>
</tr>
<tr>
<td>Aug. 2005</td>
<td>Revision of “PFI Law”</td>
</tr>
<tr>
<td>Nov. 2006</td>
<td>“Procedures for Selection of and Agreements with Private Companies for PFI Projects,” an arrangement paper by the directors of the PFI Liaison Committee of Relevant Ministries and Agencies</td>
</tr>
<tr>
<td>Jun. 2007</td>
<td>Revision of “VFM Guideline” and “Process Guideline”</td>
</tr>
<tr>
<td>Nov. 2007</td>
<td>Release of “Report of the committee for promotion of PFI”</td>
</tr>
<tr>
<td>Jul. 2008</td>
<td>Revision of “VFM Guideline”</td>
</tr>
</tbody>
</table>
Outline of the Act on Promotion of PFI (Purpose)

Purpose (Article 1)

The purpose of this Act is to promote Public Private Infrastructure (PFI) projects by facilitating the provision of public services through private sector participation, thereby improving the efficiency and quality of public services. This Act is aimed at encouraging private investment in public infrastructure projects, enhancing the utilization of private sector expertise, and fostering cooperation between the public and private sectors. It seeks to create a stable and favorable environment for PFI projects, ensuring smooth implementation and successful completion of such projects.
Public Facility etc. (Article 2)

- キーワード
- テキスト

Administrator of Public Facility etc. (Article 2)

- キーワード
- テキスト
1. Performing Feasibility Study

2. Publication of Implementation Outline

3. Selection of Specified Project
   (Evaluation of VFM)

4. Invitation of Private Sector proposals
   (Publication of Tendering Materials)

5. Evaluation of Proposals and
   Private Sector Suppliers

6. Awarding Contracts

1st Phase

Establishing Business Need
Appraising the Options

2nd Phase

Deciding Business Case
<<Market Sounding etc.>>

3rd Phase

Tendering Process
<<Open tendering modified by
Quasi “Competitive Dialogue”>>

4th Phase

Construction & Operation
Supports

- iali
- iali
- iali
- iali
- iali
- iali
- iali
- iali
- iali
Basic Policy (Article 4)
Spells out the PFI principles and the methods to implement them.
Formulated by the Prime Minister following the approval by the Committee for Promotion of PFI

Carried in the March 2000 Prime Minister’s Office bulletin

Guidelines
Practical guidelines for the implementation of PFI projects
2. Risk Sharing (January 2001)
5. Monitoring (June 2003)

The Committee for Promotion of PFI (Articles 21, 22)
Established under the Cabinet Office.
Prime Minister appoints members from academic experts and specialists.
Deliberates on basic policies and other matters.
Prime Minister

Support

The committee for promotion of PFI

PFI promotion office, Cabinet Office

Policy framework, Guidelines

Ministries and government office
Local governments
Public corporations, etc.

Subsidy Manual Seminar

Ministry
Ministry
Ministry

0SHBOJ[BUJPOPG1SPNPUJPOPG1'*JO+BQBO
Growth in Number and Cost of Projects

Published Projects
(implementation Outline is Published)
(Accumulated Total)

Projects in Operation
(Accumulated Total)

Total Cost
(Accumulated Total)
<table>
<thead>
<tr>
<th>データ</th>
<th>項目</th>
<th>件数</th>
<th>件数</th>
</tr>
</thead>
<tbody>
<tr>
<td>数量</td>
<td>データ</td>
<td>項目</td>
<td>件数</td>
</tr>
<tr>
<td>数量</td>
<td>データ</td>
<td>項目</td>
<td>件数</td>
</tr>
<tr>
<td>数量</td>
<td>データ</td>
<td>項目</td>
<td>件数</td>
</tr>
<tr>
<td>数量</td>
<td>データ</td>
<td>項目</td>
<td>件数</td>
</tr>
<tr>
<td>数量</td>
<td>データ</td>
<td>項目</td>
<td>件数</td>
</tr>
<tr>
<td>数量</td>
<td>データ</td>
<td>項目</td>
<td>件数</td>
</tr>
<tr>
<td>数量</td>
<td>データ</td>
<td>項目</td>
<td>件数</td>
</tr>
<tr>
<td>数量</td>
<td>データ</td>
<td>項目</td>
<td>件数</td>
</tr>
</tbody>
</table>

Number of facilities (number of projects in service)
In 70 percent of PFI projects, the contractor is selected through open tendering, while the remaining 30 percent use a public-invitation proposal system (one type of “negotiation”).
• Roughly 75 percent of PFI projects are administrated by local governments.
• Income-from-Public projects represent nearly 70 percent of all projects.
• BTO projects account for almost 70 percent of all projects.
• Projects of 17 years (2 years-construction, 15 years-operation) and 22 years (2 years-construction, 20 years-operation) in length are common.
• About half of PFI projects are relatively small — under 5 billion yen — but large-scale projects over 100 billion yen have been appearing recently.
- Realization of the true public-private partnership -
Report of the committee for promotion of PFI

~For realization of the true public-private partnership~

<table>
<thead>
<tr>
<th>Committee for promotion of PFI</th>
<th>For realization of the true public-private partnership</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Guidelines on contracts

Report by the Committee for Promotion of PFI

Five Priority Examination Issues

1. Flexibility
2. Voluntary Termination by government
3. Dispute resolution mechanism that includes participation by a neutral third party
4. Change in Law
5. Enhancements to monitoring and payment mechanisms

Basic Approach to and Commentary on PFI Project Contracts — Draft
Basic Approach to Required Performance Level Documentation Associated with PFI Project Contracts — Draft

Key points

1. Presents knowledge on creating required performance level documentation that is clearer, more specific, and more flexible in keeping with the end purpose.

2. Presents approaches to creating documentation and suggests checklists and outlines in the practical part.

Compiled in a format that governments which lack sufficient knowledge on PFI can use immediately.
Contents of Basic Approach to Required Performance Level Documentation Associated with PFI Project Contracts — Draft

Foreword: Role of guidelines on preparing required performance level documentation

I Role of required performance level documentation seen from PFI processes

II What is necessary in required performance level documentation and the direction of responses

1 Clarification of the government’s intentions
2 Greater specificity, clarity, and detail in required performance levels
2-1 Greater clarity in criteria to be attained
2-2 Greater clarity in required performance levels
2-3 Unified examinations of required performance levels, monitoring, and payment mechanisms

III Issues with required performance level documentation

1 Other issues

IV Requirements from the standpoint of countering global warming

V Structure of required performance level documentation

VI Preparation processes for required performance level documentation

Practical Part

Theoretical Part
Chapter VI presents practical checklists for preparing documentation. Below is a sample checklist.

<table>
<thead>
<tr>
<th>Confirmation Period</th>
<th>Main Issue</th>
<th>Confirmation Item</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prior to feasibility study</td>
<td>Clarify the purpose for the project and required outcomes</td>
<td>- The purpose for the government’s project and the required outcomes are defined.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>- There is shared recognition within the government through, for example, distribution of the defined outcomes.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>- ...</td>
<td></td>
</tr>
<tr>
<td>Assessment of the project’s priority</td>
<td></td>
<td>- The project’s priority has been examined from the taxpayers’ point of view.</td>
<td></td>
</tr>
<tr>
<td>Feasibility study</td>
<td>Assurance of the examination system</td>
<td>- The feasibility study is entrusted to an advisor with expertise in defining required performance levels in the relevant field.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Staffing is increased as needed for internal agency examinations.</td>
<td></td>
</tr>
</tbody>
</table>
In the interest of assuring the transparency and objectivity of VFM assessments, the VFM Guidelines were revised (July 15, 2008) to state that the government is to release not only VFM figures but also the VFM assessment process and assessment method.

Significance of releasing VFM assessment information

1. Fulfills the government’s duty to give explanations to citizens (taxpayers).

2. Private companies can better understand the government’s requirements (and as a result we can expect more appropriate proposals).

3. Raises awareness that the government tries to assess VFM properly.
Information to be released

1. PSC, PFI-LCC, and VFM figures

2. Preconditions on VFM examinations

3. Calculation methods for project expenses

4. VFM based on the project plan of the selected private company

- Discount rates
- Price escalation rates
- Risk-adjusted prices

Expense items calculated for both PSC and PFI-LCC
(1) Fee from Users, etc.
(2) Facility construction expenses
(3) Operating expenses
(4) Maintenance expenses
(5) Financing expenses and other expenses

- Information is released after the selection of the private company when releasing information ahead of time will negatively impact fair competition.
- Clear reasons will be given whenever any information is not released.
To promote measures to cut greenhouse gas emissions in PFI projects, a basic approach was arranged (June 2008) on a project scheme based on economic principles that both saves energy and reduces lifecycle CO₂ emissions.

Current situation and issues

• Japan is committed under the Kyoto Protocol to reducing its greenhouse gas emissions by 6 percent.

• Despite this, emissions have risen by about 40 percent (in 2006) in the “services and other businesses” sector, which contains many PFI projects.

• A framework has not been completed that evokes the ingenuity of private companies regarding energy savings in PFI projects.

*Prepared by the Cabinet Office based on materials released by the Ministry of the Environment
Key point

- The most effective way of embedding in programs incentives to save energy is to include lighting, heating, and water utility costs in the project expenses.

Thus, even if the initial costs are comparatively high, energy-saving equipment will be enthusiastically adopted if it is possible for such equipment to lower the overall project cost that include lighting, heating, and water utility costs.
Assessment from an energy-savings standpoint

- Integrated energy optimization is possible from design through to operation and maintenance.

- Although the initial investment is comparatively high, we can expect private companies to enthusiastically adopt energy-efficient facilities and equipment that will cut lifecycle costs. We can also expect private companies to engage in proactive energy management.

Energy-saving benefits:
- (excellent)
Type 2

Assessment from an energy-savings standpoint

- This is second-best option when Type 1 cannot be used. Making energy management part of the private company’s operations works as an incentive to save energy.

- Because lighting, heating, and water utility costs are not included in PFI-LCC, there is concern that private companies will not proactively adopt energy-efficient facilities at the proposal stage.

Energy-saving benefits:
- (good)
Assessment from an energy-savings standpoint

- This type gives little room for private companies to exercise their ingenuity with respect to energy. Consequently, compared to Type 1 and 2, energy-savings benefits are difficult to obtain.

Energy-saving benefits: ⬤ (moderate)
• The number of bidders per project has been falling year by year, and recently almost all projects have four or less bidders.

(As of Aug. 31th, 2008)
• The percentage of tendered projects receiving no valid bids has climbed year by year. In 2007, 30 percent of all tendered projects were not bid on.

*1. The announced number of planned projects includes projects canceled because a lack of valid bids.
*2. The figures for projects receiving no bids include projects that were later bid on when re-tendered.

(As of Aug. 31th, 2008)
감사합니다