

SLOVAKIA: IMPLEMENTATION OF ROAD TOLL SYSTEM

Přemysl Marek

PETERKA & PARTNERS

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I. Background – General information

- ❖ road toll system will cover a network of roads including:
 - about 600 km of highways and dual carriageways and
 - about 1,900 km of first class roads
- ❖ tolls will apply to:
 - vehicles over 3.5 t and
 - vehicles which are allowed to carry more than nine passengers (driver + eight).
- ❖ up to the implementation of the new road toll system a system using toll stickers applies – this old system does not reflect the real use of roads (flat fee payment for a certain length of time)
- ❖ the administrator of the road toll is the National Highway Company (NDS) – the road toll is its income
- ❖ expectations are to launch the system at the beginning of 2009.

II. Legislation

- ❖ in general, no special legislation on PPP projects in Slovakia
- ❖ a special Act on Electronic Toll Collection (No. 25/2007 Coll.) adopted in 2007
 - transposition of EU legislation targeted at assuring the interoperability of electronic systems of road toll collection in EU member states
 - legal basis for the application of the following three systems (to be used separately or in combination):
 - (i) satellite positioning,
 - (ii) GSM-GPRS mobile communications and
 - (iii) 5.8 GHz microwave provided that they can be what?
 - electronic road toll - calculated according to category of vehicle and number of kilometers driven on toll roads (the method of road toll calculation must reflect the number of axles on the vehicle and its emission class).
 - general responsibility to pay the road toll lies with vehicle operator
- ❖ secondary legislation adopted – defines the roads on which the toll will be paid and the amount of the toll

III. Public Procurement – Tender Basic Overview

- ❖ tender launched by the National Highway Company in September 2007 - the most expensive tender in the history of Slovakia
- ❖ two-round tender
 - 1st round – evaluation of the technical abilities of bidders (such as references)
 - 2nd round – price and other qualitative criteria
- ❖ subject of the tender - construction of the system (in 1 year) and operating it for another 13 years, possible extension for another 5 years – on the basis of Service Agreement
- ❖ supply of the service is based on the DBFOT principle (design, build, finance, operate and transfer)
- ❖ only participants of the consortium can be shareholders in the SPV (project company) which shall conclude the Service Agreement with NDS

III. Public Procurement – Tender First Round

- ❖ several bidders (consortiums) in first round
- ❖ NDS eliminated two consortiums after the first round - ToSy.sk and SanToll/IBERTAX
- ❖ Slovak Office for Public Procurement overturned NDS's decision and allowed these consortiums to bid in the second round

III. Public Procurement – Tender Second Round

- ❖ **3 criteria in the second round**
 - total price for the service
 - minimum value of Toll Collection Effectiveness/Efficiency
 - Criteria of Toll Transaction (amount per 1000 transactions)
- ❖ **5 consortiums** applied to participate in the 2nd round
 - ToSy.sk (Elektrovod Holding, ASCOM, FELA)
 - Kapsch
 - Satways (T-Systems, Siemens, ABN AMRO)
 - SanToll/IBERTAX
 - SLOVAKPASS (Autostrade, EFKON)
- ❖ except for Satways all consortiums submitted bids in the 2nd round

III. Public Procurement – Tender Results

- ❖ only SanToll/IBERTAX fulfilled all tender conditions and their bid was accepted by NDS
- ❖ eliminated bidders filed objections with NDS and the Office for Public Procurement which were all rejected
- ❖ several court petitions against the decision of the Office for Public Procurement are still pending
- ❖ conclusion of the Service Agreement between SkyToll (established by members of SanToll/IBERTAX) – January 13, 2009

IV. Basic financial data

- ❖ price for constructing the toll system - about €250 million
- ❖ total price – about €716 million (excluding VAT)
- ❖ NDS will first pay consideration for service provision in the Service Operation Phase. In the Service Design Phase and Service Building Phase, SkyToll will have no claim for any consideration for service provision.
- ❖ the toll will be between €0.06 and €0.21 per kilometer depending on the type of vehicle
- ❖ NDS obliged to use the road toll income for investments in construction and maintenance of highway infrastructure

V. Agreement concluded between SkyToll and NDS

- ❖ available to public at <http://www.ndsas.sk/zmluva/17995s>
- ❖ satellite technology for electronic collection of tolls will be implemented, possibility to extend the toll system to other roads in future
- ❖ several phases of service
 - Service Design Phase
 - Service Building Phase
 - Service Operation Phase
 - Service Transfer Phase
- ❖ regular verification of the scope of performance and of the quality of the Service provided by NDS (functional tests, certificates) – sanctions

V. Agreement concluded between SkyToll and NDS

- ❖ NDS is authorised to invite SkyToll to transfer the service to NDS Transfer (via the Agreement on Sale of Enterprise) at any time during the Service Operation Phase or upon terminating the Service Agreement
- ❖ option to extend the term for another five years can be exercised only by NDS
- ❖ penalties ranging from €1,600 for minor violations to €25 million if the company does not complete the construction of the system by the deadline
- ❖ other sanctions – premature termination of the agreement, use of bank guarantees, and so on

VI. Practical experience

- ❖ formalistic approach of NDS in evaluating tender documents
- ❖ the tender was delayed due to objections of bidders
- ❖ the draft Service Agreement provided by NDS within the tender could not be negotiated
- ❖ the Service Agreement is strongly unbalanced in favour of NDS

Thank you for your attention

Mr. Přemysl MAREK, Attorney at Law, Partner

E-mail: marek@peterkapartners.sk

Tel.: +421 (2) 544 18 700