

The first wave of French prison PPPs

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France's groundbreaking PPP prison construction programme got off to a flying start at the end of February with the swift close of the first wave of projects, soon to be followed by the second and third such deals. It closed swiftly and with two French banks acting as mandated lead arrangers

The financing of the first set of four prisons was awarded by the French ministry of justice through its dedicated steering unit Agence de Maîtrise d'Ouvrage des Travaux du Ministère de la Justice (AMOTMJ). And the industry is now bracing itself for two more waves.

This first prison PPP serves as a pathfinder project in a country where not so long ago the financing structure was being written off. In a short time, the PPP sector has been revived and repackaged - and this time it is proving very popular.

It is quite an achievement to have turned the market round so swiftly and the speed at which this project closed stands testament to the success of a scheme to work its way through the tender process under the scheme provided by LOPSI in 2002.

This year - possibly rolling over into next year - the industry will see the regulatory framework replaced by the Ordonnance de Partenariat which was adopted on 17 June 2004, which implies a larger transfer of services to be provided by the private partners.

The second scheme is again for the construction and maintenance of three prisons, this time in the west of France:

- Le Havre
- Poitiers
- Le Mans

This project is expected to be awarded within months, this summer. It is valued at slightly less than €200 million, and is currently under bid with pretty much the same players involved in the second deal as came to the table for the first one.

The deal

The French ministry of justice awarded the first prisons project to an Eiffage-led consortium in November 2005 for an availability-based PFI for the construction and maintenance of four prisons.

As is the case for hospitals, prison PPP projects are being granted on the basis of a sectorial PFI legislation and have excluded services (other than maintenance and utilities), such as catering and laundry.

Eiffage beat four rivals:

- Bouygues with Dexia and RBS
- Vinci-Sogea with IXIS

- Spie-Batignolles with Caisse des Depots and HSBC as lender

There was another consortium - GTM with Barclays - however, it was expelled from the process at an early stage.

With the next wave of four prisons due to be awarded in a couple of months' time and an almost identical line-up of bidders competing for the prisons, it will be interesting to see how financing details will be tweaked to secure the deal.

In the third prison deal, however, the lie of the land will have changed considerably. It will be based on the June 2004 PPP Ordinance and will include a wider range of services - which could well attract a new range of project sponsors.

Financing

Natexis and Calyon acted as joint mandated lead arrangers with Natexis also taking on the role of financial adviser to Eiffage. Société Générale acted as adviser to the government.

Financial close was reached in the second half of February, and it will soon be syndicated - though that is expected to be handled internally by Natexis.

The total project value is around €300 million with an equity bridge loan of around €15 million. The total senior debt is €271 million, with €174 million of that in the shape of daily secured debt and €97 million in project debt.

Pricing for the debt has been set at EURIBOR plus 70 basis points during construction and dropping to EURIBOR plus 40 basis points after construction.

To make the deal more attractive to the private sector, 65 per cent of the debt is guaranteed by the state.

Legal

White & Case advised the MLAs - Calyon and Natexis - while Clifford Chance acted for Eiffage and Allen & Overy advised the government.

France enacted the law in August 2002 that allowed the justice ministry to enter into PPP agreements for the construction - primarily targeted at projects for the:

- Ministry of the interior
- Ministry of justice
- Ministry of defence

The route the project has to go down is an elaborate one that gives the private party authorisation - a real estate right - from the state to build on the plot which is owned by the government. As a result the private party remains the owner of the prison, but not the land on which it is built.

Once the construction of a prison is completed, the private party rents the prison to the state. However, at any time during the concession, the state has the right to end the contract taking the prison public - should it see fit to do so.

That's where it starts to get complicated.

Taking a look at this first deal, the first prison - the 600-inmate Roanne prison in the Loire - will be the first to go into construction.

However, there is no guarantee that the other three projects - Nancy (690 inmates), Lyon-Corbas (690), and Béziers in Hérault (810) - will ever make it off the drawing board. Having said that, there is urgent need for these prisons to be constructed and the uncertainty over their construction is hypothetical.

The French state requires the leasehold agreement for each of the buildings be fixed at the signing of the leasehold agreement with a fixed rent agreed at that time.

To fix the rent, you have to make several hypotheses over which of the remaining prisons will be built, and in which order. The financiers have to set different figures depending on the chronological order in which the prisons are confirmed by the state.

To be able to do that, the arrangers have to enter into hedge agreements on the day they sign the leasehold agreement - a very sophisticated product from a financing perspective as you have no guarantee when the state will confirm it wants the other prisons constructed.

Conclusion

While outwardly this project seems overly complicated and fraught with risks, the simple fact that the government desperately needs new prison facilities gives the private sector the commitment it needs to get involved.

For all the project was keenly priced, there is still impressive appetite for the next wave of prisons, and that appetite is expected to carry on through to the last wave (though that will be procured in a very different way to the first two).

As it stands, the success of the first scheme is driving forward the future success of the second with almost the same line-up competing for the next wave of French prison projects as competed for the first.

The project at a glance

Project Name	France's first wave of prison PPPs
Location	The east of France
Description	The construction and operation of four prisons: Roanne (Loire), 600 inmates (the first to be put under construction) Nancy, 690 inmates Lyon-Corbas, 690 inmates Béziers (Hérault), 810 inmates The three prisons after Rouanne have fixed construction programme
Sponsors	Eiffage
Operator	Eiffage through a dedicated O&M subsidiary
EPC Contractor	Eiffage Construction Forclum
Total Project Value	Around €300 million (US\$360m)
Total equity	Slightly lower than the UK PFI standard for similar transactions
Equity bridge	€15 million (US\$18m) About 5 per cent of the initial investment cost
Equity Breakdown	Larger portion of Shareholders' Sub-debt versus a limited amount of 'hard' equity
Total senior debt	€271 million (US\$321m)
Senior debt breakdown	Daily secured debt : €174 million (US\$209m) Project debt : €97 million (US\$117m)
Senior debt pricing	During construction - EURIBOR +70bp After construction - EURIBOR +40bp
Debt:equity ratio	Slightly more aggressive than the UK PFI standard for similar transactions
Mandated lead arrangers	Calyon Natexis
Participant banks	Not available at this stage
Legal Adviser to sponsor	Clifford Chance
Financial Adviser to sponsor	Natexis
Legal adviser to banks	White & Case
Legal adviser to government	Allen & Overy
Financial adviser to government	Société Générale
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